

National Lawyers Guild International Committee Presentation to the United Nations Decolonization Committee Hearings on Puerto Rico June 20, 2011

The National Lawyers Guild was founded in 1937 as an alternative to the American Bar Association, which did not admit people of color. The National Lawyers Guild is the oldest and largest public interest/human rights bar organization in the United States. With headquarters in New York, it has chapters in every state. From its founding, the National Lawyers Guild has maintained an internationalist perspective, with international work a critical focus for the Guild. Its International Committee has organized delegations to many countries throughout the world, and Guild members are involved in international organizations such as the International Association for Democratic Lawyers and the American Association of Jurists. Presently, active subcommittees exist for Cuba, the Middle East, Korea, Haiti, Palestine, Iran, Puerto Rico, and other nations. Guild members, including myself, have a long history of defending activists in the Puerto Rican independence movement.

I. Status

The Obama administration has joined the ranks of successive U.S. administrations which ignore the provisions of international law which this Honorable Committee has year after year conscientiously applied to the colonial case of Puerto Rico. In March of this year, the U.S. President's Task Force on Puerto Rico's Status - of which there is not a single Puerto Rican member - issued a report with recommendations proposing methods for purportedly resolving the status question, acknowledging that "status remains of overwhelming importance to the people of Puerto Rico," but nowhere expressly acknowledging the colonial status or the application of international law. The report suggests convening a plebiscite process, polling the people of Puerto Rico regarding available status options of statehood, independence, free association and commonwealth. However, there is a significant potential for the elimination of the independence option. Although more than half the population lives in the United States, the Task Force suggests that "only residents of Puerto Rico should be eligible to vote in any plebiscite." The report, moreover, does acknowledge that it is the U.S. Congress that will ultimately determine the resolution of the status.

The report also addresses multiple insertions of increasing U.S. programs into Puerto Rico, from the economy to education to labor, from health care to the environment to law enforcement, in a barely veiled attempt to increase the nation's dependency on the United States.

Last week, President Obama made a four-hour stop in Puerto Rico, the first U.S.

president in 50 years to visit the island nation. He encountered mass demonstrations comprised of diverse groups, with placards and banners reading “Obama, Go Home!” and calling for an end to U.S. colonial control, independence, and the release of the Puerto Rican political prisoners, particularly Oscar López Rivera. “Obama can’t talk about freedom while he has Oscar and the others in prison,” was a theme echoed by the people.

While the White House claimed that the trip was related to furthering the goals of the Task Force, the visit was seen as a transparent attempt to woo the many Puerto Rican voters who now reside in the U.S., including in the hotly contested state of Florida in the upcoming 2012 U.S. presidential election, as the people of Puerto Rico cannot vote for president. More than half of Mr. Obama’s time on the island was spent raising over \$1 million for his re-election campaign. It was clear to the Puerto Rican people that “neither Obama nor his recent predecessors recognize that the Puerto Rican political case is a colonial problem.”

II. The Ongoing Crisis of Colonialism

The economy of the colony, one of the few economies in the world with negative growth, and among slowest growing in the world, cannot support the population.

Unemployment is at its highest in two decades, higher than any state in the U.S. There is an unprecedented exodus, being called “a brain drain,” leading to the startling statistic that now more than half the Puerto Rican population lives outside the island, and the vicious cycle of difficulty in building an economy when much talent is seduced away by the lack of job opportunities on the island and the perception of increased job opportunities in the U.S.

With lack of control over its own borders, Puerto Rico has been unable to stem the unstaunched flow of drugs, which has led to a second, underground economy and related crime, as well as a staggering murder rate: as of June 9, there had been 491 murders this year alone; if the murder rate continues, there will be 1,000 murders this year, making it the most deadly in Puerto Rico’s history.

In this context, in the past year, the human rights crisis on the island has burgeoned. The superintendent of Police, a former U.S. agent of the Federal Bureau of Investigation [FBI], has overseen and applauded the unending wave of violent attacks on people protesting the policies of the colonial administration, particularly on striking students at the University of Puerto Rico.

Police violence has attracted the attention and condemnation of Amnesty International in London, and even the U.S. Department of Justice is investigating.

The colonial administration has taken measures to ensure that the courts of the colony are hostile to anything but the administration’s partisan line, leaving most

litigants without an impartial judicial forum in which to challenge such human rights violations.

The colonial administration packed the Supreme Court, increasing the number of justices from seven to nine, in a transparently partisan effort, accelerating the nomination and confirmation process. The expansion, which supposedly responded to the court's workload, was largely seen as an excuse and has been criticized as unnecessary and a power grab by the governor's pro-statehood party, with the criteria for appointment favoring strong pro-statehood credentials over legal and judicial experience. The court-packing was only one part of a broader plan, which included legislation to gut the judicial appellate process, fast-tracking appeals directly to the partisan higher court, often bypassing the intermediate appellate courts.

The U.S. federal court in Puerto Rico has been a full partner in ratifying the rampant violations of human rights, with the case against the Puerto Rico Bar Association as a foremost example, where the court blatantly assisted disaffected pro-statehood partisans' attempts to not only dismantle the venerable institution, but to try to seize the building which serves as its headquarters as well as a cultural center, and in the course of which the federal court held in contempt and jailed the president for educating his constituency about the lawsuit.

The public university system has been taken over by partisan politics. The colonial administration expanded the board of trustees with four fast-tracked appointees and named a commission to restructure the university with members openly hostile to its existence. The administration has also imposed tuition hikes and curricular changes which undermine university autonomy and the role of the university as a forum for open discussion of issues of concern to the people of Puerto Rico.

The labor movement continues to be under attack by the colonial administration's adoption of anti-labor measures, never having redressed the dismissal of some 30,000 public workers, the abrogation of collective bargaining agreements in the public sector, or the creation of "public-private alliances" as part of the privatization of essential public services, with the resultant hardship for workers in Puerto Rico. Labor union protests of these draconian measures have been met with indifference in some instances and with violent repression at other times.

The history of criminalizing the independence movement continues unabated. The head of the FBI office in San Juan was recently promoted to an administrative position in FBI headquarters, a move attributed to the "disarticulation" during his watch of the clandestine pro-independence group The Macheteros, including the 2005 assassination of Filiberto Ojeda Ríos, the 2008 arrest of alleged Machetero Avelino González Claudio, and the 2011 arrest of

alleged Machetero Norberto González Claudio.

III. Political Prisoners

This year has been historically significant for Puerto Rico's political prisoners held in United States prisons. The sole remaining political prisoner of the group arrested in the 1980's is Oscar López Rivera, who has the unenviable distinction of having served 30 years in prison, despite the fact that he was not convicted of harming anyone or taking a life. López, 68 years old, and serving a sentence of 70 years, has a release date of 2023. In a politically punitive move, the U.S. Parole Commission recently refused his parole bid, erroneously asserting that his release would promote disrespect for the law. The decision ignored the express will of the Puerto Rican people and those who believe in justice and human rights, counting tens of thousands of voices across the political spectrum who have uniformly supported his immediate release. The Commission ignored the evidence establishing that he met all the criteria for parole and also ignored its own rules in the process. Among these many ignored voices are this venerable body, members of the United States Congress and many state legislatures of the various states; the city councils and county boards of many locales in the U.S. and Puerto Rico; the mayors of many towns in the U.S. and Puerto Rico, including the Association of Mayors of Puerto Rico; bar associations including the Puerto Rico Bar Association, the National Lawyers Guild and the American Association of Jurists; clergy and religious organizations, including the Ecumenical Coalition representing every religious denomination in Puerto Rico; the National Latino Congreso, human rights advocates, academics, students, artists, community organizations, and workers.

The Commission also flouted President Clinton's 1999 determination that Oscar's sentence was disproportionately lengthy and that he should be released in September of 2009. The Commission ignored the fact that Oscar's co-defendants released as a result of the 1999 Clinton clemency are productive, law-abiding citizens, fully integrated into civil society. Finally, the Commission ignored its own July 2010 order to release Oscar's last remaining imprisoned co-defendant Carlos Alberto Torres.

Avelino González Claudio, a 68 year old man with Parkinson's Disease, has served 3 years of his 7 year prison sentence and is scheduled for release in 2012. His brother, Norberto González Claudio, 65, was apprehended last month after 25 years in clandestinity. He awaits trial in federal court in Connecticut, facing 275 years for the same charges as his brother and many former political prisoners, accused of belonging to the Ejército Boricua Popular – Macheteros, a pro-independence clandestine force which expropriated over \$7 million from a Wells Fargo Depot in 1983, the proceeds to finance their struggle for independence.

They remain strong in spirit, their commitment to the independence of their nation undaunted, in spite of adversity, particularly buoyed by the mass demonstrations of support for their release during the U.S. president's recent visit to the island.

IV. Environment

Two examples suffice to demonstrate the need for self-determination. The island of Vieques, a U.S. Superfund site, has been shamefully left to abandon after 60 years of military occupation polluted its land, air and water and consequently gravely damaged the health of the people and their economy. Yet in the face of this shameful abandon, the U.S. makes promises it does not fulfill and suggestions without remedial action.

A \$450 million 92 mile gas pipeline, which the colonial administration euphemistically calls "the Green Way," is another pending environmental disaster, to run across the island, threatening the safety and health of the people and the environment along the entire path, without public participation, in violation of all the rules, and replete with allegations of corruption. The project has generated massive public opposition. The role of United States agencies is suspect.

V. Conclusion

The National Lawyers Guild International Committee, incorporating the requests sought by other presenters before this Honorable Committee, urges the adoption of a resolution calling for the General Assembly to consider the case of Puerto Rico; and calling on the government of the United States to:

- immediately cease the brutality, criminalization and harassment of, and attacks on, the Puerto Rican Independence Movement, the students, and all those who exercise their fundamental rights to expression and association;
- immediately release Puerto Rican political prisoners: Oscar López Rivera, who has served more than 30 years in U.S. custody, and Avelino González Claudio and Norberto González Claudio;
- identify and hold criminally liable all those responsible for the assassination of Filiberto Ojeda Ríos (2005), Santiago Mari Pesquera (1976), Carlos Muñoz Varela (1979), and other militants of the Puerto Rican independence movement;
- withdraw the FBI, the U.S. court, and all other U.S. police, repressive and military forces from Puerto Rico;
- withdraw from Vieques, formally return legal property of the land to the people of Vieques, cease detonating unexploded ordnance, completely clean up the pollution left by the U.S. Navy's 60 year occupation through the use of proven, environmentally friendly clean-up methods, and compensate the people of Vieques for the damage to their health done to them by the same;

- cease and desist from the application of the death penalty in Puerto Rico;
- ensure the right to quality public higher education;
- formally commit to negotiate in good faith with the people of Puerto Rico a solution to the colonial condition; and recognize the proposals that emanate from a Constitutional Assembly, initiated by the people of Puerto Rico, such as that called for by the Puerto Rico Bar Association, as the true expression of the aspirations of the people of Puerto Rico, and respond to them accordingly.

Dated: June 20, 2011 Respectfully submitted,
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On behalf of the National Lawyers Guild International Committee
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