

ECONOMY

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THINK STRATEGICALLY:

Puerto Ricans' Second-Class U.S. Citizenship

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Have you ever considered what second-class U.S. citizenship means?

The Oxford English Dictionary defines second-class citizens as those “belonging to a social or political group whose rights and opportunities are inferior to those of the dominant group in society.”

The U.S. Supreme Court delivered its 8-to-1 ruling that it is not unconstitutional to exclude Puerto Rico residents from its Supplemental Security Income, or SSI, program, thus allowing the systemwide discrimination of all U.S. territories.

The U.S. Senate has been contemplating the SSI issue to extend the program to Puerto Rico and other territories without much progress. With discrimination approved by the U.S. Supreme Court, the odds are against us.

The Supreme Court opinion in *U.S. v. Vaello-Madero* overturns the U.S. Court of Appeals for the First Circuit’s holding that the categorical exclusion of Puerto Rico residents from the SSI program is unconstitutional because it violates the Constitution’s Equal Protection Clause.

U.S. v. Vaello-Madero involves a U.S. citizen, José Luis Vaello-Madero, who lived and paid all due taxes in New York from 1985 to 2013 and decided to move to Puerto Rico while receiving SSI benefits.

As it fought the case against Vaello-Madero, the government said that allowing Puerto Ricans to have access to SSI would represent billions of dollars

in costs to the U.S. government.

The U.S. determined that Puerto Rico residents did not qualify for SSI and initiated proceedings to recover \$28,081 in paid SSI benefits after he moved to Puerto Rico.

President Trump appointee Justice Brett Kavanaugh wrote the court’s opinion, with justices Clarence Thomas and Neil Gorsuch filing concurring opinions and Justice Sonia Sotomayor dissenting.

The Supreme Court said the historical practice has been to “establish that Congress may distinguish the Territories from the States in tax and benefits programs such as Supplemental Security Income, so long as Congress has a rational basis.”

The court used as precedent two cases, *Califano v. Torres* and *Harris v. Rosario*, to sustain its discriminatory determination. The court stated that residents of Puerto Rico are typically exempt from most federal income, estate and excise taxes, allowing for the basis for likewise distinguishing residents of Puerto Rico from stateside residents for purposes of SSI benefits.

The opinion says the Constitution affords Congress “substantial discretion” over the structure of federal tax and benefits programs, thus treating U.S. citizens from territories differently than those in the 50 states and creating new second-class citizenship.

In her dissenting opinion, Justice Sotomayor notes it is not a rational classification for SSI because it is a “means-tested program of last resort

for the poorest Americans who lack the means to pay taxes,” adding that the “Constitution permits Congress to ‘make all needful Rules and Regulations respecting the Territories,’ but that ‘constitutional command does not permit Congress to ignore the equally weighty constitutional command that it treats United States citizens equally.’”

However, the most biased opinion comes from Justice Gorsuch, also a Trump appointee, who focused on the Insular Cases, a series of U.S. Supreme Court decisions from 1901 that established the “doctrine of territorial incorporation.”

However, Justice Gorsuch said: “A century ago, in the Insular Cases, this Court held that the federal government could rule Puerto Rico and other Territories largely without regard to the Constitution. It is time to acknowledge the gravity of this error and admit what we know to be true: The Insular Cases have no foundation in the Constitution and rest instead on racial stereotypes. They deserve no place in our law.”

Nevertheless, in my opinion, the Supreme Court just upheld more than a century of discrimination to treat Puerto Rico, U.S. residents and those of other territories as second-class citizens.

I am also shocked that President Biden allowed this discrimination to be fought on his behalf in the U.S. Supreme Court.

We outline some key facts:

– The court did not consider that Mr. Vaello-Madero, during his working life, did pay and qualified for the SSI benefits.

– Puerto Ricans pay federal taxes such as Social Security, Medicaid and Medicare. However, in terms of Medicaid in Puerto Rico, the federal government spends \$1,571 per person while spending \$5,790 stateside, or 72 percent less. For Medicare in Puerto Rico, the federal government spends \$5,208, versus \$8,700 in the states. That is 40 percent less.

– Puerto Rico receives lower funding levels for education, support for individuals with disabilities and other programs.

– Unlike the states, we only have one

representative in Congress, a resident commissioner who cannot vote.

– Puerto Rico votes in presidential primaries and sends delegates to the conventions. However, we do not vote in the presidential election.

Puerto Ricans have been U.S. citizens for more than 100 years. Is it not time that, at the very least, we are treated with equality. There is no reason not to do it other than selective discrimination by the United States and its branches.

This inequality made us review the second paragraph of the U.S. Declaration of Independence, which states: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness. To secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.”

Equality is defined as the state or fact of being the same in number, amount, status or quality. So it appears that for the United States, equality only applies to the 50 states of the Union.

As we witness the inequality in the recent Supreme Court opinion and specific acts of Congress, these latest efforts are not based on seeking equality but on seeking discrimination. Thus all U.S. territories are treated with the same bias, offering us a U.S. second-class citizenship.

As this opinion made the news, I was invited to participate in “Analysis 630” with Enrique “Quique” Cruz.

Quique has two lawmakers in his program on Thursdays, New Progressive Party Rep. Gabriel Rodríguez-Aguiló and Popular Democratic Party Rep. Ángel Matos. Both discussed opposing arguments that the *Estado Libre Asociado* (Commonwealth or Free Associated State) is dead and that the only option for Puerto Rico is statehood. I pondered this Supreme Court opinion and this discrimination that permeates through all territories without considering the U.S. Constitution. My view is that the U.S. government and Congress will discriminate against any

determination from Puerto Rico seeking statehood or any other changes to our territorial condition, given that it would affect the benefits already granted to the other 50 states.

As a Puerto Rican and U.S. resident who cherishes his U.S. citizenship, I am horrified that the Supreme Court would allow systemwide discrimination against any U.S. citizen. The most recent opinion creates a second-class U.S. citizenship in all U.S. territories.

Just like in the Kingdom of God, there are no second-class citizens; the United States of America should aspire to ensure that all citizens have equality. However, I am not optimistic that the U.S. would do so with its long history of systemic discrimination.

The Week in Markets: Fed turns aggressive, earnings disappoint and Wall Street Drops

The U.S. stock markets fell, with all indices recording consecutive weeks of losses in the triple digits. Investors continue to evaluate the diverse corporate earnings and expectations for the Federal Reserve’s more aggressive actions to fight inflation in the U.S.

We expect the Fed to increase rates aggressively as soon as next month. Fed Chair Jerome Powell stated during an IMF panel that “is appropriate to be moving a little more quickly; I would say 50 basis points will be on the table for the May meeting.”

Lastly, Claims for Unemployment fell to 184,000, down from 186,000 last week, dropping by 1.08 percent, and the 30 Year Mortgage Rate rose to 5 percent, compared to 4.72 percent last week.

However, the largely lackluster corporate earnings drove the market down. Next week, there will be earnings from most giant tech stocks, including Microsoft, Google, Apple and Amazon.

The bond market benefited from the Fed’s comments that the rate increase would be 50 basis points as the U.S. Treasury five-year note surpassed 3 percent.

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Weekly Market Close Comparison	4/22/22	4/14/22	Return	YTD
Dow Jones Industrial Average	33,811.40	34,451.23	-1.86%	-6.95%
Standard & Poor’s 500	4,271.78	4,392.50	-2.75%	-10.37%
Nasdaq Composite	12,839.29	13,351.08	-3.83%	-17.83%
Birling Puerto Rico Stock Index	2,662.02	2,691.00	-1.08%	-7.54%
U.S. Treasury 10-Year Note	2.90%	2.70%	7.41%	1.40%
U.S. Treasury 2-Year Note	2.68%	2.37%	13.08%	1.20%