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meetings on the Special Committee decision of June 16, 2021 concerning Puerto Rico

June 20, 2022

Presentation on behalf of the
NATIONAL LAWYERS GUILD

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on behalf of the **National Lawyers Guild**

**National Lawyers Guild
Presentation to the United Nations Decolonization Committee
Hearings on Puerto Rico
June 20, 2022**

We 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 association in the United States. From its founding, the National Lawyers Guild has maintained an internationalist perspective, with Puerto Rico playing an important part 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 ourselves to this just and noble cause.

Persistent U.S. colonialism

In the face of the Fourth International Decade for the Eradication of Colonialism (2021-2030),¹ the United States boldly and crassly thumbs its nose at international law and the 39 annual Resolutions of this august body, as we mark 124 years of unrelenting U.S. colonialism over Puerto Rico. As in many nations of the global South, the neoliberal order with its attendant austerity measures have combined with multiple climate disasters to produce a crisis of environmental degradation, disinvestment from public institutions, and privatization of Puerto Rico's resources, driving hundreds of thousands from their homes. Unlike most other nations,

¹General Assembly Resolution 75/123, *Fourth International Decade for the Eradication of Colonialism* (December 10, 2020), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/362/83/PDF/N2036283.pdf?OpenElement>.

though, Puerto Rico remains subjugated politically as a territory of the United States, its right to self-determination thwarted by its twenty-first century colonial relationship to the most powerful nation on Earth. Time is of the essence. U.S. colonialism must be stopped in its tracks, now, before it is too late.

Colonial reins: PROMESA, bankruptcy-like proceedings

In the last few decades, the U.S. allowed the government of Puerto Rico to accumulate vast, unpayable debt – much of it illegal, none of it audited. In 2016, the U.S. congress used this odious debt to justify imposing a Fiscal Oversight Management Board [FOMB] to ensure the debt holders be paid. The FOMB, not so affectionately dubbed “*la junta*,” was given broad authority to restructure the debt of Puerto Rico and impose austerity measures like pension cuts, school closings, and budget cuts to the public university. *La junta*, whose unelected members are chosen by the President of the United States, has usurped fiscal responsibility from Puerto Rico’s elected officials, prioritizing debt holders over the people of Puerto Rico, while obliging the Puerto Rican people to pay the costs.²

La junta's proposed Debt Adjustment Plan (or Plan of Adjustment) [POA] sailed through the U.S. court overseeing the bankruptcy-like proceedings in early 2022 despite widespread opposition.³ Broad sectors of the Puerto Rican population saw the POA as mortgaging their

²For billing from just one set of lawyers, see, Jenna Greene, “Fast and Ferocious: Inside the lawyering of Puerto Rico’s historic bankruptcy,” *Reuters*, February 7, 2022, <https://www.reuters.com/legal/transactional/fast-ferocious-inside-lawyering-puerto-ricos-historic-bankruptcy-2022-02-07/> (“To date, Proskauer [FOMB counsel] has billed \$219 million for the representation, according to public fee records.”).

³“Jueza federal aprueba el plan de ajuste de la deuda pública de Puerto Rico,” *EFE*, January 18, 2022, <https://www.efe.com/efe/america/economia/jueza-federal-aprueba-el-plan-de-ajuste-la-deuda-publica-puerto-rico/2000011-4720327>.

children’s and grandchildren’s future, and derisively referred to it as “*el plan del tumbe*” or the shake-down plan.⁴ In it, the provision of basic services, public employee pensions, and fair treatment for locally owned credit unions all took second stage to service of the debt, even for “vulture” investors who bought up bad debt at bargain basement prices, who will get a huge windfall. Concerningly, the POA resolved only one of Puerto Rico’s public debts, albeit the largest, leaving untouched the debt of Puerto Rico Electric Power Authority (AEE or PREPA) and the Puerto Rico Aqueducts and Sewers Authority (AAA or PRASA).⁵ As two activist scholars stated, “the POA leaves colonial, social and environmental debts unresolved and fails to bring a true people’s ‘resolution’ to the debt crisis.”⁶

⁴Sarah Molinari, Marisol LeBrón, “New Puerto Rico Debt Plan Is a False ‘Solution’ Crafted to Benefit Capitalists,” *Truthout*, January 30, 2022, <https://truthout.org/articles/new-puerto-rico-debt-plan-is-a-false-solution-crafted-to-benefit-capitalists/?eType=EmailBlastContent&eId=1b9c3828-da93-4535-ad7c-dca5645f945f>; see also, e.g., Istra Pacheco, “Hacen un llamado a expresarse mañana contra el Plan de Ajuste de la Deuda,” *El Vocero*, November 7, 2021, https://www.elvocero.com/economia/otros/hacen-un-llamado-a-expresarse-ma-ana-contra-el-plan-de-ajuste-de-la-deuda/article_deb4487a-3fea-11ec-9b41-275f55ec07ad.html (attorney Eva Prados, spokesperson for the Citizens Commission to Audit the Debt, stated that the Plan of Adjustment would mean that in some ten years, Puerto Rico would again be economically insolvent, and essential services would continue to be adversely affected). See also, Luis J. Valentín Ortiz, “The Bankruptcy Letters, Episode 6, *La Brega*,” Futuro Media Group and WNYC Studios, February 24, 2021, <https://www.wnycstudios.org/podcasts/la-brega/articles/bankruptcy-letters> (distinguishing lack of access to, and frustration with, the bankruptcy process experienced by Puerto Ricans, like teachers, who were encouraged to buy government bonds).

⁵“Gobierno canceló acuerdo para la reestructuración de la AEE,” *Microjuris al día*, March 8, 2022, <https://aldia.microjuris.com/2022/03/08/gobierno-cancela-acuerdo-para-la-reestructuracion-de-la-ae/>.

⁶Sarah Molinari, Marisol LeBrón, “New Puerto Rico Debt Plan Is a False ‘Solution’ Crafted to Benefit Capitalists,” *Truthout*, January 30, 2022, <https://truthout.org/articles/new-puerto-rico-debt-plan-is-a-false-solution-crafted-to-benefit-capitalists/?eType=EmailBlastContent&eId=1b9c3828-da93-4535-ad7c-dca5645f945f>. Puerto Rico is unlikely to be able to meet the payments according to the plan, which will undoubtedly result in more restructuring and more severe austerity. See, Dánica Coto, Associated Press, “Puerto Ricans fearful of plan to restructure public debt: Puerto Rican citizens have gotten the chance to express their fears about a massive debt overhaul plan, testifying before a judge with the power to decide Puerto Rico’s economic future,” *ABC News*, November 9, 2021, <https://abcnews.go.com/International/wireStory/puerto-ricans-fearful-plan-restructure-public-debt-81065381> (“Puerto Rican economist José Caraballo-Cueto warned that the plan was ‘not feasible,’ saying in a letter to the judge that Puerto Rico would face another restructuring round in upcoming decades. ‘A high probability of a second default means a low probability of returning to the credit market,’ he wrote.”).

The “shakedown” plan is only the newest chapter in Puerto Rico’s economic difficulties under the yoke of colonialism.⁷ Puerto Rico’s reigning elite have relied on the familiar imposed neoliberal playbook of tax breaks and privatization to woo wealthy people from the U.S. for years through schemes like “*Puerto Rico se vende*” (Puerto Rico is for sale). While the projected investments haven’t materialized,⁸ many rich, including cryptocurrency promoters, have taken advantage of these policies, to appropriate national patrimony,⁹ block public access to prized beaches,¹⁰ and build real estate that destroys the environment,¹¹ driving up prices and displacing Puerto Ricans, who can no longer afford to live in their hometowns.¹²

⁷See, e.g., José A. Delgado, “¿Cómo compara la economía de Puerto Rico con la de 25 islas o archipiélagos independientes, pero que fueron colonias o territorios? Un análisis del economista Heriberto Marín Centeno, de 2000 a 2018, resultó en que el crecimiento anual del PIB de nuestro país ha sido menor en contraste con estos lugares en el Caribe, África, Asia y Europa,” *El Nuevo Día*, May 29, 2022, <https://www.elnuevodia.com/noticias/locales/notas/el-crecimiento-economico-de-puerto-rico-es-mas-bajo-que-25-islas-o-archipiélagos-que-se-independizaron/>.

⁸Luis J. Valentín Ortiz, Joel Cintrón Arbasetti, and Dalila M. Olmo López, “Puerto Rico Act 22 Tax Incentive Fails: The jobs and economic impact anticipated by the Puerto Rico government never materialized. From being an instrument to attract millionaires and foreign investment, Act 22 went on to become a haven for cryptocurrency fans, YouTube personalities and consultants,” *Center for Investigative Journalism*, June 25, 2021, <https://periodismoinvestigativo.com/2021/06/puerto-rico-act-22-fails/>.

⁹See, e.g., Jennifer Gould, “Bitcoin billionaire Brock Pierce buys Puerto Rican ‘monastery’ for \$5M,” *New York Post*, February 4, 2021, <https://nypost.com/2021/02/04/cross-eyed-bitcoin-billionaire-brock-pierce-buys-nyc-church-for-5m/>.

¹⁰See, e.g., “Dorado Beach delimitó con piedras su zona ‘privada’ pero manifestantes llegaron a protestar: La protesta buscar recordar que las playas son del pueblo y que los complejos residenciales deben tener un acceso disponible,” *NotiCel*, February 12, 2022, <https://www.noticel.com/la-calle/ahora/20220212/dorado-beach-delimito-con-piedras-su-zona-privada-pero-manifestantes-llegaron-a-protestar/>.

¹¹Dánica Coto, “Builders hurt protected areas in climate-weary Puerto Rico,” *AP News*, May 6, 2022, <https://apnews.com/article/climate-caribbean-puerto-rico-mangroves-36e4e66f520e241f315fa4a1d8558ac1>; Benjamín Torres Gotay, “El crimen de Bahía Jobos,” *El Nuevo Día*, April 23, 2022, <https://www.elnuevodia.com/opinion/las-cosas-por-su-nombre/el-crimen-de-bahia-jobos/>.

¹²Coral Murphy Marcos and Patricia Mazzei, “The Rush for a Slice of Paradise in Puerto Rico: Many Puerto Ricans say they can no longer afford to stay in their homes with outside investors buying up properties and driving up prices,” *New York Times*, February 1, 2022, <https://www.nytimes.com/2022/01/31/us/puerto-rico-gentrification.html>; Valeria María Torres Nieves, Todas and

Amidst the devastation wrought by Hurricane María, investors partnered with the political elite to further cannibalize the infrastructure and trade unions of Puerto Rico’s energy sector. The 15 year contract issued in 2021 to LUMA Energy, a hastily formed, inexperienced U.S./Canadian “energy consortium” to transmit and distribute electrical power in Puerto Rico’s fragile power grid, is emblematic of the devastating effects of these policies. After dismissing thousands of PREPA’s highly trained, unionized employees,¹³ LUMA has engaged in windfall spending and reaped benefits,¹⁴ while providing extremely poor service.¹⁵ After winning the

Centro de Periodismo Investigativo, “Gentrification Displaces Domestic Violence Survivors in Puerto Rico,” *Center for Investigative Journalism*, May 5, 2022, <https://periodismoinvestigativo.com/2022/04/gentrification-displaces-domestic-violence-survivors-in-puerto-rico/>; Adriana Díaz Tirado, “‘El desplazamiento es la orden del día’: líderes de comunidades desplazadas exigen la derogación de la Ley 22: Residentes de Puerta de Tierra, Santurce y Vieques denunciaron cómo los inversionistas extranjeros están presuntamente invadiendo sus comunidades aceleradamente,” *El Nuevo Día*, May 27, 2022, <https://www.elnuevodia.com/noticias/locales/notas/el-desplazamiento-es-la-orden-del-dia-lideres-de-comunidades-desplazadas-exigen-la-derogacion-de-la-ley-22/>; Brenda A. Vázquez Colón, “Crisis de vivienda asequible: El próximo año podría no haber vivienda de interés social en la Isla, El Vocero, November 15, 2021, https://www.elvocero.com/economia/otros/crisis-de-vivienda-asequible/article_db853bbc-4609-11ec-9ddf-63a75f8e23d7.html (quoting Ariadna Godreau Aubert, director of Ayuda Legal Puerto Rico, “Rental spaces are now very expensive and there are no controls over landlords. We need a social interest model because – even if salaries increase – people can’t pay the rent, and the cost of property is very high. People aren’t finding homes,” adding “We put on a band-aid to solve the problem, but this is a far deeper crisis that can’t be solved solely with cement; we need public policy and legislation to ensure affordable housing.”). AirBnB only exacerbates the crisis. See, Luis D. Alfaro Pérez, “La gentrificación arropa el oeste de Puerto Rico: Residentes en Rincón y Cabo Rojo han sido desplazados de sus comunidades,” *Isla Oeste*, March 5, 2022, <https://laislaoeste.com/la-gentrificacion-arropa-el-oeste-de-puerto-rico/>.

¹³ Ángel Figueroa Jaramillo, “Puerto Rican Electrical Workers Union Fights Privatization of Island’s Grid,” *Labor Notes*, October 26, 2021, <https://labornotes.org/blogs/2021/10/puerto-rican-electrical-workers-union-fights-privatization-islands-grid>.

¹⁴ See, Tom Sanzillo, “Contract between Puerto Rico, LUMA Energy Sets up Full Privatization, Higher Rates for Island Grid,” *Institute for Energy Economics and Financial Analysis*, October 2020, https://ieefa.org/wp-content/uploads/2020/10/Contract-with-LUMA-Energy-Sets-up-Full-Privatization_Higher-Rates_October-2020.pdf.

¹⁵ “Temor ante la llegada de la temporada de huracanes!: Celebran primer aniversario de LUMA Energy con protestas alrededor de Puerto Rico. En el día que comienza la temporada de huracanes, distintas manifestaciones se realizaron en diversos puntos del país en reclamo para que se cancele contrato con LUMA Energy,” *Univisión*, June 1, 2022, <https://www.univision.com/local/puerto-rico-wlii/protestan-contraluma-energy-alrededor-de-puerto-rico-temporada-de-huracanes>.

contract by promising to reduce power outages and costs,¹⁶ LUMA has consistently increased its rates,¹⁷ driving electric bills to among the highest in the U.S.,¹⁸ and provided worse service and more and longer lasting power outages.¹⁹ And while there is substantial support on the Island for renewable energy,²⁰ Puerto Rico depends on non-renewables for more than 95% of its energy.²¹

¹⁶Jim Wyss, “Puerto Rico Power Slowly Being Restored After Massive Outage,” *Bloomberg News*, April 7, 2022, <https://www.bloomberg.com/news/articles/2022-04-07/fire-at-puerto-rico-power-plant-plunges-island-into-darkness>.

¹⁷Gerardo E. Alvarado León, “LUMA Energy pide un aumento de 17.1% en la factura de luz de julio a septiembre: El consorcio hizo la solicitud a nombre de la AEE y, ahora, el Negociado de Energía determinará si la aprueba,” *El Nuevo Día*, June 15, 2022, <https://www.elnuevodia.com/noticias/locales/notas/luma-energy-pide-un-aumento-de-171-en-la-factura-de-luz-de-julio-a-septiembre/> (making this the seventh quarterly rate hike in LUMA’s brief tenure).

¹⁸Coral Murphy Marcos, “Solar Power Offers Puerto Ricans a Lifeline but Remains an Elusive Goal: The island’s energy grid has struggled to recover after Hurricane María almost wiped it out in 2017. While solar-power systems can fill gaps, they aren’t cheap,” *New York Times*, May 9, 2022, <https://www.nytimes.com/2022/05/09/business/energy-environment/puerto-rico-solar-power.html> (“monthly electric bills that have surged 46 percent in the past year”); Ángel Figueroa Jaramillo, “Puerto Rican Electrical Workers Union Fights Privatization of Island’s Grid,” *Labor Notes*, October 26, 2021, <https://labornotes.org/blogs/2021/10/puerto-rican-electrical-workers-union-fights-privatization-islands-grid> (“Puerto Ricans spend more than a billion dollars each year paying for imported oil and natural gas, resulting in some of the highest and most volatile electricity rates in the United States.”).

¹⁹Patricia Mazzei, “‘Why Don’t We Have Electricity?’: Outages Plague Puerto Rico. Transferring the power grid to a private company was supposed to help. But thousands protested last week over more blackouts,” *New York Times*, October 19, 2021, updated Nov. 10, 2021, <https://www.nytimes.com/2021/10/19/us/puerto-rico-electricity-protest.html>;

²⁰See, e.g., Ruth Santiago, “Energía renovable y conservación de terrenos en Puerto Rico,” *El Nuevo Día*, April 12, 2022, <https://www.elnuevodia.com/opinion/punto-de-vista/energia-renovable-y-conservacion-de-terrenos-en-puerto-rico/>; Arturo Massol Deyá, “Energía que funcione para bien,” *El Nuevo Día*, April 15, 2022, <https://www.elnuevodia.com/opinion/punto-de-vista/energia-que-funcione-para-bien/>.

²¹Jim Wyss, “Why Tiny Solar Projects Play an Outsized Role in Powering Puerto Rico,” *Bloomberg News*, May 31, 2022, <https://www.bnnbloomberg.ca/why-tiny-solar-projects-play-an-outsized-role-in-powering-puerto-rico-1.1772650> (“Utility-scale renewables make up about 3.6% of Puerto Rico’s energy mix, and solar power is just a fraction of that.”); Coral Murphy Marcos, “Solar Power Offers Puerto Ricans a Lifeline but Remains an Elusive Goal: The island’s energy grid has struggled to recover after Hurricane María almost wiped it out in 2017. While solar-power systems can fill gaps, they aren’t cheap,” *New York Times*, May 9, 2022, <https://www.nytimes.com/2022/05/09/business/energy-environment/puerto-rico-solar-power.html> (“[S]olar power accounts for just 2.5 percent of Puerto Rico’s total energy production, government data shows. The rest comes from plants fueled by imported natural gas, coal and petroleum, with another sliver from wind power.”).

The recent privatization of Puerto Rico's energy sector exemplifies how this strategy privatizes only the profits, while socializing its risk and, crucially, failing to satisfy the needs of the Puerto Rican people for better and more affordable services.

Education: Strangling the University of Puerto Rico and closing & disinvesting in public schools

Disinvestment in public education threatens to destroy the main path to Puerto Ricans' advancement. Between 2007 and 2020, the government closed 673 of the nation's public schools – almost half²² – and another 86 schools are now on the chopping block, without community input.²³ Separately, more than 33,000 students stopped attending school between 2015 and 2021, for reasons which the Department of Education has not adequately explored.²⁴ Today, teachers in Puerto Rico's public schools are paid \$12,000 a year less than the average earned by the lowest paid U.S. public teachers.²⁵ And that is after a temporary raise of \$1,000 a month²⁶ that teachers won after staging a strike early this year. Before that, their base pay was \$21,500 a year, and they

²²Dalia Rubiano Yedidia, Eli Moore, Luis Gallardo Rivera, and Marina Moscoso Arabia, *Puerto Rico's Public School Closures; Community Effects and Future Paths* (Berkeley, CA: Othering & Belonging Institute, 2020), <https://belonging.berkeley.edu/puerto-ricos-public-school-closures>.

²³Tatiana Díaz Ramos and José M. Encarnación Martínez, “Department of Education Is Planning a New Wave of School Closings: The agency intends to do away with another 83 schools by 2026, without the participation of school communities,” *Centro de Periodismo Investigativo*, January 14, 2022, <https://periodismoinvestigativo.com/2022/01/department-of-education-is-planning-a-new-wave-of-school-closings/>.

²⁴Benjamín Torres Gotay, “Adiós a la escuela,” *El Nuevo Día*, November 20, 2021, <https://www.elnuevodia.com/opinion/las-cosas-por-su-nombre/adios-a-la-escuela/>.

²⁵Marissa Perino, Andy Kiersz, and Madison Hoff, “Here's how much every US state pays its teachers and how much they spend on each student,” *Business Insider*, May 7, 2021, <https://www.businessinsider.com/teacher-salary-in-every-state-2018-4> (in Mississippi, the lowest paid teachers in the U.S. earned an average of \$45,192 in 2019-2020).

²⁶Edmy Ayala and Patricia Mazzei, “Puerto Rico Teachers Lead Push for Higher Pay for Public Workers: The demands for increased wages and better working conditions come as Puerto Rico tries to pull itself out of bankruptcy,” *New York Times*, February 10, 2022, <https://www.nytimes.com/2022/02/10/us/puerto-rico-teachers-protests.html>.

had gone 13 years without a raise. Their pensions, too, were slashed in spite of current Puerto Rico law establishing defined-benefits plans, another noxious decision by *la junta* upheld by a U.S. court, which ruled that *la junta's* authority trumped Puerto Rico law.²⁷

La junta has also taken aim at the University of Puerto Rico [UPR], the only public higher education institution and as much an engine for the national economy as it is a driver of upward mobility.²⁸ Urging privatization, *la junta* has slashed the budget by half and tripled the undergraduate tuition, threatening the future of the institution.²⁹ A recent study of the government's budget documented a startling disinvestment in the UPR compared to the large investment in police, speaking volumes about *la junta's* priorities and intentions.³⁰

²⁷Reuters, "Puerto Rico teachers fail to overturn pension changes in debt plan: An attorney for the teachers associations called the decision 'unfortunate,'" *NBC News*, April 27, 2022, <https://www.nbcnews.com/news/latino/puerto-rico-teachers-fail-overturn-pension-changes-debt-plan-rcna26255>.

²⁸Rima Brusi and Ricardo R. Fuentes-Ramírez, "With the University of Puerto Rico Gutted, Private Equity Is Poised to Profit," *The Century Foundation*, April 20, 2022, <https://tcf.org/content/commentary/with-the-university-of-puerto-rico-gutted-private-equity-is-poised-to-profit/?agreed=1>.

²⁹Tatiana Díaz Ramos, "La UPR ya no puede con el empuje de la austeridad: Profesores, investigadores, estudiantes y economistas advierten que el Plan de Ajuste de la Deuda puede significar el jaque mate a la educación superior pública," *Center for Investigative Journalism*, November 18, 2021, <https://periodismoinvestigativo.com/2021/11/la-upr-ya-no-puede-con-el-empuje-de-la-austeridad/>; Sergio M. Marxuach, "The UPR's Certified Fiscal Plan or the Shredding of Puerto Rico's Social Contract," *Center for New Economy*, August 16, 2021, <https://grupocne.org/2021/08/16/the-uprs-certified-fiscal-plan-or-the-shredding-of-puerto-ricos-social-contract/>.

³⁰Kilómetro Cero, "¿País de policías o de estudiantes y universidades? El gobierno y la Junta privilegian a la Policía y castigan a la Universidad," *Paliques Policiales*, October, 2021, <https://evidencialaviolencia.org/wp-content/uploads/2021/10/Paliques4-compressed.pdf>. Not coincidentally, PROMESA's bankruptcy-like process leaves survivors of police violence and others whose constitutional rights are violated with no access to any so-called justice, as all litigation against the government is on hold. See, Joanisabel González, "The Department of Justice calls for a halt to lawsuits against the government: According to the agency, even though the Adjustment Plan went into effect, the litigation standstill continues," *El Nuevo Día*, May 30, 2022, <https://www.elnuevodia.com/english/news/story/the-department-of-justice-calls-for-a-halt-to-lawsuits-against-the-government/>.

Consequences for the Puerto Rican people

The costs for Puerto Ricans of these neoliberal policies are exceedingly high. Tax rates well surpass those in the U.S.³¹ The cost of living and inflation spiral,³² as newly privatized utilities hike their rates, and the cost of imported goods remain sky-high thanks to artificially high shipping costs due to a 1917 U.S. law mandating the use of U.S. based and staffed vessels.³³

Between 2010 and 2020, the tanked colonial economy, Hurricane María,³⁴ and gentrification have driven 12% of the population from the Island,³⁵ draining its professional

³¹Brenda A. Vázquez Colón, “Expensive to Live in Puerto Rico, but There are Some Advantages,” *The Weekly Journal*, November 24, 2021, https://www.theweeklyjournal.com/business/expensive-to-live-in-puerto-rico-but-there-are-some-advantages/article_a4f42d5a-4d53-11ec-ba6f-63110db88e1d.html (“Puerto Rico has the highest individual, corporate and sales taxes in the United States, thus making the island a very expensive jurisdiction to live in.”).

³²José Caraballo Cueto, “La inflación y el alto costo de vida en Puerto Rico,” *El Nuevo Día*, March 19, 2022, <https://www.elnuevodia.com/opinion/punto-de-vista/la-inflacion-y-el-alto-costo-de-vida-en-puerto-rico/>.

³³Sofia Rivera Negron, “The Jones Act – Trouble in Paradise,” *International Policy Digest*, April 7, 2022, <https://intpolicydigest.org/the-jones-act-trouble-in-paradise/>.

³⁴Frances Negrón-Muntaner, “The Emptying Island: Puerto Rican Expulsion in Post-Maria Time,” <https://hemisphericinstitute.org/en/emisferica-14-1-expulsion/14-1-essays/the-emptying-island-puerto-rican-expulsion-in-post-maria-time.html>.

³⁵Ricardo Cortés Chico, “Censo 2020: Puerto Rico pierde el 11.8% de su población en la última década: La cifra de habitantes en la isla se fija ahora en 3.3 millones y esta pérdida poblacional es menor a la estimada inicialmente,” *El Nuevo Día*, April 26, 2021, <https://www.elnuevodia.com/noticias/locales/notas/censo-2020-puerto-rico-pierde-el-118-de-su-poblacion-en-la-ultima-decada/>; Syra Ortiz-Blanes, “‘A new Maria.’ Puerto Rico’s next crisis is a demographic crisis The island’s population dropped nearly 12 percent from 2010 to 2020, altering Puerto Rico’s society, economy and culture,” *Tampa Bay Times*, May 25, 2021, <https://www.tampabay.com/news/nation-world/2021/05/25/a-new-maria-puerto-ricos-next-crisis-is-a-demographic-crisis/>; Susanne Ramirez de Arellano, “The Boricua Diaspora: A Voice That Will Not Be Silenced,” *Latino Rebels*, February 28, 2022, <https://www.latinorebels.com/2022/02/28/boricuadiaspora/>.

class³⁶ and leaving behind an aging population with a significantly reduced birth rate.³⁷ Today, more Puerto Ricans reside in the metropolis than in Puerto Rico.³⁸ The result: fulfilling the dream of wealthy U.S. people who take advantage of Puerto Rico as a tax haven, of enjoying a Puerto Rico without Puerto Ricans.³⁹ A recent book “makes the case that the island’s status as an unincorporated territory, or *de facto* colony, makes it vulnerable to an extreme form of austerity in which collecting its debt allows the state to impose a slow death on a people.”⁴⁰ There is also the U.S. death penalty, imposed in Puerto Rico in spite of the fact that in 1929 (by statute) and again in 1952 (by constitution), Puerto Rico abolished the death penalty.⁴¹ And there is also the

³⁶Ricardo Cortés Chico “¿Fuga de cerebros? La población puertorriqueña con mayor escolaridad emigra con más frecuencia: Estiman que la situación responde, en parte, a la brecha salarial entre Estados Unidos y Puerto Rico que ha incrementado en los últimos años,” *El Nuevo Día*, June 13, 2021, <https://www.elnuevodia.com/noticias/locales/notas/fuga-de-cerebros-la-poblacion-puertorriquena-con-mayor-escolaridad-emigra-con-mas-frecuencia/>.

³⁷Nydia Bauzá, “2021: el año con menos nacimientos en un montón de tiempo: Se registra cifra récord más baja de alumbramientos en la Isla desde el 1888,” *Primera Hora*, January 13, 2022, <https://www.primerahora.com/noticias/gobierno-politica/notas/2021-el-ano-con-menos-nacimientos-en-un-monton-de-tiempo/>; Ricardo Cortés Chico, “Alarmante reducción de nacimientos en Puerto Rico durante la pandemia: El total de alumbramientos en los meses de octubre, noviembre y diciembre del 2020 implicó reducciones de entre 15% a 21% en comparación con el mismo periodo de los dos años anteriores,” *El Nuevo Día*, March 28, 2021, <https://www.elnuevodia.com/noticias/locales/notas/alarmante-reduccion-de-nacimientos-en-puerto-rico-durante-la-pandemia/>.

³⁸César J. Ayala, “Puerto Rico and its Diaspora,” UCLA Latin American Institute, October 27, 2021, <https://international.ucla.edu/lai/article/248568>.

³⁹Bianca Graulau, “Are Puerto Ricans being pushed out?” December 28, 2021, <https://www.youtube.com/watch?v=YGXtWpCOiC8&t=10s>; Carlos Edill Berríos Polanco, “Act 60 Brings People Into Puerto Rico and Pushes Others Out,” *Latino Rebels*, January 25, 2022, <https://www.latinorebels.com/2022/01/25/act60displacement/>.

⁴⁰Ed Morales, “Colonialism’s Ledger: Puerto Rico in the Shadow of Debt,” *The Nation*, April 6, 2022, <https://www.thenation.com/article/society/rocio-zambrana-colonial-debts/> (reviewing Rocío Zambrana’s book, *Colonial Debts: The Case of Puerto Rico* (Duke University Press, Durham and London, 2021)).

⁴¹Carmelo Campos Cruz, “La Pena de Muerte en Puerto Rico: Lecciones y Retos,” in Yudkin Suliveres and Pascual Morán (Eds.), *Descolonizar la paz: Entramado de saberes, resistencias y posibilidades*, 2020, Antología conmemorativa del 25 aniversario de la Cátedra UNESCO de Educación para la Paz. Cátedra UNESCO de Educación para la Paz, Universidad de Puerto Rico, <http://unescopaz.uprrp.edu/antologia25.html>.

quicker death at the hands of the colonial government, including denial of health care benefits to older, blind and disabled Puerto Ricans with limited income and resources. While a Puerto Rican who lives on the Island may not claim these benefits, if she moves to the metropolis, she may claim these benefits – a rank inequity recently upheld by the highest court in the U.S. in an opinion where even some of the jurists acknowledged that U.S. sovereignty over Puerto Rico rests on a legal fiction rooted in “ugly racial stereotypes.”⁴²

U.S. demonstrates little interest in decolonizing Puerto Rico

Puerto Rico’s relationship to the U.S. dominates Puerto Rico’s social and political scene. Recent shifts demonstrate that the majority of Puerto Ricans favor an end to colonialism; they differ in what that end should be.⁴³ These shifts resulted in proposed legislation in the U.S. congress,⁴⁴ which holds Puerto Rico’s sovereignty.⁴⁵ Yet the right of the Puerto Rican people to self-determination, affirmed annually by the Special Committee, is neither mentioned nor

⁴²*United States v. Vaello Madero*, 142 S. Ct. 1539 (2022); Yarimar Bonilla, “For Puerto Ricans, Another Reminder That We Are Second-Class Citizens,” *New York Times*, May 19, 2022, <https://www.nytimes.com/2022/05/19/opinion/puerto-rico-supreme-court-social-security.html>; Nina Totenberg, “Supreme Court allows exclusion of Puerto Rican residents from disability benefits,” *NPR*, April 21, 2022, <https://www.npr.org/2022/04/21/1094119474/supreme-court-allows-exclusion-of-puerto-rican-residents-from-disability-benefit>.

⁴³Cristina Corujo, “What to know about Puerto Rico's divide over its territorial status: Whether the territory becomes a state remains a divisive topic on the island,” *ABC News*, April 27, 2021, <https://abcnews.go.com/US/puerto-ricos-divide-territorial-status/story?id=76679606>.

⁴⁴Previous popular polls of Puerto Ricans’ status preference were not binding on U.S. congress. See, e.g., Leslie Picker and Dawn Giel, “Statehood? Sovereignty? Bankrupt Puerto Rico heads to ballot box for ‘status’ vote,” *CNBC*, June 9, 2017, <https://www.cNBC.com/2017/06/09/statehood-sovereignty-bankrupt-puerto-rico-heads-to-ballot-box-for-status-vote.html> (calling the vote “largely ceremonial”).

⁴⁵See, e.g., *Puerto Rico v. Sánchez Valle*, 479 U.S. 59 (2016) (Puerto Rico and U.S. are not separate sovereigns: the ultimate source of Puerto Rico's prosecutorial power is the U.S. government; thus, double jeopardy clause of U.S. Constitution's Fifth Amendment barred both Puerto Rico and the U.S. from prosecuting a person for the same conduct under equivalent criminal laws).

recognized in any of the proposed legislation. One bill offered by the pro-statehood movement urged converting Puerto Rico into the 51st state of the U.S.,⁴⁶ another bill offered by those who oppose statehood urged a democratic process developed by Puerto Ricans and for Puerto Ricans – a convention whose delegates would be elected by Puerto Rican voters – to design a long-term solution for Puerto Rico’s status, be that statehood, independence, free association or any non-territorial option.⁴⁷ The people of Puerto Rico would then vote in a referendum, before presentation to U.S. congress. However, congressional powers pressured for a single bill – for discussion purposes,⁴⁸ providing for a choice among statehood, independence, or free association, which does not include the current status as an option.⁴⁹ While those few interested representatives in the lower house may continue to try work out details, Puerto Rico is apparently not a priority in the U.S. Senate,⁵⁰ although, as a conservative Senator recently pronounced,

⁴⁶Puerto Rico Statehood Admission Act,
<https://naturalresources.house.gov/imo/media/doc/DOJ%20Analysis%20of%20HR%201522.pdf>.

⁴⁷Puerto Rico Self-Determination Act of 2020,
<https://velazquez.house.gov/sites/velazquez.house.gov/files/PuertoRicoBill082520.pdf>.

⁴⁸Puerto Rico Status Act,
https://naturalresources.house.gov/imo/media/doc/DISCUSSION_DRAFT_Puerto_Rico_Status_Act.pdf.

⁴⁹Lilia Luciano and Cristina Corujo, “Lawmakers draft historic bill on Puerto Rico’s territorial status,” *CBS News*, May 23, 2022, <https://www.cbsnews.com/news/puerto-rico-territorial-status-bill/>. The bill also leaves “several [...] unanswered questions on citizenship issues, the transition to statehood, and the role given to the U.S. Department of Justice to review the ballot and the education campaign for a potential plebiscite, among others.” José A. Delgado, “Analysis: the challenges of Puerto Rico’s political status bill: The draft proposal for a plebiscite between statehood, independence and free association is just the beginning of a long road,” *El Nuevo Día*, May 22, 2022, <https://www.elnuevodia.com/english/news/story/analysis-the-challenges-of-puerto-ricos-political-status-bill/>.

⁵⁰José A. Delgado, “Status debate finds no echo in the U.S. Senate: Senators Robert Menéndez and Marco Rubio, close to Puerto Rico’s issues, warn of complications in advancing a bill on the island’s political future,” *El Nuevo Día*, May 26, 2022, <https://www.elnuevodia.com/english/news/story/status-debate-finds-no-echo-in-the-us-senate/> (“The U.S. Senate, which has ruled out advancing a pro-statehood bill, has not even opened the door to debate on Puerto Rico’s political status, despite the renewed interest shown by the House Democratic leadership passing this year a bill that would regulate a plebiscite on Puerto Rico’s political status.”).

without a hint of irony, “Congress has the last word.”⁵¹

Regardless, Puerto Rican spirit flourishes

The Puerto Rican spirit of resistance abounds, in Puerto Rico and in the diaspora, to *la junta* and its neoliberal privatization⁵² and austerity⁵³ and the pro-statehood government,⁵⁴ to laws favoring foreigners who seek to avoid paying taxes and the resulting displacement of Puerto Ricans.⁵⁵ Women and the LBGTQI community organize for protection from violence and the

⁵¹José A. Delgado, “Congresista republicano sobre la estadidad ‘La última palabra la tiene el Congreso’: El conservador Tom McClintock, opuesto a la idea de que Puerto Rico sea un estado de Estados Unidos, rechaza que la medida quiera hacer autoejecutable una propuesta de estadidad,” *El Nuevo Día*, June 8, 2022, <https://www.elnuevodia.com/corresponsalias/washington-dc/notas/congresista-republicano-sobre-la-estadidad-la-ultima-palabra-la-tiene-el-congreso/>.

⁵²James Baratta, “Puerto Ricans Fight Privatization of Energy and Demand Democratic Ownership,” *Truthout*, October 19, 2021, <https://truthout.org/articles/puerto-ricans-fight-privatization-of-energy-and-demand-democratic-ownership/>.

⁵³“Temen que el Plan de Ajuste imponga al gobierno central de Puerto Rico ‘pagos insostenibles’: Power4PuertoRico exhorta al Congreso a abolir la Junta de Supervisión Fiscal y a cancelar la deuda pública. Jubilee USA también tiene dudas,” *El Nuevo Día*, January 19, 2022, <https://www.elnuevodia.com/corresponsalias/washington-dc/notas/temen-que-el-plan-de-ajuste-imponga-al-gobierno-central-de-puerto-rico-pagos-insostenibles/>.

⁵⁴“¡Y fuera!’: graduandos del Recinto de Ciencias Médicas abuchean y le gritan a Pierluisi: Mientras el gobernador ofrecía un discurso, algunos se pusieron de espaldas y exigieron que abandonara el evento,” *El Nuevo Día*, June 3, 2022, <https://www.elnuevodia.com/noticias/locales/videos/y-fuera-graduandos-del-recinto-de-ciencias-medicas-abuchean-y-le-gritan-a-pierluisi-277608/>; “Marchan en contra de la Junta de Supervisión Fiscal en Hato Rey: Protestan contra el organismo en una manifestación convocada por 40 organizaciones, entre las cuales está la Asociación de Alcaldes,” *El Nuevo Día*, September 6, 2021, <https://www.elnuevodia.com/noticias/locales/notas/marchan-en-contra-de-la-junta-de-supervision-fiscal-en-hato-rey/>.

⁵⁵Hector Luis Alamo, “Group Topples Conquistador Statue in Puerto Rico, Calls for Repeal of Tax Incentives for Foreigners,” *Latino Rebels*, January 25, 2022, <https://www.latinorebels.com/2022/01/25/prstatue/>; “Artistas plásticos boricuas se expresan en contra del desplazamiento y de las decisiones del Departamento de Educación: Las redes sociales se han convertido en un panel de expresión para mostrar la disconformidad con situaciones que ocurren actualmente en la sociedad puertorriqueña,” *El Nuevo Día*, January 16, 2022, <https://www.elnuevodia.com/entretenimiento/cultura/notas/artistas-plasticos-boricuas-se-expresan-en-contra-del-desplazamiento-y-de-las-decisiones-del-departamento-de-educacion/>.

right to decide what happens with their bodies.⁵⁶ Environmentalists fight to protect the estuaries, coastline and public beaches, as well as the flora and fauna.⁵⁷ Mutual aid societies⁵⁸ and community organizations⁵⁹ work to provide services the neoliberal government fails to offer.

⁵⁶For example, see, EFE, “Mujeres protestan ante aumento de los feminicidios en Puerto Rico: La manifestación fue convocada por la Colectiva Feminista en Construcción,” *Acento*, November 19, 2021, <https://acento.com.do/actualidad/mujeres-protestan-ante-aumento-de-los-feminicidios-en-puerto-rico-9007320.html>; Manuel Guillama Capella, “Derechos de la comunidad LGBTTIQ: mucha acción y pocos resultados: Defensores de la comunidad y legisladores se expresaron esperanzados de que la discusión avance en la legislatura según transcurra el cuatrienio,” *Metro*, 24 de junio 2021, <https://www.metro.pr/pr/noticias/2021/06/24/derechos-la-comunidad-lgbtqi-mucha-accion-resultados.html>; Adriana Díaz Tirado, “Más de 30 organizaciones convocan marcha ‘Marea Verde por el derecho a decidir’: En el marco del Día Internacional de la Acción por la Salud de las Mujeres, marcharán este sábado desde la Corte Federal en el Viejo San Juan hasta el Capitolio en contra de legislaciones para restringir el aborto en Puerto Rico y Estados Unidos,” *El Nuevo Día*, May 24, 2022, <https://www.elnuevodia.com/noticias/locales/notas/mas-de-30-organizaciones-convocan-marcha-marea-verde-por-el-derecho-a-decidir/>.

⁵⁷For example, see, Dánica Coto, “Builders hurt protected areas in climate-weary Puerto Rico,” *AP News*, May 6, 2022, <https://apnews.com/article/climate-caribbean-puerto-rico-mangroves-36e4e66f520e241f315fa4a1d8558ac1>; Hector Luis Alamo, “Earthjustice: AES-Puerto Rico Seeking Bailout for Polluting Coal Plant,” *Latino Rebels*, January 31, 2022; <https://www.latinorebels.com/2022/01/31/aesprepa/>; Patricia Mazzei, “A Turtle, a Pool and the Fight to Save Puerto Rico’s Beaches: An attempt to rebuild a beachfront pool turned into a much bigger story about the threats of erosion and overdevelopment on the island,” *New York Times*, November 6, 2021, <https://www.nytimes.com/2021/11/06/us/puerto-rico-beaches-threats.html?smid=em-share>; Carlos Edill Berrios Polanco, “Hundreds of Puerto Ricans Take Over ‘Private Beach’ in Dorado to Protest Access,” *Latino Rebels*, February 14, 2022, <https://www.latinorebels.com/2022/02/14/doradobeachprotest/>.

⁵⁸For example, see, Alejandra Rosa and Frances Robles, “Pandemic Plunges Puerto Rico Into Yet Another Dire Emergency: The island has had to weather a hurricane, a political crisis and earthquakes, but those crises did not lead to the widespread unemployment caused by the response to the coronavirus pandemic,” *New York Times*, July 8, 2020, updated April 8, 2021, <https://www.nytimes.com/2020/07/08/us/coronavirus-puerto-rico-economy-unemployment.html>; Centers of Mutual Support, <https://agitarte.org/centros-de-apoyo-mutuo-centers-of-mutual-support-4/>.

⁵⁹For example, see, Adriana Díaz Tirado, “Taller Salud revela estudio sobre riesgos de 366 viviendas en Loíza que aún continúan en condiciones de vulnerabilidad: Exigieron que las 3,646 viviendas con toldos azules en todo Puerto Rico sean reparadas antes del quinto aniversario del huracán María en septiembre,” *El Nuevo Día*, June 1, 2022, <https://www.elnuevodia.com/noticias/locales/notas/taller-salud-revela-estudio-sobre-riesgos-de-366-viviendas-en-loiza-que-aun-continuan-en-condiciones-de-vulnerabilidad/>. See also, Ayuda Legal Puerto Rico, <https://ayudalegalpr.org/>.

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 Fourth International Decade for the Eradication of Colonialism should commence with the Special Committee urging the General Assembly to take up the colonial case of Puerto Rico. In the meantime, the Special Committee should keep the case of Puerto Rico under continuous review.

The Special Committee should also 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 harm it has caused throughout the 124 years of its aggressive presence in Puerto Rico; provide all necessary assistance for the recovery from the effects of hurricanes Irma and María; provide the funding for cleanup of the multiple sites where its military-industrial complex has left dangerous toxic waste, including on the Puerto Rican islands of Vieques and Culebra; and facilitate assistance from international organizations, especially in the area of sustainable development.

Respectfully submitted,

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on behalf of the **National Lawyers Guild**

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