

**SUMMARY OF TESTIMONY**

**ANÍBAL ACEVEDO VILÁ  
GOVERNOR OF THE COMMONWEALTH OF PUERTO RICO**

**TO BE PRESENTED BY ROBERTO J. SÁNCHEZ RAMOS  
SECRETARY OF JUSTICE OF THE COMMONWEALTH OF PUERTO RICO**

**BEFORE THE  
SUBCOMMITTEE ON THE CONSTITUTION  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

**June 27, 2007**

Mr. Chairman and members of the Subcommittee, good morning, I am Roberto J. Sánchez Ramos, Secretary of Justice of the Commonwealth of Puerto Rico, appearing on behalf of our Governor, Hon. Aníbal Acevedo Vilá. It is our view that the death penalty should be abandoned as punishment for federal offenses or, at the very least, that Congress should establish a rule of deference barring the imposition of this penalty within jurisdictions, such as Puerto Rico, that do not allow it locally. Puerto Rico's special relationship with the United States, our constitutional prohibition of capital punishment, and the lack of local consent to the federal law authorizing the imposition of this most extreme of penalties, raises profound questions as to the legitimacy and wisdom of seeking such punishment in Puerto Rico.

The Commonwealth favors the total elimination of death as a form of punishment. As a democratic and developed society, we should demonstrate an absolute respect for human life, even for the life of a murderer. I believe that an overwhelming majority of Americans would strongly disapprove of implementing the state-sanctioned torture of a torturer, or rape of a rapist, as forms of punishment. I see no reason why the moral calculus should vary when considering the state-sanctioned killing of a killer.

In addition, the uniqueness of death as punishment, in that it is irrevocable, should give any government pause. The possibility of mistakes in the application of the death penalty is not theoretical; in fact, the evidence suggests it is not even remote. In this sense, it is worth noting that at least fourteen inmates exonerated by DNA testing were at one time sentenced to death or served time on death row.

Short of completely eliminating death as punishment, Congress should, at least, reconsider whether the value of public policy uniformity at the federal level is outweighed in this instance by significant political, social and cultural differences, as well as by the problems and risks associated with the pursuit of the death penalty in jurisdictions that are opposed to it. The very non-existence of death as punishment in some jurisdictions makes it very difficult to validate a uniform process for all capital punishment cases. For example, defendants in jurisdictions without local capital punishment confront a greater challenge in obtaining proper legal representation by experienced lawyers. In Puerto Rico, this matter is aggravated by the fact that most of the population does not speak English fluently, which could affect the quality of representation that learned counsel from another jurisdiction may be able to provide.

It should be clear that the majority of Puerto Rico's population firmly opposes the death penalty. No execution has taken place in Puerto Rico since 1927, and the Constitution of the Commonwealth of Puerto Rico, ratified by the U.S. Congress in 1952 as part of the process through which the Commonwealth was constituted, specifically prohibits capital punishment. The application of the federal death penalty in Puerto Rico stands against our highest social, cultural, political, moral and religious values, and such application violates the balance of power and comity that the people of Puerto Rico envision as transcendental to their relationship with the United States. To disregard this political reality, independently of strictly-legal

considerations, carries the risk of inviting the erosion of the important and mutually-beneficial relationship between our peoples.

It is also interesting to note that, in defending its policy on capital punishment before the United Nations, the United States has relied on an argument based on the political representation that the people subject to such penalty have in Congress. However, Puerto Rico has an extremely limited participation in the federal decision-making process. Therefore, the idea that our democracy has a self-correcting ability – that general dissatisfaction with federal legislation will be channeled through the ballot box – does not apply to Puerto Rico.

Furthermore, the unique cultural and social particularities of Puerto Rico present significant obstacles for the fair imposition of the death penalty in our jurisdiction. First, as mentioned before, the use of English in all U.S. district courts, including Puerto Rico, negatively affects the quality of the legal representation available to the defendant. Second, because a jury determines whether death will be imposed, it is critically important to ensure that juries in capital cases constitute fair and representative cross-sections of the defendants' peers. However, an estimated 75% of the Puerto Rican population is automatically disqualified from serving as jurors on a federal capital case because they are not proficient in the English language. When the situation regarding language is combined with the fact that many of the remaining potential jurors may be disqualified on account of their moral opposition to the death penalty, the jury selection process for federal capital cases in Puerto Rico will rarely result in the selection of a true cross-section of the defendants' "peers". Of course, this raises troubling issues of constitutional law and basic fairness.

For all these reasons, Puerto Rico respectfully demands that this Congress intervene to restore the balance, mutual respect, and comity that the people of Puerto Rico envision as a

fundamental part of their relationship with the United States. Puerto Rico's longstanding prohibition of the death penalty, which is deeply rooted in its values and traditions, and the extraordinary political process from which it evolved, entitles our people to such consideration. I urge you to consider and pass legislation which would eliminate the possibility of the ultimate penalty of death being imposed in Puerto Rico.

Finally, I wish to extend the people of Puerto Rico's gratitude for allowing me to testify before you regarding an issue of such import and consequence.