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, indigenous American peoples, and other nations. Guild members, including myself, have a long history of defending activists in the Puerto Rican independence movement.

I. Continuing Absence at the International Table

Due to its continuing status as a U.S. colony, Puerto Rico is unable to participate in most international fora alongside its sister nations in Latin America. The latest example is last April’s Summit of the Americas, where all the nations in the continent — except Puerto Rico and Cuba (and for very different reasons) — sat to discuss issues important to all. Addressing Puerto Rico’s exclusion, an independence party activist noted that, “all our neighbors and Latin American brothers are meeting with the United States and Canada to discuss the most transcendental problems of our region, including the movement of drugs and the economic and
commercial relations among the countries. It’s shameful that in the 21st century, because of the meanness of the defenders of colonialism and the interests of the United States, Puerto Rico is still a colony and cannot express itself among the countries of the region.”

II. Status/Plebiscite

In 2011, the U.S. President’s Task Force on Puerto Rico’s Status issued a report recommending that a plebiscite take place, while acknowledging that it would have no binding effect on the U.S. Congress, which holds Puerto Rico’s sovereignty hostage, and which continues to refuse to acknowledge Puerto Rico’s illegal colonial status under international law. As suggested by the report, the pro-statehood governor at the end of 2011 signed a law mandating a plebiscite with two questions: whether to maintain the current status, and if not, then whether the preferred status would be independence, U.S. statehood, or continuation as a “free associated state.” The society is rife with dissension about the legitimacy of the process, whether and to

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what extent to participate, as well as who can participate. One thing is clear: the exercise will not resolve the status question, because the result is not binding on the U.S., and because it ignores the mandates of international law.

III. Unceasing U.S. Intervention/Penetration

Meanwhile, the U.S. inserts itself into Puerto Rican life on an almost daily basis, disingenuously posing as “the knight in shining armor,” be it to conduct anti-drug and anti-gang raids, monitor the schools, or prosecute fraud. As one pro-statehood proponent recognized,

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“Every part of the colonial, economic, and juridical life of Puerto Ricans is regulated by the federal government: health, medical, Social Security, communications, banks, the mail, the ports, maritime cargo, and even the IRS. There is no human activity in Puerto Rico that isn’t covered by some federal agency."⁹ Yet that pervasive presence is ever-expanding, to the point that the pro-statehood governor has ceded to the U.S. government the responsibility to prosecute most local felonies and touts an inter-agency agreement to that effect as the solution to rampant crime in Puerto Rico.¹⁰

IV. Abusive Police

Although the U.S. may hold itself out as a “knight in shining armor,” this is a sham, completely belied by events. September of 2011 revealed what the New York Times called “a blistering condemnation” of the Puerto Rico Police Department, in a report by the U.S. Department of Justice [DOJ]. The report noted a “profound” and “longstanding” pattern of civil rights violations and other illegal practices that have left the Police Department “broken in a number of critical and fundamental respects.”¹¹ The Justice Department found that the police were systematically “using force, including deadly force, when no force or lesser force was called

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for,” unnecessarily injuring hundreds of people and killing “numerous others.” The DOJ condemned nearly every aspect of the force — its hiring and training practices, the way it assigns and promotes officers, and its policies governing officer behavior and accountability for misconduct. Significantly, it noted police excessive force and other misconduct designed to suppress supposedly protected constitutional rights such as expression and assembly.

Many saw great hypocrisy in the U.S. Justice Department’s harsh criticism of the Puerto Rico police, given that agents of the U.S. Federal Bureau of Investigation (FBI) — Pedro Toledo and José Figueroa Sancha — have held the position of superintendent of the police department for 14 of the last 20 years, and given the close relationship between the colonial and metropolitan law enforcement agencies. Indeed, on the heels of the report, the colonial administrator named yet another former FBI agent, Héctor Pesquera, to lead the department out of the mire, this one bringing his controversial past, including, *inter alia*, allegations of misconduct and loyalties to right wing Cubans. While his nomination stirred outrage among the independence movement,

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the pro-statehood dominated Senate nevertheless quickly confirmed him.\textsuperscript{17}

Many also saw irony, given the report of the colonial government’s Civil Rights Commission on the FBI’s extrajudicial execution of legendary independentista Filiberto Ojeda Ríos,\textsuperscript{18} finding, \textit{inter alia}, that the operation which resulted in his “illegal death”\textsuperscript{19} was “characterized by the use of excessive and abusive force,” and noting:

It is a historical fact that during the past decades, the FBI has represented a model for the Puerto Rico Police, related to operation and strategies to follow in the field of so-called law enforcement. That body, additionally, has constituted an important source of training for police officials in Puerto Rico. Given the FBI’s relapse in the excessive use of force and abuse of authority, we recommend that the Puerto Rico Police consider alternative models for its operation and training.\textsuperscript{20}

Further irony was noted in light of the FBI's refusal to seriously investigate the 1970's murders of the Santiago Mari Pesquera, son of leading independence advocate Juan Mari Bras, and of Carlos Muñiz Varela, a Cuban resident of Puerto Rico and an activist against the U.S.

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embargo and for normalization of relations with Cuba.21

V. Supreme Court

The pro-statehood administration’s court-packing and fast-tracking implemented last year has, in the words of respected legal scholars, “weaken[ed] the people's trust in the judicial branch and create[d] an unprecedented constitutional crisis,”22 in effect erasing the notion of separation of powers. Three examples illustrate this situation: the statehood controlled Senate’s refusal to re-appoint judges whose judicial opinions are contrary to the prevailing statehood leaders’ positions;23 the Senate’s baseless investigation into the expenditures of the chief judge, who is a supporter of the status quo commonwealth;24 and the court’s interference with a voting recount amid allegations of massive fraud, as more fully detailed below.

VI. Election fraud

Following allegations by the pro-statehood and commonwealth electoral parties of widespread voter fraud in the March 2012 primaries for legislative and mayoral races, the


electoral commission ordered a recount — the first time in history for a primary election.\textsuperscript{25}

The Puerto Rico Supreme Court entered into the fray by preventing a specialized trial-level court mandated to deal with election matters from holding any hearings on the matter. The highly politicized court acted upon a petition of the pro-statehood party to take the matter away from the more independent trial-level court, via the "certification" method, which it has used time and again in recent history in order to favor the interests of the governing party.

After much wrangling in the courts, the recount has been allowed to proceed, and an investigation revealed votes by people who did not go to the polls and even by people who were no longer living. Public confidence in the electoral process is seriously eroded.\textsuperscript{26}

\textbf{VII. Economy}

The effects of the economic downturn are felt in magnified form in Puerto Rico, including because of the massive layoffs of government employees that marked the beginning of the pro-statehood administration.\textsuperscript{27} At the beginning of this year, the reported unemployment rate


was a whopping 25%,\textsuperscript{28} compared to an unemployment rate in the U.S. of 8.1%;\textsuperscript{29} while the labor employment rate in Puerto Rico was 39.9%,\textsuperscript{30} compared to a labor employment rate in the U.S. of 64.3%.\textsuperscript{31} The consequences to the Puerto Rican people include the development of a new population of homeless families,\textsuperscript{32} and, not surprisingly, a continuing exodus, as Puerto Ricans flee to the United States in search of work.\textsuperscript{33} Prospects for the future of the colonial economy do not bode well for the Puerto Rican people. Moody's Investors Service, the bond credit rating business, recently stated that “Puerto Rico’s ongoing recession continues to have an adverse impact on its financial institutions,” noting “weak prospects for a sustainable recovery in the coming years.”\textsuperscript{34}

\textsuperscript{28}Id.


VIII. Death penalty

While the death penalty is falling into disfavor throughout the United States,35 and while the Constitution of Puerto Rico — approved by U.S. Congress in 1952 — prohibits the death penalty, the United States continues to push for the death penalty in cases before the federal court in Puerto Rico,36 despite strong anti-death penalty sentiment, as articulated in an editorial in the island’s most widely circulated daily newspaper: “As a matter of principle, we condemn and reject this type of sentence, because it clashes with our constitutional tradition and our values as a people.”37

IX. Environment

The colonial administration’s 92 mile gas pipeline project, awaiting approval by the U.S. Army Corps of Engineers, “wasted more than fifty million dollars on a project that was never needed, was never practical and was never supported by the public,” according to a member of

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U.S. Congress. The pipeline endangers human life, and, “the impact on the environment, on our rivers, on our communities is enormous,” according to the organizers leading the massive, united protest against the project.

Others battle to stem the onslaught of “development,” including fighting construction of incinerators which would create toxic ash and dangerous mixtures of gas that would threaten the health and safety of those living nearby; erection of windmills on some of the most arable land in the country; and devastation of the Northeast Ecological Corridor, eliminating the designation of nature reserve and permitting construction of roads and residential, commercial and high-end tourism projects.

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Meanwhile the U.S. courts spurned the efforts of the people of Vieques, whose island was used for over 60 years by the U.S. Navy as a weapons-testing ground and firing range, to hold the U.S. government responsible for the rampant cancer and other ills caused by the Navy’s presence.\textsuperscript{44} It was no consolation for the Puerto Rican people to learn that the cleanup of the deadly contamination left by the U.S. military will take at least another decade, as the U.S. has not budgeted sufficient funds.\textsuperscript{45}

\textbf{X. Political prisoners}

We are honored to make this year’s presentation in the presence of Carlos Alberto Torres, here with us after having served 30 years in United States prison for his commitment to the independence of Puerto Rico, released two years ago. His compañero Oscar López Rivera, however, remains behind bars, having now served an unbelievable 31 years behind bars.

What other country holds its political prisoners for such a long time? Nelson Mandela, perhaps the world’s most internationally renowned political prisoner, was held for 27 years, and the world was aghast at the length of his imprisonment.\textsuperscript{46}

But the country that holds Oscar López Rivera, as well as Puerto Rican political prisoners Avelino González Claudio and Norberto González Claudio, is none other than the United States, the very same country that routinely uses the release of political prisoners as a measure of other

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countries’ compliance with human rights norms. Some examples, in just the year since this Committee’s last hearing into Puerto Rico’s status:

* The U.S. State Department urged China just this month to release those imprisoned in Tiananmen Square in 1989, in the context of urging protection of human rights generally.47

* The U.S. State Department urged the government of Belarus “to immediately and unconditionally free all remaining political prisoners and ensure the full restoration of their civil and political rights,” saying this would show “enhanced respect for democracy and human rights, [which] remains central to improving relations between the United States and Belarus.”48

* The U.S. president greeted Burma’s decision to release hundreds of political prisoners as “a crucial step in Burma's democratic transformation and national reconciliation process,” and “urge[d] the government to […] free all remaining prisoners of conscience.”49

* When Cuba released some 2,900 prisoners, the U.S. State Department’s response failed even to recognize the sweeping release, instead stating its disappointment that a State Department contractor, convicted of crimes against the state, should be returned to his family "where he belongs."50

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* While acknowledging Sri Lanka’s massive release of prisoners, the U.S. State Department urged the release of all those who remained in custody.\textsuperscript{51}

During her visit to Burma, and after meeting with a celebrated political prisoner, U.S. Secretary of State Clinton was widely quoted as saying, "We believe that any political prisoner anywhere should be released," and that "One political prisoner is one too many in our view."\textsuperscript{52}

There should be no problem, then, with President Obama’s compliance with this Committee’s resolution to release the valiant Puerto Rican independentistas in U.S. custody, so that perhaps next year, Oscar López Rivera can stand at the side of his compañero Carlos Alberto Torres and speak in support of independence for his homeland.

\textbf{XI. 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 31 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 Muñiz 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;

* 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.

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Respectfully submitted,

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On behalf of the National Lawyers Guild International Committee
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