UNITED NATIONS
SPECIAL COMMITTEE ON DECOLONIZATION
meetings on the Special Committee decision of 18 June 2018 concerning Puerto Rico

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Presentation on behalf of the

NATIONAL LAWYERS GUILD

Jan Susler
on behalf of the National Lawyers Guild
c/o People’s Law Office
1180 North Milwaukee, Third Floor
Chicago, IL 60642
773.235.0070
jsusler@gmail.com
I have the privilege of addressing you today on behalf of the National Lawyers Guild. Founded in 1937 as an alternative to the American Bar Association, which did not admit people of color, the NLG is the oldest and largest public interest/human rights bar organization in the United States, with headquarters in New York, and chapters in every state. From its founding, the National Lawyers Guild has maintained an internationalist perspective, with Puerto Rico playing an important part of the critical focus of our international work. Our many resolutions affirm the right of the Puerto Rican people to self-determination and independence and called for the release of Puerto Rican political prisoners. Many of our members, including myself, have dedicated our legal skills to this just and noble cause.

Colonialism on steroids

In this Third International Decade for the Eradication of Colonialism (2011-2020), the United States, rather than comply with this international mandate, has gone in the polar opposite direction. The occupant of the White House’s racist and colonial epithets about and conduct towards Puerto Rico, and the U.S. Congress enactment PROMESA and creation of the Fiscal


Oversight and Management Board,\(^3\) have the equivalent effect of performance-enhancing drugs, to illicitly amp up colonialism. And, like performance-enhancing drugs, they can be dangerous and even deadly.\(^4\)

In 2015, the governor of Puerto Rico announced that the government owed a $72 billion debt, which it could not pay.\(^5\) The debt has never been audited, in spite of a mass public campaign to do so,\(^6\) and in spite of the widely held belief that much of the debt is illegal, that billions of dollars of the debt were incurred in violation of Puerto Rico’s constitution.\(^7\) The U.S. government “has fundamentally shaped the island’s economy,” and “bears a great deal of responsibility for the island’s plight.”\(^8\)

The unelected Fiscal Oversight Management Board [FOMB],\(^9\) imposed by the U.S.


\(^6\)Frente Ciudadano por la Auditoría de la Deuda, https://www.facebook.com/FrenteCiudadanoAuditoriaDeLaDeuda/; Jhoni Jackson, “Hurricane Maria & Puerto Rico’s Debt: How Avoiding the Audit Left the Island Unprepared,” Remezcla, September 20, 2018, https://remezcla.com/features/culture/puerto-rico-debt-avoiding-the-audit/ (“The Frente’s audit will not only address the evolution of that debt, including when the government borrowed the money and why, but will also identify the people involved – both borrowers and lenders” for the past 40 years).

\(^7\)Nicole Acevedo and Associated Press, “Billions of Puerto Rico's debt might be invalid federal oversight board says: ‘This really is a milestone... It is perhaps the board’s best move in its two years of existence,’ said a Puerto Rican economist,” NBC News, January 15, 2019, https://www.nbcnews.com/news/latino/billions-puerto-rico-s-debt-might-be-invalid-federal-oversight-n958846.


Congress pursuant to PROMESA, which supplants the elected government of Puerto Rico, is the equivalent of the fox guarding the chicken coop – “the U.S. government's public debt is now more than $22 trillion – the highest it has ever been.” Yet the FOMB’s role is to force the elected government to balance the budget, in order to ensure that vulture bond holders who knowingly invested in risky bonds, no matter the cost to democracy, no matter the cost to the working people of Puerto Rico. The constitutionality of PROMESA and its FOMB is the subject of much litigation, including one case now headed to the highest court in the U.S.

There are also practical problems, intimately intertwined with the colonial situation. PROMESA provides that FOMB will continue controlling Puerto Rico until achieving four consecutive balanced budgets and access to bond markets at reasonable costs. But in order to arrive at a balanced budget, fiscal plan projections must be reliable – and there lies the rub: the failed economy in the colony shows no sign of recovery. FOMB has filed five cases of debt adjustment in quasi-bankruptcy proceedings, reaching agreements with bondholders. However, those agreements are bound to fail, as they are based on unreliable projections.

Rather like an octopus, the FOMB is extending its tentacles. It recently announced it would exercise jurisdiction not just over the central government, but over the municipalities as


well, to the consternation of some mayors. It then bulldozed right over the central government to come up with an agreement with a teachers union, an undertaking clearly beyond its reach.

The work of this Board is hardly subject to public scrutiny; rather, it fights to maintain secrecy. Private organizations have had to litigate in order to shed light on its inner workings, only to discover “evidence, in black and white, how the U.S. government exercises a colonial power relationship over Puerto Rico through the Fiscal Board.”

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18 Luis J. Valentin Ortiz and Joel Cintrón Arbasetti, “Emails Expose Federal Gov’t Influence over Puerto Rico’s Fiscal Board:A drop of thousands of emails and documents between the island’s Fiscal Control Board, Congress, the White House, Treasury and other federal agencies is now in the hands of the Center of Investigative Journalism. It shows the boundless influence exercised by the U.S. government over the board,” Center for
Although the Board maintains secrecy from the public and functions as a colonial overseer, it is the people of Puerto Rico who must foot the bill for the FOMB, whose budget is $300 million annually.\textsuperscript{19} In the less than two years since the bankruptcy-like proceedings began, “attorneys and financial advisers […] have billed more than $400 million.”\textsuperscript{20}

The dangerous and deadly aspects of the performance-enhanced colonial tools include: two years after Hurricanes Irma and María, there are still 30,000 blue plastic tarps serving as roofs;\textsuperscript{21} the depopulation of Puerto Ricans continues apace;\textsuperscript{22} the University of Puerto Rico, a


tremendous economic engine, is under threat of being dismantled; collective bargaining is crippled; workers pensions are reduced; childhood poverty, at already a higher ratio than elsewhere in the U.S., is on the rise; home mortgages are being foreclosed at a skyrocketing


pace;\textsuperscript{27} communities are threatened with displacement;\textsuperscript{28} the medical system is in shambles,\textsuperscript{29} with medical professionals continuing to flee;\textsuperscript{30} financial support for cultural institutions is withering;\textsuperscript{31} privatization of public utilities is imminent.\textsuperscript{32} Access to justice is compromised, if not curtailed, including because of PROMESA’s interference with litigation against the government. Only months after the enactment of the law, the federal court began to apply automatic stays, suspending civil rights cases, resulting not only in disincentivizing such litigation, but ensuring that civil rights violators are not accountable, are never brought to


justice.\textsuperscript{33} Considering the rampant abuse by Puerto Rico police,\textsuperscript{34} well documented in the U.S. Department of Justice consent decree,\textsuperscript{35} PROMESA’s effect is indeed dangerous and deadly, and ensures that Puerto Rico operates as a constitution-free zone.\textsuperscript{36}

While Puerto Rico is being emptied of its own citizenry, the wealthy are being lured to replace the population, with laws converting Puerto Rico into tax haven for the rich.\textsuperscript{37} While the


\textsuperscript{34}Eric De León Soto, “¿Tienes que demandar al gobierno por tus derechos? Siéntate a esperar: Por quiebra, hay cientos de demandas paralizadas,” NotiCel, February 12, 2019, updated February 13, 2019, https://www.noticel.com/la-calle/tribunales/tienes-que-demandar-al-gobierno-por-tus-derechos-sientate-a-esperar/104937127 (“According to Puerto Rico Police data, collected by the organization Kilómetro 0, by September of 2018, 19 people died from the use of force, while between July 2017 and June 2018, there were 239 people injured by the police, according to reports.” The upshot: all these people are left with no remedy, and the police face zero accountability for their unconstitutional and violent conduct.)


\textsuperscript{36}Alex Figueroa Cancel, “Arnaldo Claudio renuncia como monitor de la Reforma de la Policía: Alegó que abandona el cargo por ‘el malgasto de dinero y la mala utilización de dinero y su falta de confianza por cómo se lleva el proceso’,” El Nuevo Día, May 14, 2019, https://www.elnuevodia.com/noticias/seguridad/nota/arnoldoclaudiorenunciacomomonitordelaareformadelapolicia-2493735/; Associated Press, “Official over Puerto Rico police reform resigns in protest,” WTOP.com, May 14, 2019, https://wtop.com/latin-america/2019/05/official-over-puerto-rico-police-reform-resigns-in-protest/ (Making matters even more precarious, the court-appointed monitor in the consent decree litigation resigned after five years, announcing that he had “lost trust in the process,” that “the U.S. Department of Justice and the federal court are not taking sufficient action to end wrongdoing and that the money meant to overhaul the large department is being misspent,” and that “between $5 million and $7 million is being spent on private lawyers involved in the process instead of going to reforming Puerto Rico’s police department,” in an apparent reference to the contract given to the lawyer father of the federal judge assigned to the case.).

\textsuperscript{37}Jesse Barron, “How Puerto Rico Became the Newest Tax Haven for the Super Rich: A year after the tragedy of Hurricane Maria, the 51st state has become the favorite playground for extremely wealthy Americans looking to keep their money from the taxman. The only catch? They have to cut all ties to the mainland (wink, wink),” GQ, September 18, 2018, https://www.gq.com/story/how-puerto-rico-became-tax-haven-for-super-rich; “Why the super-rich are flocking to Puerto Rico,” NBC News, January 17, 2019.
people of Puerto Rico pay extraordinarily high tax rates, through income tax, property taxes and an 11.5% on all purchased goods, imported millionaires are subject to taxes ranging from zero to 4% (even on passive income). The moneyed class is also responding to the pitch that “Puerto Rico is for sale,” including Investment Summits in which the colonial administration actively participates, advertising “Puerto Rico is having an economic transformation and you can be part of it. The time is now.”

“Opportunity zones” are also part of the lure, hastening community displacement and gentrification in the name of supposed economic development. The rich have gobbled up desirable coastline property, and luxury properties are going for record-breaking prices. Not surprisingly, much of that “investment” in Puerto Rico is taken directly out of...

highways; religious institutions and people of faith prayed; opposition parties held press conferences; artists, ever active, organized support for auditing the debt.

**Conclusion**

Puerto Rico is in a moment of crisis. Irreversible changes are taking place as we speak, with draconian consequences to its people. We must act now. The myth that Puerto Rico was not a colonial holding of the United States was long ago exploded, particularly after the enactment of PROMESA and court decisions affirming the absolute power of the United States over all matters related to Puerto Rico.

The Third International Decade for the Eradication of Colonialism should not pass without the Special Committee urging the General Assembly to take up the colonial case of Puerto Rico. The Special Committee should seek cooperation from the United States to:

* end the colonial situation of Puerto Rico,

* assume its responsibility to accelerate a process that allows the people of Puerto Rico to exercise their inalienable right to self-determination and independence in full, and to take responsibility for the havoc it has created over the 121 years of its aggressive presence in Puerto Rico.

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47. “Parroquia celebrará rogativa contra la JSF,” *Primera Hora*, June 12, 2019, https://www.primerahora.com/noticias/gobierno-politica/nota/parroquiacelebrararogativacontralajsf-1347458/ (We are going to convene a Rogaion [solemn supplication] (we’re not going to protest; we’re going to pray so that the Spirit extract the evil produced by the Dictatorial Junta [FOMB] that has already decapitated the government of Puerto Rico and now seeks to Decapitate our towns, that do the best job of directly serving the people.”).


Rico,

* provide all necessary assistance for the recovery from the effects of hurricanes Irma and María,

* facilitate assistance from international organizations, especially in the area of sustainable development, and

* not prevent the delivery of humanitarian aid and technical assistance from willing countries in a position to offer aid and assistance.

Respectfully submitted,

Jan Susler
on behalf of the National Lawyers Guild
c/o People’s Law Office
1180 North Milwaukee, Third Floor
Chicago, IL 60642
773.235.0070
jsusler@gmail.com