

Transcript of “North of Havana: A Lawyer’s Truth” featuring Martin Garbus – October 29, 2019

I'm very pleased to introduce Martin Garbus to you. Martin Garbus has been a friend for a long time. He's a lawyer, who for me, connects indigenous people, civil liberties, human rights, and internet. And so the possibility of having him come and speak to us was, for me, very welcome.

Marty has been a trial lawyer his entire professional life. He's literally a man who's pretty much spent his life in courts and has been a participant in any number of I'd say cutting-edge litigations. I think of him as someone who has been constantly involved in asymmetric litigation, litigation where there's a David on one side and a Goliath on the other.

We've most recently been together working on a case involving the Ecuadorian Amazon and the effort of a graduate of our school here, 1991, to bring justice to 30,000 Ecuadorian residents of the environment that Texaco, and subsequently Chevron, have pretty substantially devastated. It is my pleasure to give you Martin Garbus.

It's a very-- let me see. Am I hooked up? OK. It's a very great pleasure to be here. It's a very great pleasure to be here with Charlie. Many years ago, Charlie worked on the Ellsberg case, and has through this center. And other things that he has done in his life made an extraordinary great commitment. It's also another thing, and I'll say this and I'll try not to cry to see my granddaughter here.

Charlie covered a lot of subjects in the discussion about asymmetrical litigation, about civil rights, civil liberties. Some of the issues that have always concerned me are questions of truth. How do you deal with the truth in a courtroom? Do you not deal with truth in a courtroom? What is the responsibility of a lawyer when he's asked either to present a case or respond when truth is a response that works badly if you're interested also in justice?

How do you balance those two things off? What is your responsibility? What is the lawyer's responsibility in dealing with that? How do you shape truth to help justice? And Charlie used the term asymmetrical litigation, the question of power, and the lack of power, and how do you get justice in a legal system, which really does not have that much of an extraordinary commitment to justice. But rather has a commitment to great many values, that being just one of them.

Another thing that has always concerned me is the whole question of being oblivious where lawyers are oblivious. The way we are all oblivious to so much that goes on so that we can do our daily life. I'd like to just start off by reading a poem. I was in Chile many years ago when Pinochet came into power. And he came into power September, I think, '73. And I was there two months later.

I was there on behalf Amnesty International watching some of the trials. Pinochet putting on the Allende people. And I went and I saw the trials. And then I came back. And then I met a friend of mine and we spoke in a parking lot about what I had seen. And she is a well-known poet, fine poet, and she then wrote a poem about that.

And I just want to start off with that poem before we get into the book which deals with all of these issues, I think truth, justice, what you see, and what you don't see. Poet's name is Sharon Olds. And it deals with the responsibilities a lawyer has and how you can see things.

She says, when we were standing in the parking lot with a gentle sea rain falling on us, you told me about your client who has been tortured in prison in Chile. His forearm cut off, and you touch your own arm below the elbow where the hair springs up in the salt air. And the rain stands and find drops like a spider's web.

It burns in me to get close to his arm. My lips on the scar at the end of the stub. My nose near the long wrinkles of scorch, where the iron has been laid down upon the body. My breast on the blackened skin as I take it back into the realm of the human. But of course there's nothing I can do. I can't nurse it or take it's reddened head deep into my sex, back into the body. I cannot do anything.

All I can do is tell about it. Say, this is the human. The clippers, the iron, and this is the human, the hand for milk. All I can do is point out the two paths we go down either. And I have always found that poem, in extent, I was talking to her. And I never really saw clearly what I had seen in Chile until I read her poem, and until she told me what I told her.

So the role of a lawyer, I think, is to be aware of what's going on. And then to try and have the world in which we live follow the path that Sharon Olds is talking about. My book, *North of Havana*, deals with a trial or a series of trials at a certain time in America in Miami.

And in looking at the trial and what this book tries to do, successfully or unsuccessfully, is deal with questions like truth. Deal with questions like what do we see. Deal with questions of the law we were all brought up, I was brought up, Charlie was brought up. To think that we have a jury system in America that arrives at justice. We are brought up to think that we have a legal system that is free from politics.

I remember a very long time ago, Ronald Dworkin, a great legal philosopher at NYU. We were together in Italy in the year 2000 when Bush against Gore had come down. And he said for the first time, he fully understood or embraced the politics that so much go into the Supreme Court, and the effect of politics, and the fact that the whole idea of an unbiased judiciary with a nonsensical term that can be.

So I think what this book deals with is a certain time in American history. It's the 1990s. It's the Clinton period. It deals with the trial. It also deals with the politics of that era because that trial is in a certain time at a certain place for a certain reason. You were fighting at that time for the Cuban vote. And [INAUDIBLE] score, that ultimately comes out. And that vote is fundamentally American decided.

Florida is of course the key. It's the key today. It's the key then. It's the Key tomorrow. The Republicans have to get Florida. We have seen already what Trump has done to get Florida and we can talk about that. So you have the politics of that time, and then you have to see it in the larger picture of what it leads to. What's wonderful about a book in the way?

You write a book. And then after you write the book, you learn more what you're writing about. And one of the most significant things that happen to me in this book-- and I'm going to tell you this story at the beginning rather than the end because I find it so moving. At this time in America, in the early 1990s, Clinton was in. Castro was there.

They [INAUDIBLE] possibility. Some kind of rapprochement. At least Castro thought so. And Clinton thought so. And one of the keys to that was how are you going to deal with that in Miami? How are you going to deal with that in Florida? So one of the things that happened is Clinton and Castro tried to talk through a variety of communicators. One of them was Garcia Gabriel Marquez who ultimately comes up to the United States.

And he carries a message to Clinton from Castro saying that we have to find some way to deal with this, and Clinton makes a variety of promises. And those promises basically satisfy Castro for a while. In other words, Clinton says, we will do something to stop all these provocations that are going on in Havana. We will try and stop the right wing, the Bay of Pigs veterans, from going in and blowing up buildings in Havana.

We will try and stop the killing of Castro loyalists in southern Florida. And Clinton means it and he says it. And Castro then says, let's cooperate, we'll do it. Then a group comes into being called the Brothers to the Rescue. And the Brothers to the Rescue are a right wing group. And what they do is they have planes. And these planes fly over Havana violating airspace.

And in this particular instance, in February 24th 1996, three planes go up. Now, though each of those pilots-- Clinton has worked it out so that their licenses are revoked. Each of those pilots are not permitted to fly. Each of those pilots have basically had their planes and everything taken away from them. The three pilots get in and they fly as they have flown a dozen times before.

And what they do is they fly over Cuba. And they beam down. First of all, in some of their flights, they try to drop bombs. The bombs never get past the water. They dropped leaflets. Leaflets are dropped all over Havana. And Basulto, the Brothers to the Rescue, the pilots, wired down to people in Cuba, this is the time to revolt. This is the time to throw Castro over. If we can pierce his air defenses, you certainly can now rise.

Now, as I said, you're not allowed to fly over Cuban airspace. These three planes go up, and they start to fly over Cuban airspace. The American people on the ground recognize where these planes are going. The Americans try and stop the planes. As I said, they've already revoked these pilot's licenses. They can't stop the planes.

So I'm now reading-- this is a transcript of the pilot of the plane of one of the planes. Basulto, who went, and he first wires into Havana. And he says, good afternoon, Havana center. November 2506 greets you. Please, we are crossing parallel 24 in five minutes and we will remain in your area about three to four hours.

For your information, Havana center, our area of operations is north of Havana today. So we will be in your area and in contact with you. A greeting from the Brothers to the Rescue and its president, President José Basulto, who's speaking to you. Havana replies, and America is hooked

into this entire dialogue. As a matter of fact, the most accurate rendition of the conversation comes from the Americans because the Cuban system is just antiquated.

Havana center, OK, received. I inform you that the zone north of Havana is active. You run danger by penetrating that side of north parallel 24. Basulto, we are aware of the danger each time we cross the area south of 24. But we are willing to do it. It is our right as free Cubans. Havana says, we copy. Basulto, cordial greetings.

Now remember, they're over Cuba. They are violating the law. We are continuing our course. A beautiful day. Havana looks great from where we are. A cordial greeting to you and to all the people of Cuba on behalf of Brothers to the Rescue. And then it goes on. And then the brothers cross the line. They go directly over Havana.

3,000 miles away at March Air Force Base in California, a United States Customs detection specialist named Houlihan studied his radar monitoring and he contacted Washington. And he contacted other people in Florida. He had tracked the Brothers' planes before. And the SAA alerted him to look out for them. The three planes flashed like orange Pac-man squares on his screen. Houlihan watched them.

Then, three MiGs are sent up by the Cubans. Basulto sees the Cubans. He can leave the space. He stays in the space. Basulto, they're going to shoot at us. At this point, Nick 29, we have it in sight. We have it in sight. Military control, Cuban military chief of Havana, go ahead. We're locked in. Give us the authorization.

Authorized to destroy. We copy. We copy. America knows all about what's going on. America is unable to get the planes back. Authorized to destroy. Understood. I [INAUDIBLE] receive. Just leave us alone. Then Nick 29 says, first shot, we got it. We blew his balls off. Look see where he went down. We hit him, Jesus. We're on top of him. And then the conversation goes on. Basulto, who is the lead plane, then pulls out of the area.

The other two planes with him get shot down. Four people are killed. This happened in 1996, prior to 1996. And by the way, there's a movie about this that'll be coming out in America in January. It's called the Wasp Network, with Penélope Cruz and other people. And what the show is it talks about a bunch of Cubans who came to America with Castro and Clinton's authorization in early 1990 to try and stop the Bay of Pigs people from having confrontations.

And this combined group of Cuban spies-- and I say Cuban spies, they're working with the FBI. They were supposed to totally trust each other. And of course, they had no trust at all for each other. But what the Cuban spies did is they stopped some bombings they stopped boats going with explosives into Cuba. And they saved lives and they stopped the killing of some Castro loyalists down in southern Florida.

And the shoot-down goes in February 24th 1996. The Cuban spies have now been there for four or five years, working with the government. The right wing gets outraged justifiably. Four people have been killed. They say Castro should be indicted. They have to find people to indict.

They can't find anybody in the United States because nobody in the United States, none of these guys, had anything to do with the shoot-down.

So you have a prosecutor in 1996. The right wing says, you got to prosecute somebody. You got to prosecute somebody. The US attorney has nobody to prosecute. There's a new US attorney. You've got to prosecute. You've got to prosecute. Nobody to prosecute. Third US attorney, prosecute, prosecute. Nobody to prosecute. Fourth US attorney, Reagan appointee, prosecutes.

He prosecutes five guys who I wind up representing. I don't get in until, well, after the trial. The guys are tried. They're convicted in Havana. And this book talks about the trial of those five people. It talks about the government's massive money, the American government's, this is long before Trump. Some of us have the illusion that a lot of bad things are happening now that have never happened before.

You had the extraordinary misuse of governmental monies coming out of Washington, not sanctioned by Clinton, but money is coming out of Washington to influence the press. You had something called Radio Martí which got \$15 million a year. It ran out of Miami. A lot of that \$15 million a year was used against Cuba. Monies were spent by American dollars in order to commit, let's say, criminal acts with respect to Cuba.

These five guys are then indicted. They are indicted in May of 1999. Bush against Gore is decided in November. When Bush gets elected, there are signs on the highways saying-- there is also some of Elian Gonzalez, which is another related story some of you may remember, where Clinton ordered a young boy sent back to Havana.

And there were signs after Bush against Gore on the highways, we avenged you, Elian, we avenged you. And then they gave the names of the various deaths of the people who had been killed. So everybody recognized that the shoot-down, amongst other things, played a role in Bush against Gore. One of the things I said before after you do a book, you really start to learn a little more.

I gave a talk not so long ago. And in the room was a woman who told me that in 2001, she had been invited to Havana. No one knew who authorized the shoot-down. Was it some guy just with a quick trigger? The politics of America dramatically changes, of course, with Bush against Gore. The politics of America changes with respect to the Cubans.

The extent to which those politics have changed, how they affect Trump today, how you look at the Cuban vote today, a lot of it you can trace back to then. Castro, in 2001, tells an American group. And the American group is Arthur Miller, Bill Styron and Rose Styron, and some other people. Now what I'm now telling you is not in the book because I didn't know about it at that time.

Because the core of the open questions was did Castro authorize the shoot-down? Was it somebody? It was inconceivable that it didn't happen just like that. Clearly, my people had nothing to do with that. Those five defendants, they were at this level. They couldn't authorize anything like that at all. So Castro then tells this and he did it deliberately.

He brought down a group of Americans of a certain set of politics, and he exchanges a story which has never been printed before. Rose, the one who told me the story, Rose Styron, the wife of Bill Styron, is about to come out with a book talking about it. But I'd never heard this story before. Castro meets all the people in the room. He is the host in Havana.

It's a very complicated setup to get everybody down there. But all the people come down there, as I said, [INAUDIBLE] Arthur Miller, Bill Styron. So Castro said-- he has a civil rose suit and a bow tie. And he speaks to each of the people as they come into the room. When he speaks to Miller, he will say, oh, I know what you did in *Death of a Salesman* in paragraph two, and such, and such. And he exhibits his knowledge of all of that stuff. Very impressive.

And then in the middle of the lunch, in the middle of the dinner rather, he says, Thucydides said, Greek historian, that every great general makes at least one mistake. And he says, my mistake was ordering the shoot-down. And the reason he said that is because of the way American politics changed in large part because of that.

It may have been without the shoot-down, Bush again Gore would have come out very differently, and how that would have affected the rest of American history. In the book, we go into the selection of the jury and the difficulties of trying a jury case in Miami, which is where this trial was. I've tried jury cases in a lot of different places. And I'm experienced in trying to get a fair jury.

Sometimes if you try jury case, you'll have a juror on the stand. And the voir dire, you'll have it two days or three days. Let's assume you average 250 to 300 questions a day. So you're asking a juror 700 questions. And you're trying, by those questions, to find out the person's biases so that you can ultimately excuse them from the jury.

The case, they're convicted in 2001, what the book also talks about and it's something that everyone is aware of very much now. But people had not that been aware of it years ago. I spent a great deal of time over a period of years, starting and I guess about 1980, arguing against the Republican takeover of the judiciary. I wrote dozens of articles in the 1990s, spoke, et cetera, et cetera.

The jurist who was responsible for the execution-- pardon me, for the conviction of these guys ultimately, Geraldo, my client, gets a double life sentence. Somebody else gets one life sentence. And the jurist, who ultimately is responsible, is someone called William Pryor.

William Pryor was on the Kavanaugh shortlist. And he was on the Gorsuch shortlist. This is William Pryor talking before he gets on the court, of *Roe against Wade*, he says, "that that was the worst abomination in the history of constitutional law. I will never forget January 22, 1973, the day seven members of our highest court ripped the Constitution and ripped the lives out of millions of unborn children." Second worst decision he says is *Miranda* against Arizona.

Now, Pryor had been the attorney general of Alabama. And he went before the Supreme Court in a case-- well, I'll use the term hitching post. What Alabama did is they would take black

defendants in the heat of the day and tie them to a post and make them stand on their toes basically in the heat. And they would have a pail of water here.

The dogs could come and use the pails of water. When the dogs were finished with the pail of water, in Alabama, they would kick the water can over. And the water would be at the guy's feet. So Pryor, who was a Trump nominee-- one of the people on the as I said Kavanaugh/Gorsuch shortlist, argues that the hitching Post is OK, that the hitching Post existed at the time that the country came into being. And as an originalist, we should look towards that.

And he also said, states should be able to determine for themselves how you treat prisoners. Pryor lost that case, 9 to nothing in the Supreme Court. And after he lost that, he came out and he-- this was when he was attorney general-- and he then vilifies the Supreme Court, saying that, "again, hitching the post is fine. Based on its own subjective view and appropriate methods of prison discipline that the Supreme Court was wrong in doing that."

As I said, my clients were in jail until 2014. What happened to them to get them out was basically miraculous. It had nothing to do fundamentally-- fundamentally, there's more to be said about it-- about the legal services.

In 2010, a man named Alan Gross gets arrested. Gross is working for USA IT, CIA. He gets convicted in Cuba. Cuba holds another American intelligence agent. In 2014, Obama and Castro, Raul Castro, start to talk. And what ultimately happens in December 14, 2014, there is a exchange of prisoners.

Now, what you all read about depends how closely you read the papers was the rapprochement between the two countries, but it was made possible by this swap of prisoners, which the discussion had been going on. I've been somewhat involved with it over years to get them released. The book describes-- we hear a good deal about solitary confinement. And we all say, well, solitary confinement is terrible, guys locked up in a room, no light.

No, no solitary confinement is far, far worse than that. In other words, the things that can be done to people in solitary confinement, these Cubans were in jail-- as I said, my guy with 18 years. If you go to jail for three minutes, you're going to pick up an infraction. It's impossible not to.

These five defendants, not one of them had an infraction in all the years that they served in the prison. Finally, they get exchanged back to the United States-- pardon me, to Cuba after lengthy negotiations. And then Anne Peretz and I go down to Cuba after they've been released.

By the way, Anne and I had originally gone to Cuba. And we thought it was a vacation. And the heads of the Cuban government started to contact us and called me and asked me if I would represent these people after the conviction and, of course, before the transfer.

So we go down. There's one other story, which is a very sweet story. Senator Leahy met Geraldo Hernandez's wife. Geraldo Hernandez had been in jail for 60 years.

He had had a youthful marriage. And they desperately wanted to have a child. They would not let his wife Adriana come up to the United States to see him. He was barred.

Leahy and Leahy's wife met Adriana in Havana, got deeply, deeply moved by them. And then arrangements were made so that her daughter one day was removed from the prison in Victorville. They call it Victorville. Really, they call it Victorkill, because so many prisoners got killed over there. It's the worst prison in the United States, Victorville.

So they remove him. He goes to Los Angeles. They take his semen. His wife gets impregnated in Panama.

And end after one unsuccessful attempt, they have a successful attempt. And she becomes pregnant. So we're now talking about mid-- let's say-- 2014. And she becomes pregnant. And she's becoming larger.

And they have to take her out of the public eye, because how can she have a child by whatever? So ultimately, what happens is-- and that's one of the things that kind of expedite the whole process, the whole idea of her having a child and having a birth in Havana when her husband has been in prison for 16 years. It raises a lot of questions.

What Leahy did is kept quiet. Menendez, the New Jersey congressman, and other anti-Cuban people know nothing about it. Leahy does this on his own with the cooperation of the prison system, which is absolutely remarkable, remarkable that they were able to get away with it and remarkable that the whole thing happened.

So December 2014, Hernandez steps off a plane. And for the first time his wife comes out to meet him at the plane. And it's clear that she's eight months pregnant.

I did a show about that time one Amy Goodman, Democracy Now, who I know. And she said the reason she had me there was to try and figure out if I would help her during the interview with exactly what had happened. So she said to me, how did she have a child? How did that happen? And I didn't answer.

And Amy Goodman got angry at me and said, Marti, the child looks just like you. In any event, the book ends with Anne and I in Havana. And we're celebrating with the defendants, who are now out of jail, the five defendants. This is in about 2016, 2017.

By this point, Geraldo has three children. By the way, the Geraldo and his wife are all portrayed in this very, very fine movie. As I said, it's going to open here by those who know the film world, Oliver Assayas, a very fine film director. And it talks about what these guys did down in Miami.

So we were there 2014, and 2015, '16. And we met with the Cubans. And this is how basically the book ends.

"I was treated by Geraldo and his fellow members of the Cuban Five as someone who had made an enormous contribution to the freedom that they now had, but I knew that my contribution was not as great as they thought it was. I was just one part of a larger unpredictable series of events that led to this day in this noisy Havana front yard. I never had my day in court to defend him and never made the argument I wanted to make in front of the Miami judge who had sentenced him.

But I felt a flood of feeling wash over me that startled me. It was not my usual pessimism, my usual feeling of pessimism, if not despair, that has been my life working in the lawless dark world of the law. I think it is called gratitude. And it's felt like kind of a heaven."

So the book deals basically with the lives of these people, the American legal system, its failures then, its failures today, the extent to which you had fake news then, \$15 million poured each year into Havana, basically to influence the media. Federal monies were spent so that there would be billboards throughout Miami. Federal monies were spent so that there would be stuff in Walmart and so and so, convict, convict, convict.

And what happened in this case is not totally unusual in American legal history. That's what the book is about. And I'm trying to deal in the book with what I perceive to be the larger issues, the American legal system, how it succeeds, how it fails, the extent to which it is subject to political influence, what prosecutors can do if they're not limited, what juries can do, and what juries can't do. And that speaks, of course, to the day. Thank you.

Marti is happy to entertain questions. And we have microphones to circulate. Start it off.

So thank you. If there's time later, I'd like to ask you about some of the other cases you've worked on, but on this topic, just to clarify, you mentioned Radio Marti. And because I think this is maybe a little garbled, Radio Marti is actually part of a consortium of radio stations funded by the US government. So Radio Marti is definitely part of federal expenditures that you mentioned later.

And can you explain a little more carefully or in a little more detail how you link the decision that the handling their management of the case of the Cuban Five with the decision of the Supreme Court in Bush v. Gore? Because you suggested that it was a very-- I mean, obviously it was a political decision.

Because the prosecution is in May of 1999. And the demand for the Cubans, they've been trying for three to four years to get these guys prosecuted. Clinton and the US attorneys basically have resisted.

You get in a Reagan appointee. You have Bush. You have Rubio. You have them riding the horse of anti-Castroism.

And you have them demeaning Clinton and critical of Clinton, because of his attempts, which were well-known in Florida, to have some kind of rapprochement. So what this is seen as a killing orchestrated by Castro. Ultimately, there's a prosecution.

And what happens is the Cuban population, of course, take sides, gets energized, and the Cuban population recognizing, the deeply anti-Castroism Cuban population recognizes that the coming out-- they ultimately come out to the polls. It energizes them. And then when Clinton sends back Elian Gonzalez-- the Elian Gonzalez story, briefly what it is for those who don't know it, he and his mother are coming in from Cuba, going through the United States. The boat overturns. The mother dies.

Elian, this young boy, is 11-years-old. The uncles in Florida want to keep him. The father wants him back in Miami. It's a very large event.

Janet Reno's is the US Attorney. Ultimately, the boy is returned. The boy is returned when people come out 3:00 and 4:00 in the morning, go to the boy's house, and take him and bring him back.

So the hostility of the Cuban community to Clinton for having done that and for the Clinton administration not having had prosecuted these guys for three or four years became a political football. And it's still, though the politics of Cubans in South America have somewhat changed, because the younger people are less influenced by the Bay of Pigs world and the world that led to that-- so it became a pivot point in Florida in that particular election. So Castro was saying that maybe if the shoot down had not been ordered, putting aside Gonzalez, which is a different problem, also, it may have been that you wouldn't have engendered all that Cuban hostility. And the Cubans would not have come out as strongly against Clinton.

And this is Castro talking. He was not foolish. And for him to admit a mistake like that is significant. How many people up top admit mistakes like that?

Any other questions?

Anything else?

Yeah, sure. So what happens in the Miami courtroom is kind of predetermined to an extent. Once you get up to the Court of Appeals and in theory, it should be removed somewhat from politics.

Did you see a change there? Were they at all willing to look at the situation, look at the politics surrounding it, question the fairness, or did they treat it like any other trial where discretion of the jury is given high weight? To what extent to the Court of Appeals kind of recognized the circumstances in Miami, I guess.

That's a wonderful question. And it'll just take a little texture to give you the answer. The case is in Miami. And the defendants make a motion to get the case kicked out of Miami on the grounds that the politics of Miami is such that these guys can't get a fair trial.

I have tried, let's say, 50 cases, where you've had motions for change of venue. And it's something you can get. I had a particular case, a murder case in New York, where we went from venue to venue to venue to venue. We went five times. In Miami, the judge denied the change of venue.

Now, let's understand what that means. If you're trying the case in Miami, you're going to have demonstrations outside. You're going to have lawyers trying the cases who know that their professional life is endangered, because they're up there. They're trying cases.

There was one lawyer in the case, Joaquin Menendez, who was Cuban, who agreed to take the case. And his house was bombed in the first few weeks. I've never been involved in a case, where the motion for change of venue should have been as easily granted. It was not.

So the conviction is there. The case goes up on appeal. And you have a three judge court.

The three judges say, the case should not have been tried in Miami. The three judges say, we're going to reverse the conviction. The three judges say, the case should go elsewhere.

The government has the right to appeal that to a larger court called an unbound court. And they do that. And the case is ultimately appealed. And ultimately, the higher court reverses the decision to amend it to change venue and affirms the conviction.

There's the illusion often correct that appellate judges are free of bias. They're not. They're like anybody else. Some are freer than others. You can't put Brandeis, Brennan, Black, Douglas in the same place as Pryor, but everybody brings their own particular baggage.

I think one of the things the wonderful things about the Trump era is it answers forever the question of political biases in judges. The illusion of American democracy that you have judges who are totally free arbitrators of truth, I don't think any of us can ever have that again. It took the Trump administration to make that clear for so many people, but it was clear in the '80s and the '90s.

And there were great battles. And the battles were won by the right. The left never got involved in it-- the Federalist Society and other organizations.

There were liberal groups that were formulated, the American Constitution Society. But the battle in the '90s, '80s, even the beginning of 2000 were all won by the right. The left did not pay attention to it sufficiently. And that's why you have what you have now, this kind of judiciary.

Thank you for speaking to us today. As you probably know, there is a great number of cases that are being brought against companies that have operated in Cuba. And under the Helms Burton Act, they can now be prosecuted. And along with this theme that you're talking about, which is seeking truth in the courts, what advice would you give to judges and juries on these cases that are--

Let me answer your question in a much broader way. About two weeks ago, I had lunch with breakfast with the Cuban ambassador. And he was talking about what the Trump administration had successfully done to Cuba, as no one else had ever done it before.

And at the present time-- I'm not trying to get into politics right left, of course-- they don't have enough money for fuel. The cruise ships have been cut down. Bolton said, when he was in

power, the troika of tyranny, Russia, Venezuela, Cuba, all kinds of laws were passed. There's a law now, for example, where if you had land in Cuba in 1959 and then Castro took over that land, you or your heirs can allegedly walk into a courtroom in America and try and get the moneys for that land.

It's preposterous. There have been lawsuits filed in Florida and other places. So if Marriott Hotel wants to do business now in Cuba and is on a piece of land that had been owned by Cubans in 1959, Marriott can face a lawsuit in London, in Miami. So people can get back the assets that allegedly [INAUDIBLE] these people in 1959.

Now, none of these cases have gone to conclusion yet, but it's a wonderful ploy by the Trump administration, because if I'm a man who had some land and I now have children and my children are the people who are more sympathetic to Castro then they might otherwise be, you're now telling these children you go along with this particular law and you will ultimately benefit financially. It's like a bribe to the young people of Cuba. I've done a lot of cases in South Africa, Chile, blah, blah, blah.

I don't want to get the case lost. Cuba has just dropped off the front pages. The legal issues that the book discusses, the political issues that the book discusses are there and are deep and profound. And I think it requires the American legal system, the jail system.

What happened to these people, for example, the defendants, any time there was a major incident, 9/11, Iraq, they didn't know what to make of the Cubans. They thought it was the Cubans fault. So every time something like that happened, my guys Gerardo and the others, who were in the prison population were pulled back and sent into solitary.

And let me tell you something, I discussed it in the book. But it's worth knowing what solitary really is. What they did, for example, with Gerardo of two months. They put him. He was tied to the bunk of his bed lying on the floor, not having the use of a bathroom, not moving.

And that was solitary for two months, being tied to the bottom. Solitary also, was he went down, and there was a three cells. On this cell was a guy who's yelling and screaming because he's nuts. And on this cell is a guy who's yelling and screaming because he's nuts, and Gerardo was in the middle. And it goes on 24 hours a day.

So it's not just a nice little white cell with no light coming in. It is an excuse for extraordinary brutality. In Massachusetts, as I was reading, and I know there were attempts here to change the laws with respect to solitary. And as I understand it, I just followed it very briefly, there has been resistance to really dealing with that issue.

They try to deal with it on a national level. It's absolutely clear that the Supreme Court Kavanaugh Gore search, et cetera, is not going to be a court leading the way to make prison conditions better.

[INAUDIBLE]

You have a mic on.

I'm sorry. Excuse me. This issue that you speak about solitary confinement that is dreadful. What is your opinion on Manafort being held in solitary by Mueller? How was that justify--

I don't think anybody should be in solitary. I think it's inhuman, whether it's Manafort or the man in the moon.

The other issue is the principle that you said that these-- they're allowed to sue to get their land back.

Yes.

How about, for example, Germans are allowed to sue to get back what the Nazis expropriated? So what's wrong? Isn't that the same principle?

I think they're different situations. I just do. I make a political distinction. I think that with the Nazis did is different than what Cuba tried to do in '59. That's my political belief.

OK. Thank you.

I don't pass it off as truth. Any other questions?

Yeah. Nobody else wants to ask about the Cuban Five I was pleased to see when I looked, did a little research last night that you once represented the wonderful American comedian and social satirist, Lenny Bruce.

Yes.

And I just recently got to hear Bob Dylan, who's just started his North America. The next leg of his never ending tour. And he did his song "Lenny Bruce" for the first time, in 11 years, and it's just exquisite--

I never heard it.

It's beautiful. So if you have a chance to hear it.

Is that right? I never heard. I didn't know of it.

You can hear it online. Rolling Stone surreptitiously recorded the entire concert. So it's just a beautiful song. So would you care to say anything about Lenny? Your work with Lenny Bruce?

I'll tell you one little Bruce story.

And then I haven't--

I'll just tell you one little Bruce story, which says something about who he was, and how bright he was, and how sensitive he was. One of the issues in the case was the use of the word fuck. And it's a word that he used. And he used it in all different kinds of ways. And they had other language.

But the word fuck, fuck, fuck was in the courtroom half the time. You couldn't get away from the word. And the Chief Judge in the case was someone called Murtaugh. And there were two other judges. And Murtaugh was the judge. He was the senior judge. He was going to make the decision.

The other two guys had nothing, you know, blah, blah, blah. Murtaugh was going to make it. So then we have a witness. I think it was Nat Hentoff or somebody, gets up on the stand. And he says, "If you're in the army, you hear that word all the time. What the fuck? Pass the fucking soup with the fucking knife, and the fucking butter."

And so he gets up. And I think we had other witnesses testifying to the use of that word in the army. How it was common, and it was certainly common in common cultures. And then Murtaugh gets up. He's sitting up there. And he says, "I was in the army for three years, and I never had heard that word."

So everybody laughed at him. And then the Philip Roth was in the audience. Everybody laughed at him. And then Bruce got up, and he said, "Don't laugh at him. He's telling the truth. Murtaugh is not a guy you would say fuck in front of."

That's great.

So then I also want to ask about Leonard Peltier. And just to push back a little on Clinton, because I think, understandably, have a favorable view of his role on the Cuban Five. But with Leonard Peltier, there's a feeling on the part of some people that he really betrayed, promises that he made, and--

But Clinton betrayed promises.

About Leonard Pelletier. But in any case, could you say a little about Leonard, please?

I saw Leonard about a year ago. Leonard, unlike The Cuban Five, probably racked up more violations than any prisoner in any jail. He was horrifically abused. He's never getting out. He's a sick man. I tried Wounded Knee cases. I was in Nebraska for a couple of months, whenever that happened, couple of decades ago.

If the question is, "Are you absolutely convinced that he's innocent?" I think that's a complicated conversation. And then the next question is, "In that kind of environment, where people are shooting at people, what is innocence and what is guilt? And who causes what?"

For a brief period of my life, I represented the Black Liberation Army until I could no longer do so. So that I think they are very complicated questions, if you're a lawyer. As to who you

represented, I was happy to represent Leonard Peltier. I gave him as much as I could. It was far too late. And he's never getting out.

I don't see any other hand-- Oh, wait.

Would you be able to give us an update about your work in Ecuador?

Ecuador is a disaster. It's a disaster because Charlie used the word asymmetrical litigation. Well, I understand that term today. When the power is on this side, and there's no power on the other side. If you did, if one did, if I did, civil rights and civil liberties work.

In America, in difficult situations, I represented Chavez. I was down south, et cetera, et cetera, et cetera. This is the power against you. It's the government. And the government, of course, has the resources. And has whatever effect it has on the legal system. So that you're fighting against this. And sometimes, you lose because you don't have the power.

Fighting against the large environmental destructors, like Texaco, BP, is a nearly hopeless task. It's nearly hopeless because the amount of resources that these companies have is extraordinary. The amount of profits that they make is extraordinary. BP, when it had its disaster, decided ultimately to spend \$50 billion for the cleanup.

What happened in Ecuador is horrific. The way they destroy the rainforest, the lives of people, the proof that came in the Ecuador case about cancer, and the destruction of that country was extraordinary. And it's all true. And ultimately, the Ecuadorian court grants a judgment against Chevron and Texaco, of \$20 billion. It gets cut in half to \$10 billion.

You have a legal system in Ecuador, you have a trial, and appellate level, appellate level, and then a higher level. And all of those courts affirm the judgment. You then come into America, and you come before a judge in the Southern District of New York, who says-- He says fundamentally, "It's a 536-page opinion, so you have to read it. I don't want to oversimplify it."

He finds that the US lawyers are Harvard Law graduate named Steve Donziger who was one of the lead lawyers at one point in the case. That they admit that they committed frauds in order to get those judgments. And this Judge Kaplan then sets aside the award. We're trying now to get the award enforced in Canada.

Yesterday, I was on trial all day with Steve Donziger. They're trying to disbar him. They have suspended his license for what he did. Now, there is no way you can litigate against these companies. Now, whether you want to make an analogy between that and gun litigation, which you know it gets a little here and a little there. But basically, gets nowhere.

I was involved in the beginning of the cigarette litigation, cancer litigation. It took decades to get anywhere. But the enormity and the power, know there is no reason why Chevron should not spend billions to beat up lawyers and break lawyers. Given the profits they get from these kinds of things.

They try and make the Ecuadorians in the Ecuadorian case amnesty, Greenpeace amnesty. Every organization is on the side of the Ecuadorians. It's very hard to be optimistic.

Sorry, would you like a mic?

I'm sorry. I just wanted to mention that Leonard Peltier has been allowed to be on a vice-presidential candidate with Laura Garza, running on one of the socialist platforms with Laura Garza. And he has been allowed to be run as vice-president in the next election.

The next election is 2020. I hope he lives that long. He's very sick.

You mentioned that Trump has brought home the lesson that the judges view their cases through their political eyes. And as you say, it is not a new thing, but maybe it's been made apparent. But not only is it a matter of qualitative matter to quantitative matter, and the court seemed to have been infested now that will go on. Your granddaughters here, my grandchildren will be impacted by it.

What can we do if the democrats, my mouth to God's ears, were to take control of the Senate? And the presidency should the Supreme Court be packed in a Roosevelt or two. To write this balance that is probably more extreme now, even if it has always been. Then, at least, in recent memory.

I don't think that there will be Supreme Court packing. I don't believe the Electoral College will be changed. I think tinkering with the Constitution, however much we like it, and would like to see that done, is unlikely. Whether we recognize that the Constitution at this point, we have the oldest living constitution, so and so.

And that's generally sense is a positive. One can also look at it as a negative, because you can't change. You have the gerrymandering cases coming down now. And it seems to me, you have to make up for basically 10 to 15 years of neglect, on the side of the left, on the side of the Democrats, and fighting for the courts.

Now, putting aside the Supreme Court, you're talking about the lower level courts and people like Pryor. Pryor couldn't get when he ran-- when Bush nominated him. The Republicans would not support him. And they didn't put Pryor on ice. And then he got a recess appointment. So a lot of people have been aware of the power of the judiciary.

And now, as you have issues like, let's say, gerrymandering, which is so critical in voting rights. And then how you look at the Voting Rights Act before. And now you have Barr with his views on the un-separation of church and state, however you define it. It's a critical time. And why the Democrats, for 20 years, sat on their hands basically, and couldn't get the resources to do it is sad. And we're all going to live with it, your daughter, and my granddaughter.

Nothing to do.

All you can do is mobilize, or you can do-- If they had 20 years or 15 years of freedom with respect to fooling around with the courts. And you have Nan Aron. You have some wonderful people who are now committed to it. She was around a long time ago, but they were no sources to support what she wanted to do. Charlie standing up, that means I sit down.

Martin Garbus, thank you very much for speaking to us. It's been an honor to have you here.