

TUPOCC: Notes on Changing the Fabric of the Law and the Guild

By Ranya Ghuma and Renée Sánchez

What does it mean to work “for the people” when, as people of color, and women of color, we are working within a field disproportionately dominated by white males? It means our very presence is an act of resistance.

For people of color in the field of law, we are confronted with a sea of white faces—on both the Left and the Right—who purport to “speak” for us, to “save” us from our communities, and to “save” our communities from themselves. We are “instructed” on who we are and what we should become in order to be the most “effective” advocates of the law. We are “taught” that when we speak out on issues of importance to communities of color, we have “an agenda,” and that the “impartial” legal advocate must be objective and dispassionate when discussing issues of justice and equality. But we know from experience that the law is decidedly not race and gender neutral, and that the legal system in this country was founded on structures that enshrine racism and oppression. The language of the law perpetuates race, class, gender and heterosexual privilege. As a result, we often find ourselves challenging professors, fellow students, co-workers—and all too often, our comrades in the movement—calling on them to confront their own racism and other exclusionary practices.

As people of color, we are diverse and have complicated identities; we face discrimination, glass ceilings, sexual harassment, homophobia, classism, and ageism. We uniquely experience

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the criminalization and incarceration of brown and black men and women in the criminal justice system. For those of us who speak out against oppression, to work in the field of law and take part in the struggle for justice without analyzing race and privilege would be to disconnect ourselves from our histories and our experiences in this society. We challenge the misguided notion that racism is a problem of the past and that it is our “focus” or “obsession” with race that perpetuates racism. We reject the “color blind” approach to race in the United States for the distorted and deceptive ideology that it is. We are forever mindful of the massive structural change that needs to happen in the law in order for the law to truly represent the people.

In the face of this constant struggle, the experience of being a person of color in the field of law can be alienating, enraging, and isolating—until you realize that you are a part of a movement of other folks of color struggling along side with you, and that with our allies we can push for radical, progressive change in the law, in our communities, and in our own social justice movements.

The United People of Color Caucus (TUPOCC) of the National Lawyers

Guild (NLG) was born out of this resistance. Our caucus—an alliance of law students, legal workers, attorneys, and other people of color in the NLG—formed out of a pressing need to address issues of race and equality within the organization. As progressive people of color, we bring unique experiences to the Guild. We are motivated by the possibilities of justice and solidarity, and emboldened by the history of our ancestors who taught us to raise our fists and voices against racism and oppression. We are empowered by the reality of a contemporary struggle against racism that is present and real. We are a reminder that the NLG, like all other institutions, must look internally at its own patterns and practices, in order to ensure the social justice ideals we seek to support on a global level are reflected within the organization. We realize that our work together and with our white allies will only help the Guild increase its capacity to achieve its longtime mission to eradicate racism.

Toward this end, TUPOCC began 2005 with a strong focus on addressing race and racism within the NLG. At the January meeting of the National Executive Committee (NEC), Renée Sanchez and Ranya Ghuma presented a

report on TUPOCC's accomplishments since its founding at the October 2004 Birmingham Convention. We also presented TUPOCC's strategic plan for the next two years. The first objective of this strategic plan is to increase the recruitment and retention of people of color in the NLG.

By unanimous vote, the NEC adopted the proposal of TUPOCC to insti-

tutionalize the Student of Color Travel Stipend to ensure at least 25 students of color will be able to access funds to attend the next annual convention in Portland, Oregon. In addition, TUPOCC and the NEC will encourage regions and local chapters to continue to raise funds to send many, many more students of color to the convention. TUPOCC will also work on providing resources and guidance to

student chapters on building coalitions with student groups of color and other community groups, and to work with the National Office to strengthen membership materials in order to reflect TUPOCC's mission statement of encouraging people of color to join the Guild and assume positions of leadership within the Guild.

The second objective in TUPOCC's
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Alabama Manifesto

The United People of Color Caucus (TUPOCC) of the National Lawyers Guild (NLG) is an alliance of law students, legal workers, attorneys and other people of color within the NLG community. The necessity of such an organization is borne from the historical context of the capitalist United States where economic prowess is dependent on the furthered and continued subjugation of people of color, women, the poor, queers and other oppressed people. We are dedicated to fostering and supporting the growth and empowerment of all people of color, particularly within the organization of the NLG. We believe that meaningful social change and actual justice can only be attained when people of color and all other beleaguered communities are more than mere afterthoughts. Equality must be woven throughout the fabric of the organization. We seek to further educate ourselves and inform the larger NLG community about the issues that affect us and investigate the relationship of these issues to social justice. We strongly believe that this work cannot be done unaided, and we encourage support from our allies throughout the NLG in furtherance of our goals. We wish to provide all people of color opportunities in support of these goals, and when such opportunities are not available, to work with our associates and allies to create them. We seek to unite ourselves, represent our communities, achieve our potential, and function as a powerful force within the NLG, our chapters, schools, communities, the United States of America and the global population.

The United People of Color Caucus (TUPOCC) of the NLG has a multi-point strategy that we shall use to advance our mission:

1. Elect students of color and people of color into leadership positions within the NLG
2. Demand that white and privileged Guild members take accountability for their racism and other oppressive behaviors by joining us in examining and effectively changing the culture of the NLG. Together we believe that we can accomplish this goal by:
 - a. Meeting as people of color regularly to deal with oppression and other issues we uniquely experience as people of color
 - b. Encouraging all members who are not of this caucus to regularly attend meetings of the Anti-Racism Committee, or preferably, to join such committees.
 - c. Institutionalize an anti-racist agenda by creating policies in favor of and beneficial to eliminating racism and other oppressions. (e.g. making anti-racism an active and prioritized component of the National Convention)
3. Alter the focus of the NLG by learning how to be accountable to the communities that it seeks to support and protect.

Membership

Membership is open to all members of the NLG community who self-identify as people of color. There will be no arbitrary exclusion from membership on the basis of sexuality, religion, gender, gender presentation or identity, sexual orientation, disability or age. All other members of the NLG are invited to work with and support TUPOCC as allies in the pursuit of true justice.

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two-year plan is to foster a culture within the Guild that encourages self-criticism and an awareness of anti-racist practices. The NEC unanimously voted to be a formal signatory to TUPOCC's mission statement, the Alabama Manifesto, which is also printed in this issue of Guild Notes. In addition, Regional Vice Presidents and committees representatives at the NEC were presented with a "pledge" they could take back to their constituencies asking them to sign onto the Alabama Manifesto, to organize anti-racist trainings and workshops at the regional/local/committee/chapter level, and to continue to recruit students, legal workers, jailhouse lawyers, and lawyers of color into the NLG. Furthermore, the NEC voted to include an anti-racist training at every NLG annual convention, with a concurrent workshop for people of color in the Guild.

We thank all of you throughout the NLG who have supported TUPOCC and its mission of fostering a Guild that is truly anti-racist. We encourage our brothers and sisters of color, and our white allies, to continue to raise the issue of racism and speak out against inequality and injustice, and we look forward to working with you in the struggle. We are enthusiastic to see what the Guild will become in the future, and trust that the fabric we weave will continue to strengthen our movement. Let us always confront exclusionary practices, wherever we find them. And let us ensure that we truly do practice "law for the people" by ensuring that the "people" are represented in every aspect of what we are as the National Lawyers Guild. ■

Ranya Ghuma and Renée Sánchez are co-chairs of the United People of Color Caucus.

"Wall of Lawyers"

Report from the Cuba Subcommittee

By Molly Doherty, Marc Krupanski, Shauna Harrison

Most Guild members are aware of the tightened U. S. restrictions on travel to Cuba and scores are actively involved in defending or counseling U.S. travelers to Cuba. The NLG's Cuba Subcommittee has made this work a top priority. At the 2004 Guild convention in Birmingham, the Cuba Subcommittee presented a workshop on policy issues and practical working session to provide updates on the recent changes in the regulations and attempts at enforcement. This article summarizes and further updates these developments.

In response to a crackdown on travel to Cuba by the Bush administration in 2001, the Guild, with the Center for Constitutional Rights organized the "Wall of Lawyers" (WOL), a nation-wide network of lawyers willing to represent travelers targeted by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) for travel to Cuba. Through the WOL, a large percentage of Cuba-travelers contacted by OFAC receive advice and/or full representation from lawyers trained in this area. WOL provides ongoing updates, a network for brainstorming, and a brief bank.

"Trials for Travel" have now begun in Washington

Since October 2003, OFAC has appointed four administrative law judges (ALJs) to hear Cuba travel cases in the Washington, D.C. area, although two have already resigned or stopped taking cases. Two final decisions were issued as of February 2005.

In January 2005 ALJ Robert Barton issued the first final decision in a "trial for travel" case. He reduced by some 90% the penalty against Craig Ostrem, a Minnesota traveler who went to Cuba in 1999, compared to the amount the government had originally sought (from \$7,530 to \$780). Judge Barton held that Ostrem was entitled to a series of reductions based on mitigating factors and no aggravating factors. An "extraordinary mitigating factor" was the Ostrem's reliance on representations of a Canadian tour operator that the trip was a "fully hosted, completely legal dive." Ostrem is represented by Matthew Armbrecht, an NLG member from Minneapolis, who recently filed a request for review by the DOT Secretary's designee, the first step in the appeal process. The grounds for appeal range from constitutional rights to OFAC's violations of its own rules, and include issues not addressed by the ALJ, such as the fact that OFAC's own guidelines state that OFAC should just issue a "warning letter" for the first illegal trip by a Cuban-American visiting relatives (or for a bank which illegally wired money to Cuba), but that OFAC should seek \$7,500 for a first offense from other travelers subject to U.S. jurisdiction.

In a second case, NLG attorney Kurt Berggren from Ann Arbor represented Michael and Andrea McCarthy of Port Huron, MI. Judge Irwin Schroeder held a penalty hearing on December 6 after finding them in violation of OFAC travel restrictions based on prehearing motions akin to sum-