

January 11, 2021

The Honorable Joseph R. Biden, Jr.  
President-elect of the United States  
1401 Constitution Avenue NW  
Washington, DC 20230

The Honorable Kamala Harris  
Vice President-elect of the United States  
1401 Constitution Avenue NW  
Washington, DC 20230

Dear President-elect Biden and Vice President-elect Harris:

Equally American fights to advance equality and civil rights for the 4 million U.S. citizens living in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands – 98% of whom are racial or ethnic minorities. Our values are centered on the basic principle that all Americans should have equal rights and representation, wherever they live.

Our Nation was founded upon the idea that governments “deriv[e] their just powers from the consent of the governed.” Yet, even as we celebrate hard-won achievements in diversity and inclusion in our political institutions, we continue to exclude Americans living in U.S. territories from participation, representation, and protections equal to their fellow citizens living in the fifty states and the District of Columbia. As you prepare for your administration, we remind you that Americans living in the territories are deprived of many of the rights and protections as citizens that most Americans are able to take for granted. We therefore ask that you prioritize the following proposals for ensuring equal rights and representation to residents of the territories:

**Voting Rights.** More than 156 million Americans voted in the 2020 General Election, which set a new record for voter turnout. But U.S. citizens living in the territories were once again denied the ability to cast ballots for their President, Vice President, or voting representation in Congress. That is unfair and profoundly un-American. We urge your administration to prioritize advancing voting rights for U.S. citizens living in the territories so that no American is deprived representation or the right to vote. As a start, we recommend a White House Commission modeled after the Congressional Task Force on Territorial Voting Rights included last Congress in H.R. 1 that works towards ending disenfranchisement in U.S. territories and that examines the broader economic impacts the denial of voting rights has on citizens in the territories. It is not a coincidence that the citizens who are denied equality as described below also lack voting representation in the federal government.

**Insular Cases.** A major hurdle facing citizens in the territories is the shameful legacy of the controversial *Insular Cases*, which for over a century have relegated those living in the territories to a second-class status. Rooted in the same unrepentantly racist notions as *Plessy v. Ferguson*’s separate-and-un-equal racial segregation, the *Insular Cases* not only denied the full application of the Constitution to residents of overseas territories, but denied them any promise of full political equality. In effect, the *Insular Cases* created what the late-Judge Juan R. Torruella described as a “noxious condition that continues to the present day allowing the citizens of the United States who reside in [the territories] to be treated unequally from those in the rest of the nation solely by reason of their geographical residence.” In short, the *Insular Cases* sanction a colonial relationship between the United States and citizens in its territories that is not substantively unlike the one rejected during our Nation’s Founding. We therefore urge your administration to renounce the *Insular Cases* and their legacy of racial injustice by ordering the U.S. Department of Justice to refrain from any

continued reliance on the *Insular Cases* in ongoing litigation involving the territories, including *Fitisemanu v. United States* where the United States has relied on the *Insular Cases* to argue against a constitutional right to citizenship in U.S. territories.

**Supplemental Security Income.** The Supplemental Security Income (SSI) program supports disabled, blind, and low-income adults and children throughout the fifty states, the District of Columbia, and the Northern Mariana Islands. But otherwise-eligible citizens living in Puerto Rico, Guam, the Virgin Islands, and American Samoa are arbitrarily precluded from receiving SSI. That is not just unfair, it is unconstitutional. In *United States v. Vaello Madero*, the First Circuit recently struck down this statutory discrimination as a violation of equal protection, concluding that “[t]he categorical exclusion of otherwise eligible . . . residents from SSI is not rationally related to a legitimate government interest.” The United States has sought review of the First Circuit’s landmark decision before the U.S. Supreme Court. We urge your administration to stop defending the arbitrary denial of federal benefits in Puerto Rico and other territories. We also urge your administration to affirmatively support legislation to include Puerto Rico, Guam, the Virgin Islands, and American Samoa in the SSI program, as proposed last Congress in H.R. 947.

**Medicaid and Other Federal Programs.** Medicaid funding is typically allocated to states based on the per-capita income of their residents. But citizens in U.S. territories have historically received less funding than citizens in states with similar per-capita incomes, and Medicaid funding has long been arbitrarily capped well below the territories’ actual needs. This uncertainty, instability, and vulnerability has the unintended consequence of discouraging providers in the territories from serving low-income patients, which has life and death consequences. If no action is taken, in 2021 the territories will face a Medicaid “cliff” that ends more favorable Medicaid treatment in the territories, placing thousands of lives at risk. We therefore urge your administration to support the elimination of Medicaid’s general funding limitation for the territories, as proposed last Congress in H.R. 6495 and supported in the Obama-Biden Administration’s FY2017 Proposed Budget. We also call on your administration to end discrimination in other federal benefits programs such as the Supplemental Nutrition Assistance Program (SNAP) and the Earned Income Tax Credit (EITC).

**Recovery, Renewal, and Respect for Puerto Rico.** We share your conviction that Puerto Rico residents “deserve to be treated with dignity and respect” and applaud your plan for recovery, renewal, and respect for Puerto Rico. Regrettably, Puerto Rico residents have too often been underserved by the federal government, especially in the wake of natural disasters. We look forward to partnering with your proposed federal working group to make sure Puerto Rico residents have the resources and technical assistance that they need not only to recover, but to prosper. Similar plans and policies should be advanced for residents of other territories.

Thank you for considering the millions of American citizens who live in the territories as your new Administration begins. We look forward to partnering with your administration and working with Secretary-designates Deb Haaland, Xavier Becerra, and other administration officials to achieve equal rights and representation for all Americans, wherever they live.

Sincerely,

Neil C. Weare  
President and Founder