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Remarks as Prepared For Delivery
“Citizenship, Democracy and Statehood: A Conversation on Resolving Puerto Rico’s Political
Status”
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Introduction

Good evening. Thank you all for coming out on a school night and a work night. I want to thank Cornell University and Georgetown University for co-hosting this event. I know many people here had a hand in making this activity possible—and each of you has my gratitude.

The subject of my remarks tonight is 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.

I want to begin by expressing my conviction that statehood for Puerto Rico is neither a liberal cause nor a conservative cause. The issue transcends—or at least ought to transcend—partisan politics, because statehood advocates come in all political stripes. For me, as for so many others, this issue is about right versus wrong, justice versus injustice, and equality versus inequality. It raises fundamental questions about the nature of our democracy and about the meaning of American citizenship.

My remarks will cover three areas. First, I will provide some brief background information about Puerto Rico's political status. To understand where Puerto Rico stands at present, and where we may be headed in the future, it is important to know a little about our past.

Second, I will explain why I oppose the current status and support statehood for Puerto Rico. I recognize and respect that there are people of good faith who do not share this vision. I may believe that the case for statehood is compelling, but that does not mean everyone else does. Statehood advocates will not convert a single person to our cause unless we can make a clear, coherent and evidence-based argument. So that is what I will attempt to do tonight.

Finally, I will describe two historic developments on the status issue that have taken place in the last six months, including one that occurred two weeks ago. These events, taken together, fundamentally change the terms of the status debate. They have infused the issue with a new energy and a new urgency.

Background

To set the stage, let's start with the U.S. Constitution. A provision in that document, known as the Territory Clause, gives Congress broad power to legislate regarding the territories. For a century or so following ratification of the Constitution, it was assumed that a geographic area's designation as a "territory" was temporary and would ultimately lead to that territory becoming a state. During this period, many jurisdictions evolved from territories to states over time.

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—

though not always high-minded—debate in this country about how the U.S. should treat its new territories, which were located far away and whose residents were 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, the 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 a two-year term, and members of the Senate, who serve a six-year term, the Resident Commissioner serves a four-year term. Of course, any benefit derived from 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 committees, 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, holding that Puerto Rico had been acquired by the United States, but had not been “incorporated” as part of the U.S. In short, the Court created a black-and-white world of “incorporated” and “unincorporated” territories. An incorporated territory was one on the path to statehood in the longstanding American tradition. An unincorporated

territory like Puerto Rico was one whose ultimate status—statehood or nationhood—Congress had yet to decide.

Many critics of these cases took comfort in the assumption 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 place Puerto Rico on the path to statehood—or granted the island its independence.

In 1917, federal legislation was enacted to extend citizenship to individuals born in Puerto Rico. In a decision handed down five years later, however, the Supreme Court held that the grant of citizenship did not demonstrate intent by Congress to incorporate Puerto Rico. That 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 dismay of many, the Supreme Court held that Puerto Rico's judicially-created status as an unincorporated territory could last indefinitely—or, more precisely, until the president and Congress decide the time has come for that status to change. Accordingly, unless today's Supreme Court revisits its earlier cases, any solution to Puerto Rico's 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 told, 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 some of you who have heard Puerto Rico described as a “commonwealth” and concluded—not unreasonably—that this word means that Puerto Rico has some unique 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 demonstrated by the fact that four U.S. states and one of Puerto Rico’s sister territories also call themselves “commonwealths.” When people ask what Puerto Rico’s status is, the only correct answer is an unincorporated territory of the United States.

Why I Oppose the Current Territory Status

Naturally, status has always been the central issue in Puerto Rico’s political life. Our three main 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 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 those who feel no particular allegiance to either party. 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.

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

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

First, although federal law is supreme in Puerto Rico, territory status denies us the right to choose the leaders who make our national laws. We cannot vote for president, U.S. senators, or voting representatives in the U.S. House. Pause for a moment to reflect—in the 21st century—how shocking and anachronistic this is. The bedrock principle of America’s approach to government is representative democracy. Especially since the Cold War ended, this model has spread throughout 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 remains a work in progress. But nearly everywhere we look around the globe, average citizens have already attained—or are working hard to attain—a real voice in choosing the leaders who make the policies that shape their lives. Witness the Arab Spring, where courageous men and women from Tunisia to Syria have sought, with varying levels of success, to depose dictators and usher in more democratic systems of government. 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*.

Second, territory status denies Puerto Rico equality under the law. 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 federal government can meet this test by arguing that equal treatment would be expensive or that residents of Puerto Rico do not pay federal taxes on income they earn on the island. The tax argument will succeed despite the fact that Puerto Ricans are required to pay all federal payroll taxes and the fact that nearly half of all households in the states do not pay federal income taxes either. In short: territory status gives the federal government a legal license to discriminate against Puerto Rico—and the federal government often uses that license.

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 California, cast votes on bills that affect the lives of my people, while I can only sit there and watch. And I want them to experience what it feels like to have to appeal

for assistance from U.S. senators who, while perhaps sympathetic to our issues, were elected to protect and promote the interests of their constituents, not mine.

It is also crystal clear from the evidence that territory status harms Puerto Rico's economy and, therefore, the quality of life of our citizens. To illustrate, let me give three quick examples, although there are many others.

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. has averaged over 60 percent. The ratio among Hispanics living in the U.S. is currently about 60 percent as well. In Puerto Rico, the ratio ranges from about 30 to 40 percent.

Finally, consider household income. Between 2007 and 2011, the median household income in the United States was over \$52,000. The median household income in Mississippi was about \$40,000. Meanwhile, in Puerto Rico, it is under \$20,000.

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 lags behind the states because the territory’s citizens and 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. Rather, our political system has failed us.

If you need more evidence, consider these astonishing statistics. Over the past dozen years, Puerto Rico’s population has fallen by nearly four percent. My constituents are not leaving Puerto Rico for foreign countries. Rather, they are coming to the states—which, as U.S. citizens, they can do without any impediment except the cost of a plane ticket. Hundreds of thousands of Puerto Ricans—including many doctors, engineers and other professionals—are casting a vote against the current status and in favor of 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, as the first President Bush phrased it.

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 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: the Marshall Islands, Micronesia, and Palau. 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 dissolve 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 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.

Parenthetically, I want to address perhaps the most common argument against statehood, which is that Puerto Rico's vibrant culture would be compromised if the territory were to become a state. Those who make this argument do not understand, or choose to ignore, the composition and characteristics of the contemporary United States. There are now over 52 million Hispanics in this country. In four states, the minority population already exceeds 50 percent, and eight more states are on track to join that list by the end of the decade. Within 30 years, more than one in four working-age individuals in the U.S. will be Hispanic. This country grows more diverse and inclusive each year. The marvel of the American melting pot is that, while many ingredients are added together to form a cohesive whole—*E Pluribus Unum*—each ingredient retains its unique flavor. Accordingly, the notion that Puerto Rico's culture would cease to flourish under statehood is entirely misplaced.

More to the point, statehood will not change the fact that Puerto Rico is located in the Caribbean, 1,000 miles from Miami, and the 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 passion for 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.

Up until now, I have focused on why the current status is bad, and why statehood would be better, for Puerto Rico. I want to add just a few words about why statehood would also be better for the United States, a point I am happy to elaborate on during the question-and-answer session. It is a mistake to assume that status is a zero-sum game, where one side's gain is another side's loss. In my view, statehood would be mutually beneficial for Puerto Rico and the U.S.

From a practical vantage point, the U.S. succeeds when Puerto Rico succeeds; when the island is strong, secure and stable; when its residents do not feel obligated to relocate to the states to achieve their dreams; when they live, work and invest in Puerto Rico; and when the island's economy grows, individuals and businesses prosper, and the tax base both widens and deepens. From the U.S. perspective—a robust and resilient state of Puerto Rico would advance the national interest.

From a purely political vantage point, although it should not matter in an ideal world, I can say to both Republicans and Democrats that they should not view the prospective state of Puerto Rico as either a blessing or a curse for their party's fortunes. I firmly believe Puerto Rico would be a competitive state where each national party, if it is willing to put in the effort, could achieve success. The island's population appreciates an active government that empowers individuals

and assists the needy, but it is socially conservative on a range of issues. So, electorally speaking, the state of Puerto Rico would be very much in play.

From a moral vantage point, if Puerto Rico wants statehood, I cannot identify any principled basis upon which Congress could decline that petition. How could the United States government, a champion of democracy and self-determination around the world, disregard those principles with respect to its own citizens, without losing credibility both at home and abroad? This is especially true given the rich and remarkable service that generations of men and women from Puerto Rico have rendered to this nation in the armed forces. There is a frame in my office containing photographs of service members from the island who have died in conflicts since 2001. They are the latest in a long line of Puerto Rican patriots who have fought—and fallen—for our nation, beginning in World War I. One photo has yet to be added. Less than three weeks ago, in Afghanistan, insurgents attacked a convoy of American vehicles. A brave 25-year-old Foreign Service Officer named Anne Smedinghoff, who graduated from Johns Hopkins University, tragically lost her life. So, too, did a young American soldier from Puerto Rico—the exact same age as Anne—named Wilbel Robles. On Monday, I had the honor to meet Mr. Robles' wife and children, to thank them for his service, and to present them with an American flag that had flown above the U.S. Capitol.

And, while military service may be the purest form of service to this country, it is not the only form of public service. Thousands of Puerto Ricans have served—and continue to serve—in federal law enforcement and national security positions; as federal judges, prosecutors and defense counsel; as U.S. diplomats, and in federal health, housing and other agencies.

Given the contributions that residents of Puerto Rico have made to this country, in times of both war and peace, it is not difficult to understand why President Reagan said that his administration would accept whatever status choice is made by a majority of the island's population—a sentiment that has been expressed in similar form by every president since Harry Truman. In a very real sense, Puerto Rico has earned the right to be equal.

Two Historic Developments

Finally, I want to describe two recent developments on the status issue that I referenced at the outset.

Thus far, I have done my best to explain what I regard as the inherent defects of the current status and the benefits of statehood—for both Puerto Rico and the United States. But, the reality is that, until very recently, critics of statehood could plausibly argue that island residents had never expressed a clear desire to end territory status and to become a state. On November 6, 2012, however, Puerto Rico held a local referendum on its political status. In light of the results, statehood opponents can no longer make this argument—at least not with any credibility.

Turnout for the referendum was massive, exceeding 75 percent of all registered voters on the island. Voters were first asked whether they want Puerto Rico to remain a territory. Fifty-four percent of voters said they do not want the current status to continue. 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 voted for statehood.

This referendum marked the first time voters were directly asked whether they want Puerto Rico to remain a territory. The leaders of the Popular Democratic Party, which favors the status quo, strongly urged a “Yes” vote. Nevertheless, the “No” vote won by eight percentage points. Of critical importance, there were more votes for statehood on the second question than there were votes for the current status on 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 remain 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.”

Earlier this month, President Obama took an important step. In his budget request to Congress, he is seeking \$2.5 million dollars to fund the first federally-sponsored status vote in Puerto Rico’s history. The President’s action was a direct and logical 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.

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

The word “resolve” is key. The only way to resolve the island’s ultimate status is through statehood or nationhood—either independence or free association. Puerto Rico cannot resolve its status by maintaining the same undemocratic status that island residents have endured since 1898 and that they 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.

The President’s request also 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 been put forward over the years and that have just as repeatedly been declared unworkable as a matter of both law and policy by the federal government. As the White House recognizes, self-determination is a choice among options that can be implemented, not an exercise in wishful thinking.

The President’s request represents one way to resolve Puerto Rico’s ultimate status, but it is not the only way. 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.

I am under no illusion that either path will be easy, because nothing truly worth doing ever is. But I also know that there is nothing more powerful than an idea whose time has come. Today,

more than at any other point in my lifetime, those who seek democracy, equality and progress for Puerto Rico are on the forward march.

I believe that the struggle for statehood for Puerto Rico is a fight for civil rights and a fight for human rights. The fact that not all Puerto Ricans share this aspiration does not diminish the dignity of the aspiration itself. Drawing a lesson from earlier social movements, supporters of the statehood cause must be passionate, persistent and pragmatic. If we are, and if we recognize that there will be obstacles and resolve to overcome them, I am confident we will prevail.

Thank you.