

# Policy Asks - 5 Years Later How the Federal Government and Congress Can and Must Help Puerto Rico

## WHAT YOU NEED TO KNOW

On September 20, 2017, Hurricane Maria - a severe category 5 hurricane - hit the island of Puerto Rico causing thousands of deaths and billions of dollars in damage. This was less than two weeks after the island was recovering from Irma, another category 5 hurricane. The entire island lost electricity in the longest blackout in U.S. history. Some communities lacked electricity for up to eleven months creating a situation that devastated the economy, resulted in thousands of deaths, and left many people homeless, jobless, without access to life-saving medical care, clean water to drink, and living under plastic sheeting. According to the Puerto Rico Department of Housing, as of May 2022, [3,646](#) homes impacted by Hurricanes Irma and Maria still have blue tarps as partial or whole roof. One [death toll](#) calculates the number of deaths related to the aftermath of the hurricanes to be at least 3,000, making Hurricane Maria the [deadliest](#) in modern American history.

## Damage reports in aftermath of Hurricanes Irma and Maria in Sept 2017:

More than <b>95%</b> of Puerto Ricans <b>lacked drinking water</b>	<b>100%</b> of the power grid
<b>28%</b> of federally qualified <b>health centers were damaged</b>	<b>95%</b> of cellular sites
<b>90%</b> of households <b>applied for assistance</b>	<b>43%</b> of wastewater treatment plants were <b>inoperable</b>
Almost <b>3000</b> <b>people lost their lives</b>	more than <b>40,000</b> <b>landslides</b>
	more than <b>97%</b> of roads were <b>impassable</b>

Graphic source: Rand Corporation, Homeland Security Operational Analysis Center [data](#).

Five years later, many of the conditions continue. People living in Puerto Rico are exhausted from the ongoing struggle of daily living that includes two years of a [global pandemic](#), rising energy costs, [protests](#), [political turmoil](#), ongoing [droughts](#), [flooding](#), [earthquakes](#), and [energy blackouts](#). Mental and emotional health issues are a serious concern. Critical mental health [facilities have closed](#) and mental health infrastructure is poor on the island.

“Our federal government has a moral and legal responsibility to help the people in Puerto Rico recover from these compounded crises just as it would help any other group of U.S. citizens.”

We would argue that the federal government has even greater responsibility given its role in discriminatory policies that have systemically weakened Puerto Rico's social, environmental and economic infrastructure, and through the [intentional delaying](#) of recovery efforts following Maria, compounding the suffering of its citizens living in Puerto Rico.

Five years after Hurricanes Irma and Maria devastated Puerto Rico, the reconstruction of the island has barely started. Two years after Maria, [30,000](#) homes still had blue tarps instead of roofs. Five years later [3,646](#) families on this tropical island are still [officially](#) reported as living with plastic sheeting instead of a roof.

Of the approximately 27,000 applications received for rebuilding assistance by the Puerto Rico Housing Department's CDBG-DR Repair, Reconstruction or Relocation Program (R3 Program), as of August 8 2022, a total of [3,841](#) cases - or less than 14% - have been reported as repaired, reconstructed, or relocated. Additional rebuilding has been financed and accomplished much more efficiently through [private](#) and [non-profit](#) programs out of frustration with government denials and cumbersome processes. (See *TA4PR Response of the Federal Government* [here](#) for more detail.)

## Roots and Legacy of Discrimination in Federal Funding

The widely criticized [Insular Cases](#), decided by the Supreme Court between 1901 and 1923, held that the "half-civilized," "savage" "alien races" living in Puerto Rico, Guam, and other U.S. territories were not entitled to the same constitutional rights

and protections afforded to other U.S. citizens because they could not understand “Anglo-Saxon principles.” Much like the infamous *Plessy v. Ferguson*, which justified “separate but equal” racial segregation, and *Korematsu v. United States*, which upheld the mass internment of Japanese Americans during World War II, the Insular Cases represent a shameful legacy our nation would do well to move past. Civil and human rights advocates are [urging the federal government to abandon](#) reliance on this legal doctrine. Supreme Court Justice Neil Gorsuch said in a [recent federal benefits decision](#), *U.S. v Vaello Madero*, that was unfavorable to Puerto Rico, that overturning the “shameful” Insular Cases was long overdue. Although many in Congress [agree](#), it is not enough to end this discrimination.

The United States government has [discriminated](#) against Puerto Rico with respect to federal benefits and programs, such as [Medicaid](#), [SNAP](#) (food stamps), [SSI](#) for the blind, disabled, and elderly, the [Child Tax Credit](#) (until 2021, unavailable to Puerto Rican families with fewer than three children), among others, since it forcibly acquired the island as a “territory” in 1898. (*For a basic Puerto Rico History 101 go [here](#).*)

The lack of parity and [discrimination](#) in funding for federal benefit programs, especially those designed to alleviate poverty, have worsened the economic, social, and environmental vulnerabilities in the island.

**“The irrational and discriminatory treatment by the federal government is one of the main causes of Puerto Rico’s current economic crisis and has directly contributed to the island’s high poverty levels.”**

This disparate and [harmful treatment](#) was [recently affirmed](#) by the Supreme Court at the request of the Biden Administration in spite of [multiple requests](#) that President Biden withdraw the appeal of the [lower courts cases](#) finding this treatment to be discriminatory and unconstitutional.

This type of historic discrimination by the federal government towards Puerto Rico has allowed for the inequitable delivery of federal benefits - including disaster response and recovery. Systemic discrimination, compounded by [intentional neglect](#) on the part of the federal government, put Puerto Rico in a more vulnerable position that made damage even more catastrophic and resulted in a high death toll.

**“The only way Puerto Rico can build a sustainable future is by ending nearly 125 years of systemic discrimination by the federal government against Puerto Rico and its residents.”**

## TODAY IN PUERTO RICO

### Poverty

According to the most recent [Census](#) data, in 2021, [43.4% of the 3.2 million](#) people in Puerto Rico lived in poverty. For comparison, the U.S. [national poverty rate](#) was dramatically lower at 12.8%. Puerto Rico’s poverty rate has remained fairly steady since the economic crisis started in 2006.

Even more disturbing are the high rates of childhood poverty on the island. [57% of children](#) in Puerto Rico live in poverty compared to 18% of children in the U.S. Puerto Rico widely outpaces even the [poorest U.S. states](#) in this terrible measure (for example, Mississippi’s rate of poverty is 18%). In 2019, 42% of [families with children](#) were unemployed. The lack of access to full participation in the federal Child Tax Credit (until 2021 only available to families with three or more children in Puerto Rico) undoubtedly contributed to this situation. Growing up in poverty is one of the greatest threats to healthy child development. It increases the likelihood that a child will be exposed to factors that can impair their brain development and lead to poor academic, cognitive and health outcomes.

About [38.5%](#) of all seniors in Puerto Rico ages 60 and up had income below the poverty line in 2018. Low-income seniors living in Puerto Rico are denied access to Supplemental Security Insurance (SSI), a federal cash assistance program that provides monthly payments to low-income aged, blind, or disabled persons in the 50 states, the District of Columbia, and the Northern Mariana Islands. It is estimated roughly [700,000](#) people are currently denied these benefits because they live in Puerto Rico. Two federal courts determined that denying SSI benefits to people was [unconstitutional](#). However, following appeals by both the Trump and Biden administrations, the U.S. Supreme Court sided with the federal government saying Congress had a right to continue this discrimination. Puerto Ricans came very close to ending the decades of discrimination in federal programs through this case. The decision of the Biden Administration to defend this discrimination was [deeply disappointing](#).

### Cost of living

The cost of living is increasing, with energy costs having [nearly doubled](#) since 2020 and inflation disproportionately impacting high food costs, compounded by the fact that Puerto Rico imports nearly [85% of its food](#), a situation made worse by the [Jones Act](#). Puerto Rico is heavily dependent on imported goods to meet local food and beverage demand. (In 2019, food and beverage imports from the U.S. [totaled over \\$6.5 billion](#), surpassed in imports only by Mexico and Canada in most categories.) A [recent study](#) found that 40% of Puerto Rican families reported food insecurity during the COVID-19 pandemic. However, because federal funding for the island’s nutritional assistance program (NAP) is limited and does not respond to actual need, eligibility and benefit levels are far under the levels of food assistance for the mainland and even other territories. That is why the TakeAction4Puerto Rico campaign and its partners have consistently [called](#) for full integration of Puerto Rico into the SNAP Program administered by USDA. (See [Legislation We Support here](#).)

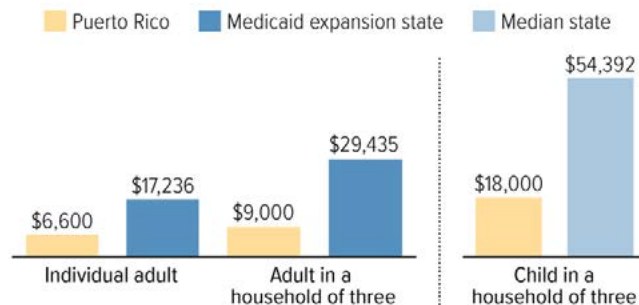
### Health care

Last September, the island faced [yet another Medicaid “cliff”](#) due to inequities in [federal health care](#) funding, putting the healthcare of hundreds of thousands of U.S. citizens living in Puerto Rico at risk. The Biden administration was able to [successfully avoid](#) the Medicaid “cliff” in 2021 by allocating nearly \$3 billion per year in additional federal Medicaid funding. However, without additional congressional funding, the next “cliff,” or loss of funding for health services for the poor, is expected [December, 2022](#).

As a result of the [inequity in Medicaid funding](#), Puerto Rico can only provide 10 out of Medicaid’s 17 “[mandatory](#)” services for the poorest of the poor in Puerto Rico (see eligibility chart below). For example, Medicaid in Puerto Rico [does not cover](#) home health services, hospice care, medical equipment and supplies, or nursing facility services. In 2019, before the global pandemic, \$1.5 million or nearly half of the island’s residents qualified for Medicaid. That is why the TakeAction4PuertoRico campaign and its partners have consistently called for full integration of Puerto Rico into the Medicaid program so that low-income people living in Puerto Rico can receive the same minimal level of medical services as people living in the mainland U.S. (See [legislation we support here](#).)

### Medicaid Eligibility Limits Much Lower in Puerto Rico Than in States

Annual income caps for program eligibility



Note: Under the Affordable Care Act, states can expand Medicaid to adults with income up to 138 percent of the poverty line. Puerto Rico expanded eligibility for adults, but at a much lower poverty level. For Medicaid and the Children’s Health Insurance Program, states and Puerto Rico both cover children at higher income levels than adults. But, states cover children up to much higher income levels than Puerto Rico does.

Source: Centers for Medicare and Medicaid Services

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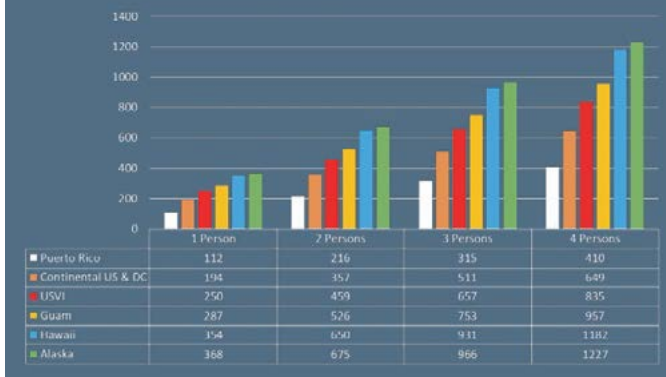
Graphic Source: [Center on Budget and Policy Priorities](#)

### Nutrition and Food Insecurity

For the past 40 years, Puerto Rico has received nutritional assistance aid through a [federally-funded block grant](#) that is capped at an annual amount. Unlike [SNAP](#), a federal entitlement in which everyone eligible for benefits under its formula receives them at the full benefit level and which has special provisions to provide food aid after a disaster, Puerto Rico’s funding is capped and not based on SNAP qualifications. This prevents the Nutritional Assistance Program (NAP) from meeting the basic food needs of poor citizens living in Puerto Rico, including children, seniors, and people with disabilities. As a result of the limited federal funding, the program is available to fewer low-income households and typically [provides much smaller benefits](#).

The \$1.9 billion capped block grant under NAP limits Puerto Rico’s ability to manage changes in need, including those due to demographic shifts, poverty levels, and economic stagnation. Close to 1.5 million island residents currently receive some level of nutrition assistance aid. Most of the beneficiaries are children, elderly, and disabled individuals. The levels of aid in Puerto Rico fall well below those of many states and territories. Puerto Rican children and families continue to experience food insecurity and inequity because of their exclusion from SNAP, which is fully available to residents of the Continental United States, U.S. Virgin Islands, Guam, and the District of Columbia. These disparities require legislative action to integrate Puerto Rico into SNAP (see [chart below](#)).

## PUERTO RICO NAP VS. STATES & TERRITORIES ON SNAP



Graphic Source: Coalition for Food Security Puerto Rico

### Lack of democratic self-governance

A just recovery is not possible when those in power [prioritize paying creditors](#) instead of investing in the recovery and the future of Puerto Rico. Repaying an [unaudited debt](#) should not be a higher priority than the rebuilding and recovery of the island's physical and human infrastructure. Though most of the debt restructuring has been agreed to, other outstanding bankruptcy-like agreements remain. Providing for the basic needs of people, especially the most vulnerable after years of repeated crises, should be the highest priority. Returning Puerto Rico to internal self-governance by repealing PROMESA, the bill that created the FOMB, should also be a top priority, along with holding the board accountable for its [austerity measures](#) and [conflicts of interest](#).

### Energy Insecurity

The federal government has allocated more than \$10 billion for the optimization of the energy grid. **Puerto Rico is in a perfect position to provide the model for transforming an outdated, centralized, fossil fuels dependent energy system, into a future-proof, bottom-up, resilient grid, fully based on renewable energy**, primarily solar, and energy storage, at the distribution scale. Numerous [government](#) and [NGO](#) studies have shown the benefits of rooftop solar with storage to create resiliency, lower costs for low and moderate income (LMI) consumers, and to ultimately save lives.

Puerto Rico Electric Power Authority's (PREPA) heavy reliance on a centralized fossil fuel grid made the island vulnerable to the longest blackout in U.S. history and resulted in a [tragic loss of lives](#).

“Creating a resilient, decentralized energy system in Puerto Rico is not just about climate – it is literally a matter of life and death.”

Five years after Maria, Puerto Rico still depends on a vulnerable centralized fossil fuel grid. The constant blackouts and energy rate increases hold the population hostage to economic struggle and poverty. In addition, Puerto Ricans live in constant worry and anxiety about what will happen if Puerto Rico is hit by another hurricane like Maria.

In 2019, Puerto Rico passed Act 17, known as the [Puerto Rico Energy Public Policy Act](#), which sets the parameters for a resilient, reliable, and robust energy system with reasonable rates for all customer classes, commits Puerto Rico to powering itself exclusively from **renewable-energy sources** by the year 2050 (40% by 2025, 60% by 2040), phasing out all coal plants by 2028. Act 17 also requires a 30% energy efficiency target by 2040.

### Critical Infrastructure

When Hurricane Maria impacted Puerto Rico, [the vulnerability and lack of maintenance](#) of critical infrastructure was evident. Five years after the event, access to essential services have been significantly impacted by inadequate critical infrastructure. Many communities have [constant interruptions](#) or no access to energy, [water](#), and broadband services. Also, education services have been limited by the lack of infrastructure safety and accessibility after the 2020 earthquakes and the administrative closure of hundreds of schools around the island.

For example, broadband is an essential service that failed during the emergency and its aftermath. It is the key tool to allow people to work, study, and receive medical and essential services remotely. Such an essential service must be accessible and affordable for everyone. Even before Maria, it was estimated that only [54% of the households](#) in Puerto Rico had internet access.

Access to adequate water is a human right. Still, the lack of maintenance to Puerto Rico's water dams, aquifers, aqueduct, sewer and drainage infrastructure, make communities vulnerable to severe weather events such as [droughts](#) and flooding.



### FEDERAL RESPONSE: 5 YEARS LATER

From 2018-2020 the majority of the money Congress appropriated to support recovery and building following Maria [was intentionally obstructed](#) by the Trump Administration. During [its first year](#), the Biden administration took important steps to aid Puerto Rico's recovery including amending FEMA guidelines so that property owners in a crisis situation can present alternative documentation to establish ownership interest, removing unnecessary barriers to emergency assistance. In January 2022, the administration [approved nearly \\$3 billion](#) in FEMA funds for 3,542 projects for Hurricane Maria and earthquake recovery. *(For an explanation of the barriers the federal government has created for Puerto Rico's recovery, see [TA4PR section Response of the Federal Government to Puerto Rico Since Maria](#).)*

While the Biden administration has moved aggressively to remove many of the barriers to money allocated by Congress, the process for approving appropriate projects and spending remains challenging.

Planning and funding for critical infrastructure needs (schools, roads, water) has been extremely delayed and received band-aids instead of long-term fixes. Effective prioritization and timely execution of rebuilding many other basic elements of the island's infrastructure - especially rebuilding a lifesaving, sustainable grid - are still taking too long to get underway. Although money is finally being allocated for planning, there is no comprehensive plan for reaching the island's goals of 100% renewable energy by 2050. In the meantime, projects are being approved and funded by FEMA (assisted by the U.S. Dept. of Energy), and the government of Puerto Rico that do not demonstrate serious commitment to achieving these goals.

The island has continued to fight to receive federal dollars to recover following Maria, historic earthquakes, and COVID while experiencing a state of ongoing crises. Battered and exhausted residents have [continued](#) to experience [energy insecurity](#), (on a [near daily basis](#)) devastating tropical storms and hurricanes (like [Isaias](#) in July 2020 during the Covid-19 pandemic), repeated droughts leading to water restrictions, damaging [flooding](#) on a regular basis, and severe [austerity](#) in public services imposed to repay debt, plus rising cost of living, growing food insecurity, and a severe public health care burden as [a result of the pandemic](#).

**Five years later, the Puerto Ricans on and off the island, are still waiting for Congress and the federal government to end the discrimination that has impeded Puerto Rico's economic development and disaster recovery, and directly contributed to high poverty rates.**

### WHAT IS NEEDED NOW

Both the U.S. Congress and the Biden Administration have a moral responsibility to end the systemic discrimination that treats people who live in Puerto Rico as [second-class citizens](#).

Below you will find some solutions to end discrimination by Congress and the Executive branch to promote equity and a sustainable recovery for Puerto Rico's future. Recommendations range from legislative action, reform in bureaucratic processes by federal agencies, and Executive Action by the Biden Administration. These actions are not to "help" Puerto Ricans; they are the responsibility of a government that created these conditions.

### **In order for Puerto Rico to rebuild and thrive economically in an equitable manner at least three things must happen:**

- I. A just and sustainable recovery
  - Ensure all federal disaster recovery and infrastructure investment funds are effectively used by requiring transparency and civil society input in decision making processes for the sustainable recovery of Puerto Rico.
- II. Equity and an end to discrimination
  - Congress and the federal government must end systemic discrimination against Puerto Rico in all federal programs.
- III. Return democratic self-governance to Puerto Rico
  - By terminating PROMESA, accompanied by a transparent, independent review of the actions of the FOMB, and ensuring a responsible transition to local control.

### **A JUST AND SUSTAINABLE RECOVERY POLICY ASKS**

#### **WHAT CONGRESS must do to achieve a just and sustainable recovery**

- Congress should use its oversight and accountability authority to ensure that federal funding is effectively achieving its intended goals.
  - For example, Congress should ensure federal funds are used to rebuild PR's energy grid to meet PR's renewable energy mandates and not continue reliance on fossil fuels. They must also pass [H.R. 8292](#) which would require a report on Puerto Rico's progress towards rebuilding its electric grid.

- For example, Congress should promote radical transparency and democratization of the federal and local recovery and rebuilding process, by requiring agencies to integrate more effective public participation through all phases of recovery decision-making processes and ensure universal language access in all programs.
- Among other legislation, Congress should pass
  - Insular Area Climate Change Act ([S.2613 & H.R.2780](#))
  - Environmental Justice For All Act EJ4All ([H.R.2021 & S.872](#))
  - Renewable Energy for Puerto Rico and the U.S. Virgin Islands Act ([H.R.2791](#))
- Ensure Puerto Rico is treated equitably and intentionally in all past and future recovery programs and policies. PR must be fully included in new programs and policies to help the country recover economically, and in any new legislation intended to spur economic development, meet the climate crisis, achieve environmental justice, and in any programs that provide support to those most in need. Policies and legislation should demonstrate an understanding of the realities of the island.
- The responsible use of federal funds must prioritize renewables, energy efficiency, solar energy based on rooftop and storage, microgrids, and programs like demand response to achieve electric bill reductions and ensure fair access to this critical service to all persons in Puerto Rico.
- See NREL 2020 [study](#) demonstrating that rooftop solar can meet all of Puerto Rico's residential energy needs.
- FEMA should not approve any proposals in which renewables are merely incidental to the overall program - *they must be central in any long or short term plans* - funded by federal dollars in order to achieve local and federal goals.
- Ensure Puerto Rico is treated equitably and intentionally, and is not left out of new programs and policies to help the country recover economically, and in any new legislation intended to spur economic development, meet the climate crisis, achieve environmental justice, and in any programs that provide support to those most in need. Policies and legislation should demonstrate an understanding of the realities of the island.
- Continue to eliminate bureaucracies and systemic discriminatory restrictions that have created unique barriers to rebuilding and slowed access to federal disaster funds. The federal government needs to create programs that recognize and respond to Puerto Rico's unique realities, vulnerabilities, and legal framework. Examples include:

#### WHAT THE BIDEN ADMINISTRATION must do to achieve a just and sustainable recovery

- The Biden Administration must do more to ensure that once funds are allocated, they require effective mechanisms for transparency, accountability, meaningful public participation, and are used in a way that addresses the real needs of communities.
- Ensure that all federal funds allocated to Puerto Rico's energy grid, including the largest grant in FEMA history are used to achieve the island's [legislatively mandated](#) climate goals of 40% renewable energy by 2025 and 100% renewable energy by 2050. **Creating a resilient, decentralized energy system in Puerto Rico is not just about reaching climate goals – it is literally a matter of [life and death](#).**
- As of June 2022, a total of nearly \$13 billion in [FEMA funds](#) and \$1.9 billion in CDBG funds has been obligated for emergency and permanent energy projects on the island.
- **Transparency and anti-corruption:** Ensure information about disaster recovery dollars and decision-making processes are publicly available, easily accessible, objectively verifiable at all stages of decision-making including needs-assessment, planning, implementation, and monitoring, and ensure official documents are bilingual in Spanish and English.
- **Public engagement and democratization:** Federal agencies should require meaningful and enforceable criteria for public engagement and transparency in every plan for disaster funding approved by federal and local agencies. For example:
  - an [MOU](#) to achieve the reconstruction of the energy grid was signed between HUD, DOE, FEMA, and the local government on Feb 2, 2022. Under the agreement, HUD is required to create a public engagement

plan to ensure input from impacted communities. As of August, 2022, this has not been accomplished. In the meantime, plans are moving forward for reconstruction without public engagement or transparency as required by the MOU.

- \$8.2 billion in [CDBG-MIT funds released](#) to Puerto Rico for resiliency projects requires the creation of Citizen Advisory Committee (CAC). Local advocacy groups have [attempted to engage](#) in the process of creation of the CAC, however, the committee is not functioning and decision-making is taking place without the input of the CAC as required by HUD.

- **Reimbursement and matching fund requirements:** Waive reimbursement and matching funds requirements to facilitate maximum participation of local non-profit organizations doing the critical work on the ground.
- **Language barriers:** Ensure access to programs, funding, and information by requiring official documents, programs, and critical staff are available in Spanish.
- **Ownership eligibility requirements for recovery funding:** Ensure federal employees and contractors are trained to recognize Puerto Rico's legal tenancy realities and property law which are different from those in the United States.
- **Federal Tax Credits:** Make federal tax credits available as direct pay options to residents and organizations that do not qualify under U.S. tax law.
- **Accessibility issues:** Create programs that close the digital divide, increase access to affordable broadband, and immediately reform access to federal programs and funding that require broadband internet connectivity.
- **Technical Assistance:** Provide funding for education and technical assistance for local agencies, community-based organizations, and businesses that may be eligible for federal funding but have difficulty accessing and complying with grant application and reporting requirements.
- **Federal Coordination:** Create effective, transparent processes for interagency collaboration to ensure an effective deployment and alignment of federal programs and resources for a holistic recovery. The

announcement of a [White House Puerto Rico Working Group](#) was a welcome step toward creating interagency coordination of resources and technical assistance. Aside from one "[inaugural meeting](#)," the President's "Puerto Rico Working Group" has yet to publicly name its members, internal structure, or responsibilities which hampers their ability to effectively [engage](#) with Congress and Puerto Rico stakeholders, including community-based organizations that work directly with the people most impacted to ensure disaster relief and other federal funds are distributed in an effective, and equitable manner.

## EQUITY AND DISCRIMINATION POLICY ASKS

### Congress and the federal government must end systemic discrimination against Puerto Rico in all federal programs

#### WHAT CONGRESS MUST DO to end systemic discrimination against Puerto Rico in all federal programs

- Pass legislation that brings Puerto Rico permanently and equitably into all federal safety-net programs, including Medicaid, Food Stamps (NAP/SNAP), Supplemental Security Income (SSI), among others not only to end second class treatment of the 3 million U.S. citizens living in Puerto Rico, but also to alleviate high rates of poverty. For example, Congress must pass
  - the provisions in the [Territorial Equity Act of 2021 \(H.R. 2713 & S. 1228\)](#), which would most comprehensively address inequities in federal benefits including Medicaid, SSI, and SNAP.
  - the Puerto Rico Nutrition Assistance Fairness Act of 2022; Congress must also include \$3.63 billion for NAP in the 2023 appropriations bill, make permanent changes in the FARM Bill
  - For a full list of legislation we support, see [TA4PR Legislation We Support to Move Puerto Rico Forward](#).

## WHAT THE BIDEN ADMINISTRATION MUST DO to end systemic discrimination against Puerto Rico in all federal programs

- President Biden must actively work with Congress to fulfill his campaign commitments laid out in his plan for [“Recovery, Renewal, and Respect for Puerto Rico](#). That includes providing families in Puerto Rico “equal access to nutrition assistance” through full participation in SNAP, ensuring Puerto Ricans receive SSI, and that Puerto Rico participates equitably in Medicaid, including receiving increased FMAP payments by directing the HHS Secretary to develop and recommend payment reforms.
- Biden must direct his Department of Justice [stop defending discrimination](#) in federal programs against Puerto Rico and make clear that the Insular Cases [and the racism they represent are no longer sanctioned by the federal government](#).
  - This exclusion of Puerto Rico from federal safety net programs like SSI and the Medicare Part D Low-Income Subsidy (LIS) was both discriminatory and [unconstitutional](#). In *U.S. v. Vaello-Madero* and *Peña Martinez v. United States Health and Human Services*, the courts determined that the government’s true purpose in denying SSI benefits to Puerto Ricans was “to impose inequality,” and, further, suggested that this exclusion amounted to a “de facto classification based on Hispanic origin” that should be subject to a more stringent “heightened scrutiny standard.”
- The Biden Administration must end systemic discrimination throughout all federal agencies by ensuring information and access to programs, funding, and critical staff are accessible to Spanish speakers who make up the majority of Puerto Ricans.

## WHAT THE U.S. SUPREME COURT MUST DO to end systemic discrimination against Puerto Rico in all federal programs

- The Supreme Court must recognize the unconstitutionality of the systemic discrimination by the federal government towards Puerto Rico by overturning the so-called Insular Cases.
- Supreme Court Justice Neil Gorsuch said in a [recent federal benefits decision](#), *U.S. v Vaello Madero*, that was unfavorable to Puerto Rico, that overturning the “shameful” Insular Cases was long overdue. They should use the next opportunity that comes before the court to put an end to this shameful legal chapter in U.S. history.

## RETURN TO DEMOCRATIC SELF-GOVERNANCE POLICY ASKS

Return democratic self-governance to Puerto Rico by terminating PROMESA, accompanied by a transparent, independent review of the actions of the FOMB, and ensuring a responsible transition to local control.

### WHAT CONGRESS MUST DO to return Puerto Rico to democratic self-governance

- Congress should repeal the failed PROMESA law that has created an unelected body leading to severe austerity in social programs on the island by passing a version of The TRUST for Puerto Rico Act of 2022 that includes mechanisms for transparency and accountability for the actions of the FOMB, and provides for a smooth transition to local governance. Accountability measures for the FOMB should include:
  - An [independent audit](#) performed and certified by civil society experts to determine the [legality of the debt](#) and the impact on any debt agreements entered into by the FOMB.
  - Establishment of “revolving door” prohibitions on any former FOMB employee or contractor prohibiting them from seeking employment with any agency or company that benefited from its decisions.
  - Analysis of the activities and decisions of the FOMB that is reviewed by Congress, and is available through open data mechanisms to the public.
- Congress must not grant any additional authority to the FOMB, which has undemocratic control over Puerto Rico budgetary and recovery matters.

### WHAT THE BIDEN ADMINISTRATION MUST DO to return Puerto Rico to democratic self-governance

- President Biden should pressure Congress to eliminate the failed PROMESA law.
- The Biden Administration should provide technical assistance through the U.S. Department of Treasury to all relevant Puerto Rican government agencies (AFAF, Hacienda, etc.) to expedite completion of financial audited statements in order for budgets to be certified as balanced in compliance with requirements to dismantle the FOMB.



- President Biden should also keep his [campaign promises](#) to
  - carry out an audit of Puerto Rico's debt to "determine if debt was issued illegally in violation of Puerto Rico's constitution and hence be invalid,"
  - hold the FOMB accountable by supporting 'a review of the fiscal austerity policies imposed by the FOMB,'
  - chart "a new path for tackling Puerto Rico's unsustainable debts that takes into consideration new challenges." Significant debt restructuring is still being negotiated that will impact the ability of the local government to provide basic services for decades to come.