

International Tribunal on Violation of Human Rights in Puerto Rico and Vieques by the United States of America

Committee for Human Rights in Puerto Rico (Sponsor)

The People of Puerto Rico Versus the United States of America

I. Precedential Background

II. Findings and Legal Foundations

1. Introduction

2. The U.S. government is found guilty for the continuation of the denial of the right to self-determination

2.1 The continuing effects of colonialism on the economic situation in Puerto Rico

2.2 The increased militarization of Puerto Rico

2.3 The continuing assaults on the culture, language, and legal traditions of the Puerto Rican people

2.4 The continuation of repression and criminalization of the independence movement

3. The violation of human rights of the people of Vieques

III. Verdict

Judgment

1. Precedential Background

In January of 1989, a special session of a Permanent People's Tribunal was convened in Barcelona, Spain, to determine whether the U.S. government was in violation of human rights treaties and obligations under international law in relation to Puerto Rico and its people. After considering three days of testimony from experts, and reviewing numerous documents on varied aspects of U.S.-Puerto Rico relations and their effect on the lives of the Puerto Rican people, the Tribunal found that the U.S. government was denying the People of Puerto Rico their most fundamental human right: the right to self-determination.

In arriving at this legal conclusion, our colleagues of the Barcelona Tribunal issued the following verdict. Based on the factual and legal foundations presented, the Permanent People's Tribunal declares:

1. That Puerto Rico and its people have the right to freely determine their political, economic, social, and cultural condition in accordance with the Algerian Declaration and principles of international law.
2. That the Constitution of the Commonwealth of Puerto Rico is not the proper way for the Puerto Rican people to exercise their self-determination right, whereas in the referendum that have been carried out on the Island, the required guarantees that govern the true exercise of such right, in accordance with the Resolutions and practices of the U.N., have not be observed.
3. That the U.S. has an international duty to respect the right of Puerto Rico to its self-determination, in accordance with the obligations it has conventionally and customarily assumed.
4. That the actual U.S. military policy in Puerto Rico constitutes an obstacle for self-determination of the island and it threatens the peace and security conditions of the Caribbean region.

In returning their verdict, our predecessor Tribunal called upon the U.S. government to take the following steps to ensure the self-determination rights of the People of Puerto Rico:

To implement through all political, economic, and administrative means available to them, the conditions that would make possible for the Puerto Rican people to exercise their self-determination right, and especially to:

- (a) Acknowledge the political prisoner status of those Puerto Ricans incarcerated due to their work and militancy in favor of Puerto Rico's independence and to grant a general amnesty to all Puerto Ricans currently incarcerated because of their involvement in the struggle against colonialism.
- (b) Relinquish the current powers the U.S. Congress has to amend and approve the decisions made by the representative bodies and government of Puerto Rico.
- (c) Completely transfer any power the U.S. Congress or the U.S. government may have over Puerto Rico to a deliberative body with constitutional character, made up of representatives from all the political and social forces of Puerto Rico chosen on an elective basis.
- (d) Negotiate such measures as a transitional status of the juridical and political condition of Puerto Rico, until the self-determination right is effectively exercised.

- (e) Guarantee that the U.S. military forces currently stationed in Puerto Rico will not interfere directly or indirectly in the free exercise of the right of self-determination by the people of Puerto Rico.

II. Findings and Legal Foundations

1. Introduction

This International Tribunal on Violations of Human Rights in Puerto Rico and Vieques by the United States of America has been convened to examine what steps, if any, the U.S. government has taken to follow the directives of the Barcelona Tribunal and end its colonial domination over Puerto Rico and its people. Reaffirming the principles of self-determination set out by the Barcelona Tribunal, we sought to reexamine all the areas of Puerto Rican life that were the subject of inquiry in 1989, to determine whether the U.S. government had made any efforts to comply with its obligations under international law.

What we have found, as will be discussed more fully within this document, is the absence of any movement toward the decolonization of Puerto Rico. Rather, the evidence, as comprised of the testimony of numerous experts and lay witnesses, supported by a voluminous amount of documents (many authored by U.S. government officials), shows a continuation of colonial domination over the Puerto Rican nation.

Harm caused by this continuing colonial domination is particularly acute in Vieques, an island municipality of Puerto Rico, three-fourths of which is occupied by the U.S. Navy that persists, since 1941, in using the island for military exercises and aerial bombardment, thus destroying the environment, ecology, health, and life of its people. Despite the nearly unanimous sentiment of the people of Vieques and Puerto Rico — expressed, among other ways, in demonstrations by hundreds of thousands on the streets of San Juan, and by hundreds of acts of civil disobedience on the U.S. military base at the firing range of Vieques — the U.S. government refuses to stop its bombing and withdraw its military force from Vieques.

At this time, the colonial situation of the Puerto Rican people has not improved. What has changed is the massive support across ideological lines for the U.S. Navy to leave Vieques (fully and completely compensating the population for losses and damages, and repairing any and all damages caused by their presence on and around the island) and to free the Puerto Rican political prisoners.

This is a propitious moment for world opinion, particularly within the human rights community, to join with the people of Puerto Rico to demand that the U.S. government immediately initiate the process of decolonization. This process must begin with the complete transfer of all power in the hands of the U.S. Congress and other branches of the U.S. government, so as to allow for the creation of a constituent body of the Puerto Rican people representing all political and social forces.

We want our findings and verdict contained herein to help serve as a catalyst to marshal the pressure of public opinion to support the inalienable right of the Puerto Rican people to self-determination.

2. The U.S. Government Is Found Guilty for the Continuation of the Denial of the Right to Self-Determination

Despite the annual resolutions of the United Nations Decolonization Committee, reaffirming the right of the people of Puerto Rico to self-determination and independence in conformity with Resolution 1514 (XV), the U.S. Congress and other branches of government continue to refuse to take the necessary steps to transfer all its illegally held power back to the people of Puerto Rico. Without following in full the U.N. Decolonization protocols, no process of decolonization can be deemed genuine or complete. In July 2000, the Special Decolonization Committee again called upon the United States government to assume the responsibility of expediting a process that would allow the Puerto Rican people to fully exercise their inalienable right to self-determination and independence.

Despite these directives mandated by the United Nations to eradicate colonialism, the U.S. Congress continues to put forth schemes designed to appear as some form of self-determination, but in reality intended to maintain the colonial status. In 1993 and 1998, referenda, denominated as plebiscites, were held in Puerto Rico, but even the colonial political parties and their U.S. government sponsors could not claim that international legal requirements for decolonization were satisfied. Neither of these votes was accompanied by the guarantee of acceptance by the U.S. Congress; neither allowed for the participation of Puerto Ricans living in the United States or clearly defined the consequences of the proposed status options, all elements required by international law.

Most important, the voting was not conducted under the United Nations or other independent auspices, or held subsequently to full transfer of power to the Puerto Rican people and the removal of the U.S. military and other U.S. influences.

2.1 The Continuing Effects of Colonialism on the Economic Situation in Puerto Rico

For the U.S., Puerto Rico often appears to be little more than a military base and an economic enclave. As established before, the U.S. military complex in Puerto Rico has increased. On the other hand, since the U.S. invasion in 1898, Puerto Rico has been treated as an economic enclave, with an institutional structure favorable to the extraction of surplus, resulting in economic disadvantage to the island. U.S. capital prevails over Puerto Rican capital. Most of the wealth generated in the Puerto Rican enclave does not remain there. About 70% of the net domestic income generated in Puerto Rico leaves the island.

During fiscal year 1999, the gross domestic product was \$59,946 million, while the gross national product rose to \$38,299 million. The difference, \$21,717 million, represents a payment for external factors, basically, earnings remissions. From 1991 to 1999, the remissions totaled \$139,695 million. One-third of the total value of the productive activity in Puerto Rico turns into payments that the residents of Puerto Rico never see. The net U.S. government transfers — \$8,315 million in 1999, most of them vested rights of the people as Social Security or Veterans Pensions — pale when compared to earnings remissions toward the U.S. for \$21,717 million in the same year. This comparison does not take into consideration that U.S. military forces in Puerto Rico do not pay rent for the bases and the 12% of the land it occupies.

The employee's compensation component of the net domestic income has dropped from 61.1% in 1977, to 48.7% in 1987, and 40.8% in 1999. In contrast, in the U.S. over 70% of the total income accrues to the workers. According to the 1990 census, 58.9% of the Puerto Rican population falls under the poverty level. There will probably be no significant variations for the year 2000. In Vieques, as in the other 24 municipalities, the poverty level exceeds 70%.

Since 1900, the U.S. has imposed maritime laws in which all Puerto Rican commercial maritime transportation has to be carried out using transport from the U.S., the most expensive in the world. If this law did not apply to Puerto Rico, transportation costs would decrease by 40%, the cost of exported goods would diminish considerably, and the competitiveness of Puerto Rican products in the international market would greatly increase.

As of 1999, over three million Puerto Ricans lived in the U.S. Their unemployment rate is the highest of all ethnic groups in the U.S. and three times the number of Puerto Ricans live below the poverty level as do white citizens. Through numerous devious methods, Puerto Ricans have been driven from their homeland, forced to leave under impoverished conditions, subjected to racial discrimination, police brutality, and other forms of oppression. The situation of Puerto Ricans in the diaspora is the direct result of the colonial situation of Puerto Rico and can only be resolved by an end to colonialism.

2.2 The Increased Militarization of Puerto Rico

U.S. military presence in Puerto Rico has been a major dimension of U.S. rule over the island since its military invasion in 1898. The military occupies 12% of the land in Puerto Rico.

Roosevelt Roads Base, together with other installations on the island, make Puerto Rico the center of the U.S. military presence in the Caribbean. Militarization has increased on the island in the last decade.

Recently, with the closing of U.S. military installations in Panama, installations and units were transferred to Puerto Rico, thereby becoming home to the highest concentration of U.S. military forces in Latin America. The headquarters

of Army South and Navy South, and part of the Air Force South of the U.S. Southern Command, were transferred to Puerto Rico.

U.S. military installations in Puerto Rico have had an important role in illegal U.S. direct and indirect interventions in other countries.

2.3 The Continuing Assaults on the Culture, Language, and Legal Traditions of the Puerto Rican People

The invasion and conquest of Puerto Rico in 1898 initiated a policy of Americanization that, in effect, was part of a process of acculturation characterized by the following. English became the mandatory language of instruction; Puerto Rican history was eliminated as part of the school curriculum; and singing the Puerto Rican anthem and displaying the Puerto Rican flag were criminalized.

Although these impositions have been removed, English is the official language in all government transactions; the Puerto Rican criminal code has been substituted by the U.S. code; a U.S. court was created that may override Puerto Rican courts; and laws contrary to Puerto Rico's customs and traditions and in direct contradiction to its Constitution (i.e., the death penalty) have been extended.

The above impositions violate the *Declaration and Action Program of the International Conference of Human Rights*, June 25, 1993, which, among other things, affirms the rights of peoples to freely develop their culture. It also adds that democracy and the respect for human rights are interdependent with the enjoyment of linguistic rights and a people's own culture. This cultural imposition also violates the *Declaration on the Rights of Persons Belonging to Minority, National, Ethnic, Religious, and Linguistic Groups*, which recognizes, promotes, and stimulates respect for their human rights and linguistic rights, in absolute conditions of equality, and the enjoyment and development of their culture.

2.4 The Continuation of Repression and Criminalization of the Independence Movement

Ever since the U.S. military invaded Puerto Rico in 1898, there has been a continuous history of repression against those who resisted U.S. intervention. This Tribunal heard testimony from former political prisoners and independence leaders who verified this history. The conditions of release of the 11 independence fighters in September 1999 — after 19 years of imprisonment — underscores the political nature of their imprisonment. The prisoners' release was the result of overwhelming support among the Puerto Rican people and a massive international campaign.

We echo the most recent resolution of the Decolonization Committee and call for the immediate release of all incarcerated Puerto Rican political prisoners. We further condemn the continued repression against independence movement activists in Chicago, who for over two decades have been the target of a campaign

of harassment, disruption, and criminalization by the FBI and U.S. Justice Department.

3. The Violations of the Human Rights of the People of Vieques

In 1941, 75% of the land on the island of Vieques — 26,000 acres — was expropriated by the U.S. Navy for military maneuvers in the eastern part of the island and munitions depots in the western part. The Vieques expropriations affected most severely tenant farmers and poor people who, under coercive conditions, were paid \$12 to \$25 for their homes.

For years, the U.S. Navy conspired to force Viequesenses off the remaining lands, in order to occupy the whole island for their war games. Viequesenses, who numbered 20,000 to 25,000 inhabitants at the time of the expropriations, have been reduced to 9,300 inhabitants, with more than 15,000 people forced to migrate to the nearby islands of St. Thomas and St. Croix. Many others now live on the main island of Puerto Rico, or in the United States.

In response to a U.S. plan to expropriate the remaining part of the island, Luis Muñoz Marín, a former governor of Puerto Rico, stressed in a letter dated December 28, 1961, to President of the United States John F. Kennedy:

The project involves the destruction of a community, which is a political and juridical entity to which people have strong emotional attachments. The people of Vieques regard themselves as Puerto Ricans, but they also regard themselves as especially identifiable on the basis of residence in Vieques. Obviously, the political and human dismemberment, which the project involves, will be a fundamental shock. We know of no truly comparable action in American history. I believe that it is the kind of action which arouses instinctive disapproval.

After 1975, when the U.S. military stopped its maneuvers on the island municipality of Culebra, maneuvers in Vieques were intensified. The U.S. military and its NATO allies use the eastern part of Vieques, known as the Live Impact Area, and its adjacent waters for their military practices and weapons testing. Moreover, the U.S. has rented the firing range to the private sector and to other countries for testing most *conventional and nonconventional* weapons. Such arrangements generate \$80 million dollars annually for the U.S.

Extensive contamination of the land, waters, and air around Vieques has resulted from the U.S. military practices and maneuvers, including a large submarine wasteland of ordnance, exploded and unexploded, and ammunition depots in western Vieques, causing an ecological disaster.

Some areas have been bombed for so long and so often that no soil remains. What is left is the underlying rock, which is being broken down into small pieces by the persistent bombing. Thus, unexploded bombs and shrapnel are buried

deeper every time as they hit the loose rock. Some of the offshore keys have disappeared due to the bombing, and the hillsides facing the Caribbean Sea are crumbling. This causes erosion and sedimentation of the sea grass beds and coral reefs, facilitating the entry of toxic substances into the food chain.

After having denied for years that it was using depleted uranium in Vieques, the U.S. Navy was forced to admit to the use of such toxic materials. In its letter, the Navy confirmed the use of depleted uranium in Vieques.

Heavy metals, cyanide, and explosives have been found in the Vieques soil. Under natural conditions, heavy metals should not be present in these soils, yet laboratory analyses indicated high concentrations of heavy metals, substances that could only be explained by human activity in the area. The metals found include: arsenic (metalloid), barium, cadmium, cobalt, copper, chromium, lead, nickel, vanadium, and zinc, all of which are highly toxic and most of which are carcinogenic. Many accumulate in the food chain and the fish, mollusks, birds, and humans.

The spread of these toxic substances by Navy explosions, including depleted uranium and other radioactive and chemical materials, has caused serious health problems, including cancer and breathing and nervous system disorders, in the Viequense population.

The people of Vieques have substantially poorer health than is the case with other Puerto Ricans. In 1997, the mortality rate for the people of Vieques was 141% in relation to the rest of Puerto Rico. This rate has been steadily increasing.

It is indisputable that the right of the people of Vieques to life, to a wholesome environment, and to health, as well as to economic, social, and cultural development is threatened by the military presence and activities of the U.S. Navy.

The situation of the people of Vieques, created by the U.S. government and particularly the U.S. Navy, results from the intention to destroy in whole or in part the inhabitants of this island, by causing death or serious bodily and mental harm.

The Tribunal heard moving testimony from women who had suffered harassment, rape, and abusive treatment, and who have lived in fear under conditions of great hardship for many years since the occupation of the island by the U.S. Navy.

The above findings of fact constitute multiple and gross violations of the human rights of the people of Puerto Rico and particularly the population of the Island of Vieques. See *International Covenant on Civil and Political Rights*, Articles 1, 2, 6, 7, 9, 17, 24, 26, 47; GA/SPD/30, October 11, 1994, GA/8841, A/AC. 109/2039, August 21, 1995; G.A. Res. 2105 (XX), p. 12; G.A. Res. 2023 (XX); Teheran Proclamation, May 13, 1968; the Declaration of Algiers of Universal Rights of People; G.A. Res. 1803 (VIII); the *International Convention on the Elimination of All Forms of Racial Discrimination* (1965), Preamble and Articles 1, 5, 6, 15; the *Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, Articles 16, 13, and 14; the *Universal Declaration of Human Rights* (1948), Articles 2, 3, 5, 13, 22, 23, 25, 26, and 28; the *International Covenant on Economic, Social, and Cultural Rights*.

III. Verdict

According to the evidence presented before this Tribunal through direct testimonies and expert witnesses, this Tribunal concludes that the United States has committed systematic violations of human rights regarding Puerto Rico's right to self-determination; has persecuted opponents to United States colonial policies; has increased militarization on the islands and, thereby, threatened peace in the region; has continued economic exploitation; has forced the displacement of much of the population of Vieques; has caused the economic and political repression of Puerto Ricans in the diaspora; has caused a general degradation of the environment; has committed abuses against women and against the cultural rights of the population.

This Tribunal urges that the United States of America take the following steps without any further delay:

(1) Transfer all sovereign powers to the people of Puerto Rico, without any conditions or reservations, to enable Puerto Ricans to exercise peacefully and freely their right to self-determination, in the manner Puerto Ricans deem most appropriate, and to secure the integrity of their national territory.

(2) Release the remaining political prisoners and cease all forms of repression against those working against colonialism.

(3) Take immediate steps to end the military exploitation and colonial oppression of the people of Puerto Rico, including the immediate cessation of bombing in and around Vieques and the removal of all military installations from the territory of Puerto Rico.

(4) Redress all damage caused to the natural wealth and resources of Puerto Rico and Vieques that was caused by the military activities of the United States, and provide for full reparations for the injuries caused to the people of Vieques, for the damage to their environment, including all measures for the complete decontamination of the island, the surrounding air, and waters, and for the economic recovery and development of the island.

Only in this manner will the people of Puerto Rico be in a situation to fully exercise their right to self-determination and freely pursue their economic, social, and cultural development.

In Vieques and San Juan, Puerto Rico, November 21, 2000.

Dr. Dennis Brutus (President), Dr. Manuel Ramon Alarcón Caracuel (Vice-President), Attorney Aderito de Jesús Solares (Vice-President), Dr. Rainer Hulhe (Vice-President), Dr. Grahame Russell (Vice-President), The Most Rev. Walter F. Sullivan (Bishop, Vice-President), Dr. Antonia Pantoja (Vice-President), Chief's Designee F. Ryan Malonson (Vice-President)

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