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Shadow Report to the Combined 10th – 12th Periodic Reports of the United States

***Racial Discrimination, Denial of Access to Justice and Other Rights Violations in Puerto Rico
under PROMESA***

July 29, 2022

Introduction

The discriminatory treatment of the people of Puerto Rico by the United States Government stems from U.S. colonial history. It is rooted in racism towards colonial territories and its inhabitants, supported by the Territories Clause of the United States Constitution, and reaffirmed by recent U.S. Supreme Court decisions under the doctrine of the *Insular cases*.¹

Historical Background

Puerto Rico was a colony of Spain from 1493 until 1898, when Spain was defeated during the Spanish-Cuban-American War. The war ended after Spain was forced to sign the Treaty of Paris on December 10, 1898. Pursuant to this treaty, Spain ceded all its rights over Puerto Rico and the Philippines to the United States.²

In *Balzac v. Porto Rico* (1922)³, the U.S. Supreme Court had ruled that the United States Constitution did not apply to Puerto Rico, except by express will of Congress. The Supreme Court clarified that the extension of the U.S. citizenship to the people of Puerto Rico did not constitute an implicit transition from an unincorporated territory⁴ to an incorporated one.

In 1950, U.S. Congress enacted Public Law 600 (64 Stat. 319 (1950)), authorizing the people of Puerto Rico to draft a Constitution subject to the final approval of the U.S. Congress. After a referendum held in 1952, a Constitution was approved. Before its approval, U.S. Congress enacted Public Law 447 (1952), which had substantially modified Puerto Rico's Bill of Rights. Although Puerto Rico was proclaimed as a Commonwealth, it remains *de facto* a territory of the United States, an inferior status that has been confirmed by recent U.S. Supreme Court decisions.

With the new Commonwealth status, the United States had successfully asserted that it no longer had the obligation to report on Puerto Rico's status to the UN General Assembly under Article 73(e) of the United Nations Charter.⁵ Since then the US Congress has never sanctioned a process of self-determination for the People of Puerto Rico. However, since 1972, the UN Special Committee on Decolonization has recognized and reaffirmed "the inalienable right of the people of Puerto Rico to self-determination ... " and has kept the question of Puerto Rico under continuous review for the past fifty years.⁶

Instead of promoting self-government and decolonization, the United States has reaffirmed its sovereign powers over Puerto Rico, fostering economic dependence. U.S. policies and actions in Puerto Rico have engendered its economic, social and political instability.⁷ Under international law, the U.S. has "an ongoing fiduciary duty to Puerto Rico pending the latter's full decolonization."⁸ It requires "that the United States act exclusively in the best interests of Puerto Rico" creating the conditions for economic, social and political development. Mostly due to the United States' breach of its fiduciary duty, "Puerto Rico's stunted development model has finally collapsed."

Discrimination, Racism, PROMESA and the Insular Cases

On June 30, 2016, President Barack Obama signed the *Puerto Rico Oversight, Management, and Economic Stability Act* (PROMESA), a bill that established a fiscal or Control Board (*Financial Oversight and Management Board for Puerto Rico -FOMB-*) to oversee the Commonwealth's finances, with the task of restoring the credit of Puerto Rico by paying a debt of 73 billion dollars to

bond holders. The fiscal board consists of members appointed by the President of the United States. It has broad discretionary powers despite never being elected by the people of Puerto Rico. As such, the Board unlawfully “usurp[ed] the Commonwealth of Puerto Rico’s political and governmental powers and right to home rule.”⁹

PROMESA has created enormous issues on the island, especially related to austerity measures, massive payments to members of the board, lack of transparency, its power to veto local legislation, and the inability of Puerto Ricans to access justice in all cases, including civil rights cases. PROMESA triggered an automatic stay of the commencement or continuation of judicial actions against the Government of Puerto Rico, including lawsuits for civil rights violations, pursuant to the Civil Rights Act (42 U.S.C. sec. 1983).

The wrong interpretation of the PROMESA statute is even jeopardizing police reform as part of a consent decree in *Puerto Rico Police Bureau Reform* (Case No. 12-2039 (GAG)) by sending the wrong message to high and low rank officers regarding their duty to protect and respect civil liberties and fundamental human rights. Being dealt with by PROMESA, the unique financial crisis in Puerto Rico should not be exploited as a free pass for individual government actors to violate fundamental rights, nor should the financial crisis impede litigants’ access to justice in federal and state courts.

Not only has PROMESA created a civil rights free zone in the territory of Puerto Rico but has also created a dangerous model of government which could potentially be applied to other U.S. territories like Guam, the U.S. Virgin Islands, and Samoa.

The legal framework which facilitated the collapse Puerto Rico’s economy was mostly designed by acts of the U.S. Congress and through misleading procedures at the United Nations. PROMESA is not the exemption. PROMESA allows an exclusive bankruptcy of the entire insular government and an illegal taking of the budget of Puerto Rico, resulting in a human rights crisis and the population displacement, which worsened after Hurricane María in 2017.¹⁰

Meanwhile, the real actors responsible for Puerto Rico’s debt remain largely unscathed. The Board adopted so-called “austerity measures” to curtail government spending without ever considering the necessity to audit the debt, jeopardizing the wellbeing of the population. The most affected are vulnerable groups, among which are children, disabled individuals, students, workers and the elderly. The Board continues to obstruct opposition to austerity measures by usurping the constitutional powers of the elected government.¹¹

PROMESA violates principles of constitutional and public international law

Under PROMESA, the Fiscal Board has unlimited powers including veto power over the government’s adoption of budgets, authorization of bonds, authorization of legislation and the power to rescind legislative and executive actions. It has also the power review and rescind laws that alter the priorities of creditors¹².

PROMESA disenfranchises the People of Puerto Rico because FOMB, with its sole discretion, can determine that the actions of elected public officials contradict those of PROMESA and resultantly override the former. Consequently, along with violating the Commonwealth’s Constitution, PROMESA violates the 1st Amendment of the U.S. Constitution, which include the

right to vote as a form of expression.¹³ The Board uses the fiscal plan to impose its policy preferences on Puerto Rico's people, overthrowing decades of progress in the fields of State University autonomy¹⁴, [public education \(more than 400 public schools closed\)](#)¹⁵, labor law, public health¹⁶, retirement plans, security, putting essential services in private hands¹⁷, among others. The plan dictates nearly all governmental budget expenditures as well as impacts nearly every aspect of life.¹⁸

Furthermore, PROMESA's enactment was contingent on Congress' plenary power over Puerto Rico, pursuant to the Territories Clause of the U.S. Constitution, as interpreted in the *Insular Cases*. The first two opinions of the *Insular Cases* in 1901—*Downes v. Bidell*, 182 U.S. 244 (1901) and *DeLima v. Bidwell*, 182 U.S. 1 (1901)—were written by Justice Brown, who drafted the majority opinion in the racist case of *Plessy v. Ferguson*, 163 U.S. 537 (1896). The *Insular Cases*, based on race, made a distinction between incorporated and unincorporated territories. Justice Brown observed that, because the “alien races” that inhabited the new territories that the U.S. had acquired differed from other Americans in “religion, customs, laws, methods of taxation, and modes of thought, the administration of government and justice, according to Anglo-Saxon principles, may for a time be impossible.”¹⁹ Such cases established that unincorporated territories, such as Puerto Rico, belong to but are not part of the U.S., that only fundamental rights of the U.S. Constitution apply *ex proprio vigore*, and that they are subject to the rules and regulations of Congress.²⁰ Therefore, the *Insular Cases* has kept the archipelago and its residents as property of the U.S. and subject to a colonial regime for more than a century. This status, along with the powers assumed by the FOMB over the local elected officials, is no different from the status that slaves had in the 19th century, who were property of their owners with no voting rights.

Therefore, PROMESA violates the 15th Amendment by disenfranchising the people of Puerto Rico, pursuant to the racist *Insular Cases*. Allowing the FOMB override the enactment of local laws by the constitutionally elected officials, based on the cited jurisprudence, denies citizens their effective right to vote and self-government and resultantly violates the 15th Amendment. PROMESA is sadly a continuation of the colonial legacy created by the infamous *Insular Cases* including the most recent *Sánchez-Valle*, 136 S. Ct. 1863 (2016), which reaffirmed the political subordination of Puerto Rico to the “plenary powers” of the U.S. Congress.

The CERD Committee should hold the U.S. government accountable and demand the repudiation of the offensive and archaic racial views expressed in those cases, and take a stand against the outdated racist and imperial rationale that underpins the *Insular Cases*, as applied through the “Territories Clause” of the U.S. Constitution and declare PROMESA, the Board and any mechanism of usurpation of powers of the people of Puerto Rico a grave violation of the ICERD, whose preamble and Article 15 unequivocally rejects colonialism.

In addition, PROMESA and the colonial regime imposed on Puerto Rico violates the customary norm of the right to self-determination which is binding upon the U.S. See *The Paquete Habana*, 175 U.S. 677, 700 (1900); *Filartiga v. Peña-Irala*, 630 F.2d 876, 881-84 (2nd Cir. 1980); *Roper v. Simons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010) The right to self-determination is an *erga-omnes* right,²¹ and has been catalogued as a customary norm by the International Court of Justice (“ICJ”). See *Legal Consequences of the Separation of the Chagos Archipelago. From Mauritius in 1965*, Advisory Opinion, ¶ 160, (Feb. 25, 2019), and *Legal Consequences for States of the Continued Presence of South Africa in Namibia*, Advisory Opinion, 1971 ICJ 16, ¶ 52, (Jun. 1).

PROMESA simply unmasked what was previously misrepresented as the acquisition of “full measures of self-government” by the People of Puerto Rico in 1953. The Control Board serves as the “checkmate” to thwart the already discredited constitutional government with the power to overrule the decisions of Puerto Rico’s elected Government. It is undemocratic, unconstitutional and a violation of the ICERD and other international law obligations.

PROMESA creates an “illegal taking” of the governmental budget, jeopardizing a wide range of human rights and the rule of law, while the accountability of the U.S. Congress remains in a limbo, supported by the confidentiality and secrecy promoted by the Control Board. No other state or territory in the US has been subjected to such ordeal.

PROMESA militates against Congress fiduciary duty towards Puerto Rico. A duty exists to investigate the debt with the benefit of transparency and a forensic audit. Congress actions through PROMESA are an attempt to avoid its fiduciary duty under international law: to respect the “sacred trust of civilization” for the “material and moral well-being” of the people of Puerto Rico. The U.S. Congress has a great deal of responsibility regarding the public debt in Puerto Rico. Reparation of grievances is paramount in order to repair more than a Century of unequal, racist, discriminatory and colonial treatment very well illustrated by the *Insular Cases*. This has been the result of racism and discrimination not just against a minority but a people with the right to self-determination.

Accordingly, PROMESA cannot be used as a shield by the U.S. Congress in order to escape its international obligations with Puerto Rico under article 15 of the ICERD, article 73(e) of the U.N. Charter, and article 1 of the International Covenant on Civil and Political Rights (ICCPR), which was ratified by the U.S. in 1992.

The fiduciary duty of the U.S. includes the obligation to render reports to the UN General Assembly, which the U.S. Government has been intentionally omitting for the past 69 years. In this regard, any transition steps towards decolonization must include reparations, an indispensable element of the right to self-determination that must be addressed by the entire United Nations human rights system.

Examples of Unequal Treatment and Direct Impact of PROMESA’s Denial of Access to Justice

The most recent deprivation of the right to access to justice is using PROMESA to stay all civil rights litigations in Puerto Rico (state and federal courts), even if the events occurred after the filing date of the bankruptcy (May 2017), and brought to court before March 15, 2022, date of the adjustment plan approval. This is happening pursuant to a “Confirmation Order” and “*Injunction*” issued by Judge Laura Taylor Swain under PROMESA, Título III, No. 17 BK 3282-LTS. See *Elsa Avilés v. E.L.A.*, Civil Number JA2020-CV-00010 (Lares, Puerto Rico Superior Court) a case in which the Police of Puerto Rico killed a young man suffering an emotional crisis, due to lack of training under the Police Reform; See also “Order Scheduling Briefing of the [21217] Urgent Motion for Extension of Administrative Expense Claim Bar Date and Proper Service of Process and Request to be Heard”, filed by Ivelisse Calderón-Alibrán and Carlos Torres Viada in PROMESA Case No. 17 BK 3282-LTS, and Plaintiff’s Opposition to Notice Regarding Injunction and Motion Requesting Attorneys’ Fees, filed in *Ivelisse Calderón-Alibrán v. Commonwealth of Puerto Rico*, Case No. 2021-01149 (ADC) (Doc. 34). (This is a case of racial discrimination brought under Title VII of the Civil Rights Act against the Commonwealth of Puerto Rico). None of these deprivations of access to courts are allowed in the

United States but in Puerto Rico due to the exclusive application of PROMESA to the territory of Puerto Rico.

In *United States v. Vaello-Madero*, 596 U.S. ____ (2022), the U.S. Supreme Court recently denied Supplemental Security Income (SSI) benefits to residents of Puerto Rico in violation to those residents' rights to equal protection under the Constitution of the United States. The ACLU filed an [amicus brief](#) in the case in support of Mr. Vaello-Madero, the Puerto Rican resident that the federal government sued to collect \$28,000 that it claims to have overpaid him in the three years after he moved from New York to Puerto Rico. Mr. Vaello-Madero is otherwise qualified for SSI. He has severe health problems and moved from New York only to rejoin his family. He was unaware that moving to Puerto Rico would disqualify him from the program.

CERD Committee Position

The CERD Committee should ask the U.S. government to repudiate the offensive and archaic views expressed in the *Insular Cases*, take a stand against the outdated racist and imperial rationale that underpins them, as applied through the "Territories Clause" of the U.S. Constitution. It should also declare PROMESA, the Board and any mechanism of usurping power of the Commonwealth of Puerto Rico a grave violation to the ICERD, whose preamble unequivocally rejects colonialism:

"Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end"

The lack of transparency and privileges claimed by the Control Board under PROMESA are a continuation of the infamous legacy of the *Insular Cases*. The powers abrogated by the Board are a constitutional transgression of the Commonwealth legislative powers and to the right to self-determination that must be addressed under Art. 15 of the ICERD.

U.S. Government CERD Report

The United States Government simply did not address in its recent periodic report to the CERD any of the discriminatory and racist issues herein discussed. However, in previous periodic reports submitted to the Human Rights Committee, which monitors compliance with the International Covenant on Civil and Political Rights (ICCPR), the U.S. government affirmed incorrectly that "the States of Alaska and Hawaii, as well as the Commonwealth of Puerto Rico, all of which used to be "non-self-governing" for purposes of Article 73, have completed acts of self-determination through which they have resolved the terms of their respective relationships with the rest of the United States."²² This statement is at best misleading and does not represent the political relationship between the United States and the people of Puerto Rico.

Other UN and Regional Human Rights Bodies Recommendations

Since 1972, the UN Special Committee on Decolonization (or the Committee of 24) had issued 40 Resolutions reaffirming the Caribbean and Latin American character of the People of

Puerto Rico, and their right to self-determination as a people, pursuant to the *Declaration on the Granting of Independence to Colonial Countries and Peoples (G.A. Res. 1514(XV))*, the transfer of sovereign powers to the People of Puerto Rico, amnesty to their political prisoners, and the demilitarization of the territory.

The international community shares the view that Puerto Rico lacks sovereign powers and self-government. The U.N. Special Rapporteur on extreme poverty and human rights, Phillip Alston, who visited the island in 2017 after Hurricane María, stressed that the situation in Puerto Rico indicates a lack of self-government.²³

In addition, a recent visit of the U.N. Special Rapporteur on minority issues, Mr. Fernand de Varennes, confirmed the discriminatory treatment of people in Puerto Rico, mainly in the island of Vieques, who were subjected to all kind of experimentation with live ammunition and exposed to the disastrous environmental effects of these activities on the health of the inhabitants of this island:

“It is no coincidence that most of the populations of these territories are members of ethnic, religious and linguistic minorities, and can also be considered indigenous peoples, with associated rights in relation to self-determination. In addition, these territories are considered under Chapter XI of the Charter of the United Nations as Non-Self-Governing Territories, meaning “territories whose people have not yet attained a full measure of self-government”. While Puerto Rico is currently not on the UN list of non-self-governing territories, the United Nations Special Committee on Decolonization determined in 1972 that a “colonial relationship” existed between the U.S. and Puerto Rico. ...

The Commonwealth of Puerto Rico is similarly devoid of a degree of political participation and representation which is difficult to understand in a democracy, with more than 3 million people who live on the territory who have no power in their own national capital. ... Because of the territory’s precarious budgetary position real legal and political authority ultimately resides in the Financial Oversight and Management Board that was imposed by Congress on Puerto Rico as part of PROMESA. The draconian and drastic austerity measures which as a consequence are imposed on Puerto Rican territorial authorities and the whole population, without regard to any obvious human rights considerations in the Board’s decisions, have led to dramatic cuts and reductions in areas such as public education, public health and other areas of social and economic rights. It is difficult to disagree ... that they are therefore a non-self-governing territory in the international sense. ...

I was particularly struck with the example of the island of Vieques in Puerto Rico in this regard. The US military used the island as a live munitions target practice for about 60 years. According to internal Navy documents, bombardments occurred on 180 days out of a year on average. The US military used the high-level depleted uranium munitions and bombs from 1972 on the populated island of some 8,000-9,000 population... ‘They bombed us, they made us sick, then they left us. They don’t give a damn.’

Even though the Navy stopped these exercises and withdrew from Vieques in 2003, the health consequences are continuing across generations, with cancer rates clearly higher for Vieques than for the rest of Puerto Rico. ... what they experience would not occur if they were members of the White Anglo-Saxon majority.”²⁴

Recommended Questions:

- 1) How does PROMESA and the Control Board which is appointed by the U.S. President, with the expansive powers to overrule the decisions of Puerto Rico's elected government, comply with the concept of self-government?
- 2) Considering the treatment of Puerto Rico by both the U.S. Supreme Court and the U.S. Congress, as an unincorporated territory of the United States (subject to the "plenary powers" of the US Congress), would you deem it necessary to renew rendering reports to the U.N. General Assembly regarding the administration of Puerto Rico? See *Case of Nueva Caledonia* [41 U.N. GAOR, Supp. (NO. 53), U.N. Doc. A/41/53 1986]
- 3) Why the United States Department of Justice did not drop the appeal filed before the U.S. Supreme Court in the Case of *United States v. Vaello-Madero* -No. 20-303, promoting therefore discriminatory and unequal treatment against the residents of Puerto Rico?
- 4) Considering PROMESA, as a Congressional response to the financial crisis in Puerto Rico, would you agree that the United States failed its fiduciary duties towards Puerto Rico?

Suggested Recommendations

We deeply appreciate the Committee's consideration of the serious racial discrimination and decades long systemic racism and denial of the right to self-determination to the People of Puerto Rico. In addition to the concluding observations, the Committee's concerns and recommendations should also be submitted in pursuant to article 15 of the ICERD to the relevant United Nations bodies, especially the General Assembly, in order to enforce United States obligations under international law towards Puerto Rico and the other U.S. territories. We call on the Committee to adopt the following recommendations:

- Repeal PROMESA and nullify actions taken under its draconian provisions. U.S. Congress and Treasury Department must assume their responsibility for the debt due to their failure to comply with the U.S. fiduciary duties towards Puerto Rico.
- Resume all civil rights cases which have been paused under PROMESA and grant immediate access to justice.
- Take immediate steps to end discriminatory treatment against all Puerto Ricans and residents of other U.S. Territories, regardless of their place of residence, as guaranteed by the U.S. Constitution and ratified international human rights treaties.
- Overturn the Insular Cases and end their racist and discriminatory impact on the People of Puerto Rico and other U.S. territories.
- Take steps to provide reparations for the people of Puerto Rico for more than a century of colonial exploitation, discrimination, racism, and administration of the territory exclusively in the benefit of the United States' economic and military interests.

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¹ See *Puerto Rico v. Sánchez-Valle*, 136 S. Ct. 1863 (2016) (declared Puerto Rico as a territory without sovereignty for purposes of the double jeopardy doctrine), *Fin. Oversight & Mgmt. Bd. for P.R. v. Aurelius Inv., LLC*, 140 S. Ct. 1649 (2020) (excluding PROMESA Board members from the Appointment Clause of the U.S. Constitution), *United States v. Vaello-Madero*, No. 20-303 (denying supplemental social security (SSI) to the disabled or blind, residents of Puerto Rico).

² Fernando Picó, *Historia General de Puerto Rico*, 2nd ed., pp. 221 et seq (1986).

³ 258 U.S. 298

⁴ *Downes v. Bidwell*, 182 U.S. 244 (1901)

⁵ This decision was taken by the U.N. General Assembly in 1953, through Resolution 748 (VIII). (26 votes in favor; 16 against, and 18 abstentions).

⁶ See Special Committee resolutions: A/AC.109/419, A/AC.109/438, A/AC.109/574, A/AC.109/589, A/AC.109/628, A/AC.109/677, A/AC.109/707, A/AC.109/751, A/AC.109/798, A/AC.109/844, A/AC.109/883, A/AC.109/925, A/AC.109/973, A/AC.109/1013, A/AC.109/1051, A/AC.109/1088, A/AC.109/2131, A/AC.109/1999/28, A/AC.109/2000/24, A/AC.109/2001/22, A/AC.109/2002/22, A/AC.109/2003/22, A/AC.109/2004/L.7, A/AC.109/2005/L.7, A/AC.109/2006/L.7, A/AC.109/2007/L.7, A/AC.109/2008/L.7, A/AC.109/2009/L.7, A/AC.109/2010/L.8, A/AC.109/2011/L.6, A/AC.109/2012/L.7, A/AC.109/2013/L.6, A/AC.109/2014/L.6, A/AC.109/2015/L.6, A/AC.109/2016/L.6, A/AC.109/2017/L.12, A/AC.109/2018/L.7, and A/AC.109/2019/L.7, A/AC.109/2021/L.7, (A/AC.109/419. In its resolutions regarding Puerto Rico, since then, the Committee of 24 has repeatedly recognized Puerto Rico's status as a 'people' with the right to self-determination)

⁷ See Steven P. Lausell Recurt, *The Song Remains the Same: The United States' Fiduciary Duty to Puerto Rico as a Basis for Legal Responsibility* (May 26, 2016) (Master thesis, Lund University, Sweden)

⁸ S. Lausell, Id.

⁹ *Altair Global Credit Opportunities Fund (A), LLC v. United States*, 138 Fed. Cl. 742 (U.S. Claims 2018).

¹⁰ [Unos 500 mil puertorriqueños emigraron a Estados Unidos \(prensa-latina.cu\)](https://www.prensa-latina.com/Unos-500-mil-puertorriqueños-emigraron-a-Estados-Unidos)

¹¹ <https://www.noticel.com/la-junta-de-control-fiscal/tribunales/ahora/top-stories/20220120/swain-dice-tomo-en-cuenta-el-dolor-y-la-esperanza-de-los-puertorriqueños-al-confirmar-plan/>; [PressReader.com - Digital Newspaper & Magazine Subscriptions](https://www.pressreader.com/la-antena-3/pressreader-com-digital-newspaper-magazine-subscriptions); [Diálogo UPR | ¿La antesala de Promesa? Venden y destruyen terrenos protegidos](https://www.dialogopr.com/di%C3%A1logo-upr-%C3%A1-la-antesala-de-promesa-venden-y-destruyen-terrenos-prottegidos); [Diálogo UPR | Recortes de Promesa afectarían a las agencias que protegen el medio ambiente](https://www.dialogopr.com/di%C3%A1logo-upr-recortes-de-promesa-afectar%C3%ADan-a-las-agencias-que-prottegen-el-medio-ambiente); [COLUMNA – ¿Cómo el Plan de Ajuste de la Deuda afecta a los jóvenes en Puerto Rico?](https://www.columna.com/c%C3%B3mo-el-plan-de-ajuste-de-la-deuda-afecta-a-los-j%C3%B3venes-en-puerto-rico) | [Microjuris al Día](https://www.microjuris.com/microjuris-al-d%C3%ADa); [Cinco años después: El fracaso de la Ley Promesa - Sin Comillas](https://www.cincoa%C3%B1osdespu%C3%A9s.com/el-fracaso-de-la-ley-promesa-sin-comillas); See also Since the filing of the bankruptcy process, the Board has engaged in vicious litigation designed to delay the eventual production of important documents. (See *CENTRO DE PERIODISMO INVESTIGATIVO (“CPI”) vs. THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD OF PUERTO*, Civil No. 17-1743 JAG). The Board also challenges the legislative powers of the Commonwealth of Puerto Rico. See *THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO v. HON. PEDRO R. PIERLUISI URRUTIA, et als*, PROMESA, Title III, No. 17 BK 3283-LTS (Jointly Administered), Adv. Proc. No. 21-00072-LTS.

¹² 48 U.S.C. § 2142.

¹³ *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964); *Norman v. Reed*, 502 U.S. 279, 288 (1992).

¹⁴ <https://pulsioestudiantil.com/la-junta-de-supervision-fiscal-recorta-94-millones-del-presupuesto-de-la-upr/>

¹⁵ <https://www.noticel.com/legislatura/ahora/top-stories/20220311/investigacion-escuelas-cerradas-y-en-desuso-en-san-juan/>

¹⁶<https://www.univision.com/local/puerto-rico-wlii/crisis-medica-a-causa-del-exodo-de-medicos-de-puerto-rico-a-estados-unidos>; Médicos de Puerto Rico que emigran EEUU no tendrán que tomar formación al retornar | Puerto Rico | Edición USA | Agencia EFE

¹⁷<https://actualidad.rt.com/actualidad/407370-miles-puertorriquenos-protesta-crisis-energetica>;
<https://www.metro.pr/noticias/2022/07/18/luma-energy-utiliza-datos-obsoletos-de-densidad-poblacional-para-establecer-su-respuesta-a-emergencias/>; https://www.elvocero.com/gobierno/legislatura/plan-de-emergencia-de-luma-no-ha-sido-discutido-con-los-78-alcaldes/article_9ea3f686-d37f-11eb-91fb-7fbb2fa52e29.html;
<https://www.metro.pr/pr/noticias/2021/04/30/organizaciones-ambientales-exigen-se-cancele-contrato-de-luma-energy.html>

¹⁸ See [UNPO: UN Special Rapporteur on Minority Issues Releases Report on United States Unrepresented Peoples and Territories](#).

¹⁹ *Downes v. Bidwell*, 182 U.S. 244, 287 (1901).

²⁰ *Balzac v. Porto Rico*, 258 U.S. 298, 312-13 (1922).

²¹ Luis Enrique Romero Nieves, *The International Court of Justice and the Development of the Right to Self-Determination: An Approach to the Case of Puerto Rico*, 47 Rev. Jur. U.I.P.R. 669, 669 (2013). (citations omitted).

²² *UN Committee on the Elimination of Racial Discrimination (CERD)*, Combined tenth to twelfth periodic reports submitted by the United States of America under article 9 of the Convention, due in 2017.

²³ A/HCR/38/33/Add.1 (referring to PROMESA and the Board).

²⁴ [UNPO: UN Special Rapporteur on Minority Issues Releases Report on United States Unrepresented Peoples and Territories](#)