

March 15, 2021

The Honorable Deb Haaland
Secretary of the Interior
1849 C Street, N.W.
Washington, DC 20240

Dear Secretary Haaland:

Equally American fights to advance equality and civil rights for the 3.5 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 or indigenous peoples. 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 Virgin Islands Congresswoman Stacey Plaskett recently said as a House Manager for the Senate impeachment trial, “Every American has the right to vote—unless you live in a territory.”¹

We congratulate you on your confirmation as Secretary of the U.S. Department of the Interior. As you take office, we emphasize that citizens in the territories are deprived of many of the rights and protections that most Americans are able to take for granted. We therefore ask that you prioritize the following proposals to ensure equal rights and representation for 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 you to prioritize advancing voting rights for U.S. citizens living in the territories so that no American is deprived of representation or the right to vote. Specifically, we urge your continued support for establishing a Congressional Task Force on Voting Rights of United States Citizen Residents of Territories to study the economic and societal consequences that come with disenfranchisement in the territories and impediments to full and

¹ Stacey Plaskett, *The Second Class Treatment of U.S. Territories is Un-American*, The Atlantic (March 11, 2021), available at <https://www.theatlantic.com/ideas/archive/2021/03/give-voting-rights-us-territories/618246/>.

equal voting rights and representation for the citizens therein,² or even to encourage the Biden-Harris Administration to establish a similar Task Force by executive action. 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 the Biden-Harris Administration to renounce the *Insular Cases* and their legacy of racial injustice by refraining 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. This 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 U.S. Supreme Court recently granted review of this case, with the Biden-Harris Administration continuing to defend this discrimination in court. We join Members of Congress and others in urging the Biden-Harris Administration to stop defending the arbitrary denial of federal benefits in Puerto Rico and other territories.³ We also urge you to affirmatively support legislation to include Puerto Rico, Guam, the Virgin Islands, and American Samoa in the SSI program.⁴

² For the People Act of 2021, H.R. 1, 117th Cong. § 2302 (2021).

³ Equally American, *Members of Congress Press Biden DOJ for Equality in U.S. Territories* (March 11, 2021), available at

https://www.equalrightsnow.org/members_of_congress_press_biden_doj_for_equality_in_u_s_territories.

⁴ Supplemental Security Income Equality Act, H.R. 537, 117th Cong. (2021).

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 support for eliminating Medicaid's general funding limitation for the territories.⁵ We also call on you to help end discrimination in other federal benefits programs such as the Supplemental Nutrition Assistance Program (SNAP) and other programs.

As you begin leading the Interior Department, thank you for considering the millions of U.S. citizens who live in the territories. Now that you have been confirmed, we hope that the Biden-Harris Administration will soon announce a nominee to lead the Office of Insular Affairs, which is responsible for coordinating federal policy for the territories and Freely Associated States in Micronesia.

We look forward to partnering with you to achieve equal rights and representation for all U.S. citizens, wherever they live.

Sincerely,



Neil C. Weare
President and Founder

⁵ Insular Area Medicaid Parity Act, H.R. 265, 117th Cong. (2021).