

RESOLUTION ENDORSING THE CALL FOR AN INTERNATIONAL INVESTIGATION INTO THE FAILURE OF THE UNITED STATES GOVERNMENT TO ADDRESS AND REMEDY THE DENIAL OF JUSTICE IN THE CASE OF “THE CUBAN FIVE,” AND FOR FURTHER EDUCATION AND RELATED ACTIONS

WHEREAS: Since the triumph of the Cuban Revolution on January 1, 1959, Cuba and its people have suffered from continued terrorism including sabotage and assassinations (completed and attempted), killing over 3,000 of its citizens and maiming thousands of others;

WHEREAS: Cuba has repeatedly protested the planning, financing and launching of such attacks from the U.S., in private and public protests and requests to the U.S. government, and Cuba determined the necessity of sending its own agents to monitor continuing plots in order to deter or minimize further such attacks;

WHEREAS: These efforts have been largely but not entirely successful, such as resulting in the arrest of Luis Posada Carriles in Panama before he could carry out a likely act of mass murder in order to assassinate Cuban President Fidel Castro, but Posada and his operatives were subsequently pardoned in Panama and welcomed into the United States, where all of them are now free and out of custody, despite an extradition request from Venezuela to try Posada for a prior act of mass murder, which the U.S. government has failed to process despite the provisions of its long-standing extradition treaty with Venezuela;

WHEREAS: In September 1998, the U.S. Government arrested the Cuban Five who were in Florida to try to monitor continuing plots against Cuba in order to deter or minimize further such attacks, they were then held in solitary confinement for 17 months, and were tried and convicted in Miami (over the objections of the defendants that a fair trial could not be held there), and they were sentenced to long prison terms ranging from 15 years to more than two life terms;

WHEREAS: The United States government has repeatedly violated the rights of the five prisoners and their families to regular visitation, most severely in the cases of Gerardo Hernandez and his wife Adriana Perez, and Rene Gonzalez and his wife Olga Salanueva. Both women have requested visas on seven occasions and each time the United States government has denied their requests. Denying these families the right to see each other is according to Amnesty International, which has repeatedly raised this issue with the U.S. government since 2002, “unnecessarily punitive and contrary to standards for humane treatment of prisoners and states’ obligations to protect family life.”

WHEREAS: On May 27, 2005, the United Nations Working Group on Arbitrary Detentions under the auspices of the UN Human Rights Commission, issued its Conclusion that depriving these five Cubans of their liberty contravened Article 14 of the International Covenant on Civil and Political Rights, based on the conditions of their confinement including the long period in solitary confinement, the limitation of defense access to the potential evidence, and the conditions and location of the Miami trial, combined with “the severe sentences received”;

WHEREAS: In August 2005, a unanimous panel of the 11th Circuit Court of Appeals ruled that the Miami trial of the Five was unfair and their convictions should be vacated based on a “perfect storm” of intense community hostility against anyone identified with the government of Cuba, combined with prosecutorial misconduct intended to inflame such passions. That opinion was subsequently vacated by the full 11th Circuit, which issued a ruling en banc one year later upholding the venue as being proper, and on August 20, 2007, remaining issues on appeal were again argued to a three judge panel;

WHEREAS: The NLG has previously called attention to these injustices, including a 2006 Convention NEC resolution resolving “to build a strong people’s movement through advocacy and media campaigns, and to advocate for a new and fair trial for the Cuban Five,” and a September 2007 request to the UN Commission on Human Rights to conduct an investigation into the failure of the U.S. government to honor the findings and conclusions of the UN Working Group;

THEREFORE BE IT RESOLVED: That the National Lawyers Guild’s 70th Convention reaffirms its commitment to fight for justice in this case, and specifically calls upon: A) the United States government to honor the more than two year old finding of the appropriate UN body, by either releasing these prisoners forthwith or providing them with a new trial; B) the UN and its Commission on Human Rights to investigate and publicize the lack of timely or meaningful compliance by the U.S. Government to date; C) the U.S. media to provide significant and reasonable coverage of this important case (and its implications for the so-called U.S. “war on terrorism”), which has so far been lacking; D) the U.S. government to approve visas promptly upon request of families so that they may enter the United States to visit the five prisoners on a regular basis; and E) human rights and peace organizations to review and address this case and to act appropriately in the cause of justice.

IMPLEMENTATION: This resolution is to be implemented by the NLG Cuba Subcommittee, the International Committee, and the NLG National Office, with the anticipated support of other committees and chapters to educate their members and the public about this case and its broader implications.

Submitted by: NLG Cuba Subcommittee (Art Heitzer, Chair, aheitzer@igc.org); NLG Labor & Employment Committee, NLG National Office.