

Written testimony submitted to the Committee on Natural Resources, United States House of Representatives-

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Chairman Rahall: good day to you, as well as to Resident Commissioner Pierluisi and to each of the other members of the House Committee on Natural Resources. For the record, my name is Thomas Rivera-Schatz. I am the President of the Senate of Puerto Rico. I was elected senator-at-large on November 4, 2008 in a landslide victory of the New Progressive Party, the party that promotes statehood for Puerto Rico. For the first time in 40 years a political party in Puerto Rico elected all the candidates it was allowed by law to nominate for the Senate.

Mr. Chairman I wish to express my deepest appreciation on behalf of the Senate of Puerto Rico for the great interest you have shown in considering the aspirations of the 4 million Americans residing in Puerto Rico in solving their political status dilemma.

I have come here today to express my support for H.R. 2499, the *Puerto Rico Democracy Act of 2009*. It is fitting that we gather here today to discuss a "Democracy Act" for Puerto Rico when we are but a month away from commemorating 111 years of becoming a U.S. territory. Indeed the people of the longest held territory in U.S. history have yet to be inquired by Congress whether they are content with the territorial arrangement that has besieged us, first under Spain and now by the United States.

Full democracy has not been achieved in Puerto Rico. True, we elect all our local and state government officials, but Puerto Ricans who live in the island cannot vote for the President nor can we elect Senators or voting members in the U.S. House of Representatives. Living in a territory means having no say in the national government, despite the fact that this Congress and the President make decisions every day that affect the daily lives of 4 million Americans that make Puerto Rico their home. Thus, we are citizens of the most democratic country of the world but ironically we have been deprived of enjoying the full benefits and responsibilities of our citizenship.

The status dilemma of 4 million American citizens residing in Puerto Rico is a civil rights issue; it is a national issue of equality and freedom! The right of self determination of 4 million American citizens is also a national Hispanic issue that is being closely watched by all American citizens of Hispanic origin, with great implications in the national political scene today, in the 2010 Congressional elections and in the 2012 Presidential election.

The base for validating the discrimination against 4 million American Citizens was set by the same U.S. Supreme Court which validated racial segregation in *Plessy v. Ferguson*, 163 U.S. 537 (1896). In that case, a discriminating majority argued that races could be “Separate but Equal”. In the Case of Puerto Rico, in *Downes v. Bidwell*, 182 U.S. 244; 21 S. Ct. 770; 45 L. Ed. 1088 (1901), the same discriminating majority gave birth to a new theory of incorporated and unincorporated territories, theories not found even in the darkest penumbras of constitutional interpretation. Using these arguments, as they did in the *Plessy* case, they added that Puerto Rico was a territory “Belonging to, but not a part of” and that we were “Foreign, in a domestic sense”. Some

50 years later, in *Brown v. Board of Education*, 347 U.S. 483 (1954), a progressive U.S. Supreme Court rejected the argument of “Separate but Equal” and established that “Anything separate, was inherently unequal”.

More than 100 years later, we still await the sensible voice of reason that rejects discrimination, and understands that there is no way you can “belong to, but not be part of”, and mostly, nothing can ever be “foreign in a domestic sense”. This is clearly a case of geographic segregation. As stated before in the *Brown* case, “Anything separate is inherently unequal”. It is simply un-American for our Nation to maintain the American territory of Puerto Rico as separate and unequal.

Our Nation has shown its best colors in conflicts around the World. It has shown that we are willing to fight and shed our blood in the cause of freedom. That was the case in the two World Wars, in Korea and Vietnam, in Bosnia-Herzegovina, in Iraq and Afghanistan and many other international conflicts. Thousands of American citizens from the territory of Puerto Rico gave their lives; shed their blood in those historical conflicts, and continue to do so defending democracy and freedom.

However, the American citizens of Puerto Rico are denied their rights despite our enormous contributions to the United States. In fact, American soldiers from Puerto Rico have sustained higher per capita service-connected disabilities than soldiers from the States. Well over 100 Puerto Ricans have died in Iraq and Afghanistan since 2001; numerous others have been wounded and/or decorated for their valor. Surprisingly, still today, their vote for their Commander-in-Chief is “legally” precluded.

After 111 years of jurisdiction over Puerto Rico, now is the moment and time for our Nation to show its best colors to the 4 million American citizens residing in the

territory by granting us the freedom to choose our final political destiny. How can we argue that we went to Iraq and Afghanistan to, among other things, provide democracy and self determination to the oppressed people of those countries but refuse to grant the same basic principles to the people of the U.S. territory of Puerto Rico? It is ironic that hundreds and hundreds of American soldiers from Puerto Rico are sent to the Middle East for the purpose of defending liberties that are denied to those very same soldiers in their own homeland!

On this matter I am encouraged with President Barrack Obama's commitment to the people of Puerto Rico. On a letter sent to Governor Luis Fortuño on January 2, 2009 and read during the Governor's inaugural ceremony, the President reminded the people of Puerto Rico of his pledge to work with Congress to enable the question of Puerto Rico's status to be resolved during the next four years. He went on to say that he was, and I quote, "fully aware of the difficulties that Puerto Rico has faced in the past when dealing with this issue, but self-determination is a basic right to be addressed no matter how difficult". On this subject, President Obama concluded with the following commitment, and I quote: "We will work to give a voice to the people of Puerto Rico to enable them to determine their political future." The time to give a voice to Puerto Rico is now... by approving HR 2499.

In Puerto Rico for the first time in our history the three traditional political parties representing different solutions for the status dilemma agree on the necessity of seeking a political status that removes Puerto Rico from the territorial clause of our U.S. Constitution. This clause provides Congress with full authority "to dispose of and make all needful Rules and Regulations respecting the Territory... belonging to the United

States.” This authority is absolute. As the U.S. Supreme Court stated in 1879, “All territory within the jurisdiction of the United States not included in any State must necessarily be governed by or under the authority of Congress” (First Nat. Bank v. Yankton County, 101 U.S. 129, 133 (1879)).

However, continuing territorial status is not a solution since it maintains the island shackled to the territorial clause. The only acceptable non-territorial, non-colonial status solutions under international law are statehood, independence and free association. I suggest HR 2499 be amended to state that the three options in the Second Plebiscite provided by Section 2, Paragraph (c), shall be in accordance with international law. This will dissipate doubts as to the non territorial, non colonial nature of the options.

In Puerto Rico we have held three local plebiscites in 1967, 1993 and 1998 without any prior commitment from Congress to act upon the will of the people expressed in the ballot. The result was that once the vote took place nothing happened in Congress. Thus, the people of Puerto Rico are reluctant to vote on a plebiscite without Congress agreeing to implement the results.

This bill is a good first step to decolonize the territory of Puerto Rico. But H.R. 2499 does not commit or mandate the U.S. Congress to implement the will of the democratic expression of 4 million American citizens. This bill must establish in the minds of every member of this Congress and the President that the will of our citizens in Puerto Rico must be respected and implemented. Without a commitment from Congress to implement the democratically expressed result is to deny freedom. A non-commitment will certainly communicate and transmit to our Latin American neighbors that this Nation is not willing to treat as equal citizens of Hispanic origin.

Maintaining 4 million American citizens in the territory without the empowerment of equality is to maintain a state of apartheid in the twenty first century. If our Nation wants to project trust and goodwill to our neighbors and the international community it must eliminate the anachronism of a territory with four million unequal American citizens.

I strongly believe that H.R. 2499 should be amended in Section 3, to add a new Paragraph (e), stating that the U.S. Congress shall execute the results of the Second Plebiscite and approve legislation to implement the mandate of the people.

The status issue is simply an issue of civil rights. It is an issue of recognizing equality for 4 million American citizens. Today, our Nation is in a defining moment. The way this Congress and this President resolves the political condition of 4 million American citizens residing in Puerto Rico is being watched by all free men and all freedom-loving nations to determine how committed is the United States in recognizing our right to be equal.

Last May, a handful of citizens from Puerto Rico interrupted a session of Congress to express their frustration about our political status. While we know that the vast majority of Puerto Ricans do not share the political views of this small group, the fact remains that the American citizens of Puerto Rico do want Congress to listen. Give the people of Puerto Rico the opportunity to properly express themselves by approving HR 2499 and you will realize that, just as our men and women in uniform have defended the American flag, our people deeply value the democratic principles that America represents.

In a letter to Henry Pierce written on April 6, 1859 President Lincoln said “those who deny freedom to others, deserve it not for themselves; and under a just God, cannot long retain it.” Give the people of the territory of Puerto Rico the freedom to choose a final political solution by providing a fair and legitimate self-determination process based on non territorial, non colonial final permanent options.

I respectfully ask you to succeed where more than 50 previous Congresses have failed. I ask that you recommend to the House the approval of the *Puerto Rico Democracy Act of 2009* and I respectfully request that you adopt the suggested amendments.

Thank you very much.