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LATCRIT, INC. • LATINA AND LATINO CRITICAL LEGAL
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*NGO in Special Consultative Status with the
Economic and Social Council of the United Nations*



November 24, 2009

Governor Luis Fortuño
Governor, Puerto Rico
PO Box 11
855 San Juan
Puerto Rico 00910-3855

Dear Governor Fortuño:

The Society of American Law Teachers—SALT—and Latina and Latino Critical Legal Theory, Inc.—LatCrit—are writing to express our dismay about recent events in Puerto Rico that seriously threaten the integrity of the rule of law: the closure of the University of Puerto Rico from October 12-16 and the legislature’s abrupt move to make the Puerto Rican Bar Association non-compulsory. El Colegio de Abogados (the Bar Association) is the oldest professional institution in Puerto Rico. In 1840, the Bar Association was founded and began to license lawyers. There was no law school on the island, and the Bar Association began to train lawyers as well. In 1857, the Bar Association was responsible for the publication of Puerto Rico’s first law book. During the legal, political, and professional transitions that took place after the United States annexed Puerto Rico in 1898, the Bar Association became non-compulsory for a short time, and in 1932, after two years of deliberation, the Puerto Rican legislature promulgated Law Number 42, entitled “A Law to Determine the Organization of the Bar Association.” This law formally established that membership in the Bar Association would be mandatory.

Meanwhile, the governing body of the Bar Association has convened regularly for 133 years. In addition to providing services to its members, the Bar Association is a public policy discussion forum and advocate for social justice issues. The Bar Association also runs a prominent Pro Bono Program, including a free hotline. Since establishing its pro bono program in 1981, the Bar Association has assisted more than 100,000 indigent clients with free legal services.

As the economy of Puerto Rico suffered setbacks over the past year, demand for the Bar Association’s public services increased accordingly. In spring 2009, and in response to the economic crisis, the Administration of Governor Luis Fortuño announced the layoffs of 7,800 state workers. On September 25, 2009, the Fortuño administration announced that it was cutting the jobs of 17,000 schoolteachers, social and healthcare workers, and other public employees, effective November 6th. Widespread but peaceful public outcry resulted, and the available record indicates that the Puerto Rican government has overreacted to these peaceful expressions of dissent.

Men and women have been reportedly threatened, physically attacked, and, in some cases, falsely arrested. For example, on Friday, October 9th, students at a high school in Canovanas, Puerto Rico protested the Governor's visit to a nearby public housing project. The protest ended in a clash between the students and the Police. Police invaded the school in a violent manner, arresting teachers and students, in a move perceived by many as excessive and unwarranted. Reports from El Nuevo Dia and other media outlets show students being physically attacked and arrested on the spot. At least two students were seriously injured and nine were reportedly arrested. On Saturday, October 10th, the Puerto Rican Civil Rights Commission announced it would investigate the police in Canovanas for their actions. Later the same day, government officials warned that "terrorism" charges could be pressed against people participating in the national march planned for Thursday, October 15th. Although the Governor later withdrew the threat to charge protestors as terrorists, using such harsh language at any point in a public controversy is bound to chill speech and the free expression of opinions.

Augmenting the tense atmosphere felt throughout the country, the government closed all eleven state university campuses from October 12-16 -- allegedly to prevent "terrorist activities" related to the general strike. At the time the decision was taken, interim UPR President Miguel A. Muñoz stated: "We hope that this academic and administrative recess contributes to calm things down to allow the university community to think calmly and constructively about the problems facing Puerto Rico and the solutions that [the] university academic community can help articulate." In the view of SALT and LatCrit, public university administrations should not be in the business of instructing faculty and students what or how to think.

Clearly, in a moment of widespread protests and controversy, there was an important role for the Bar Association to play in public discussion, in addition to serving the members of the public who needed assistance. Instead of allowing the Bar Association to carry out these important functions, however, the Fortuño administration and the Puerto Rican legislature chose to attack this stable institution with Decree 121 of 2009, which held that membership in the Bar Association is no longer required for Puerto Rican lawyers. This law was presented and passed in a highly unusual manner. It was introduced before all the senators could be present, and was rushed through without any debate or the presentation of a report. Senator Arango, from Governor Fortuño's political party, acknowledged the unusual process, stating that the Senate took this measure in order to stop the Bar Association from participating in the national march as observers. Governor Fortuño immediately signed the law, making clear that this law was signed because of the Bar Association's solidarity with social movements.

Given that many bar associations in the United States do not have mandatory membership requirements, it might be argued that making Bar Association membership non-mandatory was merely a ministerial decision. However, the fact that the decision was taken in such a hurried and unusual fashion shows that the motivations for the decision were not simply to improve the organization of lawyers in Puerto Rico. Moreover, seen in context with the threats against protesters and the closure of the University of Puerto Rico, Decree 121 is clearly an attack on the integrity of the legal profession as well as upon free speech.

SALT and LatCrit strongly deprecate your administration's decision to characterize protest that constitutes protected speech as a terrorist act, and urge that your administration refrain from resorting to such language and tactics in the future. SALT and LatCrit also urge that your administration support an immediate restoration of the former status of the Bar Association.

Sincerely yours,

Handwritten signature of Margaret Martin Barry in black ink, featuring a stylized 'M' and 'B' followed by a long horizontal stroke.

Margaret Martin Barry
SALT Co-President

Handwritten signature of Deborah Waire Post in black ink, written in a cursive style.

Deborah Waire Post
SALT Co-President

Handwritten signature of Beth Lyon in black ink, written in a cursive style.

Beth Lyon
LatCrit Co-Chair

Handwritten signature of Belkys Torres in black ink, written in a cursive style.

Belkys Torres
LatCrit Co-Chair