



GOVERNOR OF PUERTO RICO

Ricardo Rosselló Nevares

September 19, 2018

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0004

Dear Mr. President,

On September 20th, 2018, people across the world will have their eyes on Puerto Rico and our recovery. That day will mark one year since the most devastating hurricane in the recent history of the United States reached our coasts, ravaging everything that stood in its way. Among the many losses we had as a consequence of Hurricane Maria, we mourn each of the precious lives that perished the most.

We move forward with the certainty that lessons have been learned and reforms have been implemented to make our government and society much more prepared to confront such challenges in the future. As we revisit all that we have been through in the last year, one thing has not changed and remains the biggest impediment for Puerto Rico's full and prosperous recovery: the inequalities Puerto Rico faces as the oldest, most populous colony in the world.

The ongoing and historic inequalities resulting from Puerto Rico's territorial status have been exacerbated by a series of decisions by the federal government that have slowed our post-disaster recovery, compared to what has happened in other jurisdictions stateside. For example, the imposition by Federal Emergency Management Agency (FEMA) of the overly bureaucratic and burdensome "270 process" without a clear path for how Puerto Rico can execute corrective actions to end this requirement. Additionally, we are deeply concerned about the

Administration's departure from the New Orleans precedent when FEMA recently denied Puerto Rico's request for the 100% federal cost share extension on Categories A & B for emergency work. We have appealed this decision and request that you grant it. By doing so, you will allow Puerto Rico to finally complete the pending response work that will allow us to fully commence the permanent reconstruction.

Lastly, the limited number of permanent work public assistance projects (PWs), under the Alternative Procedures of Section 428 of the Stafford Act approved by FEMA is of great concern. This is particularly challenging given how quickly Puerto Rico is expected to conclude the assessment process. Our reconstruction depends on us completing this process as diligently as possible, and we rely on FEMA to get the job done.

Unfortunately, the unequal treatment of Puerto Rico in the post-disaster process, highlighted by the examples above, is not the only reason for concern. There have been other instances in which other federal agencies have shown a lack of understanding of the territorial relationship between Puerto Rico and the United States.

On June 28th, 2018, in a submission sent to the Inter-American Commission on Human Rights (IACHR), in response to two cases questioning whether the U.S. is upholding its commitments to international law in the case of Puerto Rico, the U.S. Department of State (DOS) requested the dismissal of the cases slated to be heard by the IACHR on October 5, 2018 in Boulder, Colorado. DOS based its arguments on a slew of factual errors and misrepresentations of America's relationship with Puerto Rico, as well as its responsibilities under international law, specifically the American Declaration of the Rights and Duties of Man (American Declaration)¹. The importance of these cases, and what they say about how the federal government understands its relationship to Puerto Rico, is such that I feel compelled to respectfully address the most egregious errors in the DOS missive.

1. Puerto Rico is not a “self-governing” territory, it is a territorial colony:

To assert that Puerto Rico is a “self-governing” territory of the U.S. as the letter claims, ignores that Congress often uses its plenary powers over the territory to impose a multitude of federal laws without the island residents having any voting representation in the U.S. Senate and only a single Resident

¹ Inter-American Commission on Human Rights (IACHR), American Declaration of the Rights and Duties of Man, 2 May 1948, available at: <https://www.cidh.oas.org/Basicos/English/Basic2.american%20Declaration.htm> [accessed 18 September 2018]

Commissioner in the U.S. House of Representatives, who cannot vote on the floor of that chamber.

The most recent and egregious example of this is the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA)², passed during President's Obama administration, by which Congress effectively increased the democratic deficit in the island, by superseding the local self-government that Congress had granted Puerto Rico in the 1950's.³ Claiming that Puerto Rico is "self-governing", while the island is under a congressionally created and presidentially appointed Federal Oversight and Management Board is preposterous. Such an argument ignores the rightful claims of U.S. citizens to full representation in the federal government, which makes the laws we live under, and our claims for equal treatment under those federal laws.

To express that the constitutional structure, which denies U.S. citizens in Puerto Rico federal voting rights and allows for unequal treatment under federal laws, is somehow not inconsistent with the rights expressed in the American Declaration, reveals a complete ignorance of the declaration or simply a lack of understanding of its intent or purpose.⁴

2. American citizens in Puerto Rico want to vote for their President but are banned from doing so while they remain island residents:

The submission asserts that Puerto Rico residents are not banned from voting in presidential elections but then recognizes that under the current territory status, the only way for U.S. citizens from Puerto Rico to vote in such an election and be counted is to leave Puerto Rico. If that is not a ban, then what is? According to this sordid logic island residents must leave their families, jobs, businesses and communities to gain the full voting rights of the citizenship they gained at birth.

The submission also insists that Puerto Rican participation in the presidential primaries, which are contests ruled by the national parties as private entities,

² Congressional Record, P.L. 114-187 "To reauthorize and amend the National Sea Grant College Program Act, and for other purposes". June 30, 2016

³ Congressional Record, P.L. 81-600 "To provide for the organization of a constitutional government by the people of Puerto Rico". July 3, 1952; Congressional Record, P.L. 82-447 "Approving the constitution of the commonwealth of Puerto Rico which was adopted by the people of Puerto Rico on March 3, 1952." July 3, 1952.

⁴ Inter-American Commission on Human Rights (IACHR), American Declaration of the Rights and Duties of Man, 2 May 1948, available at: <https://www.cidh.oas.org/Basicos/English/Basic2.american%20Declaration.htm> [accessed 18 September 2018]. See Articles II, XVII, XVIII and VV.

is somehow a consolation prize. It is obviously not and can never be a substitute for the actual right to vote for the President that sends our men and women in uniform to fight for America's freedom and makes countless other decisions of great importance to our daily lives every day.

These arguments miss the fundamental point that U.S. citizens in Puerto Rico want to vote for their President and be able to remain island residents. Toward that end, earlier this year I signed Act No. 12-2018 into law. This law, which was authored by the Speaker of the Puerto Rico House of Representatives, Hon. Carlos "Johnny" Méndez, will provide voters in Puerto Rico the opportunity to cast ballots for the election of the President of the United States and mandates that the Puerto Rico State Elections Commission include the vote for President for the first time ever in Puerto Rico in the 2020 general elections. However, these votes will never count until the U.S. Congress lifts the ban on voting for President while being a resident of Puerto Rico by admitting the island as a state of the Union with full and equal rights and responsibilities.

3. Outdated and racist decisions of SCOTUS in Insular Cases still undergirds America's relationship with Puerto Rico:

The submission shows complete ignorance of over 120 years of federal case law related to Puerto Rico. It overlooks the Supreme Court's decisions in the Insular Cases in order to claim that the U.S. Constitution applies in a fair and nondiscriminatory manner to all U.S. citizens. These century old decisions, and the subsequent decisions that rely on them, uphold an inherently racist logic that deem the people of Puerto Rico as inferior and unable to fully participate in the institutions of democratic governance. Sadly, this body of case law still undergirds the treatment of U.S. citizens in Puerto Rico and has come to justify the unequal treatment of U.S. citizens residing in all the territories under a number of federal laws, programs and policies.

4. Voters in Puerto Rico have repeatedly rejected the current territory status and provided a mandate for Puerto Rico's admission as a state:

The DOS mistakenly states that the residents of Puerto Rico have only rejected the current territory status once in a locally held plebiscite in 2017. However, an examination of the results of all locally held political status plebiscites reveals that the current political status, when described in a constitutionally accurate way as a territory and not as an ambiguous "Commonwealth,"

“Enhanced Commonwealth,” or “Estado Libre Asociado,” has consistently failed to gain majority support from the voters in Puerto Rico since at least 1993. Furthermore by 2012, voters in Puerto Rico had already rejected the current undemocratic and unequal territorial status, with a majority favoring statehood over all other non-territorial status options. This means that in the 2017 plebiscite Puerto Rico voters re-affirmed what is now the overwhelming majority opinion on the island when 97 percent of voters again chose statehood as our preferred status option.

5. Federal government has failed to resolve Puerto Rico’s ultimate political status, and can no longer ignore the will of island voters:

The status referenda mentioned above demonstrates indisputably that Washington governs Puerto Rico without the consent of the governed and belies the submission’s statement that the federal government has provided residents of Puerto Rico multiple opportunities to review and reconsider its legal relationship with the U.S.

The fact is that not a single one of the plebiscites on Puerto Rico’s political status from 1967 to today has been a federally sponsored vote. To make matters worse when the federal government had the opportunity to at least offer its certification of the validity of the options being presented in the 2017 plebiscite ballot, after the state legislature even amended the format of the vote to meet the recommendations of the U.S. Department of Justice, the federal executive failed to do so.

6. Request for dismissal of Puerto Rico’s cases before the IACHR would mean turning a blind eye to the unfinished business of American democracy:

The DOS request to IACHR to dismiss the petitions and defer to the ongoing political process, which has so far left Puerto Rico’s territory status unresolved for 120 years, is to ask them, and the entire world, to turn a blind eye to an inconvenient truth, that Puerto Rico remains the unfinished business of American democracy.

Mr. President, I call on your leadership to have your Administration uphold the values of democracy, freedom and the pursuit of happiness as enshrined in America’s Declaration of Independence and Constitution, recognizing that Puerto Rico’s territorial status is discriminatory and allows for the unequal treatment of natural

born U.S. citizens. I believe that through this recognition we can work together to abolish this century old territorial-colonialism once and for all.

My goal is to re-imagine, revitalize and rebuild Puerto Rico so that it can develop to its full capacity for the benefit of not only island residents but for America as a whole. To do this we must recognize and acknowledge our past mistakes and work together diligently to correct them.

Indeed, if America's most challenged jurisdiction, Puerto Rico, can turn itself around and be transformed into a place of thriving prosperity, it can serve as a beacon of hope for all America, and a sign to the world that the best is yet to come. Statehood for Puerto Rico is not only about realizing Puerto Rico's full potential. It is about America living up to its most noble values by creating *a more perfect Union*.

Sincerely,



Ricardo Rosselló Nevares
Governor