



## **A Spanish First 51st State? Puerto Rico Draws Closer**

*Why the Weighty Issues of Language and National Identity Must Be Addressed Now*

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*“English is a foreign language in Puerto Rico.”*

--Dr. Yolanda Rivera, Director of Linguistics Program, University of Puerto Rico<sup>1</sup>

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H.R. 2499, the Puerto Rico Democracy Act of 2009, creates a federally sanctioned vote of Puerto Ricans to determine the island’s political status. The Act has earned the bi-partisan support of more than 180 co-sponsors and was reported favorably out of the Committee on Natural Resources.

Given H.R. 2499’s legislative momentum, the idea of Puerto Rican statehood deserves to be taken seriously. Puerto Ricans are U.S. citizens by birth and have served in our military. They also pay some federal taxes and receive some federal benefits. Puerto Rico’s Commonwealth status, ratified by Congress in 1952 and recognized by the U.N. in 1953, allows the island to retain its cultural identity, such that “[m]ost Puerto Ricans consider themselves a distinct national group.”<sup>2</sup> An overwhelming majority of Puerto Ricans speak Spanish as their first and only language,<sup>3</sup> and the island fields its own Olympic team.

Since the current U.S.-Puerto Rico political relationship has no legal sunset date and will endure unless Congress acts to change it, passage of H.R. 2499 must be acknowledged as making statehood infinitely more likely. The bill is supported by Puerto Rico’s pro-statehood New Progressive Party and opposed by its pro-commonwealth Popular Democratic Party.

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<sup>1</sup> “Puerto Rican Government Wants Bilingual Nation.” [Latin American Herald Tribune](#), 22 Feb. 2010.

<sup>2</sup> Levinson, Sanford, Bartholomew H. Sparrow. *The Louisiana Purchase and American Expansion, 1803-1898*. 2005. 167, citing Nancy Morris, *Puerto Rico: Culture, Politics, and Identity* (Westport, Conn. Praeger, 1995); Rivera Ramos, *The Legal Construction of Identity*, 11-13.

<sup>3</sup> U.S. Census Bureau, 2006-2008 American Community Survey.

### **The Controversial Procedure:**

Under H.R. 2499, the Puerto Rican government will conduct a two-stage plebiscite meant to inform Congress about the preferences of the island’s population. The first plebiscite gives voters two options: (1) Puerto Rico should keep its present commonwealth status; or (2) Puerto Rico should have a different political status. If a majority of people vote for the first choice, the government of Puerto Rico is authorized to conduct additional plebiscites every eight years and the island retains its commonwealth status until its citizens vote to change it.

If a majority of people vote for a different political status, a second plebiscite is held giving voters three options: (1) Independence: Puerto Rico should become fully independent from the U.S.; (2) Sovereignty in Association with the U.S.: Puerto Rico and the U.S. should form a political association between sovereign nations that will not be subject to the Territorial Clause of the U.S. Constitution; or (3) Statehood: Puerto Rico should be a State of the Union.

Remarkably, statehood could “win” even if it is only the second most popular choice among Puerto Ricans. For instance, in the 1993 plebiscite, 48.9 percent of voters opted for commonwealth, 46.6 percent for statehood, and 4.5 percent for independence. Under the structure of H.R. 2499, the combined numbers of statehood and independence would add up to 51.1 percent vote for “different political status,” putting statehood into a runoff with independence.

An election in which the runner-up is declared the victor is the sort that ordinarily leads to marches and State Department denunciations. Unsurprisingly, such a procedure for entering the Union has never been endorsed by the U.S. Congress. Given the political realities on the ground, this highly unusual election structure coupled with mandatory re-votes every eight years is virtually guaranteed to eventually deliver a victory for statehood.

## Does H.R. 2499 create a “non-binding” vote? Not really.

Given that the Act’s avowed purpose is to “formally consult the people of Puerto Rico regarding the island’s political status,”<sup>4</sup> it is worth considering why supporters are advertising the vote as “non-binding.”<sup>5</sup> Supporters could convince the Puerto Rico legislature to immediately initiate a referendum or scientific survey to gauge political opinion, but instead are doing the heavy lifting of trying to pass a federal law blessing the vote with the congressional seal of approval.<sup>6</sup>

The “non-binding” nature of H.R. 2499’s plebiscites is only technically true; while it is *legally* non-binding, it is hardly *morally* non-binding. Congress would scarcely react to a decisive vote for statehood by American citizens in a congressionally sanctioned election with a shrug.

Given these political realities, H.R. 2499 can not be seen as merely a glorified resolution creating a “poll by ballot box” among Puerto Ricans. It is an invitation from the Congress to take a substantial step toward statehood with legal and moral force. If Congress issues an invitation to vote for statehood now, only to alter the terms of statehood later, it would be a slap-in-the-face of millions of voting citizens that would rightly draw international outrage.

## The language and national identity issues are first order considerations.

The residents of Puerto Rico have an identity that is different from any current U.S. state, and the government of Puerto Rico has practices that are different than any U.S. state.

- Fewer than 20 percent of Puerto Ricans are proficient in English.<sup>7</sup> California, the U.S. state with the lowest English proficiency rate, still significantly surpasses Puerto Rico’s rate; approximately 80 percent of Californians are proficient in English.<sup>8</sup>
- Puerto Rico’s legislative and judicial proceedings are conducted entirely in Spanish,<sup>9</sup>

<sup>4</sup> H.R. 2499, The Puerto Rico Democracy Act of 2009: Legislative Hearing before the Committee on Natural Resources, 111<sup>th</sup> Cong., 1<sup>st</sup> Sess. (2009) (testimony of Resident Commissioner Pedro R. Pierluisi).  
<sup>5</sup> Id.

<sup>6</sup> In fact, bills currently pending in the Puerto Rico House (PC 2497) and Senate (PS 1407) would initiate island-wide votes.

<sup>7</sup> U.S. Census Bureau, 2006-2008 American Community Survey.

<sup>8</sup> U.S. Census Bureau, 2000 Census.

<sup>9</sup> Even Puerto Rico’s official government website is in Spanish.  
<http://www.gobierno.pr/>

with English translations available only upon request.

- English was finally installed as mandatory in public schools only in 1993, but is rarely taught for more than 50 minutes per day.<sup>10</sup>
- Puerto Rico is currently exempt from the English language testing provisions of federal education law, the provisions of which effectively make illegal the current “Spanish first” education policy.<sup>11</sup>

In policy and practice, Puerto Rico treats English the way the 50 states treat Italian and German: as a *foreign* language. No other state in the Union treats English as a second language, much less as a foreign language, and Puerto Rico should not be the exception.

## Historical Precedent for English Requirements

Four times in the nation’s history, Congress has confronted the question of statehood for a U.S. territory with a significant and historically rooted non-English speaking population. In 1811, President James Madison signed the Louisiana Enabling Act, establishing the conditions under which heavily French speaking Louisiana could become a state. Under the Act, the laws, records, and written proceedings of the new state were to be solely in English.<sup>12</sup> Similarly, Oklahoma, Arizona, and New Mexico share enabling acts mandating English in the school systems; all three states’ enabling acts use the narrow language, “schools shall always be conducted in English.”<sup>13</sup> In each case, Congress made clear *before* the vote occurred in these potential states that significant language policy changes were conditions for statehood.

## What Should Congress Do?

Congress should amend H.R. 2499 to make clear that statehood would require (A) lifting Puerto Rico’s exemption from the English testing requirements of federal education law; and (B) English becoming the *sole* official language of Puerto Rico. Given the consequences for citizens in Puerto Rico and the 50 states, the time for Congress to address the conditions of Puerto Rico statehood is now.

<sup>10</sup> “Few English Speakers Emerging from Puerto Rico’s Public Schools.” The Orlando Sentinel 26 Apr. 2004.

<sup>11</sup> Pub.L. 107-110, 115 Stat. 1451, 20 U.S.C. § 6319 (2008).

<sup>12</sup> Moynihan, Daniel Patrick. *Pandaemonium: Ethnicity in International Politics*. 1993. 73-74.

<sup>13</sup> Oklahoma Enabling Act, Sec. 5. Provision for Public School (1906), Arizona, New Mexico Enabling Acts, c. 310, 36 U.S. Stat. 557, 568-579 (1910).