



Congressman Pedro R. Pierluisi  
Remarks as Prepared For Delivery  
“Puerto Rico’s Economic Crisis and Political Status”  
Columbia Law School  
New York, NY  
*September 28, 2015*

Good evening.

I want to begin by thanking Columbia Law School for inviting me to speak, especially the Office of Social Justice Initiatives and the Latino Law Students Association. I also want to thank Ted Mateoch [Muh-tay-ock], a 2-L, who helped organize this event. I hope Ted can make it, because I am advised that he had an Evidence class that conflicted with my remarks. And finally, I want to thank Professor Christina Duffy Ponsa, who will moderate the question-and-answer session, and her assistant Rachel Jones.

I give quite a few speeches about Puerto Rico on the U.S. mainland, and I always make it a point to tell audiences how talented and hard-working Puerto Ricans are. Professor Ponsa may be the ultimate case in point. Although she was technically born in Virginia, a sin for which we will forgive her, her family moved to San Juan when she was a baby—and she is Puerto Rican through and through. After Princeton and Yale, Professor Ponsa clerked on the Second Circuit for Judge José Cabranes, who was born in Puerto Rico, and later for Supreme Court Justice Stephen Breyer. Notably, before Justice Breyer was appointed to the high court, he was a judge

on the First Circuit, which has jurisdiction over cases from chilly New England states *and* from sunny Puerto Rico. As if all this weren't enough, Professor Ponsa co-edited one of the best books about the legal and political status of Puerto Rico, entitled "Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution." Now she is a tenured professor at one of the top law schools in the country. Oh, and she used to be a professional dancer. Even though Professor Ponsa makes me feel rather inadequate, I want to thank her for moderating this event. *Gracias por poner el nombre de Puerto Rico en alto, Christina.*

In February of this year, I spoke about Puerto Rico at NYU Law School. I know that NYU and Columbia have a friendly but fierce rivalry. I am very glad to be here in Morningside Heights, because I don't want anyone to accuse me of favoring one institution over the other.

As you heard in Professor Ponsa's introduction, I went to law school at GW, worked in private practice in Washington and San Juan, and served as Puerto Rico's Attorney General starting at the ripe old age of 33—before I tossed my hat into the political ring and was elected to Congress, where I am a member of the House Judiciary Committee. Two of my four children are lawyers. My daughter Jacqueline works at Brooklyn Defenders Services, where she represents low-income parents in family court. My son Michael works at a law firm in Puerto Rico. So, a love of the law is in my blood, and in my family's blood. I know that every law student in this audience struggled and sacrificed to earn admission to Columbia. I hope that you realize how fortunate you are, that you make the most of this opportunity, and that you never take your time here for granted.

Although my typical practice is to speak for about 20 minutes, I would like to shorten my remarks this evening so we have more time for questions, answers and vigorous debate. The topic of discussion is, of course, Puerto Rico's political status.

Puerto Rico is a U.S. territory. I will explain what that means in a moment. Now, as I noted in a recent *New York Times* op-ed, Puerto Rico's economy has lagged behind the economies of the 50 states for many decades. Whatever economic metric you look at—unemployment, poverty, median household income—there has always been a large gap between economic performance in the territory and in the states, and this gap is only growing larger. Recently, the long-simmering crisis in Puerto Rico, which was not receiving much attention, has reached a full boil, and the press, the American public and policymakers have now taken notice. In June, a U.S. House subcommittee on which I serve held a hearing on the causal relationship between Puerto Rico's political status and its economic challenges. And tomorrow morning I will fly back to Washington to testify at a hearing in the Senate Finance Committee about the crisis. During my testimony, I will provide specific recommendations about what political leaders at the federal and territory levels should do to address the problem.

I will tell the Senate tomorrow what I will tell you tonight, which is that Puerto Rico's status as a territory is the root cause of the crisis in Puerto Rico. Our status is not the only problem, but it is the underlying problem from which nearly all of our other problems emanate. Right now I am going to put on my old litigator hat and make the case for why Puerto Rico should discard its status as a territory and become a state. I will explain why I believe that statehood is the right choice for Puerto Rico for both moral and practical reasons.

Let me begin with a very condensed version of history. In 1898, the United States acquired Puerto Rico from Spain as part of the treaty that ended the Spanish-American War. Since then, Puerto Rico has been a U.S. territory. In 1917, Congress enacted a law conferring U.S. citizenship on all individuals born in Puerto Rico. The island is currently home to about 3.5 million people, roughly the same population as Connecticut.

Over the course of the 20<sup>th</sup> century, the federal government granted the government of Puerto Rico increased authority over local matters. In the 1950s, Congress authorized the territory to draft a local constitution, which Congress then approved. All told, the federal government has now delegated to Puerto Rico about the same degree of authority over local matters that the states possess under the U.S. Constitution. Nevertheless, these measures have not altered Puerto Rico's status. The island remains today what it was 117 years ago: a territory of the United States. Some of you may have heard Puerto Rico referred to as a "commonwealth." Don't be confused by that word, which does not have any legal significance. The Commonwealth of Puerto Rico is a territory, while the Commonwealth of Virginia and the Commonwealth of Pennsylvania are states.

What does it mean to be a territory? Simply stated, it means to be deprived of political rights and equality under the law. Federal law is supreme in Puerto Rico, just like it is in New York. We have federal courts in Puerto Rico, and all federal agencies have a presence on the island. However, island residents cannot elect the leaders who make their national laws. They cannot vote for their president and commander-in-chief, even though they serve in large numbers

in the U.S. military. They are not represented in the Senate, a body where each member wields great power. And they send one delegate to the House, called the Resident Commissioner. I have held this position since 2009. In this role, I can introduce bills and vote on committees, but I cannot vote on the House floor. While 435 of my colleagues, from Maine to Alaska, cast votes on legislation that affects every aspect of my constituents' lives, I am confined to the role of a spectator. In the 21<sup>st</sup> century, this is really outrageous, almost unthinkable.

Moreover, the Supreme Court has held that, with limited exceptions, the federal government is free to enact laws that treat the territories differently than the states as long as there is a rational basis for doing so, the lowest level of constitutional scrutiny. Using what is in effect a legal license to discriminate, Congress treats residents of Puerto Rico worse than their fellow citizens under key federal programs, including all major health programs, refundable tax credit programs that encourage individuals to seek and retain employment, and safety-net programs that assist the vulnerable. I can provide many specific, and depressing, examples in the question-and-answer session.

The irony, of course, is that my constituents—as U.S. citizens—can move to New York or Florida for the price of a plane ticket. Once they take up residence in the states, they instantly acquire the right to vote for their national leaders and the right to equal treatment under federal law—the very rights they were denied while living in Puerto Rico. So the federal government treats residents of Puerto Rico poorly if they remain in Puerto Rico, yet gives them an escape valve in the form of an unrestricted ability to relocate to the states. In this sense, the system that has been erected is not only inhumane; it is also illogical.

So, what are the *practical* consequences of territory status? Apart from depriving my constituents of fundamental democratic rights that Americans living in the states take for granted, territory status has harmed every aspect of Puerto Rico's economy and our quality of life.

Because Puerto Rico is treated unequally under federal grant and tax credit programs, it is deprived of billions of dollars every year that would otherwise flow to the local economy. The shortfall in federal funds means individuals have less money to spend, businesses make fewer sales, and economic growth is hindered. In addition, the quality of government services delivered in a range of areas, from health care to anti-hunger programs, is relatively poor. Moreover, the Puerto Rico government must shoulder a disproportionate share of the burden of paying for these inferior services. This leads to large deficits and debt, excess borrowing by the government, a higher cost of debt service, and the diminished ability to make other important investments for the benefit of the people.

Now, does anyone really think that Puerto Rico's economic and fiscal performance has been so poor because the territory's people and political leaders are not as capable or hard-working as their counterparts in, say, Mississippi or Montana? To the contrary, our island is home to exceptionally bright and diligent people like Professor Ponsa. The truth is that we have not failed as individuals; our political system has failed us.

If you need additional evidence, consider these almost-unbelievable statistics from the U.S. Census Bureau. My constituents are exercising their rights as U.S. citizens and relocating to the states in extraordinary numbers. In 2000, Puerto Rico's population was a little over 3.8 million. By 2014, it had fallen by almost 7 percent to 3.5 million. According to the most recent statistics, an estimated 84,000 individuals moved from Puerto Rico to the states in 2014, while 20,000 residents of the states moved to Puerto Rico, for a net population loss of 64,000. In both degree and duration, this level of migration from a single jurisdiction appears to be unprecedented in modern American history. There are now over 5.1 million individuals of Puerto Rican birth or descent living in the 50 states, compared to 3.5 million residing on the island.

This Census data is like a dagger in the heart of any supporter of the *status quo*. As future lawyers, you are becoming experts at examining evidence in an objective way, and drawing conclusions based on that evidence. I submit to you that the case is clear and compelling. Puerto Rico's territory status has led to a dead end. The island needs a new path, and a new destination.

There are only two alternatives to the current status. The first is for Puerto Rico to become a state. The second is for Puerto Rico to become a separate nation, either fully independent from the United States (like the Philippines) or in a voluntary association with the U.S. that either nation can terminate (like Palau or the Marshall Islands). While both statehood and nationhood are dignified status options, I strongly support statehood. Here's why.

While nationhood would sever or weaken Puerto Rico's union with the United States, statehood would *perfect* our union. Statehood would deliver to Puerto Rico what all free people

deserve: full voting rights, full self-government, and full equality under the law. The state of Puerto Rico would have far more political power than the territory of Puerto Rico—in the form of two U.S. senators, five representatives in the U.S. House, and seven votes for president and vice-president in the Electoral College. At the same time, in part by ensuring that Puerto Rico would receive equal treatment under all federal programs, statehood would strengthen Puerto Rico's economy and improve our quality of life, as the most recent examples of Alaska and Hawaii demonstrate. Indeed, I have never heard an objective observer argue otherwise.

But there is an even more fundamental point. An overwhelming majority of my constituents cherish their American citizenship, especially the hundreds of thousands who have served—or have a family member who served—in the U.S. military. But if Puerto Rico were to become a separate country, future generations of island residents would be citizens of the nation of Puerto Rico, not the United States. That is totally unacceptable to most Puerto Ricans.

So, in sum, from my perspective, statehood is the right and logical next step for Puerto Rico, the natural progression from territory status.

But this is not just my personal view; it is also now the predominant view among the Puerto Rico public. In 2012, the Puerto Rico government sponsored a referendum where voters soundly rejected Puerto Rico's current territory status and more voters expressed a desire for statehood than for any other status option, including the current status.



In the wake of that historic vote, I conveyed the results to my colleagues in Congress and to the Obama administration. I did this because, for a territory to become a state, Congress must approve legislation known as “an admission act” and the president must sign that legislation into law—just like any other bill. I also explained the results at the United Nations here in New York, noting that my constituents—citizens of the most democratic nation in history—were now being governed without their consent.

At my initiative, the Obama administration requested—and Congress in January 2014 approved—an appropriation of \$2.5 million to fund the first *federally-sponsored* status vote in Puerto Rico’s history. This funding will remain available until it is used by the Puerto Rico government. While the law does not prescribe the exact format of the ballot, it does establish an important condition. Namely, the law provides that the U.S. Department of Justice must certify that the ballot is consistent with U.S. law and policy. Not everyone realizes it yet, but this is the most important step that the federal government has ever taken to resolve the issue of Puerto Rico’s political status.

Right now, the problem is that the governor of Puerto Rico and a majority of members of both chambers of the island’s legislative assembly belong to the local political party that favors the territory *status quo*. Accordingly, although the federal law was approved 20 months ago, these politicians have not lifted a finger to schedule this federally-sponsored vote.

However, it is likely that the statehood party, which I currently lead, will regain control of the governorship and legislative assembly starting in January 2017. I am running for governor and I have put forward a firm and forward-leaning plan for how to proceed.

Under my proposal, Puerto Rico would hold an electoral event in April 2017, consisting of two separate ballots. The first ballot would ask voters a single question—“Shall Puerto Rico be admitted as a State of the United States?”—to which voters would answer “yes” or “no.” As required by the relevant federal law, prior to the vote, the government of Puerto Rico would seek approval of this proposed ballot from the U.S. Department of Justice. There is no question that DOJ would conclude that the proposed ballot is compatible with U.S. law and policy and therefore allocate the \$2.5 million in federal funds in order to conduct the referendum. Accordingly, the vote would be federally-sponsored, giving its results tremendous weight and meaning.

There are at least five reasons why this approach is appropriate. First, it is deeply rooted in precedent. Alaska and Hawaii each conducted federally-sponsored yes-or-no votes prior to statehood. Second, because statehood obtained the most votes in the 2012 referendum, it makes sense to now hold a straightforward vote on statehood. Third, the format is inclusive. Those who support statehood can vote “yes” and those who oppose it for any reason can vote “no.” Fourth, the vote would yield a definitive result that nobody could reasonably question. Finally, this approach has broad bipartisan support in Congress, as evidenced by the fact that a separate bill I introduced in the House that provides for such a vote has obtained 110 bipartisan cosponsors.

The second ballot provided to voters in April 2017 would ask them to choose two “senators” and five “representatives” from among a pool of candidates for those positions. If statehood were to obtain a majority of votes on the first ballot, these seven individuals would be empowered under Puerto Rico law to serve as advocates before Congress, urging Members of the U.S. Senate and U.S. House to support legislation admitting Puerto Rico as a state. These seven advocates would be joined by the elected governor and the elected resident commissioner, who would also use all appropriate means to press for congressional action.

This is an aggressive plan, to be sure, but the status quo is completely intolerable—and the people of Puerto Rico will tolerate it no longer. I firmly hold the view that, to achieve its enormous potential, Puerto Rico must discard its status as a U.S. territory. History is clear. No people have ever prospered while being deprived of political and civil rights, and Puerto Rico is not—and will never be—an exception to that rule. The truth is simple. To succeed, Puerto Rico must be treated equally. And to be treated equally, Puerto Rico must become a state.

Thank you.