



Congressman Pedro R. Pierluisi
Remarks as Prepared For Delivery
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Good afternoon and *bienvenidos a todos*.

Introduction

I want to begin by expressing my gratitude to Kent State University for inviting me to speak and for the hospitality you have shown me. I particularly want to thank Willis Walker, the Vice President of Government Affairs, and Crystal Davis, the Director of Legislative Affairs, for taking me on a tour of your beautiful campus earlier today. I also want to thank Sandra Morgan, the Director of Outreach Programs, for working with my office in Washington to arrange the logistics of my visit. I want to say a special “thank you” to Krystal Torres, a student leader from Aguadilla, Puerto Rico, and to the Latino Networking Caucus and the Spanish and Latino Student Association for organizing this conference, which serves as a forum to debate issues of importance to the Hispanic community. I also want to acknowledge Dr. Joseph Ortiz, a professor of geology here at KSU. I understand that Dr. Ortiz, a proud *Nuyorican*, is the son of a father from Barranquitas and a mother from Río Grande. Finally, I want to thank the members of the Puerto Rican community in northeastern Ohio, which is strong and growing even stronger. Whenever I am among fellow Puerto Ricans, their warmth and generosity make me feel at home—even if I am nearly 2,000 miles away from *La Isla del Encanto*.

The subject of my remarks is, of course, the increasingly realistic prospect of the U.S. territory of Puerto Rico becoming the U.S. state of Puerto Rico, a goal I have been fighting for since I was a student no older than many of you in this auditorium. Fortunately, this speech is very timely, because there have been two historic developments in the last six months, including one just last week, which I will explain.

Historical and Legal Background

I would like to begin by providing some brief background information about Puerto Rico's status. To understand where Puerto Rico stands at present, and where the territory may be headed in the future, it is important to know a little about the island's past.

Let's start with the Constitution. A provision in that document, known as the Territory Clause, gives Congress broad power to legislate regarding its territories. In 1789, the first Congress approved—and President George Washington signed—legislation called the Northwest Ordinance, which provided a template for the future treatment of U.S. territories. The Northwest Ordinance was rooted in the assumption that a geographic area's designation as a "territory" was temporary and would ultimately lead to that territory becoming a state. For more than a century, the Northwest Ordinance model was followed, with many jurisdictions evolving from territories to states over time. For instance, Ohio, which had previously formed part of the Northwest Territory, was admitted to the Union as the 17th state in 1803.

In 1898, as part of the treaty that ended the Spanish-American War, the United States acquired Puerto Rico—as well as the Philippines, Guam and Cuba—from Spain. There was a spirited debate in this country about how the U.S. should treat its new territories, which were located far

away and whose residents were often regarded as different in racial, cultural, linguistic and other respects.

In 1900, the federal government enacted what is known as an “organic act” for Puerto Rico, which established a civilian government on the island, but did not confer U.S. citizenship upon its residents. The government was led by a governor appointed by the U.S. president. Two legislative chambers were established: an unelected upper chamber and an elected lower chamber. The law also authorized the election of one representative to the federal government, known as a Resident Commissioner, who was later given a seat in the U.S. House of Representatives. I am the 19th person to hold this office. Unlike other members of the House, who serve two-year terms, and members of the Senate, who serve six-year terms, the Resident Commissioner serves a four-year term, the only federal elected official other than the president and vice president for whom that can be said. Of course, any benefit yielded by the length of my term relative to that of my House colleagues is more than offset by the fact that, while I can introduce bills and vote in the committees of which I am a member, I cannot vote on the House floor—an unhappy distinction I share with the delegates from the four other U.S. territories and the District of Columbia.

In the first decades of the 20th century, the U.S. Supreme Court decided a series of controversial cases regarding its island territories, known as the *Insular Cases*. In one of the most important cases, decided in 1901, the Court held that Puerto Rico had been acquired by the United States, but it had not been “incorporated” as part of the U.S. Thus, the Court conceived—critics say invented—a black-and-white world of “incorporated” and “unincorporated” territories. An

incorporated territory was one on the path to statehood in the Northwest Ordinance tradition. An unincorporated territory like Puerto Rico was one whose ultimate status—statehood or nationhood—Congress had yet to decide.

In 1917, on the eve of the U.S. entry into World War I, Congress enacted—and President Woodrow Wilson signed—legislation to extend citizenship to individuals born in Puerto Rico. (Parenthetically, it should be mentioned that Puerto Rico ultimately contributed more than an infantry division’s worth of soldiers to America’s homeland defense during the Great War, beginning a rich and remarkable tradition of military service to this nation by men and women from Puerto Rico that continues to this day.) The legislation also established a bill of rights for the territory and provided for a popularly elected Senate.

Five years later, the Supreme Court decided the case of *Balzac v. Porto Rico*, which was written by Chief Justice William Howard Taft, the former president and—just as importantly—an Ohio native. Many critics of the earlier *Insular Cases* had taken comfort in the belief that Puerto Rico’s status as an unincorporated territory would be short-lived, lasting only until the federal government granted U.S. citizenship to island residents—which would presumably set Puerto Rico on the path to statehood—or granted the island independence. In the *Balzac* case, however, the Court held that the grant of citizenship in 1917 did not demonstrate intent by Congress to incorporate Puerto Rico. No disrespect to Chief Justice Taft, but this decision is difficult to square with a previous Supreme Court decision, where the Justices interpreted the grant of citizenship to residents of Alaska as the key evidence that Congress intended to incorporate that territory, a step that ultimately led to Alaska becoming a state in 1959. Thus, to the

disappointment of many, the *Insular Cases* made clear that Puerto Rico’s judicially-created status as an unincorporated territory could last indefinitely—or, more precisely, until the president and Congress ever decided it was time for Puerto Rico’s status to change. Thus, unless the *Insular Cases* are overruled, any solution to Puerto Rico’s current status problem is likely to come from the political branches, not the judicial branch.

In the 1940s and 1950s, the federal government took additional steps to grant the government of Puerto Rico increased authority over local matters. In 1947, for example, federal law was amended to provide for the territory’s governor to be popularly elected, rather than appointed by the president. And in 1950, the federal government authorized the territory to draft a local constitution, which took effect in 1952, after Congress required certain changes. All in all, Congress has now delegated to Puerto Rico about the same degree of authority over local matters that the states possess under the Constitution. Nevertheless—and this is a critical point—these measures have not altered Puerto Rico’s status. Rather, the island remains an unincorporated territory of the U.S., subject to Congress’s broad powers under the Territory Clause.

Now, this may come as a surprise to a number of you who have heard Puerto Rico described as a “commonwealth” and concluded—not unreasonably—that this word must signify that Puerto Rico has some unique political status that is neither a state nor a territory. But this is simply not so. The term “commonwealth” does not denote any particular status, as evidenced by the fact that four U.S. states—Kentucky, Massachusetts, Pennsylvania and Virginia—and one of Puerto Rico’s sister territories—the Northern Mariana Islands—also label themselves as “commonwealths.” Personally, I think that the debate over Puerto Rico’s status would be more

constructive if we banished the word “commonwealth”—as well as the equally misunderstood Spanish term “*Estado Libre Asociado*” or “*ELA*”—from our vocabulary, because these terms are devoid of legal meaning and because they confuse rather than clarify the issues. In short: when people ask what Puerto Rico’s status is, it is not accurate to say “commonwealth” or “ELA.” The only correct answer is U.S. territory.

Why I Oppose the Current Territory Status

Not surprisingly, Puerto Rico’s status has always been the central issue in the territory’s political life. Our three main political parties are not divided along Democratic and Republican lines, but rather based on their views on the status question. In addition to my role as Resident Commissioner, I currently serve as the president of the pro-statehood New Progressive Party, or PNP. I am a proud Democrat. My predecessor as PNP president was Luis Fortuño, who served as governor of Puerto Rico from 2009 to 2012, and who is a proud Republican. The PNP, unique among the island’s parties, draws support from all across the political spectrum, from liberal Democrats to conservative Republicans to independents unaffiliated with either national party. Indeed, it is not uncommon to find two supporters of the PNP who disagree on most issues. But their support for statehood for Puerto Rico unites them—and supersedes everything else.

I want to articulate with some precision, first, why I oppose the current territory status and, second, why I support statehood over the two other alternatives to the current status available to Puerto Rico—which are independence and nationhood in free association with the U.S.

I oppose the current status because it deprives the people of Puerto Rico of the two most basic rights in a democracy.

First, although federal law is supreme in Puerto Rico, the current status denies us the right to choose the leaders who make our national laws, which govern nearly every aspect of our lives. We cannot vote for president, U.S. senators, and voting representatives in the U.S. House. Pause for a moment to reflect—in the 21st century—how shocking and anachronistic that is. The bedrock principle of America’s approach to government is representative democracy. In recent years, and especially since the Cold War ended, this model of government has spread rapidly around the world. Many nations that were once repressive and authoritarian have become free and democratic. For some of these countries, to be sure, the transition has been challenging or remains a work in progress. But everywhere we look around the globe, average citizens have—or are on the brink of having—a real voice in choosing the leaders who make the policies that shape their lives. Consider, for instance, the brave men and women in Tunisia, Egypt, Syria and other countries in the Arab-Muslim world who have recently sought, with varying levels of success, to depose dictators and usher more democratic systems of government. Think of the sacrifices they have made in support of their cause. Against this backdrop, it is difficult to accept that residents of Puerto Rico, citizens of the greatest democracy in history, still do not enjoy true self-government after 115 years under the American flag. Countries everywhere are striding—or, at least, stumbling—towards a more democratic future, while Puerto Rico remains stuck in the undemocratic status quo.

In addition to the lack of self-government, the second reason I oppose the current status is because it allows the federal government to treat Puerto Rico unequally. The federal laws that treat residents of the territory worse than residents of the states are too numerous to count, but

they include nearly every social safety-net program. The courts uphold such laws so long as there is any rational basis for the disparity, the lowest level of judicial review. The federal government can meet this test by arguing that equal treatment would be expensive or that Puerto Ricans do not pay federal taxes on income they earn on the island. The tax argument will succeed despite the fact that nearly half of all households in the states do not pay federal income taxes either but still receive equal treatment from their government. In short: territory status gives the federal government a license to treat the U.S. citizens of Puerto Rico worse than it treats their fellow citizens in the states—and the federal government often uses that license.

The current status also harms Puerto Rico in other—less tangible but equally important—ways. Consider the problem of drug-related violence, one of the most serious challenges that Puerto Rico faces. Since becoming Resident Commissioner, I have been pushing the federal government to allocate more law enforcement resources to Puerto Rico, just as the federal government has done along the Southwest border with Mexico and in high-crime cities like Oakland, Detroit, and Philadelphia. These efforts have finally begun to bear fruit. The Department of Homeland Security has informed me that it will send additional personnel and assets to Puerto Rico over the coming months, which is an important step in the right direction.

But let's be honest. If the appalling violence we have been experiencing in Puerto Rico were taking place in any state, the response from the federal government would be immediate, it would be strong, and it would continue until the problem was alleviated. Even for the most well-intentioned federal officials, the territories are too often an afterthought.

The truth of the matter is that residents of Puerto Rico have been U.S. citizens—and U.S. soldiers—since 1917, but our citizenship is second-class. So when I hear certain politicians in Puerto Rico argue that, under the current status, we somehow have the best of both worlds, I want to invite them to spend a day in my shoes. I want them to experience what it is like to have to fight to ensure that Puerto Rico is not excluded from a job-creation or health-care bill that automatically includes the states. I want them to experience how it feels to watch as 435 of my colleagues, from Maine to Ohio to California, cast votes on bills that affect the lives of my constituents, while I can only sit there and watch.

It is also crystal clear from the evidence that the current status harms Puerto Rico's economy and, therefore, the quality of life of our citizens. Let me give some quick examples.

Since at least the 1970s, when the federal government began collecting statistics, Puerto Rico's unemployment rate has always been far higher than every state. The island's unemployment rate has averaged 15.5 percent, while the U.S. national unemployment rate has averaged under 6.5 percent—a nine-point difference.

Next consider the employment-to-population ratio, which measures the share of a jurisdiction's working-age population that is employed. Over the last 35 years, the ratio in the U.S. is over 60 percent. The ratio among Hispanics living in the U.S. is currently about 60 percent as well. In Puerto Rico, the ratio is far worse, ranging from about 30 to 40 percent.

Finally, consider per capita gross national product. Since at least 1970, Puerto Rico's per capita GNP has been about one-third of per capita GNP in the United States. For example, in 2010, Puerto Rico's per capita GNP was under \$16,000, whereas U.S. per capita GNP was nearly \$48,000. Even the poorest states have average household incomes that are far higher than Puerto Rico's.

This evidence points to one conclusion. In the last 40 years, we have had governments in San Juan led by both the pro-statehood party—the PNP—and the party that favors the current status—known as the Popular Democratic Party or PDP. In Washington, the executive and legislative branches have been controlled by both Democrats and Republicans. Countless measures designed to improve Puerto Rico's economy have been enacted at the local and federal level. And yet our economic position—relative to the states—has not improved. Clearly, the economic problems in Puerto Rico are structural and chronic, not cyclical and temporary.

Does anyone really think Puerto Rico's economic performance is lagging 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. We have not failed as individuals; our political system has failed us.

If you need additional evidence, consider these statistics. Over the past dozen years, Puerto Rico's population has fallen by nearly four percent, to 3.6 million. Where are all my constituents going? I can tell you they are not leaving Puerto Rico for the Dominican Republic, Panama, or any other foreign country. Rather, they are coming by the hundreds of thousands to the states—

which, as U.S. citizens, they can do without any impediment save the cost of a plane ticket. The migration from Puerto Rico to the states is notable for both its scale and its geographic scope. Consider the fact that, in the last decade or so, the Puerto Rican population in Texas rose by 97 percent. In Florida, the increase was 76 percent. In California, 40 percent. And here in Ohio, the Puerto Rican population increased from 66,000 to nearly 105,000—a 57 percent jump. Over the years, hundreds of thousands of Puerto Ricans—especially our best and brightest—have felt compelled to seek a better future for themselves and their families in the states. Every day, residents of Puerto Rico cast a vote against the current status and for statehood by boarding an airplane and leaving behind the island they love.

Why I Support Statehood

That is my case against the current status. Now let me briefly explain why I believe statehood, rather than independence or nationhood in free association with the U.S., is the right and logical next step for Puerto Rico.

Independence and free association are two sides of the same coin, and that coin is nationhood. Both are dignified options that would provide Puerto Rico with full self-government at the national level. But we need to be very clear about what these status options could mean for quality of life on the island.

Independence would break all of the strong economic, political and social bonds that have formed between Puerto Rico and the United States over the past 115 years, a prospect the overwhelming majority of my constituents reject.

Likewise, free association would substantially weaken the close ties that have been forged—in both peace and war—between Puerto Rico and the United States. Under free association, Puerto Rico would become a sovereign nation, but would have an agreement with the U.S. that sets forth the terms of the relationship between the two nations and that could be terminated by either nation at any point. The U.S. currently has such agreements with three small nations in the Pacific: Palau, Micronesia, and the Marshall Islands. These countries are included in certain federal programs, but do not receive assistance under important programs like Medicare, Medicaid and Social Security. Residents of these nations—unlike residents of Puerto Rico—are not American citizens, although they can enter and work in the U.S. freely.

While independence would sever our union with the United States, and free association would weaken our union, 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 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.

By the way, I want to address perhaps the most common argument against statehood, which is that Puerto Rico's unique and wonderful culture would be harmed if the territory were to become a state. I could not disagree more. Those who make this argument don't understand, or choose

to ignore, how the United States has changed in recent decades. As of 2011, there were 52 million Hispanics in the U.S., a 48 percent increase from 2000. Four states and the District of Columbia already have minority populations that exceed 50 percent, and by 2020 eight more states will join that list. By 2039, more than one in four individuals in the U.S. ages 18 to 64 will be Hispanic.

In addition, statehood will not change the fact that Puerto Rico is located in the Caribbean, 1,000 miles from Miami, and that fact that our culture draws upon the influence of Latin America, Africa and Europe, as well as of the United States. Evolving from an unequal member of the American family to an equal member of the American family will not change who we are as a people. Our history, traditions, language, faith, food, arts, music, love of family, and embrace of life—these things are the essence of what it means to be Puerto Rican. Nothing, certainly not equality under statehood, could ever diminish their role in our lives. Our culture is simply too powerful and too intrinsic a part of who we are.

Two Recent Developments

The November 6, 2012 Referendum

I want to close by discussing the two major recent developments on the status issue that I referred to at the start of my remarks.

First, on November 6, 2012, Puerto Rico held a referendum on its political status. The referendum was held under local law. It was not the first referendum in the territory's history; previous referenda had been held in 1967, 1993 and 1998. But it was the most significant, and it renders the prior votes irrelevant.

Voters were first asked whether they want Puerto Rico to remain a territory. Fifty-four percent said they did not want the current status to continue, while 46 percent said they did. Voters were then asked to express their preference among the three alternatives to the current status: statehood, free association, and independence. Of those who chose an option, 61 percent—a supermajority—voted for statehood; 33 percent voted for free association; and about 5 percent voted for independence.

This referendum marked the first time voters were directly asked whether they want Puerto Rico to remain a territory. The leaders of the PDP party, which favors the status quo, strongly urged a “Yes” vote. Nevertheless, the “No” vote won by eight percentage points. The rejection of territory status fundamentally changes the terms of the debate. As I said in a speech I delivered on the House floor following the vote, the question now is not whether, but when, Puerto Rico will cease to be a territory and will have a democratic status. Of critical importance, there were over 834,000 votes cast for statehood in the second question, which not only far exceeds the number of votes cast for free association or independence, but is also more than the roughly 828,000 votes cast for the current status in the first question. For the first time in history, there are more people in Puerto Rico who want the island to become a state than who want it to continue as a territory.

After the vote, the White House issued a statement recognizing the importance of the results. It said: “The results were clear, the people of Puerto Rico want the issue of status resolved, and a majority chose statehood in the second question. Now it is time for Congress to act and the

Administration will work with them on that effort, so that the people of Puerto Rico can determine their own future.”

The President’s Budget Request for Fiscal Year 2014

That brings us to the second major event, which occurred just last week. On April 10th, President Obama asked Congress to appropriate \$2.5 million dollars to fund what would be the first federally-sponsored status vote in Puerto Rico’s history. The President’s action was a direct response to the November referendum. Clearly, if those results had not been so consequential, the President would not have taken the extraordinary step that he did.

Specifically, the President has requested funding to be provided to the Puerto Rico Elections Commission to conduct voter education and administer a federally-sponsored vote on options that would “resolve Puerto Rico’s future political status.”

The word “resolve” is key. The only way to resolve the island’s future political status is through statehood or national sovereignty. Puerto Rico cannot resolve its status by maintaining the same undemocratic status that my people have endured since 1898 and that they soundly rejected in the November referendum. The current status is the root cause of Puerto Rico’s political, economic and social problems, so it cannot be the solution to those problems.

It is also noteworthy that the President’s request clearly states that the federal government shall not provide funding until the Attorney General certifies that the ballot and voter education materials are consistent with the Constitution, laws and policies of the United States. The purpose of this language is to ensure that the ballot does not include impossible status proposals

that have repeatedly promoted by the PDP party over the years and that have just as repeatedly been declared unworkable as a matter of both law and policy by the federal government. These hybrid proposals—which seek rights but no responsibilities, benefits but no burdens—have been aptly described by my colleague, Congressman José Serrano of New York, as a “letter to Santa Claus.” I am pleased the White House understands that true self-determination is a choice among options that can be implemented, not an exercise in wishful thinking.

Now, the President’s request represents one path forward in the effort to resolve Puerto Rico’s status problem, but it is not the only path forward. That is why, next month, I will introduce standalone legislation on the status issue that will complement President Obama’s request and reflect the fact that statehood won the November referendum. Two legislative alternatives; one goal. I am under no illusion that either path will be easy; nothing truly worth doing ever is. But I also know that there is nothing more powerful than an idea whose time has come.

Puerto Rico stands in a far different place today than it did six months ago. An historic referendum was held, the President responded to the results, and Congress now has a responsibility to act. Those who seek democracy, equality and progress for Puerto Rico are on the forward march, while those who support the failed *status quo* are in retreat. Our side drives the debate, while their side merely reacts to the debate. And, in the end, mindful that the arc of history is long but that it bends towards justice, I am confident we will prevail.

I will end my remarks here, I thank you for your patience, and I look forward to answering any questions you may have.

