Ortiz Santini, Francisco
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The City University of New York
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The National Security Council during the Carter Administration and the liberation of the Puerto Rican Nationalists in 1979

FRANCISCO ORTIZ SANTINI
[Translated by Olga Sanabria]

ABSTRACT
The freedom of nationalists Lolita Lebrón, Rafael Cancel Miranda, Oscar Collazo and Irving Flores, released from prison in 1979, did not respond to an exclusively humanitarian gesture by a president whose administration promoted respect for human rights. Their release came about more as a consequence of the growing “intermestic” (international and domestic) crisis resulting from the challenge the four posed to the United States legal system.

Through documentation and analysis of the National Security Council (NSC) declassified Carter Administration documents, in this paper the author proposes to reveal the series related of events and internal NSC debates that finally led to the release of the Nationalists, thus permitting the United States to save face internationally and domestically in view of the unresolved colonial dispute affecting the people of Puerto Rico. [Key words: National Security Council, Carter Administration, Puerto Rican nationalists, political prisoners, human rights, Puerto Rico]
The proposed task will consist of narrating, analyzing and interpreting the deliberative process that eventually led U.S. President James Earl Carter to commute the sentences and order the immediate release of the four Puerto Rican Nationalist prisoners, who had served twenty-five years of imprisonment by the Federal Government for the armed actions carried out with the purpose of drawing attention to the colonial subordination of their homeland.

My task was aided by the recent declassification by the Carter Library of two files, which include documents produced and gathered by components of the NSC during President Carter’s Administration. One of the files includes the diverse initiatives taken for the release of the Nationalists; the other comprises documents regarding the possibility of a political prisoner exchange between the United States and Cuba which would involve the Nationalists.¹ I have also gathered and utilized newspaper articles published at the time by El Mundo, El Nuevo Día and The San Juan Star. The articles from the United States media that are quoted are part of the aforementioned NSC files. Finally, I have also utilized a number of authors whom I believe contribute to a more comprehensive understanding of the complex historical, political, social and juridical processes that in some way influenced some of the events discussed in this paper.

Although my aim was to frame my analysis in a historical-juridical context, I found it necessary to emphasize the historical context. This work is based on the aforementioned documentary sources, and on the analysis I have introduced in reaction to the development of the events narrated. The factual precedents that
led to the incarceration of the Puerto Rican Nationalists are omitted because, as they are generally known, the readers are probably familiar with them. Attention will focus mainly on the final stage of their detention in United States prisons.

The juridical element is incorporated into the analytical framework as the legal mechanisms at the disposal of the U.S. Government are discussed in order to explain their role in the sequence of events. In this regard, I should warn that it is not my intent to develop an exposition of the applicable conventional law used. Instead, I mean to discuss how the existing legal framework was utilized to complement postulates having to do with United States national security and convenience. Finally, I will formulate general conclusions based on the documentary evidence.

I hope this paper is useful in order that the reader gain a better understanding of the meaning and nature of the colonial relationship that joins the people of Puerto Rico with the present administering power, the United States of America, and the internal workings of what has come to be called its “permanent government”: the National Security Council of the president in office.

THE FINDINGS AND THEIR ANALYSIS

I. The first approach

For several years before their release, concern for the physical and emotional health of the nationalist prisoners Lolita Lebrón, Rafael Cancel Miranda, Irving Flores Rodríguez, Oscar Collazo and Andrés Figueroa Cordero had drawn attention to their situation. The prison where Lolita Lebrón was incarcerated was harshly criticized for maintaining her in isolation. The first initiatives for the release of the Nationalists came even before Jimmy Carter had been sworn in as President of the United States. In fact, at that time a strong movement in favor of the prisoners’ release was already evident. On March 5, 1976, attorney Emilio Soler Mari, president of the Legal Institute of Puerto Rico, had foreseen the release of the nationalist prisoners that same year. At the time he had pointed to “broad support” in the United States and also stated that Congressman Phillip Burton was willing to bring the matter up to President Gerald Ford. Burton was a democratic congressman from California and a steadfast defender of unconditional release for the Nationalists.

Several days later, the Puerto Rican Senate unanimously adopted Resolution 704, which had been presented by Senator Rubén Berrios. The resolution requested, *inter alia*, that the president of the United States release the Nationalist prisoners and stated that “several Puerto Rican governors had conceded unconditional pardons to all those imprisoned in Puerto Rico under U.S. government jurisdiction for their actions during the 1950s.”

Later, on April 1, 1976, the Puerto Rican House of Representatives adopted Resolution 813, which also requested that the President of the United States release the five Nationalist prisoners. This resolution also referred to the fact that “all the Puerto Rican patriots that were in prisons under the jurisdiction of the Government of Puerto Rico for similar reasons have been unconditionally pardoned by our governors.” That government entities elected by the Puerto Rican people referred to the Nationalist prisoners as “patriots” should immediately be noted. As far as the Puerto Rican people were concerned, the Nationalist prisoners were now considered the contrary of common criminals. As we will see upon further the analysis of developments, this reflects a change in attitudes and world vision that would later be key to the United States discussion.
II. Proposals and objectives

Early approaches to Jimmy Carter, then Governor of Georgia and presidential candidate, took place during the 1976 presidential campaign. On August 26th of that year, attorney Juan Manuel García Passalacqua wrote to the Governor of Georgia regarding the issue. As legal advisor of his Presidential Campaign Committee in Puerto Rico, Mr. García Passalacqua addressed Governor Carter and suggested that he consider making the campaign promise that he would free the five Nationalists. On September 10, 1976, the letter was answered by Carter’s Campaign Coordinator for Hispanic Affairs, Alexander Aguiar. Although he promised to consider the request, Aguiar told attorney García Passalacqua that in the United States the main opinion would be that the Nationalists were merely common criminals and not political prisoners.

President Carter began his term in 1977, the same time that annexationist governor Carlos Romero Barceló was beginning his term in Puerto Rico. At the onset the Carter Administration took a step toward the reevaluation of the political relationship between the United States and Puerto Rico (García Passalacqua 1994: 119), and the NSC would play an important and even vital role in the deliberations that would lead to the freedom of the Nationalists. Significantly, the first document of the NSC on the matter was an article published on August 28, 1977 by The New York Times, the influential daily newspaper. The article let the NSC know its evaluation of Puerto Rican public opinion as expressed by the political, economic, social and religious institutions of the country:

Puerto Ricans of all political persuasions agree that the five in Federal prisoners should be released. Their theory is that in prison the five are symbols for youths who believe in independence, but once free they would fade into obscurity.

In recent months, four former governors, both houses of the Puerto Rican legislature and church, political and civic groups have asked that they be released.

An exception is Gov. Carlos Romero Barceló.

“As long as there are no regrets on their part, or even recognition of having committed crimes, this request should not be considered seriously,” he said.

It should be noted from the beginning that the information medium does not report its position but rather its view of the position of the Puerto Ricans on this delicate matter. At the moment the reasoning was not humanitarian but, instead, was based on what the five would symbolize to pro-independence youth if they remained imprisoned. Thus, it was admitted that their release was a political ploy in order that they be “lost to oblivion.” But this was not the only consideration.

On May 10, 1978, attorney Robert L. Keuch, of the Department of Justice, answered a request from Lee R. Marks, a legal advisor to the Department of State, for information on a possible exchange of prisoners with the government of Cuba. After relating the events – and emphasizing that during the attack on Congress Lolita Lebrón had shot at the dome of the Congressional Chamber, and not at the legislature – Keuch pointed out that
Any determination as to the extent to which the prisoners will engage in “political activities” of the type that spawned their current problems must start with the nature of their release and what if any conditions we try to impose on them.

Based on the United States citizenship of the prisoners, Keuch argued that the release of the Nationalists should not prevent the imposition of conditions on their freedom; conditions that “we must be prepared to enforce.”

Thus, the matter of the release of the Nationalists began to gain momentum in the NSC. On May 31, 1978, the top official responsible for Latin American relations in the NSC, Robert Pastor, addressed a memorandum to presidential advisers Joseph Aragon and Al Stern, for Hispanic and domestic affairs, respectively, asking their opinion regarding the impact in Puerto Rico and the United States of pardoning the sentences of those he was already calling “Puerto Rican independence fighters.”

Less than a week later Stern answered Pastor confirming that Governor Romero Barceló “objected strenuously” to the liberation of the Nationalists, unless they admitted their responsibility and promised that they would not promote violent actions in the future. Stern’s primary concern had to do with the possibility that this matter would become an embarrassing issue for the United States, since it was believed that Amnesty International was about to determine that the nationalists were “prisoners of conscience.”

Stern’s memorandum can be understood as the domestic policy document that would guide the deliberations within the NSC on the thorny issue of the Nationalists. Romero Barceló’s opposition to a pardon posed an unexpected obstacle in the process since the public’s impression was that the commutation of Nationalist Andrés Figueroa Cordero’s sentence had been in response to a request Romero Barceló had put to Carter given Figueroa Cordero’s poor health. In the face of the categorical refusal of the Governor regarding the release of the remaining Nationalists, and given the fact that the Nationalists would not request executive clemency, Stern proposed in his memorandum to Pastor the more viable option that a “third party” request it. According to Stern, an exchange of prisoners should be discarded:

If... they are released as part of a larger swap arrangement, there is no doubt that that would be perceived as admission that they [the nationalists] are and were political prisoners which we have heretofore strenuously denied. (Emphasis added.)

Nevertheless, Stern himself immediately admitted that he was not “confident at all that denials of that status [as political prisoners] or as motivation for the release will be plausible to anyone concerned.” Finally, Stern warned “that as much as possible, Cuba and its government be involved, publicly and privately, as little as possible.”

As will be noticed, the presence of the topic of Cuba in these conversations departed from Cold War rhetoric. Notice the implicit admission that the Cuban government was participating in these developments; the issue was the extent of participation, not participation as such. This lets join several assumptions. First, relations between the United States and Cuba were different from the way they
were publicly perceived. Second, that the Cuban government participated and collaborated in these events. The level of participation and collaboration by the regime of Fidel Castro should be considered separately because that will allow us to see this particular historical process, and the nature of the United States relation to Puerto Rico in general, in a different light.

III. The Cuban alternative

There is no doubt that the new administration gave early signs of interest in normalizing relations with Cuba. Of course, one of the mechanisms considered for the normalization of relations was the possibility of exchanging the Nationalist prisoners for Americans incarcerated in Cuba.

Contrary to Stern’s recommendation, the route of a possible exchange of prisoners with the Cuban government was not immediately discarded. For example, on 14 June 1978 a list of hypothetical questions and answers prepared for President Carter by his advisors, included a question regarding a Washington Post report that the Cubans had offered to release Larry Lunt, a presumed CIA spy who was serving a 30-year prison sentence in Cuba, for Lolita Lebrón. Among the possible answers considered was one in which the President’s response was that “the exchange of prisoners proposals are worthy of consideration.”

On June 20, 1978, President Carter’s national security advisor Zbigniew Brzezinski received a request for authorization from Peter Tarnoff, a U.S. State Department official, in order to begin negotiations with the Castro government on the possible exchange of prisoners. According to Tarnoff’s communication, two days earlier Castro had granted a television interview regarding the possible exchange of the Nationalist prisoners for Lunt and three other U.S. prisoners. “[T]his expression of interest on Castro’s part changes the picture,” affirmed Tarnoff. Another memorandum addressed to Brzezinski on June 22 by a member of his staff, Jessica Tuchman Mathews, and approved by Robert Pastor and Madeleine Albright, urged serious consideration of Castro’s proposal. Mathews affirmed that if we respond negatively to this proposal, we will be seen as stonewalling a human rights initiative by Castro and we would likely be the unhappy recipient of considerable political pressure in the US.

As a result of the Cuban offer the NSC debated the possibility of carrying out an exchange of prisoners that would lead to the release of the Nationalists. The body received outside pressure in favor and against such mechanism. Significantly, the Secretary of Justice was one of the voices that in principle favored the prisoner exchange formula. Nonetheless, it was New York Congressman Benjamin Gilman, who together with his New York colleague, Jonathan Bingham, became the main voices in favor of the exchange.

In January of 1979, during a meeting with Fidel Castro, a U.S. Congressional delegation including Gilman and Bingham requested the release of U.S. prisoners held in Cuba. Consequently, on April 3, 1979, Congressman Gilman sent a memorandum to Brzezinski in which he proposed going ahead with the exchange of the U.S. “political prisoners” being held in Cuba for the Puerto Rican “separatists.” He recognized the “severe problems, of legal nature, that require discussion before this matter can be finally resolved.” In his memorandum Gilman advised Brzezinski that the arrangement transaction with the Cuban government should not be considered a “prisoner exchange,” since Castro had suggested that it be taken “as a proposal for unilateral gestures based on humanitarian considerations.”

Since the Nationalists refused to request it of their free will, the congressman went on to present a juridical study he had commissioned to explore the release options. The study of the prevailing jurisprudence led Gilman to suggest that the Nationalists could be released even if they did not request it. He suggested acceptance of Governor Romero Barceló’s suggestion that conditions be imposed on the Nationalists’ release to ensure they would not again resort to violence.

On April 12, 1979, Brzezinski expressed his gratitude to Congressman Gilman in a note in which, interestingly enough, he also adopted the view that the U.S. prisoners in Cuba in fact were “political prisoners,” although he did not refer to the Nationalists in similar fashion. Brzezinski assured the congressman that the administration had been considering these matters for a while and would continue to do so in the future. Congressman Gilman moved ahead with his efforts. In a memorandum dated March 29, 1979, Robert Pastor informed Brzezinski of the intense lobbying Gilman was carrying out in favor of the exchange. Pastor then took advantage of the opportunity to point out that presidential secretary Kraft “[t]hought there were important political dividends in the liberation of the Puerto Ricans[.]” (Emphasis added.)
IV. Setbacks, advances and obstacles

At first, the attention of the NSC on the Puerto Rican Nationalists was centered on Andrés Figueroa Cordero and Lolita Lebrón. As mentioned, President Carter freed Figueroa, who was afflicted with cancer, in October, 1977. The action was publicly justified as a humanitarian act based on Figueroa’s
delicate health. For the same reason, he was no longer considered a threat. According to a September 26, 1978 memorandum from Pastor to Brzezinski and his assistant David Aaron, the request for Lolita Lebrón's pardon was to be rejected by President Carter. Despite this initial rejection, rather than lose strength, the matter concerning release of Lebrón and the other three Nationalists continued its momentum.

In his September 26, 1978 memorandum to Brzezinski and Aaron, Pastor discussed whether President Carter should be asked to reconsider his refusal to pardon Lolita Lebrón. Based on her behavior while in prison and her personal circumstances, he developed a strong defense for her release and immediately extended his proposal to Irving Flores, Rafael Cancel Miranda and Oscar Collazo:

After reading through the voluminous record on these three individuals, I am struck at how pathetic these three cases are, and at how compassionate the decision would be to release these three individuals. One can never say with certainty whether or not they would be violent, but frankly, after 25 years in prison, these three individuals seem broken. I have come to believe that the risks of releasing them unconditionally are minimal, while the benefits — as a humanitarian, compassionate gesture — are considerable. I also believe that the President would obtain considerable political benefit in Puerto Rico as there is widespread support for such a move there. A decision around Christmas time would be appropriate. (Emphasis added.)

This exposition proved persuasive. Brzezinski requested the U.S. Secretary of Justice to formulate a recommendation as to whether President Carter should pardon or commute the Nationalists' sentences. Pastor's initiative in favor of these persons' release did not stop there. The route of open discussion of the Cuban proposal would also give this important official justification to explore a solution based on the prisoner exchange option.

The movement in favor of extending pardon continued to grow. Several members of the U.S. Congress, including the prominent Puerto Rican figure, Robert García, a New York Democrat, wrote the President requesting the unconditional release of the Nationalists. Coincidently and during a press interview in Tennessee, Franklyn Delano López, Puerto Rican President of the recently created Democratic Party of Puerto Rico, referred to the Nationalists as political prisoners.

Despite this, in a memorandum he addressed to the President on December 21, 1978, Secretary of Justice Griffin Bell recommended that the President not give in to the freedom of the Nationalists as they had not and would not ask to be released. Apparently, the Secretary's objection was based on Figueroa Cordero's post-release public statement in favor of revolutionary violence. However, the official's words lead one to believe that the Cuban proposal was a possible route. Below his signature and in his handwriting, Secretary Bell affirmed that he would “oppose the release of these four prisoners except as part of a prisoner exchange or some other foreign policy ground which, if possible should be stated.” (Emphasis added.)
V. The first failed attempt

Thus, the discussion on the freedom of the Nationalists gained ground in Puerto Rico as well as in the United States. On December 28, 1978, the front page of The San Juan Star, a daily newspaper, reported that Carter had asked Secretary Bell to study the possible freedom of the Nationalists.\(^{32}\) The paper emphasized that "[t]he first time a president has personally involved himself in the case." It also reported the existence of a movement for the release among members of Congress. The following day El Nuevo Día reported on a Justice Department paper already in White House hands, whose content was unknown.\(^ {33}\) The same day Pastor sent a memorandum to David Aaron, whose language could be interpreted as affirming the existence of a consensus in the NSC to recommend that President Carter pardon the Nationalists. Thus, the only remaining obstacle was opposition from the Secretary of Justice. Pastor "strongly" recommended that before any announcement a number of Congresspeople and Senators, Puerto Rican ex-governors as well as its present governor and a number of other people be contacted in order to ensure that the announcement be received by an immediate and positive response.\(^ {34}\)

As stated in Pastor’s September 26th memorandum to Brzezinski and Aaron, the intention of the members of the NSC was that a pardon of the Nationalist be granted during the 1978 Christmas season. But this was not to happen.

On January 2, 1979, Franklin Delano López wrote President Carter reiterating once again the petition for a pardon.\(^ {35}\) He pointed out that "[t]here is practically a unanimous support by political, religious and civic leaders in Puerto Rico supporting a Presidential pardon for the four Puerto Rican Nationalists." But under the circumstances unanimous support for the pardon was not enough. Recent developments had led Governor Romero Barceló to express his opposition directly to the President. In a January 8, 1979 letter addressed to President Carter he expressed his strong opposition to the freedom of the Nationalists.\(^ {36}\)

Even while expressing that he “share[d] the sentiment that they [the Nationalists] have been imprisoned a sufficiently long time to qualify them for consideration of executive clemency under normal circumstances[,]” Romero Barceló emphasized the violent nature of the Nationalist Party of Puerto Rico and affirmed that "[t]he gravity of the crimes for which they were sent to prison, and for which they refuse to admit guilt or show repentance, attests to the four prisoners' fanatical disregard for individual rights, human life, and free institutions of government." The Governor also gave the example of Figueroa Cordero’s behavior in Puerto Rico, recalling that he had supported his release for strictly humanitarian reasons. According to Romero Barceló, through his behavior upon returning to Puerto Rico, Figueroa Cordero was evidence "of what may be expected if the other four are also allowed to go free unconditionally."

Romero Barceló’s argument did not stop there. He pointed out that the Nationalists should be demanded to express remorse and a commitment to obey the law, and that if they did not do so “they can confidently be expected... to continue to trumpet their defiance of the President of the United States, and of the nation he was elected to lead.” According to Romero Barceló, freeing the Nationalists was equal to tacitly admitting that they were in fact political prisoners. He also expressed the fear that their freedom could be a “grave mistake” that could make “more difficult the discharge of your solemn duty to preserve domestic tranquility throughout the nation, as well as my solemn duty to maintain public order in Puerto Rico.” But the Governor’s letter went even further. Romero Barceló closed his extensive communication by pointing out to Carter that “[t]hose who pressure you”
to liberate the prisoners would not share with the President the consequences of further political actions of the freed prisoners, should they “engage in, propose, or encourage another attack on Congress, assassinate or injure anyone in Congress or in Puerto Rico, or disrupt the peace and tranquility of our island.”

January 11, 1979 marked what might be called a setback in the quest to liberate the nationalists. That day The Washington Star, a conservative daily newspaper, published an article about the “tough decision” Carter would have to make regarding liberation of the Nationalists. Under the mistaken assumption that the Justice Department had favored their pardon, the paper pointed out that the issue was more complex because of Carter’s known commitment to human rights and the proximity of the first presidential primaries to be held in Puerto Rico. The article also affirmed that the request for the release of the Nationalists by four ex-governors of Puerto Rico had been answered with “equal force” by Romero Barceló and that in Puerto Rico public opinion on the matter was considered “divided.” In contrast to Pastor’s description on September 26, 1978 of Lolita Lebrón as a nonviolent person, The Washington Star quoted persons “familiar” with the case as stating that they have visions of the Nationalists flying to Cuba to receive a hero’s welcome from Fidel Castro while Carter’s human rights policy is depicted as hypocritical. Lebrón, particularly, is considered as fiery a revolutionary as she was 25 years ago, when she declared: “I did not shoot to kill. I shot to acquire freedom for my country, and I am not sorry for what I did.”

It seems evident that Romero Barceló’s letter to Carter was effective. The same day, January 11, 1979, memoranda regarding this communication were distributed among White House and NCS officials. It was said that the governor’s letter “alters everything being planned by us.” It was considered “very powerful,” and that “it sounds almost like it was written by [the] Justice [Department].” Given this unexpected development, Pastor suggested that the letter be made public to “let the Puerto Ricans fight it out.” It was also stated that, “[i]t will be very difficult for the President to take the release step in light of this letter.” Meanwhile, there was speculation in Puerto Rico regarding the Justice Department report’s recommendation. El Nuevo Día even reported that those close to President Carter are convinced that he has every intention of extending the pardon, but Governor Romero Barceló’s constant opposition and his description of the prisoners as “criminals as opposed to political prisoners,” has made it impossible for President Carter to decide on the matter, and official sources state that Carter respects the wishes of the Puerto Rican head of state.

VI. A politically charged atmosphere
This apparent setback would cost the Nationalists several more months in prison. But rather than discourage efforts in favor of their release, it resulted in the strengthening and consolidation of support in Puerto Rico. The National Lawyers Guild, the Brotherhood of University Employees, the Puerto Rico Bar Association, the National Puerto Rican Forum and the Evangelical Council of Puerto Rico,
all expressed or reiterated their petitions that they be liberated. Cardinal Luis
Aponte Martínez affirmed that he would “continue to struggle” for the liberation
of the Nationalists and stated that this was the unanimous position of the country’s
bishops. According to The San Juan Star, Carter’s decision in favor of a pardon had
been set back when he received Romero Barceló’s letter against it, and that
despite numerous appeals from leading political, civic and church
personalities, a strong though largely silent current of public opinion
reportedly backs Romero in his opposition to a pardon for the
Nationalists. 

From then on the political atmosphere in Puerto Rico and the United States began
to signal a meltdown. On January 14, 1979 it was reported that there has been shots
against the business of the notorious anti-Castro militant, Julito Labatut. Toward
the end of the following month a terrorist group that had been unknown until then
set off a bomb to commemorate the Nationalist attack on Congress and demand
release of the prisoners. However, with our present knowledge of leftist and right-
wing insurgency and counterinsurgency activities, it would be hasty to blame these
violent acts on elements identified with the independence of Puerto Rico (García
Passalacqua 2000). In the struggle to influence public opinion, those acts could well
have been conceived in order to undermine support for the release movement by way
of old fears. After all, those consistently rejecting the release of the prisoners mainly
argued that it would generate more acts of violence.

Be it as it were, these events caused no apparent damage to the release efforts.
This tends to suggest the general consensus in Puerto Rico and even in the United
States regarding the real ideological motivation behind the violent acts at the end of
February 1979. Differences on the matter began to take root within the governing
New Progressive Party, a clear sign that Romero Barceló’s position was now
unsustainable, even within the pro-annexationist sector. On January 16, 1979 Puerto
Rico senator Calixto Calero Juarbe presented a resolution calling for the liberation
of the Nationalists. The resolution conceded that the four were political prisoners
and stated that their imprisonment “responds to a political ideal or principle.”
Nonetheless, shortly thereafter, Calero voted against his own resolution, only to
present it again several days later. Miguel Hernández Agosto, president of the
opposition Popular Democratic Party, also requested the release of the Nationalists.

In protests and demonstrations Governor Romero Barceló was blamed for the
failure of the attempt to liberate the Nationalists. The governor’s colleague and
mayor of San Juan, Hernán Padilla, made known his disagreement with the former
by stating that he “had no objection to seeing them free.” At the other extreme of
the Puerto Rican political spectrum, the pro-independence sectors formulated their
own public statements. More than one thousand people picketed the Governor’s
residence at La Fortaleza. During the picket attorney Soler Mari expressed his
opinion that the Nationalists would soon be released. In a January 22, 1979 article
titled “The Nationalists,” The San Juan Star joined petitions for a pardon based on
reasoning that

The Nationalists are a risk in prison or out. They will more likely be seen
as martyrs inside than they will outside.
The editorial also recognized that Romero Barceló was “virtually alone” in his opposition to the release. The “strong though largely silent current of public opinion” that The San Juan Star had at times previously identified as supporting the governor had suddenly disappeared from the public scenario.

It is obvious that the governor’s inflexible position eroded his support amongst the Puerto Rican people. The NSC was able to see that his adversaries correctly pointed out that Romero Barceló’s serious political mistake, which the Puerto Rican press took it upon itself to report, was damaging to his electoral possibilities. Since the governor was conscious of this reality he admitted that he had been “hurt politically” and started to change his attitude. His demand in exchange for support the pardon was reduced to the Nationalists commitment that upon release they would not promote violence. The condition that the Nationalists show remorse was suddenly eliminated.

Although he was alone in his strong opposition, Romero Barceló had detained implementation of the NSC’s consensus on the release of the Nationalists in 1978 or the beginning of 1979. This was a serious problem for the Carter Administration as reflected in press articles of the time. In its March 10, 1979 edition, The New York Times put forth the following analysis:

The division of opinion is seen as creating a political problem for the White House, which is eager to protect Mr. Carter’s popularity in Puerto Rico.

On the one hand, officials in Puerto Rico, including those who share Governor Romero’s view, acknowledge that there is widespread public
sentiment on behalf of the jailed Nationalists, who have become a symbol of unfair treatment even to those who disagree with them. On the other, the White House is known to be worried that any bloodshed would be on the President’s hands if the nationalists went free.⁵⁶

VII. Revival of the Cuban option

Apparently the situation described would give new life to the option of a prisoner exchange with the Cuban government, which was an alternative to the aborted pardon. The Nationalists’ imprisonment had, in fact, become a symbol that might be strengthened with the passage of time. In the face of the unexpected obstacle presented by Romero Barceló’s position, those in the NSC favoring release were forced to explore other routes to overcome the institutional opposition within the body. The Cuban proposal, which had never been totally discarded, then became more attractive.

In an apparent coincidence, at the beginning of February 1979, it began to be known in Puerto Rico that Fidel Castro had offered to free four U.S. spies imprisoned in Cuba in exchange for the freedom of the Nationalists.⁵⁷ On February 13th, Pastor sent Brzezinski a memorandum informing him of New York Congressman Benjamin Gilman and Jonathan Bingham’s interest in an appointment with the President regarding the possible exchange of prisoners.⁵⁸ The draft memoranda submitted by Pastor for Brzezinski’s signature and the February 13th communication demonstrate his interest in promoting the Cuban option as an alternative route to liberating the Nationalists.⁵⁹

VIII. The colonial knot begins to become undone

The metropolitan psyche

Those in favor of an unconditional pardon continued their efforts to pressure the NSC and President Carter himself.⁶⁰ On April 2, 1979, attorney Soler Mari, who identified himself as “one of the legal representatives of the four Puerto Rican Nationalist Prisoners,” presented to the federal Department of Justice Office of the Head Counsel for Pardons a request for this office to go ahead with the procedure for commuting the sentences of the Nationalists.⁶¹ As part of his request attorney Soler Mari emphasized as an important fact that the four Nationalist prisoners were the longest held political prisoners in the United States as the present time. We have to acknowledge that the continuation of these sentences for more than twenty-five years serves no legitimate purpose and constitutes a violation of human rights.

Attorney John R. Stanish, an official of the Justice Department Office of the Head Counsel for Pardons, answered attorney Soler Mari in a letter dated April 16, 1979, which I consider one of the most important documents regarding the matter of the freedom of the Nationalists.⁶² The “interpretation” that can be read into Stanish’s response to attorney Soler Mari’s letter would bear fruit in the form of the procedural disentanglement of the Nationalists’ release. It partially reads as follows:
Your detailed letter appears to meet the basic requirements of our clemency application procedure. I accept it only on the assumption that it represents a formal petition to the President for commutation of sentence for each of the above-named individuals and is submitted by you as their authorized representative.

In accepting the petition for processing I neither accept nor agree with your characterization of these four individuals as “political prisoners”. They were tried and convicted under the ordinary processes of law of felony violations of the criminal law and the judgment of conviction in each case was affirmed on appeal. Moreover, I do not acknowledge that their continuation of their sentences constitute a “violation of human rights”. (Emphasis added.)

As can be seen, Stanish's response to attorney Soler Mari's letter stands out for its selectivity. On the one hand, it took for granted, without further ratification or even clarification, that attorney Soler Mari’s communication was a request for commutation of the prison sentences from an authorized representative. Thus, the U.S. Department of Justice used attorney Soler Mari’s letter as a justification for initiating the legal procedures intended to fulfill an elusive objective of the government, which was to have an adequate legal justification for the decision to release the Nationalists without any concession to the idea that the four were considered political prisoners.
On one hand, the U.S. attorney rejected the characterization by the Puerto Rican attorney that the Nationalists were political prisoners. Although correspondence from a representative of the Puerto Rican people was used for the purpose of going ahead with the legal procedures for releasing the prisoners, at the same time there was a rejection of the view Puerto Ricans had presented to the United States on the historical reality that led precisely to the Nationalists’ attacks on The Blair House and the U.S. Congress during the 1950s.

Stanish’s reasoning for answering in the manner that he did was that the Nationalists were common criminals, since they were U.S. citizens who had incurred in acts that were punishable in conformity with the U.S. legal system; they were not freedom fighters. What was important to the metropoli was what these indolent subjects had done, not why they had done it (Fernández 1992: 241). Consequently, these “common criminals” had received the “due process of law guarantees,” which are applicable to all citizens and which justified their long imprisonment. Any type of concession that the reality of the Nationalist prisoners was different was thus precluded.

The U.S. judicial system provided the basis that justified, in the eyes of the U.S. governmental apparatus, the repression of persons characterized as Puerto Rican freedom fighters. All this was true due to three fundamental legal paradigms: U.S. citizenship, the so-called “Insular Cases” and the power of Congress to “acquire and administrate territories” in conformity with the so-called “Territorial Clause” of the U.S. Constitution (Rivera Ramos 2001: 55). Thus, the action of the Nationalists was reduced to an illegal act, which, deprived of all political-revolutionary legitimacy, justified its repression for attempting rebellion against the U.S. system and its juridical values. In this regard, it has been pointed out that

[the fear and terror induced by the overscale images of “terrorism” and “fundamentalism”—call them figures of an international or transnational imaginary made up of foreign devils—hastens the individuals subordination to the dominant forms of the moment. This is true in the post-colonial societies as it is in the West generally and the United States particularly. Thus to oppose the abnormality and extremism embedded in terrorism and fundamentalism—my example has only a small degree of parody—is also to uphold the moderation, rationality, executive centrality of a vaguely designated “Western” (or otherwise local and patriotically assumed) ethos. The irony is that far from endowing the Western ethos with the confidence and secure “normality” we associate with privilege and rectitude, this dynamic imbues “us” with a righteous anger and defensiveness in which “others” are finally seen as enemies, bent on destroying our civilization and way of life (Said 1994: 310).

The dilemma that was beginning to set off a crisis for the Carter Administration was that the Nationalist prisoners, contrary to the U.S. tradition regarding human beings deprived of their freedom, would not come under the “benefits” the correctional system offered them: conditional release or executive pardon. The Nationalists would not come under these simply because they would not request

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them. Lolita Lebrón’s attitude made the dilemma particularly difficult for U.S. authorities. Because she was the only woman in the group and the first to be given the opportunity to request probation, the U.S. government saw her imprisonment as the most sensitive and dangerous matter in a situation that was beginning to set off a crisis. Besides this, Lolita Lebrón had stated that she would not accept her release if it was not also offered to other Nationalists under the same terms, as was emphasized in the newspaper El Mundo on September 7, 1979.63
As was their attitude from the beginning, the Nationalists refused to participate in anything having to do with life and social behavior as defined and imposed by the colonial relationship. Thus, the U.S. power structure, headed by the NSC, would have to direct its efforts to bringing about a way of undoing the knot of the colonial dilemma which in the end was forced by the daily sacrifice of the Nationalists.

IX. The inner workings of the release plan

On April 18, 1979, attorney Stanish wrote to Brzezinski and Secretary of State Cyrus Vance. In the name of the Secretary of Justice he asked their opinion, “with particular reference to national security considerations,” regarding the concession of executive clemency to the prisoners. To Stanish the matter was urgent to the point that he asked these officials to answer within the following fifteen days. But the answer of the head of the NSC would take more time.

By May 1979 there were three drafts circulating as possible responses to Stanish from the chief advisor for national security. The three drafts included Brzezinski’s approval of the liberation of the Nationalists. Each draft differed in regard to the length of the arguments justifying the procedure. The third draft, the longest of the three memoranda justifying to Carter’s National Security Advisor the concession of a pardon, was probably Brzezinski’s definitive response, which included the justifications presented in the other two drafts as well as additional ones.

This draft emphasized that no other woman in the hemisphere had been in prison as many years as Lolita Lebrón for the type of illegality for which she was condemned; that the United States would be criticized less because of the Nationalists if they were out of prison than in prison; and that virtually all Puerto Ricans would see the commutation of the sentences as a compassionate and humanitarian gesture. Further, it stated that there was an international perception, not accepted by the U.S., that the Nationalists were political prisoners; that freeing the Nationalists would remove the matter of their imprisonment from the agenda of U.S. adversaries at the United Nations in general, in the Movement of Non Aligned Nations; and in particular would deflect the criticisms of Latin American countries during the Pan American Games soon to be held in San Juan. The draft also advocated that as a gesture of reciprocity a prisoner exchange should be considered, in which Fidel Castro would agree to free the U.S. prisoners he held; and asserted that Carter’s prestige as a world champion of human rights would be enhanced as a result of this “significant humanitarian gesture.”

As can be seen, of the reasons given by Brzezinski, only the first actually took the prisoners into account, and only by way of Lolita Lebrón. Evidently, the release of the Nationalists implied some risks – and potential benefits – that were considerable from all points of view of the NSC, as reflected by the quantity and quality of the reasons Brzezinski put forth for the release. It should also be noted, that the “Cuban option” was included, although modified, among the reasons that justified the release of the Nationalists. The word “exchange” was substituted by the expression “gesture of reciprocity,” which was more comfortable and neutral. The freedom of the U.S. prisoners in Cuba should be seen as a “natural and good faith” palliative act of the Cuban government responding to a similar and unilateral gesture by the United States, and not as a prisoner exchange, which had such a political ring to it.

It is also logical to assume that the NSC was interested in making it clear to the Department of Justice – a domestic U.S. agency traditionally hostile to the liberation of the Nationalists– that there were several important reasons that had surfaced over
time and that required that the metropolitan power act before the symbolism of freeing the Nationalists went beyond the “domestic” mold in which the U.S. usually contained this type of matter. To make sure the message hit home, Brzezinski did not stop at answering the communication from Stanish; he also assigned Pastor, the official most committed to the policy of releasing the Nationalists, to personally convey his points to Stanish himself.66

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Once it was evident to them that they had the situation under control, the NSC discouraged those who favored the option of using the Nationalists in exchange for the freedom of U.S. prisoners held in Cuba. Regarding this matter, the desire for the release of the alleged spy, Larry Lunt, was especially noticeable. His family was considered to have a lot of political weight in Congress.67 While the NSC was communicating its instructions to the Department of Justice, on May 11, 1979, Robert J. Lipshutz, advisor to President Carter, was writing to congressional representatives interested in Lunt’s release and informing them that the Department of Justice was accepting a request for the commutation of the Nationalists sentences.68 They were told that such an action apparently complied with at least the minimal necessary requisites, and the request for executive clemency was being evaluated “in the proper manner” by the Department. The Cuban option, as it was originally conceived, was suddenly discarded. The freedom of the prisoners held in Cuba should take place as a “gesture of reciprocity” in response to the “humanitarian initiative” to be unilaterally carried out by the United States.

X. Another delay
The next matter that would require the attention of the NSC was the timing of the announcement regarding the release of the Nationalists, having in mind that in July of that year San Juan would be the venue for the Pan American games. A June 7, 1979 memorandum enthusiastically proposed the announcement be made before the games, but that the release should not take place until their conclusion.69 This strategy was described as “the best of both worlds.” It would remove the matter of the Nationalists from the agenda of the games; at the same time, those who would exploit this matter during the sports competition would be deprived of “human symbols.” It was emphasized once again that it would be helpful to obtain Governor Romero Barceló’s support for the release.

However, the release of the Nationalists would be delayed once again. A June 18, 1979 memorandum from Lipshutz to Pastor and Apodaca informed the two that he had had an extensive discussion with the new Secretary of Justice, Benjamin Civiletti,
and that “for very valid” reasons the Department of Justice would not make a recommendation to Carter on the matter of the pardon until mid-July. What brought the U.S. bureaucratic machine to a halt this time? Although there is no direct documentary proof, the answer seems to be the exchange of correspondence still taking place between members of the executive and legislative branches, who insisted on the exchange of prisoners with the Cuban government. There is a two-point explanation for the postponement.

On the one hand, a June 22, 1979 letter from Secretary of State Cyrus Vance informed Ms. Townsend Hoopes, then President of the American Publishers Association, that the administration did not see the matter of the Nationalists “as an exchange [of prisoners].” Despite the continuous signals from the administration that the exchange of prisoners with Cuba had been discarded, those who favored this route did not give up easily. On June 23, 1979, Congressman Gilman sent President Carter a letter once again favoring the exchange of prisoners. To Gilman the difference between the Puerto Ricans and the North Americans was clear. Thus, he insisted on “the proposal that the Puerto Rican nationalists be released so that our citizens may be brought home.” (Emphasis added.) Gilman expected “that now this entire problem may be quickly resolved so that we may finally bring our prisoners home.” (Emphasis added.)

On the other hand, on July 31, 1979, Congressman Gilman addressed a letter to Lipshutz in which he referred to the situation of the North Americans being held in Cuba, whom he considered political prisoners, and to the situation of the Nationalists. Further on he pointed out that “we had been advised that this proposal [regarding the liberation of the Nationalists] was being delayed at the request of Governor Romero until the completion of the Pan American Games.” (Emphasis added.) Thus, although the probable complicity of the Justice Department should not be ignored, the so-called “very valid reasons” cited by Secretary of Justice Civiletti for the new delay in the release of the Nationalists could again be traced to initiatives of the Governor of Puerto Rico at the time. This also coincided with a point made in the June 18, 1979 memorandum by Lipshutz, namely, that all consideration of this matter would be postponed until mid-July, which is also when the Pan American Games would be held.

XI. The final stage of an ordeal

At the beginning of August 1979, in the face of a challenge by members of the recently founded Democratic Party of Puerto Rico, Secretary of Justice Civiletti refused to make any public statement regarding the case of the Nationalists. The only reason he offered was that he “[had] not had the time to study in detail the material received from my predecessor Bell[,]” but “as soon as I revise the material I will send it to the White House with all my recommendations.” He was apparently pressured by sectors in the Democratic Party of Puerto Rico who differed with Romero Barceló and for this reason he then decided to act quickly. On August 24, 1979, Civiletti sent President Carter an extensive letter recommending that he concede executive clemency to the prisoners. According to the Secretary, the procedure now culminating with the recommendation that the Nationalists be liberated was based on the fact that “[a] letter from an attorney who states that he is their legal representative has been accepted by the Pardon Attorney as a petition for clemency.”

It should be noted that the language describing the letter is very cautious as to the understanding of the functionaries regarding its meaning. No one, not even the Secretary of Justice or his advisors, questioned whether attorney Soler Mari really
represented the Nationalists or whether the Pardon Attorney had acted in conformity to the law when he accepted the letter from the Puerto Rican jurist as a petition for clemency. At that point, several days before Civiletti relayed his recommendation to the President, a group of international jurists meeting in New York denounced the existence of political prisoners in the United States, and mentioned Lolita Lebrón specifically.76

The letter from the Secretary of Justice to the President included the compendium of justifications articulated during months of deliberations by the NSC. Among those, the letter stated that the liberation of the Nationalists had the support of the majority of high-ranking Justice Department officials and would be seen by the majority of Puerto Ricans “as being in the interest of justice.” It also stressed that “[t]he current consideration of clemency is in no sense part of any planned prisoner exchange, and we have not considered that possibility in our judgment on the merits of these cases.” (Emphasis added.) Finally, the letter alluded to the “foreign relations implications” of the liberation and that some government officials believed that the release would be a humanitarian gesture serving the interests of the United States.

News regarding the Justice Secretary’s recommendation was received in Puerto Rico several days later, but it did not reflect reality. *El Mundo* published a dispatch from a North American correspondent in Washington stating that the Pardons Attorney had recommended that the Nationalists be released but that “the controversial commutation recommendation was on the desk of Attorney General Civiletti, who can change it before it gets to the White House.”77

In the meanwhile, a September 4, 1979 memorandum from Lipshutz and Brzezinski informed the President of their full agreement with the recommendation contained in the Justice Secretary’s August 24th letter.78 The officials informed Carter that former secretary Bell had decided that the petition of a lawyer, who said he was a represented the Nationalists, complied with the minimal basic requisites for a clemency petition. The memorandum stated that this made it possible to ignore the absence of a clemency petition directly formulated by the prisoners. Therefore, the longstanding petition would be considered by the Justice Department “under normal rules governing clemency petitions.” The memorandum, which supported the pardon and reiterated the arguments put forth by the Justice Secretary, brought to Carter’s attention that the release of the Nationalists would eliminate a propaganda issue used against the United States in international forums every year. It also said that Governor Romero Barceló remained “virtually isolated” in his opposition to a pardon since practically all sectors of Puerto Rican opinion favored taking such a measure.

The high-ranking officials of the NSC considered it important to emphasize that the liberation of the Nationalists did not signify the existence of a prisoner exchange mechanism with the Cuban Government since that would imply accepting the Nationalists as political prisoners:

In order to avoid any implication that the Nationalists are “political prisoners,” consideration of their petitions has thus far been entirely independent of the release of the American prisoners. Should you commute their sentences, we would make clear that your action was not part of a prisoner exchange. (Underlining from the original, Emphasis added.)
However, once again the exceptional situation of the imprisoned Nationalists was emphasized:

Counterbalancing these considerations is the defendants’ failure to demonstrate remorse for their actions, a factor which is normally important in a decision to exercise clemency. However, we do not feel that this should weigh heavily in your decision on commutation. The length of time which they have served in prison and the fact that even today, after more than 25 years, they continue to adhere to their cause of independence for Puerto Rico while the world around them has changed substantially, are overriding special circumstances.

President Carter accepted the recommendation of his advisors. After taking note of the resulting press reports both in the U.S. and Puerto Rico, the National Security Council file on the Puerto Rican Nationalist Prisoners was finally closed. A potential crisis for the United States had been averted.

CONCLUSIONS AND OBSERVATIONS

XII. Image vs. reality

The freedom of the Nationalist prisoners did not respond to any one decision by a President, motivated by his humanitarian politics and respect for human rights, one of the main paradigms of the Carter Administration. Far from what might be assumed, especially as far as the executive branch is concerned, the U.S. Government functions on the basis of consensus building within its three branches of government, and the executive branch, for which this is no less true, revolves around the figure of the President for the purpose of the image presented before the North American people. Thus

[t]he executive presence is central in American culture today: the president, the television commentator, the corporate official, celebrity. Centrality is identity, what is powerful, important and ours. Centrality maintains balance between extremes; it endows ideas with the balances of moderation, rationality, pragmatism; it holds the middle together. (Said 1994: 324) (Emphasis added.)

That is why the President and only the President could be presented before U.S. and Puerto Rican public opinion as the person with the final word regarding the freedom of the Nationalists. As far as the public was concerned and knew, his advice came only from the Justice Department, while the NSC remained anonymous. Although at present it is conceived as having a level of participation in the U.S. government that is “more important than ever” (Clinton 1997), this body negated to the press “any involvement whatsoever” in the matter of the freedom of the Nationalists. President Carter himself stated to the press that “the decision was specifically based on the recommendations made by the Attorney General.” Thus, we have before us the denial of an unquestionable reality directed to keeping the decisive participation of the NSC out of sight in
one of the thorniest issues regarding colonial relations between the United States and Puerto Rico.

Evidently, the documents I have examined and discussed demonstrate that the level of NSC participation in the affair was exactly the opposite of what was publicly disclosed. The NSC initiated, debated and, significantly, had the last word before the President when the liberation of the Nationalists was decided upon. Its position prevailed over the objections of the Justice Department, which, at best, would have preferred an exchange of prisoners with the Cuban government, an initiative the NSC would have rejected de jure, but would carry out de facto. There is even proof that the NSC dictated to the Justice Department the parameters for taking the legal process to its final consequences. In fact, the decisive influence of the NSC and the imposition of its point of view to this body of the executive branch can be traced to the memorandum the Justice Department sent the President on August 24, 1979, in which most of the reasoning outlined by the Secretary in favor of a pardon was based more on foreign policy objectives than on juridical and domestic issues—as would have been expected.

Evidently, reasons of political and diplomatic convenience were fundamental factors taken into account in the matter of the freedom of the Nationalists. In a memorandum addressed to Puerto Rican Resident Commissioner Baltasar Corrada del Río and Congressman Gilman on March 2, 1979, attorney John T. Wainright offered guidance on conditional sentence commutation procedure, as this was one of the options then under consideration for dealing with the embarrassing matter of the Nationalists. Wainright affirmed in the memorandum that “commutations have been occasionally issued based on foreign policy considerations.” (Emphasis added.) He even cited a federal court decision regarding the conditional release of trade union leader Jimmy Hoffa and stated that “the authority of the President for imposing conditions on a sentence commutation can be based upon any consideration — including political reasons.”
Of course, the decision of the NSC to free the Nationalists was not exempt from debate amongst its members who were in favor and those against. There is no doubt, however, that Robert Pastor, the main person responsible within the NSC for relations with Latin America, played a crucial role in the final outcome of the process. After the initial refusal of the President to concede a pardon only to Lolita Lebrón, Pastor would open the formal discussion on the matter. No one played such an active role in getting the President to commute the sentences of the Nationalists as this official, who considered them “Puerto Rican freedom fighters.” It was also Pastor who emphasized Lolita Lebrón's nonviolent disposition; he set forth the initial idea of including the other three Nationalists in the pardon proposal; looked into and promoted consideration of the prisoner exchange with Cuba; coordinated legal steps with Justice Department officials; recommended that Governor Romero Barcelo's letter against the pardon be made public with the obvious purpose of creating an embarrassing situation for him; and personally announced to several Puerto Rican government officials that the pardon had finally been conceded.

The extent of Pastor's participation in these events can also be measured by examining the respective reactions of those favoring and opposing the pardon. On September 7, 1979, Pastor received a personal letter from Gabriel Guerra Mondragón, thanking him for his assistance for he knew “how hard you worked in the released of the nationalists.”84 On September 12, 1979, Robert Gates,
then a Central Intelligence Agency official, sent Pastor a memorandum accompanied by a photograph of Lolita Lebrón and Oscar Collazo at the United Nations. The memorandum expressed that “[i]n light of this picture in today’s [Washington Post, Zbig[niew Brzezinski] would like for you to recount for him once again the tremendous domestic and foreign political advantages we obtained by releasing these terrorists.”

This demonstrates, of course, that the consensus within the NSC itself as to how to handle to matter of the Nationalists was not unanimous, not even as to whether they should deal with the matter at all. The positions ran the spectrum between consideration of the Nationalists as “independence fighters” and calling them “terrorists.” Zbigniew Brzezinski’s position on the pardon initially seemed neutral; it slowly moved to favoring it, but only when he was convinced of the geopolitical and diplomatic advantages of such a move.

Once this consensus was in place, the NSC embarked on the task of determining how to free the Nationalists without political concessions. The NSC also wanted to exploit the propagandistic advantages that a pardon represented for an administration that preached respect for human rights. The liberation of the four Nationalists who remained in prison proved to be a much more complex matter than the liberation of Andrés Figueroa Cordero. The cancer that afflicted him was a good justification for freeing him without the need for concessions. Evidently, this justification was also used by Governor Romero Barceló to favor his release.

The situation of the remaining Nationalists was radically different. It was necessary for the NSC to address such factors as Lolita Lebrón’s rejection of her sole pardon; the refusal of the Nationalists to accept some degree of guilt or remorse in order to be pardoned; the tough and unwavering opposition of Governor Romero Barceló to an unconditional pardon; resistance even from some members in the federal government who continued to consider the Nationalists terrorists. All these factors worked against the Carter Administration’s interest in solving an embarrassing situation that was potentially explosive in the eyes of the international community, especially when the United States is “a country which continues to try to dictate its view about law and peace all over the world” (Said 1994: 286).

The official version would be that the Nationalists were released because an attorney that represented them had requested it.

This also explains why Pardons Attorney Stanish’s interpretation of attorney Soler Mari’s letter to him was held tight. The process following the aforementioned letter revolved around a careful and accommodating interpretation based on three assumptions the officials formulated in order to move forward with the release process. These assumptions were that attorney Soler Mari acted as legal representative of the Nationalists; that the letter was “interpreted” or taken as a formal petition for a pardon that could be channeled through the “usual procedures for this type of petition;” and that the petition for a pardon “appears to meet the basic requirements” to initiate the process. In holding on to
said interpretation— which together with the assumptions is it based on, is somewhat farfetched — the officials in charge of the process saw it as the appropriate way to move forward with the release of the Nationalists. The interpretation justified the affirmation that the process was taking place, at least in part, due to “a request” from the Nationalists. An attempt was made to project that the process was not the result of a U.S. initiative, as that could be understood to be an admission of wrongdoing. The official version would be that the Nationalists were released because an attorney that represented them had requested it.

Once the process of release was conceived and put in motion, the task of the NSC became the elimination of any indication that could suggest the imminently political nature of the process. The formal mechanism of a prisoner exchange with Cuba was to become the convenient victim of the new understanding. This option, which in fact didn’t seem to have many supporters within the NSC, had already been scratched out by Presidential advisor Al Stern in his June 1978 letter to Pastor. According to the documentation examined, most supporters of this option were Congressional and Justice Department officials.

To the NSC the exchange of prisoners meant a costly admission: that the Nationalists really were political prisoners and no mere delinquents. This explains the U.S. refusal of a prisoner exchange, which also would have meant accepting the “equivalence of the crimes,” as pointed out by an Administration functionary. If North Americans considered their fellow citizens imprisoned in Cuba political prisoners, “an equivalence of the crimes” was an acceptance of the “equivalence of [the] reasons” the Nationalists were imprisoned; it was an acceptance of the political nature of the imprisonment of the Nationalists. It also meant accepting, at least publicly, that the U.S. prisoners being held in Cuba were “our citizens” and “our prisoners,” as expressed by Congressman Gilman’s letter to the President dated July 23, 1979. (Emphasis added.)

Evidently, the NSC was not interested in putting forth the difference between “them” and “us,” quietly underpinning the juridical formality of common U.S. citizenship between North Americans and Puerto Ricans. This distinction was projected in two ways: first, the acceptance that there was a difference between “them” (the Puerto Rican Nationalists) and “us” (the U.S. prisoners being held in Cuba); second, that this difference implied recognition of an unequal situation. A group of Puerto Ricans who shot into the congressional chamber while calling for the freedom of their homeland can only be taken for mere delinquents while an alleged U.S. spy caught on foreign territory became a “political prisoner” whose release was a matter of priority to the State Department.

The interest in concealing participation by the Cuban government in this matter led the Carter Administration to deny that negotiations were taking place regarding a possible solution to the dilemma. Hypothetical questions and answers drafted by presidential advisors for a press conference included a direct question to the President regarding a prisoner exchange.86 The answer to this question left no doubt as to the administration’s interest in avoiding the possible implication of the Fidel Castro government in the process for releasing the Nationalists, although not even Carter could refute the fact that the offer to release the U.S. prisoners being held in Cuban jails was an ever-present factor, as demonstrated by the following possible answer to a hypothetical question from the press:
No. I took the decision to commute the sentences of the Puerto Ricans by the time served because I thought that there was no service to justice by keeping them jailed; \textit{it was not part of a prisoner exchange}. We did not contemplate a prisoner exchange because that would suggest an \textit{equivalence in crimes}, something we do not accept. I was aware that Castro had promised to free the American prisoners when I made the decision, and that was an important factor. I am very pleased with the freeing of the American prisoners after such a long period of time in the Cuban jails. (Emphasis added.)

Of course, the fact that the exchange of prisoners was not accepted as a formal mechanism for the release of the Nationalists does not mean this was not on the minds of those in charge at the NSC. As a matter of fact, the possible release of the prisoners held in Cuba was an important motivator for the release of the Nationalists. It was just a matter of projecting that these were unilateral reciprocal gestures or good will acts with no apparent connection, instead of admitting that in practice this was in fact a prisoner exchange:

But it was part of a prisoner exchange. And the President knew it. However, to face the truth was to place revolutionary violence in social and historical perspective and, even more threatening for the President, to admit the legitimacy of a comment made by Congressman Benjamin Gilman. He wrote a letter asking the President to free the Nationalists because “successful efforts of the administration in freeing the group of soviet dissidents has served to focus attention on the Puerto Rican Nationalists—who are, of course, dissidents within our own country.” (Fernández 1994: 199.)

Undoubtedly, the NSC used press reports to gauge the inclination of public opinion and the statements of U.S. and colonial leaders, by means of the dissemination of news in a timely manner. “Historically the American, and perhaps generally the Western, media have been sensory extensions of the main cultural context” (Said 1994: 295). The collection of news articles contained in NSC files gives an idea of the importance this body assigned to public opinion.

\textbf{XIII. A final word}

By way of their sacrifice the Nationalists had become symbols of a struggle arising from the colonial situation of Puerto Rico. They had upset the functioning of the metropolitan juridical system by not behaving as was expected by the system, that is, by not asking for probation as soon as they were eligible. As Mr. Nelson Canals, president of the National Committee for the Freedom of the Nationalist Prisoners, wrote in a letter to presidential secretary Tim Kraft on June 30, 1978, “[t]he prison system may be designed to rehabilitate delinquents, but cannot change the ideological principles and persons, especially when their cause is a just and noble one.” This forced the NSC to engage in a series of debates and compromises to free
the Nationalists and avoid a potentially embarrassing situation that would involve admitting, even if implicitly, that the U.S. had political prisoners.

Finally, it is interesting to compare how several of the main protagonists of this drama consistently acted behind the scenes to avoid referring to the Puerto Rican Nationalists as political prisoners, not even insinuating the characterization, while not hesitating in the least to mention the U.S. prisoners in Cuba as such.

My final conclusion is that the discrete, but crucial, influence of the NSC on the eventual release of our Nationalist prisoners is evidence of its enormous power over the development of the colonial relationship between the United States and Puerto Rico.

NOTES
1 A copy of this documentation is deposited in the Centro de Estudios Avanzados de Puerto Rico y el Caribe library, located in Old San Juan, Puerto Rico. The documentary collection deposited there is divided into approximately twelve topics and can be referenced in coordination with library personnel. Copies of this collection in electronic form were prepared by myself and are also available upon request.
5 Certification of S. R. No. 704 by Manuel Santana Motta, Secretary of the Senate of the Commonwealth of Puerto Rico.
6 R. de la C. 813, presented by representatives Gallisá, Morales Meléndez and Colberg Ramírez.
7 Letter from Juan M. García Passalacqua to the Hon. James E. Carter, 26 August 1976.
8 Letter from H. Alexander Aguir to Juan M. García Passalacqua, 10 September 1976.
10 Department of Justice, letter from Robert L. Keuch, Esq., to Lee R. Marks, Esq.; Re: Possibility of Prisoner Exchange Involving Lolita Lebron and Others.
15 See “Lunt-Lebron Exchange”, a set of hypothetical questions and responses for the President, dated 14 June 1978.
16 Memorandum from Peter Tarnoff, Executive Secretary of the State Department, to Dr. Brzezinski, 20 June 1978; Re: Authorization to Negotiate Prisoner Exchange with the Cubans.
17 Memorandum from Jessica Tuchman Mathews to Zbigniew Brzezinski, 22 June 1978; Re: Puerto Rican Prisoner Exchange.
18 See for example the letter from John Richardson, Jr, President of Freedom House, dated 21 December 1978 to Brzezinski; letter from Aaron in response to other from Townsend Hoopes, dated 17 August 1978; letter dated 3 February 1979, from the Wyoming Governor, Ed Herschler, to President Carter.
19 Memorandum for the President, 21 December 1978, Re: Puerto Rican Nationalists.
Memorandum for the President, from Jonathan B. Bingham and Benjamin A. Gilman, 2 March 1979; Re: Release of U.S. Political Prisoners held in Cuba and the release of the Puerto Rican Nationalists held in U.S. Prisons.


Letter from Brzezinski to Gilman, 12 April 1979.

Memorandum from Pastor to Brzezinski; Re: Puerto Rican Nationalist.

Undated memorandum.

Memorandum from Robert Pastor to Zbigniew Brzezinski and David Aaron, 26 September 1978; Re: Lolita Lebrón.

Memorandum from Brzezinski to the Attorney General, no date; Re: Puerto Rican Prisoners.

Memorandum from Robert Pastor to Zbigniew Brzezinski, 31 August 1978; Re: Letter to Townsend Hoopes.


Memorandum for the President, 21 December 1978; Re: Puerto Rican Nationalists.


“Carter asks Bell to study case of PR. Nationalists,” The San Juan Star, 28 December 1978.


Memorandum from Robert Pastor to David Aaron, 29 December 1978; Re: Puerto Rican Prisoners.

Letter dated 2 January 1979, from Franklin Delano López to President Carter.

Letter dated 8 January 1979 from Governor Romero Barceló to President Carter.


Several communications to the White House.


Ibid.


Star, 8 February 1979.
55 Ibid.; see also “CRB suaviza su posición respecto a 4 nacionalistas,” El Mundo, 28 February 1979.
58 Memorandum from Robert Pastor to Zbigniew Brzezinski, 13 February 1979; Re: Letter from Congressman Gilman.
59 See: letter from Zbigniew Brzezinski to Congressman Gilman; Memorandum from Zbigniew Brzezinski to the President (Re: Request for Meeting with Congressmen Gilman and Bingham); Congressional Scheduling Proposal (Date of Submission: 15 February 1979).
60 “Burton calls for no-string release of 4 imprisoned P.R. Nationalists,” The San Juan Star, 13 February 1979.; “N.Y. Congressman Bob Garcia sets new moves to free P.R. Nationalists,” The San Juan Star, 22 February 1979; Memorandum for the file from Patrick Apodaca, 20 March 1979 (Re: Executive Clemency for Puerto Rican Nationalists). Mr. Apodaca was part of President Carter’s legal team.
61 Letter from Emilio A. Soler, Esq., to Mr. James Carter (Att.: John R. Stanish, Pardon Attorney, Department of Justice), 2 April 1979.
64 Letter from John R. Stanish, Pardon Attorney, to the Honorable Zbigniew Brzezinski, 18 April 1979.
65 Draft of letter from Zbigniew Brzezinski to Michael Stanish.
66 “I called and made the points to Stanish.” Handwritten memorandum from Pastor, 15 May 1979.
67 Memorandum from Jessica Tuchman Mathews to Zbigniew Brzezinski, 22 June 1978.
69 Re: Puerto Rican Prisoners, 7 June 1979.
70 Memorandum from Bob Lipshutz to Bob Pastor & Patrick Apodaca, 18 June 1979.
71 Letter from Cyrus Vance to Townsend Hoopes, 22 June 1979.
72 Letter to the President from Benjamin A. Gilman, 23 July 1979.
75 Letter from the Attorney General to the President, 24 August 1979.
78 Memorandum from Bob Lipshutz & Zbigniew Brzezinski to the President, 4 September 1979; Re: Clemency for the Four Puerto Rican Nationalists.
79 Ibid. At the end of the memorandum appears a checkmark over “APPROVE” with a single letter, “J”. See also the Executive Grant of Clemency signed by President Carter.
80 State Department memorandum dated 12 September 1979 from Peter S. Bridges to Mr. Maynes; Re: Puerto Rico News Clippings.
82 “Fiesta nacionalista el miércoles; Carter lamenta el desacuerdo,” El Nuevo Día, 8 September 1979. Translation ours.
83 Memorandum from Jack Wainright to Congressman Baltasar Corrada and
Congressman Benjamin A. Gilman, 2 March 1979; Re: Protection of Public Safety as is Afforded by Conditional Commutation.

87 Letter from Nelson Canals to Tim Kraft, 30 June 1978.

REFERENCES


