

Territory Status Enables Federal Discrimination in Disaster Response and Recovery

The failure to provide the lifesaving resources and emergency aid following Hurricanes Irma and Maria five years ago led to the deaths of over 3,000 of the island's residents.⁴ Recent evidence by the federal government's own agencies reveal that the persistent inequality of Puerto Rico's territory status prevented the island's full recovery after Hurricane Maria and set up the island for the destruction we saw again with Hurricane Fiona. The island's differential treatment is apparent when the relief provided to Puerto Rico following Hurricanes Irma and Maria is compared to the federal support provided to states that endured similar storms in the same year.

On September 21, 2022, the U.S. Commission on Civil Rights (USCCR) released a report titled *Civil Rights and Protections During the Federal Response to Hurricanes Harvey and Maria* (USCCR Report). The USCCR Report found that during a six-month period following storm landfall, the federal government's disaster recovery response and assistance for the territory of Puerto Rico after Hurricane Maria was unequal and worse than that provided to the state of Texas following Hurricane Harvey.⁵ For example, nine days after each respective storm the Federal Emergency Management Agency (FEMA) had approved \$141.8 million for Individual Assistance (IA) for Hurricane Harvey victims, while it had only approved \$6.2 million for the victims of Hurricane Maria in Puerto Rico.⁶ Additionally, hurricane victims in Texas received \$1.28 billion within two months after landfall, while hurricane victims in Puerto Rico waited 4 months before receiving \$1 billion in aid after landfall.⁷ Despite Hurricane Maria being a stronger storm and causing more damage in Puerto Rico, the federal disaster relief for Hurricane Harvey victims in Texas was faster and provided greater support.⁸ The difference in treatment is directly connected to Puerto Rico being a territory while Texas is a state.

On September 29, 2022, FEMA's Office of the Inspector General (IG) released a report titled *FEMA Did Not Effectively Manage Disaster Case Management Program Funds in Support of Hurricane Maria Recovery Services* (IG Report). The IG Report further detailed how the differential treatment of Puerto Rico led to FEMA's mismanagement of millions in Puerto Rico Disaster Case Management Program (PR-DCMP) funds.⁹ Normally, the Disaster Case Management Program (DCMP) functions to promote effective delivery of post disaster assistance in partnership with states. The states are then responsible for

⁴ Daniella Silva & Nicole Acevedo, *A week without power after Fiona, Puerto Ricans experience echoes of Hurricane Maria*, NBC News, Sept. 25, 2022, <https://www.nbcnews.com/news/latino/week-power-fiona-puerto-ricans-experience-echoes-hurricane-maria-rcna49323>.

⁵ U.S. Comm'n on Civil Rights, 2022 Statutory Enforcement Report, *Civil Rights and Protections During the Federal Response to Hurricanes Harvey and Maria* (Sept. 21, 2022), <https://www.usccr.gov/files/2022-09/2022-statutory-report-fema.pdf>.

⁶ *Id.* at 254.

⁷ *Id.*

⁸ *Id.* at 155.

⁹ Joseph V. Cuffari, Office of Inspector Gen., U.S. Dep't of Homeland Sec., *FEMA Did Not Effectively Manage Disaster Case Management Program Funds in Support of Hurricane Maria Recovery Services* 8 (Sept. 29, 2022.), <https://www.oig.dhs.gov/sites/default/files/assets/2022-10/OIG-22-77-Sep22.pdf>.





establishing financial management systems to account for grant funds.¹⁰ Due to Puerto Rico's territory status, and FEMA's failure to approve the government of Puerto Rico's DCMP application after five months, FEMA ended up running the PR-DCMP instead of Puerto Rico after Hurricane Maria. Ironically, FEMA's disregard of its own federal regulations and program requirements led to the mismanagement of \$65 million in PR-DCMP funds. The impact of that unequal treatment was the short changing of Puerto Rico residents who registered for individual assistance to meet their basic needs for access to housing, affordable food, medical supplies and mental health resources in the aftermath of the island's worse natural disaster in recent memory.¹¹



When a population of U.S. citizens lacks voting representation in the governing bodies that enact and administer the laws that impact their everyday life, and when their political status as residents of a territory allows unequal treatment, it is not surprising when their needs go unanswered. The lack of voting representation in Congress, and the inability to vote for President due to Puerto Rico's current colonial status, silences the needs and opinions of those residing on the island, and subordinates them to the will of a government they don't fully participate in. Since Hurricane Maria in 2017, Puerto Rico's residents have been unable to hold their federal government accountable for the insufficient progress on post disaster reconstruction which was needed to avoid and prevent the level of damage we saw repeated last month with Hurricane Fiona. As long as Puerto Rico remains a territory the U.S. citizens there will continue being denied the right to have a full say on federal policies and decisions that directly affect the island's preparedness for future storms and other natural disasters, such as post-disaster reconstruction, infrastructure resilience, energy policy, and climate change, which is the direct cause of ever more powerful storms such as Hurricanes Irma, Maria, and Fiona.



Territorial Inequality & Disenfranchisement Goes Well Beyond Disaster Assistance

Disaster assistance is not the only way in which Puerto Rico's residents get short changed under the current territory status. The recent Supreme Court decision in the case of *Vaello-Madero* emphasized how the U.S. citizens of Puerto Rico can be discriminated against merely for residing in the territory. In *Vaello-Madero* the U.S. Supreme Court held that Puerto Rico's tax treatment by Congress provides a rational basis for excluding citizens residing in Puerto Rico from federal benefits such as the Supplemental Security Income (SSI) program.¹² The Court found that the "Constitution affords Congress substantial discretion over how to structure federal tax and benefit programs for residents of the Territories," meaning that as long as Puerto Rico remains a territory Congress can and will discriminate against U.S. citizens there under federal laws and programs.¹³



While Congress and the Administration have sought to pass various pieces of legislation in recent years to treat Puerto Rico residents equally to fellow citizens living in the states under some federal laws and programs, these legislative efforts are not always successful.



¹⁰ *Id.* at 1,7.

¹¹ *Id.* at 8.

¹² *United States v. Vaello-Madero*, 596 U.S. ___ 1, 5-6 (2022).

¹³ *Id.* at 6.

Even when Congress does manage to provide equal treatment in one federal program or another, these fixes are sometimes temporary and ultimately offer only a piecemeal approach to the island's systemic inequality under the territorial governance structure. Moreover, under territory status there is no guarantee that a subsequent Congress could not pass legislation to backtrack and discriminate again against Puerto Rico's residents again. The cumulative result of this territorial inequality and disenfranchisement on Puerto Rico is persistent weakness and fragility in the island's finances, economic prospects, infrastructure, local political institutions and the massive outmigration of residents leaving for the states. According to an analysis of the latest U.S. Census data, in the last two decades the local population in Puerto Rico has dropped by over 18 percent which represents over 700,000 people.¹⁴ This is simply unbearable. Puerto Rico needs a gamechanger, and that requires certainty about the island's future political status.

Biden Administration Can Still Live Up to Its Promises to Puerto Rico

Mr. President, during the 2020 campaign you promised to support a fair and binding process to allow the people of Puerto Rico to finally choose their future political status, and stated your personal preference for statehood as, "the most effective means to ensure the residents of Puerto Rico are treated equally."¹⁵ Also following the 2022 State of the Union Address in Congress you told Puerto Rico's Resident Commissioner, Hon. Jenniffer González-Colón, that "if I were in Puerto Rico I would vote for statehood."¹⁶ However, so far your Administration has not taken any meaningful action to advance the will of the majority of Puerto Rico's voters who have opposed the territory and supported statehood among the non-territory options three times in the last decade. This includes the most recent plebiscite held November 3, 2020, when 52.52 percent of voters said "Yes" to Puerto Rico's admission as a state.¹⁷ Moreover, your Administration has not publicly constituted, made any appointments to, staffed or issued any reports from the President's Task Force on Puerto Rico's Status since taking office.¹⁸

The U.S. citizens of Puerto Rico simply cannot afford to continue hearing of White House and Congressional efforts to address the symptoms and negative effects of territorial inequality, while the fundamental need to end territorial colonialism as the root cause of the problem remains unaddressed. This is the moment for you to take action, and to show that when you say you are a steadfast champion for democracy, for voting rights and

¹⁴ Génesis Ibarra Vázquez, *The island "loses" 174,000 residents*, El Nuevo Día, Aug. 17, 2022, <https://www.elnuevodia.com/english/news/story/the-island-loses-174000-residents/>.

¹⁵ AP Archive, *Biden signals support for Puerto Rican statehood*, YouTube (Sept. 20, 2020), https://youtu.be/DjAqBWI_qSI?t=24.

¹⁶ Jose Delgado, *Joe Biden: "Si estuviera en Puerto Rico votaría por la estadidad"*, El Nuevo Día, Mar. 2, 2022, <https://www.elnuevodia.com/corresponsalias/washington-dc/notas/joe-biden-si-estuviera-en-puerto-rico-votaria-por-la-estadidad/>.

¹⁷ P.R. State Elections Comm'n, *Official Plebiscite Results 2020* (Mar. 12, 2021), https://elecciones2020.ceepur.org/Escrutinio_General_93/index.html#es/default/PLEBISCITO_Resumen.xml.

¹⁸ Exec. Order No. 13183, 65 Fed. Reg. 82889 (Dec. 23, 2000); see also Exec. Order No. 13209, 66 Fed. Reg. 22105 (Apr. 30 2001); see also Exec. Order No. 13319, 68 Fed. Reg. 68233 (Dec. 3, 2003); see also Exec. Order No 13517, 74 Fed. Reg. 57239. (Oct. 30, 2009).

against election denial, that your efforts also include the U.S. citizens of Puerto Rico. The strengthening American democracy means respecting the will of all U.S. voters, including those in Puerto Rico, in the face of those who would seek to undermine, delegitimize, or overturn elections when they don't get the results that they want.¹⁹

The most powerful way that you can do this now is by formally endorsing the PRSA through a statement of administration policy, and then actively calling on Congress to vote on and pass this bill before the end of this year. The U.S. citizens of Puerto Rico need and deserve a direct vote on the only constitutionally viable status options outside of the territorial clause of the U.S. Constitution. The PRSA meets that goal, it is both fair and binding. By allowing eligible voters on the island the ability to choose between "Statehood," "Independence," or "Sovereignty in Free Association with the United States," and including mechanisms for the implementation of these options, the PRSA provides a genuine process of self-determination.²⁰ Additionally, your Administration should re-institute the President's Task Force on Puerto Rico's Status, and employ that mechanism to play an active and ongoing role to support the definitive resolution of Puerto Rico's political future which is inextricably tied to the future of American democracy as a whole.

To truly advance the possibility of Puerto Rico's full recovery, to enable real and lasting prosperity on the island, to reverse the devastating loss of population to the states, your Administration needs to go beyond addressing the symptoms of territorial colonialism, and live up to your promise. We urge you to join our efforts to finally empower the U.S. citizens of Puerto Rico to choose their future. In doing so you will reaffirm the highest ideals of American democracy and make *America a more perfect Union*.

Sincerely,

George H. Laws García
Executive Director
Puerto Rico Statehood Council

Irma R. Rodríguez
President
Puerto Rico Escogió Estadidad

Hon. José Aponte-Hernandez
Executive Director
Instituto Misión Estadista

Hon. Lucy Arce
Former Senator
Puerto Rico Senate

Anthony Carrillo
President
**National Puerto Rican Equality
Coalition**

Hon. José Garriga-Picó
Secretary
Puerto Rico Statehood Project

¹⁹ *Condenan llamado de Acevedo Vilá de quemar papeleta de plebiscito*, El Vocero, Feb. 2, 2020, https://www.elvocero.com/gobierno/condenan-llamado-de-acevedo-vil-de-quemar-papeleta-de-plebiscito/article_90955160-5717-11ea-b516-db1180b58534.html.

²⁰ Puerto Rico Status Act, H.R. 8393, 117th Cong. §5(a)(2) (2022).

Nathaniel Morel
Secretary
**National Puerto Rican Equality
Coalition**

Elisa Muñoz
President
Young Democrats of Puerto Rico

Col. Carlos Quiñones, U.S. Army, Ret.
Leader San Juan Area
**Veterans for Puerto Rico Statehood
Task Force**

Sigfredo Pérez
Advocate
**Veterans for Puerto Rico Statehood
Task Force**

José N. Vázquez
President
**Hillsborough County Caribbean
Democratic Caucus**

Dr. Zayira Jordan
Founder
Frente Estadista

Jesús Pérez
Executive Director
52 States of America

Hon. Milagros López
Founder & President
Votar es Poder

Javier de la Luz
Founder
Boricuas con Kamala

Iris Padilla Cabrera
Representative
Progressive Women of NPP

Alfonso Pérez-Borroto
Founder
**Puerto Rico Statehood Supporters
DMV**

Annabel Guillén
President
Igualdad, Futuro Seguro

Clyde Fasick
Treasurer
Igualdad, Futuro Seguro

Lt. Col. Dennis Freytes, U.S. Army, Ret.
Chief Coordinator
**Patriots for U.S. Veterans - PR Equal
Rights**

Raul Eduardo Rosas
Executive Director
LIFT A VET

Wilfredo Rivera
President
IMPULSO 51

Ken Oliver
Director
U.S. Council for Puerto Rico Statehood

Sgt. Hugo Guzman, U.S. Army (Ret.)
President
True Freedom 51

Vanessa Martínez
President
Progressive Women of NPP

Nora Rodríguez Algarin
President, Municipality of Juana Díaz
Progressive Women of NPP

Hector Ramos
Extended Delegate (San Juan)
**Extended Congressional Delegation for
Puerto Rico**

Ivette Chardón
Extended Delegate (Ponce)
**Extended Congressional Delegation for
Puerto Rico**

Evelyn Díaz Suarez
Municipal President (Arroyo)
New Progressive Party

Lt. Evelyn Ashbrook, U.S. Army Res.
Extended Delegate (Virginia)
**Extended Congressional Delegation for
Puerto Rico**