

**WORK IN PROGRESS**  
**Lawyers and "Social" Movements: A story about the Puerto Rico "Zero Evictions" Coalition**

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"Politics, before all else, is an intervention in the visible and the sayable."-Jacques Rancière, "Ten Theses on Politics".<sup>2</sup>

"Democracy is the institution of politics as such, of politics as a paradox. Why a paradox? Because the institution of politics seems to provide an answer to the key question as to what it is that grounds the power of rule in a community. And democracy provides an answer, but it is an astonishing one: namely, that the very ground for the power of ruling is that there is no ground at all."- Jacques Rancière, "Does Democracy Mean Something?"<sup>3</sup>

**Introduction**

The literature related to lawyers and "social" movements has focused on how lawyers can hamper "social" movements and has addressed the role that lawyers play in already established movements. In this paper, I wish to explore the possibility of lawyers playing a crucial role in the creation of movements that I will call political and democratic movements.<sup>4</sup> I will very briefly address some of the literature regarding the topic of lawyers and "social" movements and will reflect on my experiences as a lawyer attempting to support the creation of a political and democratic movement against evictions of low-income communities in Puerto Rico and the challenges that I have faced in this endeavor. The work of the French philosopher Jacques Rancière will be used as a background for my reflection. Excerpts from his writings will be woven into this paper.

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<sup>2</sup> JACQUES RANCIÈRE, *Ten Theses on Politics*, in *DISSENSUS: ON POLITICS AND AESTHETICS* 37 (Steven Corcoran ed. & trans., 2010).

<sup>3</sup> JACQUES RANCIÈRE, *Does Democracy Mean Something?*, in *DISSENSUS: ON POLITICS AND AESTHETICS* 50 (Steven Corcoran ed. & trans., 2010).

<sup>4</sup> JACQUES RANCIÈRE, *HATRED OF DEMOCRACY* 56 (Steven Corcoran ed. & trans., 2010).

I seek to highlight his scholarship, which I have found to be extremely valuable for my work.<sup>5</sup> By including many excerpts from Rancière's writings I am attempting to bring his voice closer to the readers of this paper. I do not want to "explicate"<sup>6</sup> Rancière, rather I seek to directly present his work and link it to my own.

Drawing from the literature related to collaborative lawyering, the critical legal studies movement, Rancière's work, and my experiences, I will reflect on the possibility of lawyers claiming a space for a more politicized version of "law" in struggles for change: a role for law and lawyers that could potentially serve as a catalytic<sup>7</sup> agent for political and democratic movements. This is a pedagogical practice having equality as a "presupposition" in which the groups learn that they can be their own advocates.<sup>8</sup> The lawyer becomes an invisible figure serving as a link between different groups who face similar grievances. He/She blurs the distinction between legal and extralegal strategies and aims to create a space where voices and faces from marginalized groups can emerge in the public sphere. The lawyer, working in partnership with the marginalized groups, seeks to present the claims of the marginalized groups as "a public matter affecting the collectivity, and, as a result, something that ought to come within the domain of collective action, public discussion and legislative regulation."<sup>9</sup>

The story of the Puerto Rico Zero Evictions Coalition will serve as a background for my reflection. The coalition is composed of people from low-income communities

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<sup>5</sup> I have read Rancière in English, not in the original French. Other writings by Rancière not quoted in this paper but related to this discussion are: JACQUES RANCIÈRE, *DISAGREEMENT: POLITICS AND PHILOSOPHY* (Julie Rose trans., 1999); JACQUES RANCIÈRE, *THE PHILOSOPHER AND HIS POOR* (Andrew Parker ed. & trans., 2004), and JACQUES RANCIÈRE, *Democracies Against Democracy*, in *DEMOCRACY IN WHAT STATE?* 76 (Amy Allen ed. & William McCraig trans., 2011).

<sup>6</sup> See JACQUES RANCIÈRE, *THE IGNORANT SCHOOLMASTER: FIVE LESSONS IN INTELLECTUAL EMANCIPATION* (Kristin Ross trans. with and introduction 1991).

<sup>7</sup> Lucie White has written about lawyers as "catalysts" for social change. See Lucie E. White, *Collaborative Lawyering in the Field? On Mapping the Paths from Rhetoric to Practice*, 1 *CLINICAL L. REV.* 157 (1994).

<sup>8</sup> See RANCIÈRE, *supra* note 6. The word "presupposition" is taken from the Introduction to the book by Kristin Ross, at xix.

<sup>9</sup> RANCIÈRE, *supra* note 4, at 57.

who are struggling against the threat of eviction, whether it entails demolition of a public housing project or expropriation from urban or coastal areas. When I refer to "the story", I am, of course, writing the story of the Coalition as told by me, the lawyer who actively participated in its creation.

### **A brief glimpse at some of the literature on Lawyers and Social Movements**

Professors Austin Sarat and Stuart Scheingold, both professors of Political Science, have produced a series of books on what they have called "Cause Lawyering".<sup>10</sup> One of their most recent is entitled "Cause Lawyers and Social Movements"<sup>11</sup> and provides a good starting point to briefly discuss Rancière's views on "social" movements. Sarat and Scheingold describe their previous work and the book on social movements in the following manner:

In our previous work we have attended to the ways lawyers construct causes and causes supply lawyers with something to believe in (Scheingold and Sarat 2005) as well as to ways commitment to a cause challenges conventional ideas of lawyer professionalism (Sarat and Scheingold 1998). In *Cause Lawyers and Social Movements* we shift the focus in two ways. First, we move from an analysis of causes to a concern with social movements. Second, we turn our attention from the way cause lawyering articulates with the project of the organized legal profession to the explicitly political work of cause lawyers.<sup>12</sup>

They adopt the definition of "social movement" provided by the sociologist Charles Tilly:

...a sustained series of interactions between power holders and persons successfully claiming to speak on behalf of a constituency lacking formal representation, in the course of which those persons make publicly visible

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<sup>10</sup> See CAUSE LAWYERING POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES (Austin Sarat & Stuart A. Scheingold eds., 1998); CAUSE LAWYERING AND THE STATE IN A GLOBAL ERA (Austin Sarat & Stuart A. Scheingold eds., 2001); AUSTIN SARAT & STUART A. SCHEINGOLD, SOMETHING TO BELIEVE IN: POLITICS, PROFESSIONALISM AND CAUSE LAWYERING (2004); THE WORLDS CAUSE LAWYERS MAKE: STRUCTURE AND AGENCY IN LEGAL PRACTICE (Austin Sarat & Stuart A. Scheingold eds, 2005); CAUSE LAWYERS AND SOCIAL MOVEMENTS (Austin Sarat & Stuart A. Scheingold eds., 2006).

<sup>11</sup> See CAUSE LAWYERS AND SOCIAL MOVEMENTS (Austin Sarat & Stuart A. Scheingold eds., 2006).

<sup>12</sup> AUSTIN SARAT & STUART A. SCHEINGOLD, *Introduction in* CAUSE LAWYERS AND SOCIAL MOVEMENTS 1-2 (Austin Sarat & Stuart A. Scheingold eds., 2006).

demands for changes in the distribution or exercise of power, and back those demands with public demonstrations of support.<sup>13</sup>

This definition is problematic since it creates a separation between the political and the social, with the effect of entrenching a separation between those entitled "to rule" and those in the movement, who are confined to the "social". It is also of great concern its reference to people speaking "on behalf" of others. Rancière elaborates on this in the following manner:

These struggles, owing to their sites and objects, have generally been described as social movements: disputes over salaries and working conditions, and battles over health and retirement systems. However, this designation is ambiguous. In fact, it presupposes a given distribution of the political and the social, or of the public and the private, that is in reality a political contention pertaining to equality and inequality. The disputes over salaries were above all disputes about deprivatizing the wage relation, about proclaiming that it was neither a relation of master to servant nor a simple contract formed on case-by-case basis between two private individuals, but a public matter affecting the collectivity, and, as a result, something that ought to come within the domain of collective action, public discussion and legislative regulation.<sup>14</sup>

The canonical distinction between the political and the social is in fact a distinction between those who are regarded as capable of taking care of common problems and the future, and those who are regarded as being unable to think beyond private and immediate concerns. The whole democratic process is about the displacement of that boundary.<sup>15</sup>

A political movement is always a movement that blurs both the given distribution of the individual and the collective, and the accepted boundary of the political and the social.<sup>16</sup>

Rancière questions the boundaries between the "social" and the "political", the "collective" and the "individual", and the "public" and the "private". The contentions of these so-called workers' "social" movements are related to equality and inequality.

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<sup>13</sup> *Id.* at 3 (quoting CHARLES TILLY, *Social Movements and National Politics*, in *STATEMAKING AND SOCIAL MOVEMENTS* 306 (Charles Bright & Susan Harding eds., 1992).

<sup>14</sup> RANCIÈRE, *supra* note 4, at 5.

<sup>15</sup> RANCIÈRE, *supra* note 3 at 57.

<sup>16</sup> RANCIÈRE, *supra* note 4, at 84.

People involved in these movements were (are) capable of "taking care of common problems and the future" and could (can) think beyond their private interests. These movements were (are) democratic and political movements.

Following Rancière's views on politics and democracy, I will now examine my own work as the lawyer who helped to support the creation of the Puerto Rico "Zero Evictions" Coalition.

### **The Puerto Rico "Zero Evictions" Coalition**

#### ***Lawyering as a Pedagogical Practice***

My story begins with the creation of the community development section in the Legal Aid Clinic of the University of Puerto Rico School of Law. Without my experiences as a lawyer and professor in the Clinic, I would not have thought of encouraging the creation of a coalition of communities facing the threat of eviction. From August of 2002 until July of 2008, the legal work was done in conjunction with the students.<sup>17</sup> Since then, I have continued working with these communities on a *pro bono* basis.

In 2000, I returned to Puerto Rico after some time studying abroad. I had returned with the idea of opening a clinical section in a law school dedicated to "community based advocacy".<sup>18</sup> This was the title of a class that I had taken with Professor Lucie E. White while an LL.M. student at Harvard Law School.<sup>19</sup> White has challenged lawyers, in a seminal article that she wrote in 1988, to focus on empowering

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<sup>18</sup> I have described the creation of the community development section in the Legal Aid Clinic of the University of Puerto Rico School of law in other writings. See Myrta Morales-Cruz, *No me des el pescado, enseñáme a pescar*, in *Derecho y Pobreza* 187 (SELA 2005) (Roberto Saba ed., 2006); Myrta Morales-Cruz, *Community Lawyering in Puerto Rico: Promoting Empowerment and Self-Help*, 2007 *INTERNATIONAL JOURNAL OF CLINICAL LEGAL EDUCATION* 83 (2007) (revised English translation of 2006 article); and Myrta Morales-Cruz, *¡Los Filtros Luchan! A Case Study of Lawyering and Participatory Democracy: Participatory Lobbying as a Strategy for Working with Marginalized Communities*, 2 (1) *ONATI SOCIO LEGAL SERIES* (2012); Available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1997412](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1997412). Prof. Carmen Correa-Matos was a co-professor with me during the first three years of the clinic. She specializes in community economic development.

<sup>19</sup> The name of the course was later changed to "Community Action for Social and Economic Rights".

the communities with which they worked.<sup>20</sup> In this article, White presented three dimensions of advocacy and focused on the third one, which she later described in the following manner:

On the third dimension is advocacy that is focused on poor people's own political consciousness. Its goal is not to change either social policy or elite attitudes toward the poor. Rather, "third dimensional" advocacy seeks to enable poor people to see themselves and their social situation in ways that enhance their world-changing powers. At the same time, lawyering on the third dimension seeks to change the attitudes and self-concepts of lawyers themselves. This work seeks to transform our own political identities, relationships, and commitments, enabling us to work more effectively with historically subordinated groups to achieve social justice.<sup>21</sup>

White's third dimension of lawyering heavily relies on Paulo Freire's *Pedagogy of the Oppressed*.<sup>22</sup> Freire's work shows how a critical consciousness can surface among oppressed groups when they reflect together about their situation.<sup>23</sup> It is a learning practice that is non-hierarchical "in which small groups reflect together upon the immediate conditions of their lives."<sup>24</sup> This is a "dialogic process of reflection and action",<sup>25</sup> in which no one exclusively possesses the teacher role.<sup>26</sup>

In 1991 Jacques Rancière wrote *The Ignorant Schoolmaster: Five Lessons in Intellectual Emancipation*. In this book he describes the work of Joseph Jacotot who was a schoolteacher in 19th century France. Jacotot announced that all people were equally intelligent because of his own experience with a group of Flemish students who did not know French to whom he presented a bilingual text (in French and Flemish) so

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<sup>20</sup> See Lucie E. White, *To Learn and To Teach: Lessons from Driefontein on Lawyering and Power* 1988 WISC. L. REV. 699 (1988).

<sup>21</sup> See White, *supra* note 7, at 157-58. Professor Gerald López has also written about this type of lawyering, which he has called *Rebellious Lawyering*. See GERALD P. LOPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE* (1992). Others have referred to this type of lawyering as *collaborative lawyering* and *law and organizing*. See Ascanio Piomelli, *Appreciating Collaborative Lawyering*, 2000 CLINICAL L. REV. 427 (2000) and Scott Cummings & Ingrid Eagly, *A Critical Reflection on Law & Organizing*, 48 U.CLA L. REV. 443 (2001).

<sup>22</sup> See White, *supra* note 19, at 760 *et seq.* (citing PAULO FREIRE, *THE PEDAGOGY OF THE OPPRESSED* (1970)).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 761.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 762.

that they could learn the French language: "One could learn by oneself and without a master explicator when one wanted to, propelled by one's own desire or by the constraint of the situation."<sup>27</sup> There is no need for explication from a teacher to a student.<sup>28</sup> From this experience Rancière derives the "presupposition" of the equality of the intelligences:

In the experimental situation Jacotot created, the student was linked to a will, Jacotot's, and to an intelligence-the book's-the two entirely distinct. We will call the known and maintained difference of the two relations-the act of an intelligence obeying only itself even while the will obeys another will-*emancipation*.<sup>29</sup>

The lawyer who strives to engage in an emancipatory practice with the person or groups with whom he/she is working uses his/her will to present/show the law to the client or group. They learn that they can be their own advocates; they can talk about the law, discuss it and question it. In this way, the lawyer can be an emancipator:

Essentially, what an emancipated person can do is be an emancipator: to give, not the key to knowledge, but the consciousness of what an intelligence can do when it considers itself equal to any other and considers any other equal to itself.<sup>30</sup>

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We can thus dream of a society of the emancipated that would be a society of artists. Such a society would repudiate the division between those who know and those who don't, between those who possess or don't possess the property of intelligence. It would only know minds in action: people who do, who speak about what they are doing, and who thus transform all their works into ways of demonstrating the humanity that is in them as in everyone. Such people would know that no one is born with more intelligence than his neighbor, that the superiority that someone might manifest is only the fruit of as tenacious an application to working with words as another might show to working with tools; that the inferiority of someone else is the consequence of circumstances that didn't compel him to seek harder.<sup>31</sup>

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<sup>27</sup> RANCIÈRE, *supra* note 6, at 12.

<sup>28</sup> *Id.* at 12-15.

<sup>29</sup> *Id.* at 13.

<sup>30</sup> *Id.* at 39.

<sup>31</sup> *Id.* at 71.

It must be announced to *everyone*. First, undoubtedly, to the poor: they have no other way to educate themselves if they can't pay the salaried explicator or spend long years on school benches. And above all, it is on them that the prejudice of the inequality of intelligence weighs most heavily. It is they who must be raised up from their humiliated position.<sup>32</sup>

There is much in common between Lucie White's pedagogical lawyering theory, heavily influenced by Paulo Freire, and Rancière's work in the *Ignorant Schoolmaster*. White, Freire and Rancière all attack hierarchies in pedagogy and present emancipatory practices having equality as a presupposition. The lawyer or the teacher will's can catalyze a process of emancipation. Working with the law can sometimes be challenging when we are facing an area that is particularly technical. However, from my experiences I have learned to never underestimate the capacity of people to engage and understand the law on their own. I had not read Rancière until recently, but I have found his work to be tremendously useful for a lawyer trying to engage in the lawyering work that White has described.

### ***Lawyering, Politics and Democracy***

When choosing legal strategies for our "clients"<sup>33</sup> the students and I looked for strategies that created a space for public participation and politicization of law. Present in Lucie White's lawyering theory is the Critical Legal Studies Movement's vision of law as another battleground where political struggles are fought.<sup>34</sup> We centered our work

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<sup>32</sup> *Id.* at 106.

<sup>33</sup> I prefer the term "groups" to "clients" since it has a less professionalized, hierarchical, connotation.

<sup>34</sup> See DUNCAN KENNEDY, A CRITIQUE OF ADJUDICATION (FIN DE SIECLE) (1997). I have previously described White's second dimension of lawyering in the following manner:

In the second image of lawyering, "law as a public conversation", the lawyer recognizes that litigation can sometimes help to redistribute power (White 1988). Nonetheless, this effect is "secondary to law's deeper function in stimulating progressive social change" (White 1988, p. 758). More importantly, in this image litigation is "public action with political significance" (White 1988, p. 758). White envisions "law and its practice" as a "discourse about social justice" which has "cultural meaning" (White 1988, p. 758).

In this image of lawyering success is not measured by whether the lawsuit is won (White 1988). It is measured by "whether the case widens the public imagination about right and wrong, mobilizes political action behind new social arrangements, or pressures those in



mainly around three communities that were facing the threat of eviction. This paper will briefly describe the experiences that I had working in conjunction with my students as a lawyer for these communities (which eventually led to the creation of the Puerto Rico "Zero Evictions" Coalition): the communities of Los Filtros, Mainé and Las Gladiolas.<sup>35</sup>

In the Los Filtros case an amendment requiring public hearings and a community referendum before expropriation could take place was successfully sought. In the Mainé case, the importance of a public consultation before the Planning Board was stressed. Finally, in the Las Gladiolas case, the consultation requirement before demolition of a public housing project can take place was defended. When we resorted to litigation, political mobilization had to increase, as suggested by Boaventura De Sousa Santos.<sup>36</sup>

When we started working with people from the communities they immediately asserted their "right to housing".<sup>37</sup> The Constitution of Puerto Rico includes in its Bill of Rights several socioeconomic rights, including the right to housing.<sup>38</sup> This section of the

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power to make concessions" (White 1988, pp. 758-759). The lawyer, thus, designs the case having in mind as an audience the subordinated group and the wider public (White 1988). The litigation must be coordinated with any political action that the lawsuit might help initiate (White 1988). Lawyers seek to persuade the judge and at the same time mobilize public opinion (White 1988). White warns us that this type of lawyering cannot respond to subordinated clients who have a "more realistic assessment of their options" or a "more guarded interpretation of their own suffering" (White 1988, p. 760).

Myrta Morales-Cruz, *¡Los Filtros Luchan! A Case Study of Lawyering and Participatory Democracy: Participatory Lobbying as a Strategy for Working with Marginalized Communities*, 2 (1) OÑATI SOCIO LEGAL SERIES 4-5 (2012); Available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1997412](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1997412)

<sup>35</sup> There is never unanimity in community struggles. There are always people in the community who do not support the council or groups that attempt to represent them. We tried to work with as many people from the community as possible and formally had as "clients" groups or councils that were elected by people who lived in the community.

<sup>36</sup> BOAVENTURA DE SOUSA SANTOS, TOWARD A NEW LEGAL COMMON SENSE: LAW, GLOBALIZATION AND EMANCIPATION (2d ed. 2004).

<sup>37</sup> Puerto Rico does not have the power of signing treaties, so it is subject to the United States when it comes to the signing of human rights treaties.

<sup>38</sup> CONST. PR, Art. II, § 20.

Constitution, the one including socio-economic rights, was not approved by the United States Congress.<sup>39</sup> The section has a paragraph that conditions these rights to Puerto Rico's economic development. Lawyers in Puerto Rico rarely invoke the right to housing in court.<sup>40</sup> However, people from the communities were openly asserting their right to housing as a political claim; whether they also believed that they had a legal right to housing is open for discussion.

It was important for us to bring together people from the different communities with which the community development section of the Legal Aid Clinic was working. In Puerto Rico traditionally people from "special communities" and from public housing projects had not worked together. "Special communities" are low-income neighborhoods or "barrios".<sup>41</sup> Many people in Puerto Rico mostly associate urban violence with public housing projects, not with the "special communities". Also, residents of public housing projects carry a strong stigma because they live on housing complexes financed by the government. We were able to introduce people from the communities to people from the public housing projects and helped to bring them together in different activities and settings.

More importantly, as lawyers, we (the students and I) strived to work together in partnership with people from the communities, in a non-hierarchical, egalitarian, way.

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<sup>39</sup> The Constitution of the United States does not include socioeconomic rights. Puerto Rico is a Commonwealth of the United States of America with a Constitution of its own that was approved in 1952. However, there is much political debate about whether it is still in a colonial relationship with the United States. For an account of the political and legal relationship between the United States and Puerto Rico, see EFRÉN RIVERA RAMOS, *THE LEGAL CONSTRUCTION OF IDENTITY: THE JUDICIAL AND SOCIAL LEGACY OF AMERICAN COLONIALISM IN PUERTO RICO* (2001)

<sup>40</sup> See Esther Vicente Rivera, *Una mirada a la interpretación de los derechos económicos, sociales y culturales en las decisiones del Tribunal Supremo de Puerto Rico*, 44 REV. JUR. U.I.P.R. 17 (2009-2010), for an analysis of the Supreme Court of Puerto Rico's treatment of socioeconomic and cultural rights.

<sup>41</sup> The following criteria are taken into account for the designation of "special communities": high percentage of illiteracy, high percentage of people living under the poverty threshold, high unemployment rate, families financially supported by only one member, and a long history of unemployment and of neglect in the provision of basic services. Act for the Development of Special Communities in Puerto Rico 2001 (21 L.P.R.A. § 967).

We learned from them and they learned from us. We strongly believed that we could help to radicalize people's perceptions about the law.<sup>42</sup> Many already know and believe that the law is not equal to "justice", but having a lawyer openly state this can help them to more openly embrace political mobilization. Finally, we tried to remain as invisible and silent as possible to stimulate the people with whom we work to appear and speak on their own behalf. This approach is strongly tied to Rancière's view on politics as "an intervention in the visible and the sayable."<sup>43</sup>

### ***Los Filtros***

The council of residents of the Los Filtros community was the first group that approached the community development section in search of legal aid. I first encountered Jorge Oyola, spokesperson for the community, during a meeting that I attended one night in the Trujillo street of Juan Domingo, a community who had organized itself to successfully prevent eviction by a private developer who was supported by the municipality. Both Juan Domingo and Los Filtros are located in Guaynabo, the municipality with the highest *per capita* income in Puerto Rico. Guaynabo was threatening to use the power of eminent domain (expropriation) against a group of low-income communities. The alleged "public purpose" for the expropriation was the construction of new housing complexes.

I have described in detail the struggle of the Los Filtros community from my own perspective<sup>44</sup> and more recently, from the perspective of the group of people from the community who actively participated in the lobbying of Statute #232 of August 27,

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<sup>42</sup> See Morales-Cruz, *supra* note 33, at 11.

<sup>43</sup> RANCIÈRE, *supra* note 2, at 37.

<sup>44</sup> See Myrta Morales-Cruz, *No me des el pescado, enseñáme a pescar*, in *Derecho y Pobreza* 187 (SELA 2005) (Roberto Saba ed., 2006) and Myrta Morales-Cruz, *Community Lawyering in Puerto Rico: Promoting Empowerment and Self-Help*, 2007 *INTERNATIONAL JOURNAL OF CLINICAL LEGAL EDUCATION* 83 (2007) (revised English translation of 2006 article).

2004, which protects "special communities" from expropriation by a municipality.<sup>45</sup>

The lobbying campaign was successfully combined with mobilization outside the legislative arena.<sup>46</sup>

Statute #232 has suffered numerous attempts to repeal it, but people from the Los Filtros community, together with people from other "special communities" and communities that belong to the Puerto Rico "Zero Evictions" Coalition have been able to mobilize and prevent it.<sup>47</sup>

In our work we did not limit ourselves to what Lucie White calls the first dimension of lawyering, which I described elsewhere in the following way:

In the first image of lawyering, the "contest of litigation", the lawyer designs and wins lawsuits that will promote the interests of clients (White 1988, p. 755). He or she "'translates' client grievances into legal claims" (White 1988, p. 755). Within this image, the lawyer's role does not involve questioning the structure of the law, asking whether it prevents the lawyer from translating client's grievances into legal claims. This lawyer tries to use the courts as a mechanism to redistribute power to marginalized groups. It is an "essentially traditional professional role" in which "the client is in the background" (White 1988, p. 756).<sup>48</sup>

If we had limited ourselves to questioning the "public" purpose of the expropriation in court, the community would have been evicted, but, more importantly, the possibility of engaging in a pedagogical, egalitarian, democratic, political practice probably would have been lost. As lawyers, we attempted to engage in a pedagogical

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<sup>45</sup> The statute creates a participation mechanism before a municipal government can expropriate land located within a "special community": the celebration of a referendum in the community before expropriation can take place (75% of those voting have to authorize the expropriation) and authorization by the state legislative chambers after celebration of public hearings in both chambers to which the leaders of the "special community" and the municipality have been invited.

<sup>46</sup> For more discussion about the possibilities of using lobbying as a lawyering strategy when working with marginalized communities, see Myrta Morales-Cruz, *La Experiencia de Enseñar un Curso de Derecho y Pobreza en Puerto Rico: Ensayo sobre el Discrimen contra las Personas de Escasos Recursos Económicos*, 79 REV. JUR. U.P.R. 126 (2010) and Myrta Morales-Cruz, *Counter-hegemonic work as a lawyer: The role of the lawyer working with marginalized groups in the age of "global governance"*, 45 REV. JUR. U.I.P.R. 399 (2011).

<sup>47</sup> In 2007, the Municipality filed a case before the Puerto Rico state courts alleging that all "special communities" in Guaynabo were illegally designated. The community development section represented Jorge Oyola and the residents' council of Los Filtros. The case is still pending.

<sup>48</sup> See Morales-Cruz, *supra* note 33, at 4.

emancipatory practice with people from the Los Filtros community. We wanted to teach them that they could talk about the law, question it, and change it. By limiting our own voice and presence as lawyers, we strived to open a space for the intervention of the presence and voice ("the visible and the sayable")<sup>49</sup> of these new political subjects.<sup>50</sup>

### ***Mainé***

Mainé was never declared a "special community", so it was not protected by Statute 232 of August 27, 2004. Thus, the Municipality of Guaynabo did not have to obtain a joint resolution by the State Legislative Assembly and hold a community referendum before using the power of eminent domain against the community. The land that the people of Mainé occupied had also acquired, like the land of Los Filtros and Juan Domingo, enormous value due to urban sprawl.

During the last months of 2005, the Municipality of Guaynabo filed eminent domain cases in court against the remaining six families in the community. These families were the only ones, out of a total of more than seventy families, willing to question the expropriation process in court. Many of the other families succumbed to the continuous pressure exerted by the Municipality. We stood by these six families just as they stood beside the "special communities" during the entire lobbying process of the statute that benefited all of them, but not Mainé. These remaining families were extremely courageous and tenacious. Every time that we had a court hearing, they came to court with us. They were very active in holding press conferences and inviting other spokespersons from the "special communities" anti-eviction movement and the environmental movement to the conferences.

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<sup>49</sup> RANCIÈRE, *supra* note 2, at 37.

<sup>50</sup> See Morales-Cruz, *supra* note 33.

A particular strength that they had was that they were able to convey through the media the emotional stress of undergoing a threat of eviction. Like the Los Filtros community, they had a design project for their community from the Community Design Workshop of the University of Puerto Rico School of Law's School of Architecture. Whenever we held a community meeting, it was extremely likely that people from the Los Filtros community and other "special communities" from Guaynabo would come to give them support. People from the Los Filtros community usually attended court hearings in the Mainé cases. We regularly met with the community members who were fighting against the expropriation and always stressed that they should not place their hopes in the law, which helped to encourage mobilization by them.<sup>51</sup> They held numerous press conferences and participated in many activities, making themselves visible and heard.

In the case of Mainé the alleged "public use" in the eminent domain cases was the construction of a "social interest housing project". We challenged the "public use" in this case with three main legal arguments.

The first argument was an administrative law argument. It was argued that regulations of the Puerto Rican Planning Board required that a public transaction consultation be filed by the Municipality and approved by the Planning Board before the expropriation complaint could be presented in court. This consultation provided, before the adoption of Statute #232 (which only applies to expropriations of "special communities" by municipalities), the only space for citizen participation in eminent domain proceedings. Residents of the lots that were going to be expropriated had to be notified, had a right to present comments and could request that public hearings be held. Because the Municipality had not presented its project before the Board, it was

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<sup>51</sup> See Santos, *supra* note 34.

not clear what type of project was going to be built. We argued that the Municipality had to present the project in the administrative forum before coming to court.<sup>52</sup>

We also alleged that the regulations for the “social interest housing projects” in Guaynabo were unconstitutional since they violated the doctrine of unconstitutional conditions and the equal protection clause.<sup>53</sup> The regulations state that if the owner of the property that is going to be expropriated does not agree with the price that the Municipality offers as “just compensation”, he or she will not qualify for the housing project. This, we argued, violated the doctrine of unconstitutional conditions since the government (the Municipality) was offering a benefit, housing, but it was placing a condition that was unconstitutional: the owner could not claim “just compensation” as required constitutionally. We also challenged the constitutionality of the requirement that only U.S. citizens qualified for the housing project, in violation of the equal protection clause, which protects legal permanent residents.<sup>54</sup>

Finally, we asked that the Municipality present its alleged project in court, since it was not clear that a “social interest housing project” was a valid “public use”. For example, how much the units would cost was crucial in determining the existence of a public purpose.

The litigation was very tortuous. The judges rejected our request for consolidation of the cases. The result was that we had to file seven separate briefs in the Court of Appeals. The Court of Appeals was able to consolidate some of the cases. One of the judges of the court of first instance issued an order for eviction of a family within a period of five days while the case was still pending before the Court of Appeals.

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<sup>52</sup> This section of the act has now been repealed.

<sup>53</sup> See *Báez v. Alcalde Municipal de Guaynabo*, 100 D.P.R. 982 (1972), *Morales Morales v. Estado Libre Asociado de Puerto Rico*, 126 D.P.R. 92 (1990).

<sup>54</sup> See *De Paz Lisk v. Aponte Roque*, 124 D.P.R. 472 (1989), *Graham v. Richardson*, 403 U.S. 365 (1972), *Sugarman v. Dougall*, 413 U.S. 634 (1973).

People from the community called and were terribly affected. We requested an order from the Court of Appeals to stop the eviction. It was granted.

We had victories at the state Court of Appeals. The Court held that the expropriation process could not continue until the Planning Board approved a public consultation. It emphasized the fact that the owners were an important part of that process and that the regulations required that the Board inquire about its necessity, including factors such as the social and economic conditions. The Court of Appeals declined to decide regarding the constitutional question in the absence of a public consultation. It found that the constitutional issue was not ripe. But it made clear that it was the court's responsibility to finally pass judgment over the validity of a "public use" alleged by the government in any eminent domain case.

In another victory for the community, the Court of Appeals subsequently held that the Municipality had to present evidence about the alleged public purpose in the court of first instance. It ruled that it was the court's duty to evaluate such evidence and decide whether the proposed expropriation furthers a public purpose. The Municipality had alleged that it was entitled to deference as to the alleged "public purpose". It contended that it did not have to present evidence regarding the housing project that it allegedly wanted to build in the community.

The Municipality asked the Supreme Court to overturn the Court of Appeals. The Supreme Court ruled against us in all of the issues in December of 2010.<sup>55</sup> The families that still lived in the land where the community was located recently had to move. It was a very painful process for them. Some of them remain very active in the Puerto Rico "Zero Evictions" coalition. Even though, as lawyers, our presence and voice was

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<sup>55</sup> Mun. Guaynabo v. Adquisición de 197.8817 metros cuadrados, 180 D.P.R. 206, (2010). An analysis of the Supreme Court's decision will be the subject of another paper.



the one heard in the courts, people from the community were able to make themselves publicly visible and heard.<sup>56</sup> Outside the courts, they were the protagonists of their struggle.<sup>57</sup>

### ***Las Gladiolas***

The Las Gladiolas building complex was a public housing project comprised of 668 apartments located in the financial district of San Juan, Puerto Rico. The Puerto Rico Public Housing Authority obtained a demolition permit from the U.S. Department of Housing and Urban Development in early 2006. In June 2006, the community development section of the University of Puerto Rico School of Law's Legal Aid Clinic filed a class action suit on behalf of the residents of Las Gladiolas in the United States District Court for Puerto Rico.<sup>58</sup> There were two main claims: the lack of participation of residents in the development of the application for demolition and a *de facto* or constructive demolition claim.

Federal law requires that the application for demolition of a public housing project must be developed in consultation with residents.<sup>59</sup> It also requires that buildings be maintained in decent and sanitary conditions as long as there are people residing in them.<sup>60</sup> In the case of Las Gladiolas residents were alleging that the government and the private maintenance companies stopped providing adequate maintenance services to the complex in violation of federal law.

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<sup>56</sup> See RANCIÈRE, *supra* note 2, at 37.

<sup>57</sup> See Jennifer Gordon, *The Lawyer is Not the Protagonist: Community Campaigns, Law and Social Change*, 95 CAL. L. REV. 2133 (2007).

<sup>58</sup> In July of 2005, the community development section filed a *mandamus* before the Puerto Rico state courts on behalf of Arcadio Aponte Rosario and the residents' association ¡Gladiolas Vive! requesting that the Administrator of the Puerto Rico Housing Authority provide them with a copy of the application for demolition that the Administration had presented to the U.S. Department of Housing and Urban Development Department (HUD). In November of 2006 we filed an administrative complaint before HUD.

<sup>59</sup> 42 U.S.C. § 1437p.

<sup>60</sup> *Id.*

The litigation was trying to raise public awareness about gentrification and the dangers of reducing public housing units in Puerto Rico. Whenever we had an appearance in court, members of the community attended and held press conferences outside of the federal court building. They used these moments as opportunities to mobilize.

Once again, we worked with the architect founder of the Community Design Workshop of the University of Puerto Rico School of Architecture (who was by this time a retired professor) and a professor and students from the Faculty of Engineering of the University of Puerto Rico. They helped to show that the buildings were not being given proper maintenance. They also prepared plans for modernization.

The Social Work Department of the Faculty of Social Sciences of the Río Piedras campus of the University of Puerto Rico had been working with youth and children from the project for many years. The students and professors were crucial in helping the children to deal with the stress that the possible displacement had caused them.

Community members were successful in drawing the support of the Puerto Rico Bar Association, the Puerto Rico Civil Rights Commission and the local chapters of the American Civil Liberties Union and Amnesty International. They also attended the Puerto Rico Social Forum.<sup>61</sup> Mirta Colón, one of the spokespersons for the community, presented her testimony during public hearings held by the United Nations Special Rapporteur investigating racism in the United States. She denounced the HOPE VI

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<sup>61</sup> The Puerto Rico Social Forum took as its inspiration the World Social Forum. According to its Charter of Principles, "[t]he World Social Forum is an open meeting place for reflective thinking, democratic debate of ideas, formulation of proposals, free exchange of experiences and interlinking for effective action, by groups and movements of civil society that are opposed to neoliberalism and to domination of the world by capital and any form of imperialism, and are committed to building a planetary society directed towards fruitful relationships among Humankind and between it and Earth." *Charter of Principles, World Social Forum*. Available from: <http://www.forumsocialmundial.org.br/> [last visit, April 15, 2012].

federal funding program, which promotes the demolition of public housing projects and their substitution for lower density mixed income housing.

During the presentation of the Las Gladiolas documentary at the Puerto Rico Social Forum a participant suggested to hold an activity entitled *Abrazo Solidario a Las Gladiolas* (“Solidarity Hug for Las Gladiolas”). During this activity people from outside the community went to show their support. The activity was held on two more occasions. The second *Abrazo Solidario* had as one of its highlights public hearings held by the Constitutional and Human Rights Commission of the Puerto Rico Bar Association. During the hearings people testified about their situation. The group of social workers and a law student held a theater workshop for children in which *Arcachuba*, a superhero created by the children, participated.

For a long period of time, we met almost weekly with a group of people from the community to address issues that developed. The government pressured them to abandon the complex in multiple ways. The weekly meetings were a space to develop strategies with the community about how to confront the new developments. Additionally, we produced several bulletins that explained to the community what was happening in the federal court case.

The government and the private maintenance companies kept harassing residents in Las Gladiolas by filing eviction cases in the local state court, starting administrative proceedings in order to cancel their lease contracts with the Puerto Rico Housing Authority and constantly sending them letters requiring that they relocate, for example.

The private company that administered the complex started holding informal hearings as a first step in the cancellation of lease contracts administrative actions that were started against residents that remained in the complex. These hearings had the

effect of making people commit more to the struggle. Once they heard the legal arguments that were presented on their behalf at these hearings they told us that they felt more empowered. After we vigorously defended residents in the administrative hearings, the private company decided to discontinue the process.

However, the pressure exerted by the government and by the private maintenance company was tremendous. The living conditions in the project worsened every day. Many families reluctantly left the housing complex. The long litigation process also took its toll on the community.

More than 200 documents comprised the docket in the class action before the federal district court in Puerto Rico. The government moved for summary judgment. The district court ruled in favor of the government and granted summary judgment in December of 2008.<sup>62</sup> The community appealed its case to the United States Court of Appeals for the First Circuit. We had oral arguments before the Court of Appeals on March of 2010. Sixteen community members attended oral arguments. In July of 2010, the Court ruled against us.<sup>63</sup> The towers were demolished in July of 2011.

People from the community, however, continue their struggle and have been promised by the state government that a public housing project for more than two hundred families will be built on the land where the original complex was located and that the last families to remain in Las Gladiolas will return to it. Most of those families are relocated in private apartments during construction of the new complex. Their struggle to return to the land where they lived, together, continues. They continue to meet on a regular basis and remain very active. They are making themselves visible

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<sup>62</sup> *Aponte Rosario v. Acevedo Vila*, 591 F. Supp. 2d. 130 (D. Puerto Rico 2008).

<sup>63</sup> *Aponte Rosario v. Acevedo Vila*, 617 F. 3d 1 (1st Cir. 2010).

and heard <sup>64</sup> and have learned that they can talk about the law, discuss it, and question it.

### ***Creation of the Puerto Rico "Zero Evictions" Coalition***

In 2009, I approached Mirta Colón, spokesperson for the Las Gladiolas community, to suggest the creation of a coalition that would help to bring together members from communities facing the threat of eviction. We would organize a march to be held on October 17th, the day that the United Nations has designated as the International Day for the Eradication of Poverty, and use that activity to announce the creation of the Puerto Rico "Zero Evictions" Coalition. The coalition would join the "Zero Evictions" Campaign of the International Alliance of Inhabitants.<sup>65</sup>

I had first heard of the International Alliance of Inhabitants ("IAI") during the Puerto Rico Social Forum, which was held in 2006. During the Forum Pedro Franco, coordinator of the IAI for Latin America and the Caribbean, participated in a panel and presented the "Zero Evictions" Campaign of the Alliance. Franco met Mary Ann Hopgood, spokesperson for the group "Santurce No se Vende" ("Santurce is Not for Sale")<sup>66</sup> and Jorge Oyola, spokesperson for the community of Los Filtros. Both of them were later invited to participate in a conference organized by the IAI in Santo Domingo, Dominican Republic, in 2007.

I had been invited to an activity in the community of Villas del Sol in which Franco would participate. The activity, which was to be held on September 20, 2009, was called *Jornada por la Paz y la Solidaridad con Villas del Sol y con todas las*

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<sup>64</sup> See RANCIÈRE, *supra* note 2 at 37.

<sup>65</sup> The International Alliance of Inhabitants is a network of grassroots organizations of inhabitants and territorial movements that struggles towards the achievement of housing and city rights. See <http://www.habitants.org/> (last visit, April 15, 2012)

<sup>66</sup> The community of San Mateo de los Cangrejos in Santurce was expropriated by the Puerto Rico Housing Department claiming that it was going to "revitalize" the area. People from the community actively struggled against the expropriation until 2006.

*comunidades víctimas de los desalojos por parte del estado* (Peace and Solidarity Gathering for Villas del Sol and all the communities that are victims of evictions by the State). Professor Liliana Cotto, a sociologist professor at the University of Puerto Rico, Edwin Quiles, the professor who founded the Community Design Workshop at the School of Architecture of the University of Puerto Rico, and Hilda Guerrero, coordinator for the non-profit organization *Grito de los Excluidos* (Cry/Shout of the Excluded), played important roles both in the organization of the Puerto Rico Social Forum and of this gathering in Villas del Sol.<sup>67</sup>

During the summer of 2009 I had joined a group of lawyers coordinated by the *Pro Bono* Office of the Puerto Rico Bar Association who represented close to 200 families from the community of Villas del Sol, located in Toa Baja, Puerto Rico, a municipality which is close to the San Juan metropolitan area. The community of Villas del Sol was being evicted by the Puerto Rico Housing Department. The Department filed nearly 200 eviction cases in the Puerto Rican state courts. Villas del Sol is a low-income community mostly composed of immigrants from the Dominican Republic. The government alleged that the community could not occupy the land because it was prone to flooding. The case of Villas del Sol once more placed the lack of affordable housing in the island in the public discussion.

I suggested to Mirta Colón that we announce in the activity to be held in Villas del Sol, to which members of different communities who had faced the threat of eviction had been invited (such as Los Filtros, Mainé and Las Gladiolas) that we would be organizing a march on the International Day for the Eradication of Poverty and that we

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<sup>67</sup> Cotto has written a book about the struggles of many communities of "rescuers" (also called "squatters") in Puerto Rico from the 1970's through the 1990's. The people from these communities prefer the term "rescuer" to "squatter". They see themselves as "rescuing" land that is deserted. See LILIANA COTTO MORALES, *DESALAMBRAR* (2006).

would be announcing on the day of the march the creation of the Puerto Rico "Zero Evictions" Coalition. Mirta thought that it was a great idea and invited everyone present in the activity celebrated in Villas del Sol to attend the march and join the coalition.

There was a meeting held in Mirta Colón's apartment in Las Gladiolas to organize the march. After holding a press conference about the march and the creation of the coalition, more than two hundred people from the communities of Las Gladiolas, Los Filtros, Mainé, Santurce, Villas del Sol, Río Piedras<sup>68</sup>, Vietnam<sup>69</sup>, the communities surrounding the Martín Peña Channel<sup>70</sup>, Vieques,<sup>71</sup> Villa Sin Miedo,<sup>72</sup> and Villa Cañona<sup>73</sup> were present. Also, different organizations such as Amnesty International, the Puerto Rico Social Forum, and various socialist organizations showed their support.

Since 2009 we have been meeting regularly and have celebrated the march every year to commemorate the birth of the coalition and the International Day for the Eradication of Poverty. We are not limited to the issue of preventing gentrification of urban areas and have now as part of the coalition the community of Boca in Barceloneta, which is a coastal community in a small town in Puerto Rico. In the last march, held this past year (2011), we invited the communities who are facing the threat

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<sup>68</sup> The Río Piedras community is struggling against a "revitalization" plan by the Municipality of San Juan that would entail the use of the power of eminent domain against residents and would result in the displacement of the community.

<sup>69</sup> Vietnam, like Los Filtros and Mainé, is also located in Guaynabo, the municipality with the highest *income per capita* in Puerto Rico. It is a "special community" and thus, it is protected by Statute #232 of 2004. However, the municipality keeps pressuring residents to abandon the community and is trying, as previously mentioned, to get the courts to declare that all "special communities" in Guaynabo were designated in an illegal fashion.

<sup>70</sup> The communities surrounding the Martín Peña Channel created a land trust in 2004. See, Érika Fontàñez-Torres, *The Contingency of Property Policies-A Review of the Assumptions Related to the Political Theory of Property in the Contexts of Social and Environmental Movements in Puerto Rico*, in *Derecho y Propiedad* (SELA 2008) (ed., 2009). Since 2009 the land trust has been under attack by both the state government and the Municipality of San Juan.

<sup>71</sup> The community of Monte Carmelo in Vieques is a community of "rescuers" that constantly faces the threat of eviction.

<sup>72</sup> Villa Sin Miedo is one of the communities of "rescuers" that had struggled in previous decades.

<sup>73</sup> Villa Cañona is a community initially formed in the 1960's by "rescuers" of land. It is located in the coastal municipality of Loíza, close to the metropolitan area. This area is actively sought by private developers who wish to build tourism complexes.

of expropriation due to the state government plans to build a gas pipeline that goes through the central mountainous region of Puerto Rico.

Members of the coalition support each other in their struggles: in the attempts to repeal Statute #232; in the struggle of Las Gladiolas against demolition and currently in their struggle to return to the land where they lived; in the struggles of the communities of Mainé, Las Gladiolas, and Boca against expropriation; in the struggle of the Río Piedras community against a "revitalization" plan by the Municipality of San Juan that would entail the use of the power of eminent domain against residents; and in the struggle of the communities surrounding the Martín Peña Channel to preserve their land trust against attacks by both the state and the municipal government of San Juan. We provide this support by organizing coalition press conferences to support low-income communities facing the threat of eviction and by attending press conferences organized by the communities themselves. We also attend meetings, protests, and other activities organized by the communities, and court hearings. In October of 2010, the coalition organized a one-day forum to discuss the topic of evictions of low-income communities. We are striving to engage in a political and democratic practice.

I will now turn once more to the words of Rancière before attempting to link his work to the struggles of the Puerto Rico "Zero Evictions" Coalition:

Democracy, then, far from being the form of life of individuals dedicated to their private pleasure, is a process of struggle against this privatization, the process of enlarging this sphere. Enlarging the public sphere does not entail, as it is claimed in liberal discourse, asking for State encroachments on society. It entails struggling against the distribution of the public and the private that shores up the twofold domination of the oligarchy in the State and in society.

This encroachment has historically signified two things: the recognition, as equals and as political subjects, of those that have been relegated by State law to the private life of inferior beings, and the recognition of the public character of types of spaces and relations that were left to the discretion of the power of wealth. This first involved struggles to include those that



police<sup>74</sup> logic naturally excluded from voting and eligibility for office, all those who were not entitled to participate in public life because they did not belong to 'society' but merely to domestic and reproductive life, because their work belonged to a master or a husband: waged workers long treated as domestics dependent upon their masters and incapable of having an independent will; and women subordinated to their husband's will and relegated to the care of family and domestic life. It also involved struggles against the natural logic of the electoral system, which turns representation into the representation of dominant interests and elections into an apparatus devoted to procuring consent: official candidacies, electoral fraud, *de facto* monopolies over candidacies. But this enlargement also includes all the struggles to assert the public character of spaces, relations and institutions regarded as private.<sup>75</sup>

What we have denounced in the struggles against evictions in Puerto Rico is the privatization of the use of the power of eminent domain and the power of the government to evict (in cases of tenants of the government or "rescuers" of public land). Municipalities, in partnership with private developers, expropriate low-income communities in order to build housing of a much higher economic value. In the case of Santurce, the state government privatized the power of eminent domain and asserted "revitalization" as a "public purpose". Private developers have built expensive high-rise apartment buildings, which remain mostly deserted. In the case of Las Gladiolas, the state government was going to let the private market dictate to the government how to use the land where the public housing project is located.

These are all attacks on the right of housing of all the people from these communities. The communities are questioning the state and municipal governments. They are making themselves seen and heard. ("Politics, before all else, is an intervention in the visible and the sayable.")<sup>76</sup>

The purposes alleged by the governments are not public, but private, even though they attempt to present them as "public" purposes. The communities have a

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<sup>74</sup> I will later include Rancière's distinction between "police" and "politics".

<sup>75</sup> RANCIÈRE, *supra* note 4, at 55-56.

<sup>76</sup> RANCIÈRE, *supra* note 2, at 37.

political contention pertaining to equality and inequality, as Rancière would argue. They are attempting to deprivatize the use of the power of eminent domain and the use of the power of eviction by the government. This power is being used to increase wealth for private developers; to increase inequality. The issue is, quoting Rancière once again, "a public matter affecting the collectivity, and, as a result, something that ought to come within the domain of collective action, public discussion and legislative regulation."<sup>77</sup> These political subjects are denouncing the privatization of the use of the power of the government to evict for a "public" purpose. They are attempting to question the boundaries between the public and private, the universal and the particular:

The democratic movement, then, is in fact a double movement of transgressing limits: a movement for extending the equality of public man to other domains of life in common, and in particular to all those that govern the limitlessness of capitalist wealth; another movement for reaffirming the belonging of anyone and everyone to that incessantly privatized public sphere.<sup>78</sup>

...  
This is what the democratic process implies: the actions of subjects who, by working the interval between identities, reconfigure the distributions of the public and the private, the universal and the particular.<sup>79</sup>

People from low-income communities facing the threat of eviction are struggling to extend equality to all domains of life in common. They are attacking the increased wealth that private developers will accumulate as a result of the privatization of the use of the power of eminent domain and eviction by governments.

To continue with my reflection, I will now present what I deem to be crucial quotes to understand Rancière's views on politics:

Two ways of counting the parts of the community exist. The first counts real parts only-actual groups defined by differences in birth, and by the different functions, places and interests that make up the social body to the exclusion

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<sup>77</sup> RANCIÈRE, *supra* note 4, at 57.

<sup>78</sup> RANCIÈRE, *supra* note 4, at 57-58.

<sup>79</sup> *Id.* at 61-62.

of every supplement. The second, 'in addition' to this, counts a part of those without part. I call the first the *police* and the second *politics*.<sup>80</sup>

Politics, by contrast, consists in transforming this space...into a space for the appearance of a subject: the people, the workers, the citizens. It consists in refiguring space, that is, in what is to be done, to be seen and to be named in it. It is the instituting of a dispute over the distribution of the sensible...<sup>81</sup>

The essence of politics is *dissensus*. Dissensus is not a confrontation between interests or opinions. It is the demonstration (*manifestation*) of a gap in the sensible itself. Political demonstration makes visible that which had no reason to be seen; it places one world in another-for instance, the world where the factory is a public space in that where it is considered private, the world where workers speak, and speak about the community, in that where their voices are mere cries expressing pain.<sup>82-</sup>

The worker who puts forward an argument about the public nature of a 'domestic' wage must demonstrate the world in which his argument counts as an argument and must demonstrate it as such for those who do not have the frame of reference enabling them to see it as one. Political argumentation is at one and the same time the demonstration of a possible world in which the argument could count as an argument, one that is addressed by a subject qualified to argue, over an identified object, to an addressee who is required to see the object and to hear the argument that he 'normally' has no reason either to see or to hear. It is the construction of a paradoxical world that puts together two separate worlds.<sup>83</sup>

New political subjects have appeared: people who reside in low-income communities facing the threat of eviction. These political subjects include people from "special communities", from other communities who have not been designated "special communities", from public housing projects and from communities of "rescuers" of land. They have made visible that the use of the power of eminent domain and eviction by the governments has been privatized. They have questioned the governments' alleged "public" purposes and the 'goodness' of the governments' actions.

Political subjects build such cases of verification ['that stymie the relentless privatization of public life'<sup>84</sup>]. They put the power of political names-that is, their extension and comprehension-to the test. Not only do they bring the

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<sup>80</sup> RANCIÈRE, *supra* note 2, at 36.

<sup>81</sup> *Id.* at 37.

<sup>82</sup> *Id.* at 38.

<sup>83</sup> *Id.* at 39.

<sup>84</sup> RANCIÈRE, *supra* note 3, at 57.

inscription of rights to bear against situations in which those rights are denied but they construct the world in which those rights are valid, together with the world in which they are not. They construct a relation of inclusion and a relation of exclusion.<sup>85</sup>

...

The generic name for all the subjects that stage such cases of verification is the *demos*, or the people.<sup>86</sup>

The people who reside in low-income communities facing the threat of eviction have brought the inscription of the right to housing in a situation into which that right was denied and have constructed a world in which such right is valid, together with the world in which it is not. They, as Rancière has written, have constructed a relation of inclusion and a relation of exclusion. They had to show the world in which their argument counts as an argument and had to show it for those who did not have the "frame of reference" that would allow them to see it as an argument.<sup>87</sup>

### ***Challenges...***

As lawyers we have tried to become invisible and mute figures serving as a link between different groups who face similar grievances; to blur the distinction between legal and extralegal strategies and have aimed to create a space where voices and faces from marginalized groups could emerge in the public sphere. Working in partnership with marginalized groups, we have sought to create a space where the claims of marginalized groups could surface as a public issue that should be the object of collective action and public discussion.<sup>88</sup> Our practice has equality as a presupposition; people from marginalized groups are just as capable as lawyers to be their own advocates.<sup>89</sup>

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<sup>85</sup> JACQUES RANCIÈRE, *Who is the Subject of the Rights of Man?*, in *DISSENSUS: ON POLITICS AND AESTHETICS* 69 (Steven Corcoran ed. & trans., 2010).

<sup>86</sup> *Id.* at 70.

<sup>87</sup> RANCIÈRE, *supra* note 2, at 39.

<sup>88</sup> RANCIÈRE, *supra* note 4, at 57.

<sup>89</sup> *See* RANCIÈRE, *supra* note 6 (Introduction by Kristin Ross at xix).

We face many challenges in our work with the Puerto Rico "Zero Evictions" Coalition. One of them is struggling to keep a space open for everyone, for it not to be dominated by a few "leaders" from the communities (I prefer the term "spokesperson" to leader because it has a less hierarchical connotation). We hope to try to keep the struggles collective, instead of focusing on the struggle of a particular community, or only of low-income communities facing the threat of eviction, as opposed to more universal claims. In Rancière's words:

To say that a political movement is always a movement that displaces the given boundaries, that extracts the specifically democratic, i.e., universalist, component of a particular conflict of interests in such and such a point of society, is also to say that it is always in danger of being confined to that conflict, in danger of ending up being no more than a defence of particular group interests in always singular struggles.<sup>90</sup>

Democracy is not a definite set of institutions, nor is it the power of a specific group. It is a supplementary, or grounding, power that at once legitimizes and delegitimizes every set of institutions or the power of any one set of people.<sup>91</sup>

We are constantly struggling with these paradoxes, but we keep on going...with hope and joy. As Rancière has said:

[Democracy]...is only entrusted to the constancy of its specific acts. This can provoke fear, and so hatred, among those who are used to exercising the magisterium of thought. But among those who know how to share with anybody and everybody the equal power of intelligence, it can conversely inspire courage, and hence joy.<sup>92</sup>

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<sup>90</sup> RANCIÈRE, *supra* note 4, at 84.

<sup>91</sup> RANCIÈRE, *supra* note 3, at 53.

<sup>92</sup> RANCIÈRE, *supra* note 4, at 97.