

## Legal Scholars Debate Statehood for Puerto Rico

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Former New York Gov. George Pataki was instrumental in stopping U.S. military weapons testing in Puerto Rico.

**Photo by Janet Sassi**

existed for creating an EC.

Pataki, however, said no such constitutional basis existed; therefore presenting the people of Puerto Rico with such an "invalid option" was misleading.

"The odds of a U.S. Congress ever passing a law—and a president signing a law—that allows a part of this country to form treaties, or to join the U.N., is about zero," said Pataki, who owns a home in Vieques, Puerto Rico, and was instrumental in stopping U.S. military weapons testing on the island.

"The true choice is whether you are going to be a territory dependent on those people in Washington who you are not able to vote for, or are you going to become a state?"

Statehood, Pataki said, would enable Puerto Rico to close ranks on the other 50 states in its standard of living. Currently, the average household income on the island is one-third of that of the average U.S. income, Pataki said. Furthermore, the poorest state in the union, Mississippi, receives 83 percent reimbursement for its Medicaid expenses. Puerto Rico is 50 percent poorer than Mississippi, and, as a territory, receives only 17 percent reimbursement.

Two remaining panelists, Fordham Law School Dean William Michael Treanor and Puerto Rico Secretary of State Kenneth D. McClintock (D-PR), discussed the swirl of legal issues that surround maintaining Puerto Rico as a territory. When the founding fathers created the territory clause of the Constitution, the panelists said, they likely assumed a territory would be on the path to statehood.

"We can argue about what temporary means," said McClintock, "but clearly 110 years is not temporary."

The forum was sponsored by the Center for Puerto Rico Equality & Advancement and Fordham Law School.

Founded in 1841, Fordham is the Jesuit University of New York, offering exceptional education distinguished by the Jesuit tradition to approximately 14,700 students in its four undergraduate colleges and its six graduate and professional schools. It has residential campuses in the Bronx and Manhattan, a campus in Westchester, and the Louis Calder Center Biological Field Station in Armonk, N.Y.

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A panel of legal scholars led by former New York Gov. George Pataki debated the hotly contested issue of whether Puerto Rico should choose statehood or independence from the United States at Fordham Law School forum on March 26.

Constitutionally considered a U.S. territory since 1898, the tropical island of four million U.S. citizens remains under the sovereignty of the federal government. It receives some of the benefits endowed upon the 50 sovereign states and is subject to most federal laws.

However, Puerto Rico has no voting representative in congress and its citizens are not allowed to vote in federal elections (although they can vote in presidential primaries).

Constitutional law expert Christina Duffy Burnett, associate professor at Columbia Law School, outlined the options available to Puerto Rico: independence, statehood, or "enhanced commonwealth," a status somewhere in between the two.

Enhanced Commonwealth (EC) status, she said, would allow Puerto Rico to strengthen its union with the U.S. while still maintaining a sense of self-determination. Proposals for an EC include:

- guaranteed U.S. citizenship and guaranteed federal funding on programs for education, health care, veterans and other areas;
- separate membership in the U.N. for Puerto Rico;
- power to enter into treaties with other nations;
- the right to nullify certain, but not all, U.S. laws within its own territory.

Duffy said that the people of Puerto Rico have voted for commonwealth status on at least two occasions, but that the congress has "basically ignored them." At the same time, Duffy said, politicians' "calls for Puerto Rican self-determination sound nice," but such positions amount to posturing because no action is taken to make it real.

What must first be done, Duffy said, is to decide whether a constitutional basis