

APPENDIX 1: TALKING POINTS

HOW TO FRAME THE ATM FERRY PROBLEMS AS HUMAN RIGHTS VIOLATIONS

This document is meant to be used as a guide on how to frame the ATM ferry problems as human rights violations when discussing these issues with government officials and the press.

The government of Puerto Rico has several obligations to you under human rights law

The United States has ratified several international and regional human rights treaties within the United Nations and the Organization of American States. As a territory of the U.S., these international human rights treaties create legal obligations on the government of Puerto Rico.

The government of Puerto Rico violates your human rights when they fail to provide you with adequate maritime transportation

Puerto Rico has an obligation to protect, respect, and guarantee the following internationally recognized human rights: 1) access to healthcare services, 2) access to education, 3) opportunities for employment and economic development, 4) freedom of movement, and 5) access to public transportation without discrimination. Residents of Culebra and Vieques are unable to fully enjoy these human rights due to their dependence on an inadequate maritime transportation system. Compliance with these human rights requires that these residents have access to adequate public transportation.

APPLICABLE HUMAN RIGHTS

1. You have the right to access public transport without discrimination

Two United Nations treaties, the Convention on the Elimination of Racial Discrimination (CERD) and the International Covenant on Civil and Political Rights (ICCPR), recognize the right to have “access to any place or service intended for use by the general public, such as transport [without discrimination on the basis of one’s residence]”, and guarantee the enjoyment of all human rights without discrimination by recognizing that “[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law.” The government of Puerto Rico violates this right by showing favorable treatment to tourists through last-minute scheduling changes, and by implementing an inadequate ticketing process that does not prioritize residents.

2. You have the right to access medical care

The Universal Declaration of Human Rights recognizes that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including [...] medical care.” The UN Convention on the Elimination of Racial Discrimination also recognizes “the right to public health [and] medical care.” Access to healthcare is a human right that the government violates when there is a failure to provide public transportation to obtain medical care. The inconsistent ferry scheduling, boat breakdowns, and changes to the location of the ferry terminals have meant that residents are often unable to arrive on time to their medical appointments or seek medical care. The development of adequate healthcare options on the islands is also hindered because the maritime transportation system de-incentivizes working on the islands for medical professionals from the main island.

3. You have the right to work and to develop the islands’ economies

The right to work and to pursue one’s desired economic development is another right recognized in the Universal Declaration on Human Rights, the American Declaration of the Rights and Duties of Man, the

International Covenant on Civil and Political Rights, and the Charter of the Organization of American States. The inadequacies of the maritime transportation system limit the availability of work on the islands. People who live on the islands often cannot get to work on the mainland on time due to ferry departure delays, and people on the mainland often cannot provide essential goods and services to the islands for fear of being unable to return to the mainland on time. The economies of Culebra and Vieques are also negatively impacted when the cargo ferries fail to deliver goods as scheduled or as needed.

4. You have the right to go to school

The Universal Declaration on Human Rights and the American Declaration on the Rights and Duties of Man recognize that access to public education is a fundamental human right. The UN Human Rights Committee has stated that governments must take every possible measure to provide all children with an adequate level of education. Due to the lack of higher education on these islands, students are forced to attend university on the main island of Puerto Rico. But the unreliability of the ferry system makes doing so while residing on the islands substantially difficult, if not virtually impossible. This also leads to a low quantity of teachers able to work on the islands. Additionally, island students with disabilities face additional problems accessing needed services and education as a result of the inadequate ferry system.

5. You have the right to choose where you want to live

The Universal Declaration on Human Rights, as well as the UN Convention on the Elimination of Racial Discrimination and the International Covenant on Civil and Political Rights, recognize “the right to freedom of movement” and “to choose [one’s] residence.” Culebra and Vieques residents have a human right to choose the islands as their place of residence and to continue to reside there, and Puerto Rico must provide adequate transportation that ensures their enjoyment of this human right.

The Autoridad de Transporte Marítimo is required to provide you with adequate maritime transportation

The ATM’s purpose under the ATM ACT is “to control, administer, operate and maintain the maritime transportation service and related assets in Puerto Rico” and its mission is “to provide an efficient, agile and reliable maritime transportation service for the residents of Puerto Rico and the Municipal Islands, that combined with other transportation options, helps facilitate socio-economic development and the quality of life of the citizens.” The ATM should be operating to this standard as stated in its mission.

Recommendations for the government of Puerto Rico and the Maritime Transportation Authority

To achieve compliance with the human rights of their residents and the ATM ACT, the government of Puerto Rico and the ATM need to:

1. Maintain and enforce adequate schedules of passenger and cargo ferries that are adapted to the individual needs of each island, providing two-weeks notice of any changes.
2. Adopt and enforce fair ticket pricing and ensure availability and priority for residents.
3. Create and maintain a protocol for vessel maintenance, including preventative maintenance, to ensure full and continuous use of the available fleet of ships.
4. Improve conditions at all terminals, including bathroom and shelter accessibility, compliance with ADA standards, and ensuring safety for all passengers awaiting ferries.
5. Provide training of ferry and terminal staff regarding applicable dispositions of the Americans with Disabilities Act and relevant international human rights norms.
6. Ensure adequate access to healthcare for island residents, including sufficient emergency medical transport and adequate health care centers.
7. Ensure access to public education for island residents, including access to special education for students with disabilities on the islands.
8. Adopt measures to assist in promoting the economic development of the islands.
9. Ensure that the use and management of the maritime transportation system adequately protects the islands’ residents from the health risks posed by the COVID-19 pandemic.
10. Implement these recommendations in consultation with local residents and businesses.