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A CASE AGAINST UNITED STATES DOMESTIC (NEO) COLONIALISM

by

Jalil Abdul Muntaqim

Part Three

EDITOR'S NOTE: In our first excerpt from Jalil's pamphlet (CR Vol. 1, No. 1, May, 1987), the course of struggle of oppressed nations inside the political borders of the u.s. empire was outlined. It was shown that most "political prisoners of war have been imprisoned or remain in prison because of the relationship of their oppressed nations to the colonial rule of the u.s. government," while Northamerican captured combatants were imprisoned as a result of their participation in revolutionary class war against capitalism and in solidarity with national liberation struggles.

In the second excerpt (CR Vol. 1, No. 2, July, 1987), Jalil outlined "International Law On Wars of National Liberation Against Colonialism and for Self-Determination and Independence." Pertinent examples of such laws cited by Jalil were the Universal Declaration of Human Rights; the International Convention on the Prevention and Punishment of the Crime of genocide; the United Nations Charter; the International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Jalil also cited U.N. Resolutions such as the Declaration on the Granting of Independence to Colonial Countries and Peoples, which affirms "the inherent right of colonial people to struggle by all means at their disposal against colonial powers which suppress their aspirations for freedom and independence."

Finally, Jalil explained that the New Afrikan and other u.s. internally colonized nations meet all relevant criteria for protection of these laws, first, because "Since the European conquest of North America, the genocidal slaughter of Native americans, Afrikan chattel slavery, Asian involuntary servitude, and the territorial aggression against Mexican land, these oppressed nations through the centuries have fought for national liberation and the regaining of lost territory, self-determination over their lives, and independence from u.s. colonial domination." Secondly, oppressed nations reach international criteria to receive protection and support because, "These colonized nations have a distinct national origin, social and cultural identity that separates them from their colonizer and establishes the criteria of 'peoplehood'. Hence the inherent dignity of the human person within a body or group is preserved and the trust for self-determination is that a people--if it so wills--is entitled to independence from foreign domination, and may establish a sovereign state in the territory in which it constitutes a majority."

Below, in our final excerpt, Jalil outlines international law as it relates to those who organize themselves to carry on their peoples' struggles for national self-determination, and who are captured by the oppressive, colonizing regime.

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INTERNATIONAL LAW ON POLITICAL PRISONERS OF WAR

Based upon the foregoing, recognizing that oppressed nations in the United States have been waging national liberation struggles for independence and sovereignty; that the U.S. government has instituted repressive military [COINTELPRO] campaigns to suppress, liquidate, and neutralize these national liberation struggles; and that these national liberation struggles for self-determination have evolved revolutionary armed forces to combat the repression of the State; furthermore, that international law preserves the right of these colonies to wage such a liberation struggle--it is necessary to also recognize the existence of political prisoners of war.

Recognizing the purpose of the FBI/CIA joint COINTELPRO programs, and the manner in which they were employed will serve to provide understanding as to who are political prisoners of war and why they exist. The points elucidated above concerning COINTELPRO show its primary goal was to prevent the building of the "true black revolution" or any real national liberation struggle in this country. The means the government military campaign employed were subversion and infiltration, electronic and physical surveillance, armed military attacks, and covert operations to neutralize political leaders by means of assassination, imprisonment on false accusations, and forcing them into exile by setting them up to be killed or imprisoned. These operations by the FBI/CIA and local police departments, under the Federal Government, caused thousands to be imprisoned for their political beliefs and for implementing their First Amendment right to voice dissent to government policies, while for others [members of revolutionary armed forces], government actions were belligerent military aggression--and in many instances overkill.

This declared war by the government against national liberation forces was in disregard of international law and the governing principles of human rights. Once the political person was imprisoned they were further humiliated and degraded, as government operations under the auspices of COINTELPRO continued. In December of 1973, the House Committee on Internal Security released a report entitled "Revolutionary Target: The American Penal System." In June 1974, the FBI initiated a conference called the "National Symposium on Penal Institutions as a Revolutionary Target." Out of this conference the FBI initiated the "Extremist, Revolutionary, Terrorist, and Subversive Activities in Penal Institutions Program" in July of 1974. The government continued to wage

its campaign to control, contain, and neutralize these freedom fighters. Those imprisoned for their political beliefs and those revolutionaries who are imprisoned for direct attacks on the system of racist oppression continued to be harassed, brutalized and killed while in prison. Because of the degree of political activism in prison many persons originally imprisoned for criminal offenses began to gain a political consciousness about their incarceration and the relationship of their oppressed nations to the "State of Colonialism." Many of these prisoners affiliated themselves with political organizations and movements, and/or organized a prison group to combat inhumane prison conditions and violence perpetuated by prison administrators and racists. This situation has developed to the extent that the U.S. penal system is a hotbed of political activism where political prisoners and POWs continue to serve the class and national liberation struggles.

Political prisoners of war are protected by international law, as they are members of organized bodies of oppressed colonies fighting for national liberation and self-determination. General Assembly Resolution 2621 (XXV) specifically provides in (6) (A) that "[a]ll freedom fighters under detention shall be treated in accordance with the relevant provisions of the Geneva Convention Relative to the Treatment of Prisoners of War, of 12 August 1949" (United Nations, Treaty Series, Vol. 75 [1950]). Subsequent resolutions of the General Assembly reaffirmed the legitimacy of the "peoples" struggle for liberation from colonial and foreign domination by all means available, including armed struggle (see #2708 [14 December 1970]; 33070 [XXVIII] [30 November 1975]); and that persons participating in resistance movements for independence and self-determination, in case of arrest, be treated as Prisoners of War in accordance with principles of the Geneva Convention (see #2852 XXVI [20 December 1971]; #3103 XXVIII [12 December 1973]). This is important, based upon the fact that the U.S. government continues to attack these political prisoners of war in its efforts to prevent the development and fruition of national liberation struggles.

To broaden the political and legal ramifications of this document pertaining to political prisoners of war it is necessary to direct consideration to specific conditions of imprisonment and the international law which the U.S. government is in violation of for those conditions. For instance, the 13th Amendment of the U.S. Constitution mandates that all prisoners are slaves of the State, the 13th Amendment reads as follows:

Section 1. Neither slavery nor involuntary servitude except as a punishment for crime whereof the party has been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

This constitutional amendment is against several international charters, specifically the Declaration of Human Rights, Article 4, which states: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms." Also in the Convention Concerning the Abolition of Forced Labour, 1957 (which noted the referendums of the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and

similar United Nations injunctions against slavery), states in Article 1:

Each member of the International Labour Organization which ratifies this Convention undertakes to suppress and not make use of any form of forced or compulsory labour:

- (a) As a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) As a method of mobilizing and using labour for purpose of economic development;
- (c) As a means of labour discipline;
- (d) As a punishment for having participated in strikes;
- (e) As a means of racial, social, national or religious discrimination.

For the political prisoner of war whose incarceration is based upon a clear opposition to colonialism by the U.S. government, whose colonial domination is based on racism and national oppression, the use of the 13th Amendment of the U.S. Constitution against persons imprisoned for asserting their political beliefs, and fighting for the manifestation of such ideals in the course of waging a war of national liberation, serves as a double aberration against the POW according to international law.

To further establish the status of the political prisoner of war based upon international charters, the Additional Protocols (I and II) to the Geneva Convention of 12 August 1949 adopted on June 8, 1977 by the Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law Applicable to Armed Conflict, expanded the Geneva Convention to protect those fighting against colonialism and foreign domination, and conferred prisoner of war status to anti-colonial freedom fighters. Article 1, concerning the scope of the Convention's application provides, under paragraph (4):

The situation referred to in the preceding paragraph includes armed conflict in which peoples are fighting against colonial domination and alien occupation and against racist regimes, in the exercise of self-determination, as enshrined in the Charter of the United Nations and the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.

This paragraph specifically applies the protections of the Geneva Convention to wars of national liberation, codifies what has been recognized by most countries of the world, that such wars have an international character for the purpose of the application of humanitarian law. Article 43 of the Additional Protocol provides that the armed forces of a Party to a conflict "consists of all organized armed forces, groups and units which are under command and responsible to the Party for the conduct of its subordinates, even if that Party is represented by a government or authority not recognized by an adverse Party." Article 44 in defining Combatants and Prisoners of War, recognized that "owing to the nature of hostilities, an armed combatant can not always distinguish himself from the civilian population and

that, provided that such combatant carries his arms openly during each military deployment preceding the launching of an attack, he shall retain his status as a combatant."

In determining whether a combatant is a prisoner of war, Article 45 of the Additional Protocol provides that a combatant shall be presumed to be a prisoner of war and shall be entitled to that status "until such time as his status has been determined by a competent tribunal." Paragraph (2) of Article 45 further provides that if a prisoner is held not to be a prisoner of war and is to be tried for an offense arising out of hostilities "he shall have the right to assert his entitlement to prisoner of war status before a judicial tribunal and to have the question adjudicated." Finally, Article 45, paragraph (3) provides that if a prisoner is determined not to be a prisoner of war he shall still have the right to the protections of Article 75 of the Protocol. Article 75 among other protections provides the right to be tried by a fair and impartial tribunal, and prohibits imposing a heavier penalty than applicable at the time of the offense. The spirit of Article 45 as well as the entire Additional Protocol 1 is to confer as liberally as possible prisoner of war protections on legitimate national liberation combatants.

The United States is a signatory to the Geneva convention; it was ratified by the Senate in 1955. The ratification of the Treaty was accomplished without major disagreement. The opening statement of the Chairman of the Foreign Relations Committee conveys the overwhelming acceptance of the principles in the document:

Since the U.S. has long been associated with efforts to prescribe human standards of treatment for POWs...we welcome this opportunity to proceed with these four humanitarian instruments whose purpose is to relieve and reduce the suffering of those caught in the maelstrom of armed conflict. (See Smith, *The Geneva Prisoner of War Convention: An Appraisal*, 42 NYU L. Rev. 880, 886 fn. 24.)

Hence the Treaty has full force under U.S. law (6 U.S. T. 3516, TIAS. #336).

The U.S. Supreme Court has specifically recognized the applicability of prior Prisoner of War conventions to belligerents who qualify under the language of these covenants. See *Ex Parte Quirin*, 317 U.S. 1, 31 (1942 "Lawful combatants are subject to capture and detention as prisoners of war by opposing military forces." See also *In Re Yamashita*, 327 U.S. 1 (1945, applying 1929 Geneva Convention); *Ex Parte Milligan*, 71 U.S. 1 (1886). Although the Court in *Quirin* and *Yamashita* found that the defendants' actions were not protected by the prevailing POW conventions, the Court recognized that the Conventions had the force of law, and would protect proper combatants....In determining the application of the Geneva Convention to those presently imprisoned, the Courts should follow the principles set forth in *Factor v. Laubeneimwe*, 290 U.S. 276, 293-4 (1933):

...if a Treaty fairly admits of two constructions, one restricting the rights which may be claimed under it, the other enlarging it, the more liberal construction is to be preferred.

The United Nations Charter is also a Treaty of the United States (59 Stat. 1035 [1945]), part of the "Supreme Law of the Land," and binding upon all U.S. Courts. (See Oyama v. California, 332 U.S. 633, 673 [1948, Murphy and Rutledge, concurring]; and The Paquette Habana.) Article 55(c) and 56 of the U.N. Charter create the obligation on its signatories to observe "human rights and fundamental freedoms," and this is given further specificity by the General Assembly Resolutions and the Declaration of the United Nations Decolonization Committee. The United Nations General Assembly Resolutions specifically recognized the right of "dependent" peoples to use any means necessary, including armed and violent means, to fight colonialism. The resolutions further recognize that captured anti-colonial freedom fighters must be treated as Prisoners of War in accordance with the Geneva Convention. In addition to the Treaty Clause which mandates consideration of POW status, the Ninth Amendment and Federal common law require that POW status be considered. Federal Law and Federal Court decisions have recognized the existence of the "law of civilized nations," which inures to the people. (See, e.g., 28 U.S.C., sec. 341 and 28 U.S.C., sec. 462: In Re Yamashita, 327 U.S. 1, 73 fn. 36 [1945, Rutledge dissenting, recognizing the Geneva Convention as creating civilized rules of International Warfare]: United States v. Toscanino, 500 F. 2d. 267, 276-78 [2d Cir. 1974].)

The law of human rights and civilized nations can be applied to create a remedy under federal common law (see, e.g., Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971); Bell v. Hood, 327 U.S. 678; Textile Workers Union v. Lincoln Mills, 353 U.S. 488 (1956)); as can the concept of the basic human rights retained by the people under the Ninth Amendment. Under either theory, the right of a captured anti-colonial freedom fighter to be treated as a Prisoner of War rather than as a common criminal, is recognized in the Law of Nations and confers a protected status on all political prisoners of war presently confined in the U.S. penal system.

CONCLUSION

It has been put forth in this document that the course of struggle is based upon the oppressed classes and nations fighting for an end to racist colonial domination and capitalist exploitation by U.S. imperialism. It has also been determined that these oppressed nations have a right governed by international law, to wage armed struggle for self-determination and independence. That U.S. imperialism has employed COINTELPRO operations, the FBI/CIA and local police departments to contain, control and/or disrupt and destroy these national liberation struggles using military and covert tactics. The U.S. government in its efforts to prevent the rise of revolution, has imprisoned thousands of political dissidents, many of whom were revolutionaries engaged in armed combat against racism and genocide perpetuated by U.S. imperialism. Furthermore, these captured political prisoners of war continue to suffer while in prison, based upon extended COINTELPRO operations in the penal system and penal laws that are in violation of international law (13th Amendment).

With this understanding of the conditions from which political prisoners of war come into existence, and with the continuation of these struggles for national liberation enhancing the prospects for further United Nations Charter violations; and given that national liberation struggles led by the South West African Peoples Organization, the Palestine Liberation Organization, the Pan-African Congress, and the Patriotic Front are legitimately recognized and governed by the principles of the Law of Nations; and that Puerto Rico has been judged a colony of the U.S. by the United Nations Decolonization Committee; and that other international bodies have determined that Africans in America are also a domestic colony of the U.S. government; it is therefore necessary that the development of the amnesty campaign be based on the principles of the Laws of Nations, and that progressives throughout the Americas recognize these conditions in all of their support of the prison movement.

It is essential that progressives begin to support armed struggle as a legitimate politico-military initiative in the anti-colonial/anti-imperialist movement, and that the class and national liberation struggle begin to call for the exchange of political prisoners of war who have been captured due to their involvement in armed struggle. That revolutionaries who have been captured for organizing the oppressed masses against U.S. racist genocide be released from prison and that those prisoners who have rebelled against inhumane prison conditions be granted clemency. All victims of COINTELPRO must be released from prison.

Jalil Abdul Muntaqim

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MUTULU SHAKUR AND MARILYN BUCK

TRIAL UPDATE

EDITOR'S NOTE: Mutulu Shakur has been a revolutionary and a conscious New Afrikan citizen since the age of 15. He has a long history of involvement in mass-based struggles to improve the living conditions of New Afrikan people (i.e., for community control of schools; against drug trafficking and addiction; for quality health care), as part of the process of national liberation revolution.

Mutulu was captured on February 11, 1986, by the Joint Terrorist Task Force, in Los Angeles, California, on warrants charging him with involvement in the 1981 attempted expropriation of a Brinks armored car, and the liberation of Comrad-Sister Assata Shakur from prison in 1979.

Marilyn buck is a Northamerican revolutionary with a history of support for national liberation struggles. In 1977 she escaped from Alderson Federal Prison, where she was serving time on weapons charges related to support for the Black Liberation Army. She was recaptured in New York in 1985, and is also charged with involvement in the Brinks expropriation and the liberation of Assata Shakur.

* * * * *

Introduction

This document is an update of the trial of Dr. Mutulu Shakur and Marilyn Buck. Dr. Shakur represents the New Afrikan Independence Movement. Ms. Buck is a Northamerican and part of the revolutionary anti-imperialist movement. We hope that this update will be informative and will help expose the government's continued effort to criminalize our movements, our resistance, and us.

Those who resist white supremacy and genocide are being attacked and prosecuted. At the same time, racist attacks by the police, white vigilantes and assassins are openly applauded by the government.

Suppression of Illegally Seized Evidence

In 1986, the defense team of Marilyn Buck petitioned to suppress all "evidence" that was seized pursuant to a warrant which authorized the police to take "any paper, thing or property of any kind relating to the aforementioned crimes." Armed with this overbroad warrant, on October 21, 1981, New Jersey State troopers, local police from Rockland County, FBI agents and the U.S. ARMY (!) raided an apartment in East Orange, New Jersey, and removed nearly everything from this residence.

While a few items were seized that may be admitted as evidence, the police made a "clean sweep" of the entire apartment, taking such things as three cartons of "radical" books and literature, six boxes of clothing, two boxes of shoes and boots, five rolls of film, playing cards, recipes, a television, blank tax forms and a set of dumbbells. Before leaving the apartment, the police let newspaper photographers come in and take pictures of the ransacked apartment which were published in the NEW YORK POST and the Newark papers on October 23, 1981.

The fourth amendment to the U.S. Constitution states that the police must have probable cause to believe that "fruits" of a crime will be located in the residence; and the items to be seized must be described with particularity and must be limited to pertinent evidence. The exact list of things which the police are authorized to take must be listed on the face of the warrant.

In November, 1986, Judge Charles Haight ruled that the warrant violated the Constitution because it did not specify the things that the police were authorized to seize. The government tried to convince the Judge that it didn't matter if the Constitution was violated, because the police found evidence they wanted to use at trial. In response, Judge Haight wrote:

A warrant's constitutional infirmity cannot be retroactively cured by the fruits of an unconstitutional search, however alarming the fruits, or whatever they reveal about their possessor's beliefs. With those revealed beliefs the Constitution has nothing to do, however odious they may appear to one. (1)

In short, the warrant was too broad. In order to stop the police from breaking the law, evidence which is seized in violation of the Constitution cannot be used at trial. This is called the Exclusionary Rule. In this case, Judge Haight excluded the East Orange evidence, rejecting the government's argument that the police officers had acted in good faith in relying on an overbroad warrant issued by the East Orange Municipal Court judge.

The prosecution appealed to the u.s. court of appeals for the second circuit. A three judge panel (Judges Lombard, Kearse, and Pratt), overturned Judge Haight's decision, stating that his analysis of the law was correct and the warrant was unconstitutional because it was too broad, but that THE POLICE HAD ACTED IN GOOD FAITH because the East Orange Municipal Court judge authorized the overbroad warrant. (2) In this decision against Marilyn Buck, it DID NOT MATTER THAT THE POLICE OFFICERS HAD VIOLATED THE CONSTITUTION. The court of appeals basically said that they were just "dumb cops" doing their job. The defense is appealing to the Supreme Court in Washington, D.C.

Right to Speedy Trial

In the Spring of 1986, before Dr. Shakur's pre-trial motions were submitted, the government argued that the indictments of Dr. Shakur and Ms. Buck should be joined in the name of "judicial economy." At that time, Ms. Buck's trial date had been set for April 20, 1986. The government believed that trying them together would ensure their convictions. With separate trials, the

issue of conspiracy is much more difficult to prove. For political and legal reasons, the defense teams opposed the joining of the indictments. On May 19, 1986, Judge Haight granted to consolidation and the cases were joined.

Since the suppression of the East Orange evidence was overturned by the u.s. court of appeals, Judge Haight has granted Ms. Buck a continuance of her trial date so her defense team can appeal to the Supreme Court. However, now Dr. shakur's right to a speedy trial is being trampled, as was Ms. Buck's when the cases were consolidated. It is now unclear when the trial will begin, so dr. Shakur continues to argue for a speedy trial.

Application and Bail Hearing for Mutulu Shakur

In October 1986, Mutulu Shakur petitioned for bail on the grounds that, like other freedom fighters in the Southern District of New York who have applied for and received bail, he was also entitled to bail. Dr. Shakur stated that he went underground and stayed underground because he believed that the FBI would assassinate or torture him as they did Mtayari Sundiata, Solomon Brown, and Sekou Odinga. Also in his mind was the military invasion and persecution of Fulani sunni Ali by the Joint Terrorist Task Force (JTTF) and u.s. army.

The government opposed the bail, stating that Mutulu Shakur represented the "classic" example of the need for "preventive detention":

...Shakur's respect for and willingness to abide by the rules of the judicial system is made even more questionable when it is remembered that one of the crimes is the break out of Joanne Chesimard (Assata Shakur) from prison to which she had been confined by virtue of legitimate judicial process. (3)

The only charge that Assata Shakur was convicted of was defending herself against an attack by New Jersey State troopers. In that incident, a state trooper and Zayd Shakur were killed and Assata was convicted of both homicides. Through numerous trials, Assata was never found guilty of the bank robberies, and assault or assassination of police for which she was being sought.

In February, 1987, Judge Haight granted bail to Dr. Shakur. The judge heard the following witnesses testify to the importance of Dr. Shakur's medical, legal, and political contributions to the New Afrikan community in New York and throughout the country:

- Attorney Victor Goode, an instructor at City University School of Law and a former Director of the National Conference of Black Lawyers;
- Attorney Lennox Hinds, also a former Director of the National Conference of Black Lawyers, a recipient of T. Scully Wright Award at Rutgers Law School, and the author of "Illusions of Justice";
- Alkamal Duncan, former patient of Dr. Shakur;

- Churney Lloyd, M.S.W., Dr. Shakur's uncle;
- Delores Porter, Dr. Shakur's mother;
- Sekou Owusu, a computer scientist and a worker for the Provisional Government of the Republic of New Afrika;
- Dr. Richard Delaney, Dr. Shakur's former partner and colleague at Lincoln Detox and BAAANA. (4)

Judge Haight asked Dr. Shakur to take the stand and answer personally whether he would return for trial if given bail. Dr. Shakur answered:

I not only give you my assurance, but this trial represents something very important to my movement. I have been labeled as a terrorist, a criminal, a drug addict; I have been labeled as an opportunist and ego tripping radical. My clinic has been closed, and I have been accused of killing a doctor, I have been accused of doing a lot of things, and even though I see my community there and I believe that they are with me, I still think that this forum is an important forum for our struggle, and to that end I will be here no matter what the consequences derived from it, I will be here.

I don't intend to be emotional. This is the first time that I am able to talk to the court and the people who have come to support me over the year that I have been incarcerated. This trial is going to be significant for political prisoners, prisoners of war, and the New Afrikan Independence Movement and their allies.

And I also think it is going to be important for the rest of Amerika to determine what is the best way for us to have peace after we look at Georgia and Howard Beach and Buffalo and so many other situations. The New Afrikan Independence Movement has been asking for a separate nation, and as you can see, the people here are black and white. It doesn't mean we are racist, but we are committed to our goals and our objectives, and this trial represents a cornerstone of the struggle of black people here and our participation in the struggle in southern Africa and the struggle for other people around the world who have been oppressed.

You or the court or the jury might not agree with that, but I'm not a criminal, and we are going to present a case here, we are going to present a case that our children and history will record. (5)

In his decision granting bail to Dr. Shakur, Judge Haight concluded Dr. Shakur has pledged to his Movement his commitment to fight the case and decriminalize his Movement. If released on bail, Dr. Shakur also pledged to remain for trial. Judge Haight found that Dr. Shakur is a person of his word. He had never promised anyone in 1981 or 1982 that he would place himself in the hands of the same FBI and police force who murdered Mtayari Sundiata and tortured Odinga and Brown:

The Government dismisses Shakur's assurances as obviously self serving...I am inclined to credit Shakur. (6)

The government appealed Judge Haight's decision to the second circuit court of appeals. In April, 1987, a three judge panel--judges Kearse, Timbers and Pierce--reversed Judge Haight's decision. They decided that Judge Haight had discounted important evidence and minimized Dr. Shakur's likelihood of being convicted. They belittled his challenge to the jurisdiction of u.s. courts to try New Afrikans, saying it was "frivolous." (NOTE: This refers to Dr. shakur's demand to be treated as a Prisoner of War. He has petitioned for a POW hearing in order to demonstrate that war is being waged upon black people in amerika by the u.s. government and right wing organizations, thereby highlighting his status as a captured freedom fighter. This petition is within his international rights under the Geneva Convention.)

The court of appeals said that: "Shakur has displayed nothing but defiance of the court's power to try him unless he chooses to be tried." (7) The second circuit judges assaulted Judge Haight's decision by stating that he accepted Dr. Shakur's word and had not examined his history and character and that his acceptance of Dr. shakur's explanation "for his period as a fugitive is implausible as a matter of law since he never took steps to surrender." (8)

As for the homes posted for bail by Dr. Shakur's friends, family and attorneys, the court of appeals concluded:

In light of the nature of the crimes with which Shakur is charged, the likelihood that he will be convicted, and his history and characteristics, we disagree with the district court that the pledging by his political supporters of their homes will dissuade Shakur's flight. INDEED IT IS MORE LIKELY THAT THOSE SUPPORTERS WOULD SEEK TO OBTAIN HIS FREEDOM THROUGH FLIGHT BY ANY MEANS NECESSARY, INCLUDING THE LOSS OF THEIR HOMES. (8)

This is an attack on these people who have worked their lives to have their own home, as though their labor and righteous aspiration to security and well-being are valueless in the eyes of the law. That people would put up their homes and mortgage their future earnings because of their belief in Dr. shakur and what he stands for is treated as insignificant and with contempt. The court of appeals has done this to allow the government to deprive Dr. Shakur of the freedom to prepare his defense and to keep him unjustly in prison. These kinds of remarks, in slanderous opinions, make it clear to New Afrikans and other freedom loving people that the judicial system lacks objectivity and honesty. It is an attempt to drive a wedge between supporters and resisters.

Identification Hearing

In January, 1987, Judge Haight ordered a WADE hearing to determine whether or not witnesses would be allowed to make in-court identifications of Marilyn Buck, because pre-trial identification procedures had been unnecessarily suggestive, thereby tainting any in-court identification. One of these wit-

nesses was Peter Middleton, who worked at BAAANA. Middleton became a government informant and proved himself to be a liar in the first Brink's trial in 1983. Since the initial FBI interviews, through the first trial and at the present hearings, Middleton has changed his story numerous times.

The government alleges that Middleton treated Ms. buck for a gunshot wound at an apartment in Mount Vernon on October 21, 1981. At the hearing, he testified that he looked at the woman "for hours on end," as he was giving her emergency acupuncture treatment. However, when it came time to identify Ms. Buck during the hearing, he identified another woman who was sitting at the defense table.

The government immediately withdrew Middleton as an identification witness, thereby preventing the defense from being able to cross-examine him on the spot about his failure to identify the woman whose leg he supposedly treated for "hours." The government will still use him in the trial to testify against Dr. shakur and Ms. Buck, although his lies will never be hidden from the jury no matter how much the government tries to polish up his story.

Frye Hearing

During the week of April 6, 1987, a FRYE hearing was held to determine whether novel scientific methods used by the FBI crime laboratory to analyze genetic markers in dried blood stains are reliable. During the FRYE hearing, the government called several witnesses who attempted to convince Judge Haight that their scientific methods were reliable. However, each of these witnesses admitted under pressure that the FBI had abandoned these techniques sometime after 1981 for methods which give more conclusive results and were more reliable. The government witnesses also admitted that the procedures had never been validated by any other scientists outside the FBI.

The defense called expert witnesses, Dr. Diane Lavett and Dr. Benjamin Grunbaum, both renowned scientists, who testified regarding the unreliability of the method, the necessity for maintaining laboratory bench notes, and photographing the lab work.

In response to a defense discovery request, it was learned that THE FBI DESTROYED THE LABORATORY NOTES and did not photograph their work. The lab notes would have explained testing conditions, procedures and results. The photos would have preserved the results for future review by defense counsel experts. By not preserving the lab notes and failing to take photos, the government has deprived Ms. Buck of the right to challenge the evidence against her. One of the government witnesses, a special agent in the FBI crime lab, stated that they do not take photos because they do not want them manipulated by "unscrupulous defense attorneys and experts."

The government tried to challenge the testimony of Drs. Lavett and Grunbaum by attacking their character. They belittled the extensive genetic research of Dr. Lavett and implied that Dr. Grunbaum only challenged FBI methods for economic gain and personal prestige. They even stooped so low as to question the assistance Dr. Grunbaum receives in his work from his wife.

The government alleges that various blood stains found in a car and in an apartment in Mount Vernon came from Ms. Buck. Interestingly, all the government witnesses admitted that science had not progressed to the point where anyone could definitively state who is the donor of a particular blood stain. In fact, individuals can only be excluded as being the donor of a particular blood stain.

Force Order for Evidentiary Exemplars: Hair, Handwriting, Blood, Photographs

In February, 1987, the government petitioned the court for a force order to obtain handwriting and hair samples from Dr. Shakur and Ms. Buck. This petition was part of a ploy to make sure that Dr. Shakur would never be released. It was clear to the prosecution that neither Mutulu Shakur nor Marilyn Buck would collaborate and surrender either their hair or handwriting because of their Movements' stand on non-collaboration.

The government also renewed its request to photograph Ms. Buck's leg and take a sample of her blood. The judge had previously denied the government's right to take her blood until after the FRYE hearing was completed. However, the judge changed his mind and awarded the government their request for a force order for all the samples over the strenuous protests from the defense.

The defense successfully got an order to videotape the procedures to try and prevent the JTTF from seriously injuring Dr. Shakur and Ms. Buck. A magistrate was present to rule on whether the force used by the JTTF was "reasonable." Magistrate Sharon Grubin opened the proceeding by stating that the government had the right to use whatever forces was necessary. The JTTF used overwhelming force to obtain the hair, blood and photographs which Mutulu Shakur and Marilyn Buck resisted. The government was not able to obtain the handwriting samples and has asked for a contempt of court order. The defense will continue to fight these force orders.

Franks Hearing

In February, 1987, a FRANKS hearing was begun to determine whether there was sufficient evidence to order a wiretap on BAAANA telephones and a search warrant. The hearing will also decide whether the JTTF deliberately lied to the judge in order to get the wiretap order.

In 1981, wiretaps and searches of BAAANA were authorized based on the alleged confession of Solomon Brown who had been captured at Nyack, New York. An affidavit by Solomon Broan, filed by Attorney Evelyn Williams, states that he was tortured daily for a month before the alleged confession was written. Medical records show that during the torture Solomon Brown's neck was broken in two places. The affidavit also states that anything attributed to him were statements that he was forced to copy because of threats of intimidation and torture by the Joint Terrorist Task Force.

The defense is challenging the validity of the confession as the basis of the authorization of the wiretaps and search. During the initial hearings, it became clear that Brown's willingness to testify was based on his remaining in the Witness Protection Program (WPP). Although Solomon Brown requested to be put into the WPP immediately after his trial in 1984, he was not placed in

the program until sometime in 1986. Why did the u.s. government wait so long? Only after Dr. Mutulu Shakur was arrested and he filed pretrial motions attacking the wiretaps, did it become advantageous for the JTTF to finally put Solomon Brown in the WPP.

The defense made a motion that the court supervise Solomon Brown's status in the WPP so that his testimony in the FRANKS hearing could not be used as coercion to lessen Brown's truthfulness about the question of torture. (NOTE: In the last Brink's pre-trial hearing, Solomon Brown took the fifth amendment.) When Judge Haight agreed to this order, the government opposed it and said they would appeal, challenging his authority to issue the Order. However, a week later they announced that they were reserving the right to appeal Haight's order until AFTER SOLOMON BROWN TESTIFIES IN THE FRANK'S HEARING. In the prosecutor's letter to the court, they stated that Brown would have to testify and "take his chances." (9) The psychological torture of Solomon Brown continues.

Summation

We would like to make a few main points about this case:

1. It is clear that the u.s. government uses torture and intimidation as a tool of oppression. Although the media gives the impression that torture only goes on in Latin America and other parts of the world, the truth is that the torture training schools are here in the u.s. "Police brutality" is just another form of torture.

2. Dr. Shakur has petitioned the court for a Prisoner of War hearing. Judge Haight agreed to consider this issue. However, before the hearing has taken place, the court of appeals has already decided that this legitimate and internationally recognized human right is "frivolous." The fact is that a war exists NOW against New Afrikans; this POW hearing will be a legal forum to document this issue.

3. The decisions by the second circuit court of appeals reflect the ongoing battle within the judiciary between the constitutionalists who want to maintain the last vestiges of what we perceive as the "constitutional illusion" and those who follow Attorney General Meese's belief that there should be a selective application of the rights guaranteed by the u.s. constitution.

4. Science and technology have been used by various counter-intelligence programs to suppress and intimidate the masses. The FRYE hearing exposed the FBI's testing methods as pseudo-scientific. This is verified by their refusal to allow the scientific and legal communities to validate their results. (Remember how "science" was used to convict Wayne Williams of the Atlanta child murders, when it was KNOWN AT THAT TIME that the KKK committed the murders.)

5. The government controls the media. Just as important pre-trial activity is not being covered, the same will be true of the trial. Come and see for yourself.

6. The defendants are not criminals. They are respectively part of the continuing resistance against oppression that believes in self-determination through Land and Independence, defeating white supremacy and u.s. imperialism.

FREE ALL POLITICAL PRISONERS AND
PRISONERS OF WAR

Marilyn Buck
M.C.C., Unit 5S
150 Park Row
New York, NY 10007

Mutulu Shakur
M.C.C., Unit 9S
150 Park Row
New York, NY 10007

For more information, contact:

Committee to Fight Repression
P.O. Box 1435
Cathedral Station
New York, NY 10025

Campaign to Free Dr. Mutulu Shakur
P.O. Box 3171
Manhattanville Station
New York, NY 10027
(718) 771-7306

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(718) 499-2380

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- (3) United States v. Mutulu Shakur, No. SSS 82 Cr. 312 (CSH), United States District Court, Southern District of New York, Government's Memorandum of Law in Opposition to Defendant Mutulu Shakur's Bail Motion, dated October 22, 1986.
- (4) United States v. Shakur, No. SSS 82 Cr. 312 (CSH), United States District Court, Southern District of New York, Judge Charles Haight, Memorandum Opinion and Order, dated February 19, 1987.
- (5) United States v. Shakur, No. 87-1103, United States Court of Appeals for the Second Circuit, Appendix on Appeal.
- (6) See (4) above.
- (7) United States v. Shakur, No. 87-1103, United States Court of Appeals for the Second Circuit, Judges Timbers, Kearse and Pierce, Decision and Order, dated April 10, 1987.
- (8) See (7) above.

THE WILLIAMSBURG FOUR

The Islamic Coalition for Justice, on behalf of the Williamsburg Four and their Defense Committee, would like to present you with the following information regarding this important case. This information is revised from a flyer produced by THE WILLIAMSBURG FOUR DEFENSE COMMITTEE.

The Williamsburg Four Defense Committee was formed in order to bring the plight of the WILLIAMSBURG FOUR to the attention of the Muslim community, and to raise support for the efforts of these Muslim brothers to free themselves from oppression and suffering. If just a small percentage of the millions of Muslims in the United States actively involved themselves in the pursuit of justice for the WILLIAMSBURG FOUR and other Muslim political prisoners, their condition would greatly improve. Muslims are a strong force in this country and should utilize every opportunity to demonstrate unity and strength in the cause of justice. Muslims all over the world are rising up against oppression and religious persecution, and we should make a united effort to actively support all oppressed Muslims.

The WILLIAMSBURG FOUR Defense Committee is striving for "executive clemency" for our brothers. We can only get this "executive clemency" by petitioning the New York state Governor for their release. Insha'Allah, this can be done with your help. The WILLIAMSBURG FOUR are: Shu'aid Abdur Raheem, Dawud Abdur-Rahman, Yusuf Abdullah Al-Mussadiq, Salih Thabit Ali Abdallah. Find out what you can do to assist in securing justice for the WILLIAMSBURG FOUR. Write us at:

The Williamsburg Four Defense Committee

Post Office Box 23587

Baltimore, Maryland 21203

-OR-

Islamic Coalition for Justice

4819 13th Avenue - Suite 208

Brooklyn, New York 11219

THE FRAME-UP OF DHORUBA AL-MUJAHID

The case of Dhoruba Al-Mujahid (formerly known as R. Dhoruba Moore), epitomizes the F.B.I. strategy known as COINTELPRO--a government counter-intelligence strategy involving extensive infiltration and surveillance designed to disrupt and confuse the black freedom movement and New Left in the U.S. Unfortunately, this program was successful in many of its efforts. Jobs were lost, homes were broken up, reputations were ruined, organizations were crippled and destroyed, and people were falsely imprisoned or killed.

One such COINTELPRO victim is Dhoruba Al-Mujahid, a political activist and former Black Panther Party leader now serving a 25 year to life sentence in New York state prison. Dhoruba Al-Mujahid's imprisonment is the result of an F.B.I. and New York City Police Department orchestrated anti-terrorist frame-up. As a result of currently pending litigation, Dhoruba Al-Mujahid has obtained over 500,000 pages of heavily excised F.B.I. files. Though he and his attorneys contend these files merely scratch the surface of illicit U.S. government repression of the black freedom movement, these files nonetheless outline a conspiracy on the part of the F.B.I. and the New York City Police Department to frame and imprison Dhoruba Al-Mujahid.

As early as 1968, Dhoruba Al-Mujahid was labeled an "extremist" with "leadership potential" by the F.B.I. because of his organizing ability and work in the black community. As a result of government COINTELPRO disruption of the Black Panther Party, Dhoruba Al-Mujahid was forced to jump bail as one of the 21 BPP members indicted on conspiracy charges in 1971.

While underground and hunted by government-police assassins, Dhoruba Al-Mujahid, along with all of his Panther 21 co-defendants, was acquitted of all trumped-up criminal charges in less than two hours of jury deliberation. This acquittal was a major victory for the Black Liberation Movement, and a stunning embarrassment for U.S. and state law enforcement agencies, who had consistently portrayed militant black youth as blood-thirsty criminals. To recapture their credibility and continue their anti-black campaign of COINTELPRO repression, both federal and local law enforcement agencies shifted the emphasis of their "legal" repression from vague conspiracy indictments, to a full fledged program of criminalization.

It was in this political climate of repression that Dhoruba Al-Mujahid was captured on June 5, 1971, and eventually charged with, and convicted of, the May 19, 1971 shooting of two New York City Policemen guarding the home of the late District Attorney, Frank S. Hogan -- the mastermind behind the political Panther 21 conspiracy indictment.

Dhoruba Al-Mujahid was ultimately convicted completely on circumstantial evidence manipulated by the F.B.I., New York Police, and the office of District Attorney Frank S. Hogan. It is now known, for example, that due to lack of eyewitness identification of Dhoruba Al-Mujahid, that witnesses who claimed knowledge of key facts were in fact ignorant of those same facts when initially interviewed by police, and that crucial fingerprint tests which proved negative were withheld at all three of Dhoruba's trials.

More information is needed to actually overturn Dhoruba Al-Mujahid's conviction. The ICJ needs your support now more than ever in the struggle to secure the freedom for Muslim political prisoners such as Dhoruba Al-Mujahid. There are many more political prisoners like Dhoruba Al-Mujahid: Nuh Abdul Qayyum, Bashir Hameed, Abdul Majid, Jalil Abdul Muntaqim, Dawud Abdul Rahman, Yusuf Abdul Al-Mussadiq, Sekou Odinga, Shu'aid Abdul Raheem, Salih Ali Abdallah, as well as non-Muslim political prisoners such as Herman Bell, Sundiata Acoli, and others. The list is long indeed.

Legal costs, distribution of information, organization of people, all require time and money. You can help us help these brothers by donating some of your time, expertise, or by contributing financially to the ICJ. For years people have remained essentially indifferent to the plight of political prisoners such as Dhoruba Al-Mujahid and others like him. These brothers have received little concrete support.

The Islamic Community in North America, and the poor minority communities in general, as current targets of racist repression, can ill-afford to forget the examples of these brothers. It is essentially true that those who forget the lessons of history are likely to repeat its mistakes.

Please contact us if you have any questions or if you wish to aid and assist the ICJ in any capacity.

Thank you,

THE ISLAMIC COALITION FOR JUSTICE

write:

Islamic Coalition for Justice
4819 13th Avenue - Suite 208
Brooklyn, NY 11219

call:

Law Office
294 Atlantic Avenue
Brooklyn, NY 11201
(718) 624-0800

MOVING THE PIECES: THE ROLE OF THE HAITIAN
PETIT-BOURGEOISIE IN REFORM, REVOLUTION, AND REACTION

by

Prince Cuba

The United States government recently pressured "Baby Doc" Duvalier to step-off from his island plantation, in an effort to forestall revolution through reform. With no intent to allow what had earlier occurred in Grenada, Iran, Cuba, or Nicaragua, the U.S. gameplanners have sought to counter revolution with reform. The recent departure of Ferdinand Marcos from the Phillipines is yet another case in point. The current regime of South Korea's Chun Doo Hwan seems to be destined to follow suit.

The Duvaliers of Haiti (pronounced hah- ee- tee), might easily be compared with the Somozas of Nicaragua, or the Pahlavis of Iran: a crew of bloodsuckers who helped the businessmen of the U.S. plunder their own people in a form of compradore capitalism and neo-colonial puppetry. Like the earlier Batista of Cuba, the Shah of Iran, Somoza, "Baby Doc", and Marcos, they robbed their own people and were aided and abetted by their unindicted co-conspirator, the United States government.

It is curious enough that the U.S., after supporting and arming hoodlums as its junior partners, engaging in mass-murder and grand theft, has consistently turned State's evidence against its former crime partners, when the latter's treasons have become undeniable.

This recent history must be viewed in its proper perspective, minus the emotionalism of narrow-minded nationalism that allowed traitors to rule with the help of the U.S. government.

The only reason that these people were asked to leave was because their images were so badly tarnished as to defeat the principles of neo-colonialism. Only the "neo" in neo-colonialism is new. The difference between old colonialism and neo-colonialism is merely coloration. Lacking an objective analysis, people think that they enjoy self-determination because someone who looks like them is sitting in the presidential palace. Meanwhile, the real boss, in the style of the absentee landlord, is pulling the strings elsewhere.

Baby Doc and Marcos were fired. Their boss fired them. Let us examine some recent history.

In the past six years, elected civilian leaders have replaced authoritarian regimes in Argentina, Bolivia, Brazil, Ecuador, El Salvador, Grenada, Guatamala, Honduras, Peru, and Uruguay. The Deputy Assistant Secretary of the U.S. State Department, Robert Gelbard, a spokesman, admitted, "We have played a very active role."

Having re-evaluated its mistakes in dealing with the regimes of Batista, the Shah, and Somoza, and in an effort to prevent the seizure of power by progressive revolutionary leadership truly representative of the people of Haiti and the Phillipines, the U.S. is just backing another team; its still their chess game. In Jamaica, the C.I.A. funded both the Manley and Seaga election campaigns. They are prepared to bet on every horse in the race to guarantee a winner. As Bob Marley sang, "They would do anything to materialize their every wish."

When the imperialist powers step into the political processes of another government, you can bet that its not for the benefit of the common people. When they sent their junior partners Marcos and the Shah packing, you can be sure that their suitcases weren't empty. Like the previous General Thieu, the former puppet of South Vietnam, they took the money and ran. Daniel Ortega may have robbed banks, as did Stalin and Kuwasi Baladon, but those lowlifes, Somoza, Marcos, et al, robbed entire nations. It is a reasonable assumption that Baby Doc, like Marcos and Thieu, will return to the bosom of his Uncle Sam when the heat dies down, to live in luxury, and spend the winnings in the protective custody of the U.S.

And now the predictions based on the United States Department of State's own modus operandi: new faces at first, and then the old faces filter back in, and then the same old repressive programs and economic conditions.

In Haiti, the new U.S.-approved government is headed by Army Chief of Staff, General Henri Namphry. In all the years of Papa and Baby Doc, the Ton Ton Macoutes, torture, murder, and starvation, the army officer corps accepted the political and economic situation of the masses, while they themselves, as a privileged sector, maintained a very comfortable position. It is a safe bet that Namphry never missed a meal in his life. He should be executed with Baby Doc for treason. He got the job as head house nigger because he was acceptable to U.S. interests. As far as the U.S. government is concerned, the people who buy the baseballs manufactured in Haiti by hand, have more of a say on who runs the country, then the people who live there.

The new Minister of Justice, Gerard Gourgue, was the former head of the Haitian Human Rights Commission, a high-paying job. The Haitian Human Rights Commission was created

by the government of the Duvaliers, and the salary was paid by Baby Doc. Mr. Gourgue's function was to investigate human rights abuse in Haiti, and make his report to the government. Part of Mr. Gourgue's social functions was dining at banquets given at the Presidential Palace with the Duvaliers.

Colonel William Regala is the new secret police chief. He was only promoted from a lesser rank, and now has a new boss.

Colonel Max Valles is the new Minister of Information, which is a fancy title for the chief propagandist of the regime. He too was a ranking member of the Duvalier government, as was Alex Cineas, who was Public Works Minister under Pop and Son Duvalier, and is now Minister without Portfolio, or "roving ambassador".

Same old crew. Whose being fooled? Most of the people; and why is that?

For the simple reason that most of the people who have the mental ability to make the necessary analysis have a mental block on the ideological level that prevents them from dealing with the problem objectively: they are petit bourgeois. They are incapable or unwilling to challenge the capitalist economic basis of neo-colonialism. Their political understanding lacks an economic analysis.

There is some good to be salvaged from these facts when they are examined within their historical context, and from a revolutionary perspective.

In all history the rich and powerful minorities have never gave up their privileges without a violent struggle. Any change beneficial to the masses is fought for by the masses. The old and the fat cannot lead the young and the hungry into anything but slavery. House-niggers will never lead a revolt to overthrow a system of slavery from which they derive their own privileges. Petit-bourgeois is French for house-nigger.

The petit-bourgeoisie, within the neo-colonial context, are basically house-niggers. Historically, in any revolutionary struggle, the petit-bourgeoisie always play a vacillating role; first supporting the anti-government forces on an emotional level, and then later the reactionary forces during the Thermidorean thaw. The petit bourgeoisie are a fickle bunch; their ardor cools in the face of radical social change. This class of people fall in love with liberation movements, and get caught up with the passions of the moment: the intrigue, the danger, the exhilaration of excitement. But their infatuation wanes with the sacrifices of total commitment. It is from this class, and the lumpen, that the secret agents, police, and

their informants are drawn.

A good example are the petit bourgeois nationalists who praise Malcolm now that he is gone; they have done nothing to break with the system or apply his teachings. One could accurately say, "they have no principles." The mainstay and highly visible element of the petit bourgeoisie in its pseudo-revolutionary trappings are the "cultural nationalists".

Remember the petit bourgeois Cubans who supported Castro until they found out that he intended to carry out his Moncada Program? Their names are legion. The petit bourgeoisie first deceive themselves. This form of self-deceit allows them to function as traitors to their own people; that's how they are able to live with themselves. Time after time, they support revolutionary movements against the status quo because, unable to make an objective analysis, they constantly lose out.

There is no group more petit bourgeois than post-revolutionary refugees.

* * * * *

The same emotional nationalism utilized with a cohesive ideology to motivate the masses toward a revolutionary movement, attracts and motivates the petit bourgeoisie to support a revolutionary movement. At the earlier stages of a revolution, and through to its consolidation of state power, it is necessary to court, and even seduce the petit bourgeoisie; they are the infrastructure of the bourgeoisie, and the power base to erode.

Emotional nationalism will sweep up the petit bourgeoisie into the liberation movement. After consolidation of the State apparatus comes the stage of socialist construction. At that point, when the necessary sacrifices come to fore, the reactionary character of the petit bourgeoisie shows its face.

Emotional nationalism is akin to religion, and a powerful tool in national liberation movements. Its potent force always sucks up the ideologically sluggish, the politically uncertain, and the petit bourgeoisie. Caesar used Marius, Fidel utilized Marti, Nicaragua resurrected Sandino; and for us in the wilderness of North America, it will be Malcolm. As orthodox religions have relied upon their prophets, so too will national liberation movements rely upon the martyrs, but a new, vital dimension must be added, and that is the scientific analysis of historical materialism.

* * * * *

The recent shuffling of pieces on the international chess

board is not a winning strategy for the United States; they are only delaying maneuvers; short-term tactics, designed to avoid a permanent checkmate. There are pieces yet to be moved across the board. Perhaps soon in South Korea a rook is moved; in southern Africa, some pawns sacrificed. The movement of pieces can be anticipated.

The World Tournament goes on; some pieces have definitely moved from the United States' gameplan/board: North Korea, Cuba, Angola, Vietnam, Ethiopia, and the list goes on, with moves being countered, Left and Right, and the struggle continues until victory. We shall win.

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AN OPEN LETTER TO THE OPPRESSED PEOPLE OF THE WORLD

by

Hanif Shabazz Bey

In the light of the United States' recent attack on Libya and the warmonger Ronald Reagan's call for all European allied nations to employ economic sanctions against the People's government headed by Col. Muammar El-Quaddafi, and Reagan's further persuasions to maintain U.S. policy of opposition to economic sanctions being taken against the racist and immoral government of South Africa, I ask all oppressed and freedom loving people to aid my co-defendants and myself lift the repressive sanctions which were implemented against us 14 years ago.

This letter is written in an effort to solicit support in getting us back to our homeland. Fourteen years ago, four other Virgin Islanders and myself were seized on the island of St. Croix, Virgin Islands, and held captive allegedly for involvement in an attack on a Nelson Rockefeller-owned resort. The resort was frequented by ruling class families and called "Fountain Valley," whereby the trial became known as the "Fountain Valley 5 case."

Several indigenous New Afrikans were picked up and charged with killing eight whites basking in the sun on the resort. Newspaper accounts portrayed the events as an invasion by young racist toughs, who had come upon the resort and systematically annihilated the vacationers.

However, the news media failed to elaborate on the sentiments of the indigenous islanders who were without work and constantly being forced to the imperialist mainland to seek employment. Our people watching the erosion of their homeland to land developers and industrialists, made their displeasure known. It was also convenient to have an explosion of the races in order to set back in place the so-called "passive islanders." Subsequently, after a long trial and jury deliberations which lasted nine days, we were found guilty. The sentence imposed by the court and attained by inconclusive evidence, resulted in five young New Afrikan men being given eight (8) consecutive life sentences--a walking death sentence! Instead of remaining on the island where our family, friends and supporters were, the court immediately transferred us into U.S. federal custody. It should be made known that this was not a U.S. federal trial, but an example had to be established in order to keep the "passive islanders" passive.

While in federal custody we have been tortured repeatedly by the racist federal guards. In my fourteen years of incarceration I have never ceased my efforts to be returned to my homeland. Due to my outcries, I have been subjected to 11 of the 14 years in the infamous Marion prison, where I now reside. In order to understand the psychology of my confinement, I place you in the daily life of Marion.

Marion allegedly is a prison for the incorrigibles in the federal prison system. Every federally incarcerated male can be subjected to Marion treatment, however federal officials rather use it for political prisoners, or those who try a chance at freedom, and discipline failures. Marion earns the title of infamous from the character of programs used. For instance, no incentive pay, because no work exists, thereby crippling the finances of prisoners. Meaningful educational and recreational programs just do not exist. The U.S. Bureau of Prisons policy is to orientate the prisoner into depending upon the fascist guard staff. This form of conditioning renders the prisoners helpless, since the guards are inadequate and non-responsive to the needs of the prisoner population.

Despite the above abuses, I have maintained a strong constitution to survive here. However, I long for the contact with family, friends, and supporters. This can only be accomplished by being transferred back to the islands.

Throughout this ordeal I have sought a new trial based upon credible evidence, but this is virtually impossible without tangible contact with supporters.

In order to associate the specifics of my case, money is needed to purchase stamps and other requisite materials to continue a lengthy legal battle.

Marion does not provide work so there is no incentive pay, whereas in the islands much can be accomplished with minimal effort and expense. That is why I seek your assistance.

You can help by writing the Director of Prisons, Norman Carlson, and urge him to return me to the Virgin Islands. Write your letters to:

Norman Carlson, Director
U.S. Bureau of Prisons
320 First Street, N.W.
Washington, D.C. 20534

and

Warden Henman
U.S.P. Marion
P.O. Box 1000
Marion, Illinois 62959

For further information, contact our outside coordinator:

Brother Al Saladin
Blisschords Communications network
P.O. Box 53435
Chicago, Illinois 60653

Yours, In Struggle,
Hanif Shabazz Bey
s/n B. Gereau #96544-131
P.O. Box 1000
Marion, Illinois 62959

A REPORT TO THE UNITED NATIONS HUMAN RIGHTS COMMISSION:

Counterinsurgency Against the Puerto Rican
Political Prisoners and Prisoners of War

HUMAN RIGHTS VIOLATIONS IN U.S. PRISONS AND JAILS:



MAY, 1987

Introduction: Counterinsurgency in U.S. Prisons and Jails

The United States has held the Puerto Rican nation as a colony since 1898. Situated in the Caribbean as the gateway to all Latin America, Puerto Rico has always been used as a military base from which the U.S. can monitor and control that part of the world. Its strategic location, valuable natural resources (particularly minerals), and ready source of labor, when combined with a prime market for U.S. goods, make for strong U.S. interest in maintaining control over this country.

Since the U.S. militarily invaded and occupied the island nation in 1898, the Puerto Rican people have resisted colonial domination and sought independence and self-determination. Inspired by the Algerian people's struggle against their French colonizers, the international community recognized colonialism as a crime, and acknowledged the right to self-determination. Understanding that colonizers would not respect the right of self-determination, international law sanctioned the use of "all necessary means at their disposal" to realize that right.

In the 1960's and '70's several armed actions, attacks on the U.S. military in the island were carried out by armed clandestine organizations in Puerto Rico. One group, Fuerzas Armadas de Liberacion Nacional (FALN), took credit for armed actions inside the United States. As the number of organizations and actions increased, the mass show of support for the armed actions likewise grew. The U.S. began to recognize the potential for mass insurgency in Puerto Rico, particularly in light of a failing economy unable to support the populus. This recognition led to a counterinsurgency plan

*U.N. Charter, Chapter I Article 1, Chapter IX Article 55; 59 Stat. 1035 (1945); Declaration on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514 (XV)); Resolution 1654 (XVI); UN Covenant on Civil and Political Rights, Part I, Article 1.

**Programme of Action for the Full Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (G.A. Resolution 2621 (XXV)).

***CAL, MIRA, FARP, OVRP, EPB Machteros, Commandos Obre-ros, CRP, MAR.

****Official statistics reveal an unemployment rate of 40%. Dependency on the U.S. has also meant for Puerto Rican people a disproportionality high rate of illiteracy, involuntary sterilization, alcoholism, suicide and mental illness.

for Puerto Rico, similar to the one already in place against Cuba and the Dominican Republic. Continuing the sordid history of the FBI's Cointelpro program, the counterinsurgency plan had a purpose to neutralize, disrupt, and destroy the movement for independence. The plan had a broad focus, aimed at mass, aboveground pro-independence work and at clandestine work.

Due to the desire of the U.S. to maintain a facade of democracy, the plan for Puerto Rico could not include bombing the civilian population to stifle support for peoples armies, as it does in El Salvador. Instead counterinsurgency against the independence movement functions mainly in the judicial, legislative, and police arenas, making drastic cutbacks in individual civil rights in the name of fighting terrorism. Hence, a "bail reform act" which eradicates the right to bail and permits "preventive detention." Hence government use of anonymous juries, invoking lengthy sentences for criminal contempt for movement leaders who resist grand jury subpoenas; use of informants; pervasive employment of electronic surveillance and sophisticated technology; attacks on lawyers representing independentists; imposition of special conditions on political prisoners and POW's, etc.

The U.S. has, in its efforts to perpetuate colonial control of island, taken prisoner many Puerto Ricans, some who state they are anti-colonial combatants, others who are pro-independence activists falsely accused of membership in armed clandestine organizations. These political prisoners and prisoners of war (P.O.W.)^{**} have become special targets of counterinsurgency. These men and women share some very unique characteristics. They are not "criminals" - they have no cri-

*The existence of such plans has been acknowledged by former government officials. See, Juan Manuel Garcia Passalacqua, "Nunca Jamas," El Mundo, March 2, 1987.

**In Resolution 2621 (XXV) (1970), the General Assembly specifically directed that anti-colonial freedom fighters are not to be prosecuted as criminals under the domestic law of the detaining colonial power, but instead must be "treated in accordance with the relevant provisions of the Geneva Convention relative to the Treatment of Prisoners of War." Resolution 3103 (1973) reaffirms that anti-colonial combatants "are to be accorded the status of prisoners of war" pursuant to the Geneva Convention. The United States ratified the Geneva Convention (6 U.S.T. 3516) in 1955. Furthermore, the Additional Protocols (I & II) to the Geneva Convention (1977), Article I paragraph 4, Article 43 and Article 44 echo the same recognition of POW status to captured combatants in wars of national liberation. With its military invasion and occupation, followed by 89 years of colonial subjugation, the U.S. created and perpetuates bellicose relations with its island nation neighbor.

minal records, and, in the eyes of the independence movement and international law, have committed no crimes. Many are married with children. Many are college educated. They had occupations - worker, retailer, farmer, artist, pharmacist's assistant, university counselor, secretary, student, etc. Their biographies are included in Appendix A.

While the U.S. denies that it has political prisoners, and refuses to officially recognize the prisoner of war or political prisoner position taken by seventeen Puerto Ricans currently in U.S. prisons*, two of whom are pretrial detainees, the remainder of whom are serving sentences of from 35 years to life, its special and punitive treatment of these men and women loudly contradicts the denials and in a multitude of ways falls far short of meeting the United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMRPT), beginning with the proscription against discrimination on grounds of political opinion - a basic principle of the rules. Rule A I 6(1).

The national prison administration has labelled every sentenced political prisoner and POW a "Central Inmate Monitoring Case," meaning that all decisions about them are to be made at the national level,** which facilitates national level input, involvement, and even decision-making by other agencies, such as the FBI.

Those who design this special treatment play an important role in the government's counterinsurgency plan. The POW's, as combatants, set examples for their nation of the highest level of struggle against colonial domination. Yet through its special, brutal conditions, the government seeks to punish them and make examples of them in such a way as to intimidate others from following in their footsteps. And so by design, with guidance from those who torture the Irish Republican prisoners,

*Edwin Cortes, Elizām Escobar, Ricardo Jimenez, Oscar Lopez-Rivera, Adolfo Matos, Filiberto Ojeda-Rios, Dylcia Pagan, Alberto Rodriguez, Alicia Rodriguez, Ida Luz Rodriguez, Luis Rosa, Juan Segarra Palmer, Julio Antonio Veras y Delgadillo, Alejandrina Torres, Carlos Alberto Torres, Maria Haydee Torres, Carmen Valentin, are all in U.S. prisons and jails. Another, William Guillermo Morales, who escaped from custody while at a hospital, is currently held in a Mexican prison. The U.S. has stated its intention to extradite him, and international support opposes such extradition.

**Decisions about conditions for social prisoners are routinely made at the institutional level or even at the level of the housing unit within the prison.

the German Red Army Fraction prisoners, and others*, the U.S. seeks to punish them and destroy the revolutionary spirit, the will, the resistance of the prisoners and through them, the movement.

Emboldened by government inspired anti-terrorist hysteria, and the virtual abdication of oversight responsibilities on the part of U.S. Congress and the U.S. Courts, prison authorities act with impunity generally, ** but especially toward the POW's and political prisoners. They also act with creativity and experimentality, testing not only what succeeds in isolating, turning informant, breaking, or driving mad these prisoners, but also what the public will tolerate. The arsenal of tactics includes a denial system which includes isolation, destabilization, criminalization, humiliation, denial of medical treatment, physical and sexual assault, and continual harassment and vigilance. Tactics are highly personalized. It would appear that the government has commissioned psychological profiles on each of the prisoners so as to increase effectiveness. Denial connotes not just denial of human rights but denial of the essence of the person's political being and existence. The very existence of this governmental political campaign to destroy these prisoners violates the guiding principles of the UNSM RTP, which prohibit the aggravation of suffering inherent in imprisonment (Rule A II 57) and prescribe "minimiz[ing] any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings". (Rule A II 60(1)) The rules also mandate that for persons under sentence "[t]he treatment shall be such as will encourage their self respect..." Rule A II 65.

Isolation

The government intentionally places the prisoners in prisons far away from their families and communities. For years the United States has basically banished independence activists, taking those convicted of pro-independence activity from their country and forcing service of prison sentences inside the U.S., as it did with the Nationalist Party leaders, including Don Pedro Albizu Campos and Don Juan Antonio Corretjer, as

*The United States sponsored a secret conference in 1978 in Puerto Rico inviting participation from counterinsurgency experts worldwide.

**The U.S. has one of the highest numbers of people incarcerated in the world, with an inordinately disproportionate number of Third World men in its prisons. This warehousing under overcrowded and inhumane conditions is part of a government strategy to control potentially insurgent populations.

it continued to do with Pablo Marcano Garcia and Nydia Cuevas, and with Angel Rodriguez Cristobal and his fellow Vieques protestors. The most recent example is the August 30, 1985 arrest in Puerto Rico of eleven activists, who were transported out of their country by the U.S. military before they could go forward on a hearing for bond scheduled to be heard in their own country. They were disappeared for two days, their whereabouts unknown to their families or attorneys. They were then reappeared in Hartford, Connecticut, thousands of miles from their country, to be held in prison without bond for 16 months, first in a prison only for convicted felons, in violation of Rules A I 8(b) and A II 85(1) UNSMRTP. Prison officials also make assignments to prisons to intentionally distance the prisoners under sentence from their families, for example placing Ricardo Jimenez, whose family lives in Chicago, in a prison near New York City, while placing Elizam Escobar, whose off-spring lives in New York City, in a prison near Chicago.

The isolation from political support is accomplished in assignment to distant and inaccessible prisons but also by restrictions on contact. Carlos Alberto Torres, Ida Luz Rodriguez and Alejandrina Torres have each endured periods of from months to years prohibited from corresponding with anyone outside the immediate family. In each case, the restriction was imposed for absolutely no valid reason, and in violation of Rule A I 37.

Several of the prisoners, including Alicia Rodriguez and Elizam Escobar, have been assigned to prisons where the phones cannot place calls to Puerto Rico.

A dramatic example of isolation is reflected in the visiting restrictions, which include denial of contact visiting all together (Oscar Lopez at USP Marion and initially Alejandrina Torres at the Lexington Women's Control Unit), to denial of all social (non-immediate family) visits (Alejandrina Torres and Carlos Torres). The UNSMRTP clearly provide that prisoners be allowed to communicate, including by visits, with family and friends (Rule A I 37) and that prison staff be responsible for maintaining and improving the prisoners' relationships with their families. Rule A II 61. See also Rule A II 79, that special attention be paid to maintenance and improvement of prisoner-family relationships.

Officials attempt to isolate the Puerto Rican political prisoners and POWs from other prisoners as well. Tactics have ranged from anti-terrorist rumor mongering, whose objective is to make these prisoners socially undesirable and to instill fear, to official castigating of those who will not be afraid. A prisoner acquaintance of Aldolfo Matos lost his privileged status and was transferred to a maximum security prison for the

"crime" of providing Matos with a card listing Spanish speaking radio stations.* The government has also resorted to simply placing the prisoners in segregation for no legitimate reason. Edwin Cortes and Alberto Rodriguez were held as pretrial detainees for 10 months in sensory deprivation cells, released only because of the community's campaign and a strong court order.

Still another manifestation of isolation is the assignment of the sentenced prisoners to pretrial detention centers, ill-equipped to provide programs or services to people with lengthy sentences, in disregard for the provisions of Rule A II 66(1). Dylcia Pagan, Ida Luz Rodriguez, Maria Haydee Torres, and Alejandrina Torres have all spent periods of from months to years in such settings, often at great expense to their physical well being.** Oscar Lopez Rivera has been kept in such a jail for eight months, and will be so kept, according to officials, for over one year. He is held in a solid steel closed-front sensory deprivation cell 23 to 24 hours a day, equipped with plumbing that brings his neighbor's excrement into the toilet in his cell [Rule A I 12], with absolutely no ventilation [Rules A I 10, 11(a)], no access to fresh air or sunshine [Rule A I 21(1)], denied all interaction with other prisoners, and shackled on leaving the cell for any purpose [Rule A I 33]. Opportunities to recreate consist of being placed in a corridor outside the cell, where there is nothing to do. Rule A II 78.

A less subtle form of isolation is the Control Unit, which describes Marion Federal Prison***, where following the year in the pretrial jail, Oscar Lopez Rivera will be confined alone to a cell 23 hours daily; FCI Alderson's Davis Hall, where Ida Luz Rodriguez and Maria Haydee Torres were held for ten months, the only two prisoners in the unit, prohibited from seeing other prisoners; and the Women's Control Unit at Lexington, where Alejandrina Torres is 1 of 5 women, prohibited from contact with other prisoners. This Unit, because of its gross human rights violations, will be discussed in full.

The government also seeks to isolate the prisoners from their attorneys and legal advisers. Tactics range from denying legal visits to opening mail that is, by U.S. law, confidential between attorney and client to electronically eavesdropping on supposed confidential legal visits.

*See: Victor Rios v. Michael Lane, et al., No. 85-3205 (7th Cir. 1987).

**This punishment by close confinement violates Rules A I, 30, 32.

***Marion is the only prison in the history of the United States to be observed by Amnesty International whose report to and correspondence with prison chiefs will soon be published.

****please see p. 10, infra.

A final example of isolation is to prevent these men and women from communicating with each other. While the governments of South Africa, England, El Salvador and Chile place all their political prisoners together in one unit or one prison, the U.S. has scattered the Puerto Rican prisoners of war to the four winds. The government also did this with Luis Colon Osorio, separating this pretrial political prisoner from his codefendants in an attempt to coerce him to cooperate with the prosecution. The government's efforts failed. In addition to seeking to demoralize them in this way, the U.S. also seeks to preclude the prisoners from effectively preparing their case for presentation to international tribunals and other global forums, such as this one.

Destabilization

To ensure that no one gets too "comfortable" prison officials maintain a practice of program assignment, changes, moves from one cell or unit to another, and transfers between prisons - sometimes frequent and sometimes infrequent, always without notice or legitimate reason. While the concrete act itself is disruptive to the individual, resulting in lost property, [Rule A I 43] unforwarded mail, and severed friendships with social prisoners; the anticipation of abrupt changes is itself unsettling. The transport of the prisoners has often been dangerous for them, traveling at break-neck speed or being escorted by drunken prison guards, in violation of Rule A I 45(2). Transfers are generally carried out in military fashion, sometimes complete with convoy and helicopters accompanying. On occasion the timing of the transfers has been calculated to maximize the destabilizing effects. Elizam Escobar's family came on their annual visit from Puerto Rico to see their son, and spent a day with him in the prison in which he had been for one year. The following day they returned to the prison, only to be told he had been transferred to another prison hundreds of miles away. See Rules A II 61, A I 37. Years later, this same man was transferred at the Thanksgiving/Christmas holidays, a difficult time for many people in prison, and then held incommunicado in segregation over Christmas and New Year's. This transfer was to punish this artist for painting - timed to coincide with the publication of a catalog of his work and the opening of an exhibit to commence a national tour of his paintings and drawings. He was placed in a prison where he is prohibited from painting.

Criminalization

Officials have accused the prisoners of prison rule violations for several purposes, none of which are legitimate. Rules A I 27-32 establish a due process regimen calling for rules, notice of violation thereof, the opportunity for self-

defense, and proscribing "all cruel, inhuman or degrading punishments." In spite of these international minimum standards, and though the U.S. has a set of rules that on paper meet the minimum standards, the government's political motivation to destroy these prisoners, and through them, their movement, dictates abuse of the disciplinary process. First, accusations result in disciplinary segregation, allowing physical isolation and disruption of the prisoners' routine. Second, the arbitrary invoking of rules, castigating conduct previously unpunished, assists in destabilization. Third, criminalization is calculated to defame and demoralize. "Dirty" urine has supposedly resulted from "random" testing, as occurred with Carlos Alberto Torres, clearly meant to slur this man and the movement, who politically reject the use of drugs because of the devastation they work on the Puerto Rican community. Finally, and most significantly, by this means officials create adverse disciplinary records which they then use to "justify" higher security classifications and transfers to maximum security prisons or Control Units. Alejandrina Torres was cited for possession of a weapon, when guards planted a butter knife in her cell. Officials at New York MCC similarly attempted to set up Filiberto Ojeda Rios, Juan Segarra Palmer, and their co-defendants then in prison, by planting a knife in a filing cabinet which had been provided only pursuant to Court order.

Humiliation and Degradation

To belittle the prisoners and the movement they represent, official actions run the gamut. They have assigned the POWs to demeaning tasks (Ricardo Jimenez was ordered to pick cigarette butts out of the cracks in the sidewalk) [Rule A II 71] and illegitimately denied them privileges afforded to social prisoners. Rule A II 70.

The UNMSRTP expressly prohibit disrespect for the human dignity of prisoners. Rules A II 60(1), A II 65. Yet the U.S. prisons' use of the "strip search," loudly condemned by Irish political prisoners, parallels and may even surpass its use by the British government. The procedure is not a search at all, for it is invoked without even a suspicion that the person is carrying contraband. Rather, it is an occasion to dehumanize, a non-consensual disrobing when guards usually require the men to lift their scrotum, the women to lift their breasts, and both to bend over and spread their gluteal cheeks. Examples of its use are instructive. Oscar Lopez Rivera was made to disrobe before guards who recorded the procedure on videotape. Prison staff invoked the strip search so often with him that on one day he was made to strip seven times. Carmen Valentin was recently searched three times in a row following a visit with her teenage son. During the searches the guard insinuated that she had an incestuous relationship with her son.

Physical Assault and Sexual Abuse

Taking humiliation and degradation one step further, prison authorities have made the prisoners targets of physical and sexual assaults. The UNSMRTTP prohibits aggravating the suffering inherent in imprisonment [Rule A II 57] as well as officers' use of force except in rare and clearly delimited circumstances. Rule A I 54(1). Flaunting the Minimum Standards, officials have placed an inordinate focus on Alejandrina Torres on whom they have consistently experimented in this regard. In three different prisons, guards have attacked her physical and psychological integrity. The first assault was the most indirect - locking her in an all male unit, in violation of Rule A I 8(a), and permitting men to expose themselves to her. Prison staff then took a more active role, when a male lieutenant wrenched her arm behind her back, costing her the loss of the use of her arm for two years, and then forcefully held her head between his knees watching as female guards tore off her clothes and exposed her naked body to this man. In another prison a male guard conducted regular pat-down searches, fondling her breasts. See Rule A I 53(3). And, before taking her to the Women's Control Unit, as four women guards held her down, a male prison employee rammed his fingers up her vagina and anus, painfully invading her body cavities in a "search," though devoid of even a suspicion that she had secreted contraband. And most recently, four male guards ogled at her naked chest, refusing to allow her to receive a needed electrocardiogram in private.

Other political prisoners and POWs have also been assaulted - Orlando Gonzalez Claudio, choked unconscious and beaten for the "heinous crime" of wearing a small cloth Puerto Rican flag on his shirt; Elizam Escobar, beaten during a hunger strike as officials sought to impose medical intervention; Haydee Torres, weighing 90 pounds, severely beaten while exemplars of her own hair were forcibly taken; William Guillermo Morales, tortured by Mexican police as U.S. police and FBI stood by condoning his beating and the use of electric shocks to his genitalia.

Denial of Medical Treatment

The UNMSRTP applicable to prisoners under sentence provide for diagnosis and treatment of any medical problem "which may hamper a prisoner's rehabilitation. All necessary medical [and] surgical...services shall be provided to that end." Rule A II 62. Disregarding the Minimum Rules, prison staff and health care providers alike routinely inform the POWs that, in spite of their serious medical needs, they are "security cases" not "medical cases." This label leads not only to serious adverse physical consequences but is also a means of government psycho-

logical gamesmanship, in its announcement to intentionally deprive needed medical attention to these men and women whose sentences would keep them in custody virtually all their lives. It also ignores the mandate of Rules A I 22-26 that adequate medical services be provided. Haydee Torres is sterile today following five years of prison officials refusing to treat her pelvic inflammatory disease, ignoring her episodes of drastic weight loss and pelvic pain so severe she could not stand up. In an explosion preceding his arrest, William Morales sustained grave injuries to his face, eyes, and hands. His injuries were apparent to his keepers - he had lost all his fingers, his jawbone was shattered, he had shards of glass in his eyes. In spite of this patent need for medical attention, he received none, until his community mounted a campaign and his attorney won a lawsuit requiring prison officials to provide needed treatment. Felix Rosa's entire arm swelled from an infection in his finger, left unattended by officials who refused to take him to a nearby hospital. Oscar Lopez Rivera's rectal bleeding was aggravated by an intrusive examination and then ignored. It took officials three months to take Alejandrina Torres to the third floor of the same building that houses the Control Unit for needed eye and cardiac examinations. Alicia Rodriguez, undergoing surgery for a large uterine tumor, was disappeared to an undisclosed hospital where she remained shackled to the bed throughout surgery, recovery and recuperation. Dylcia Pagan was similarly disappeared recently for surgery.

Assassination

Angel Rodriguez Cristobal, a young family man active in the independence movement on the island, took part in a 1978 demonstration to protest the presence of the U.S. navy on the tiny island of Vieques. Along with twenty others, he was arrested and charged with a misdemeanor. Following conviction, he was singled out because of his membership in the Liga Socialista Puertorriquena (LSP), and, like the Nationalists before him, taken to prison in the U.S. The government placed him at FCI Tallahassee to serve a six month sentence. There he was forcibly injected with thiorazine. Nevertheless, he enjoyed a visit from his attorney, talking of continuing pro-independence work and returning to his family and his country on his imminent release. Hours later he was dead. The gash in his head belied government claims that he committed suicide by hanging.

Sensory Deprivation

The U.S. recently opened the Women's Control Unit, a prison within a prison, and the only one of its kind in the United States. This small unit, which is underground, houses only POW Alejandrina Torres and four other women, two of whom are also in prison for political activity against the U.S.

government.* It has a capacity to hold 16 women, and is ill-equipped to provide for the needs of the women interned therein. Rule A II 63(4). The special conditions which apply in no other prison in the U.S. embody the "denial system," and include:

- placement of political prisoners and POW's in the Unit solely because of political associations.
- indefinite length of stay in the Unit, with no stated policy of how one earns one's way out, (except possibly renouncing one's political associations).
- performances of non-consensual vaginal and rectal cavity "searches" conducted by male prison employees prior to placement in the Unit. The prison officials denied them the option of x-rays, an option offered to men taken to the only other federal Control Unit at Marion Federal Prison.
- a policy of no contact visits with family or lawyers which, for the moment, is not enforced as to them.
- no visits whatsoever with people other than immediate family. Rule A I 37.
- limited visiting hours. Rules A I 37, A II 61, A II 79.
- an initial restriction on correspondence, limited to 15 people, who must first submit to FBI and prison screening and approval. Rule A I 37.
- censorship or rejection of all political literature. Rules A I 39, 40.
- visitors - family and attorneys - will be denied unless they submit to being photographed twice by officials before entering.
- denial of religious services and congregational worship, as well as denial of religious visits from any non-prison employed clergy. Rules A I 41(3), 42, A II 59.
- denial of interaction with any other prisoner.
- denial of participation in normal work and recreation activities. Rules A II 71 - 75.

*Susan Rosenberg and Silvia Baraldini are anti-imperialists active in social justice issues.

- denial of haircuts. Rule A I 16.
- limited recreation in a small outside yard surrounded by a tall wooden fence to prevent sensory stimulation. Rule A II 78.
- strip "searches" every time they return from recreation in the outside yard.
- special uniforms purportedly designed to keep the women "feminine." Rule A I 17(1).
- denial of all privacy - guards and video cameras are present at all times, including a camera aimed at the shower, which has no curtain or other privacy shield.
- placement in closed front cells painted stark white, in a unit painted stark white.*
- virtually no natural light or ventilation. Rule A I 11(a)
- limitation of personal property to 5 books and 10 photographs.

The government asserts that placement in the unit is merely a classification and is not for discipline or punishment. Yet the conditions approximate those of disciplinary custody, in total disregard for the provisions of Rule A I 30. Neither Alejandrina Torres nor any of the women in the Control Unit have been notified of, tried for, or found guilty of a prison rule violation. Furthermore, officials have announced policies here distinct from those at other maximum security prisons: media are prohibited from bringing cameras into the Unit, and the Unit is closed to the public.

The women have begun to experience some of the predictable psychopathological effects of long term solitary confinement,*** including lethargy, inability to concentrate, memory

*Public pressure has recently resulted in a change of wall color, now drab institutional beige.

**National church leaders' requests to tour the Unit have been spurned by prison authorities.

***See, e.g., Grassian, Stuart, The Psychopathological Effects of Solitary Confinement, 140 American Journal of Psychiatry, pp. 1450-1454 (November 1983); Amnesty International's Work on Prison Conditions of Persons Suspected or Convicted of Politically Motivated Crimes in the Federal Republic of Germany: Isolation and Solitary Confinement; May, 1980; Amnesty International's Current Work on the Federal Republic of Germany, February 20, 1986.

lapses, loss of appetite, and problems with eye sight. See Rule A I 32.

So unusual is this Unit that Amnesty International has determined that the allegations of human rights violations meet its criteria and is therefore sending a letter of inquiry to federal prison officials. Even the Congress of the U.S. has made official inquiry.

Conclusion:

The prison conditions of the Puerto Rican political prisoners and prisoners of war are an integral part of the U.S. counterinsurgency plan to destroy the Puerto Rican independence movement and thereby secure its colonial domination of that nation. The special conditions, designed to undermine their integrity and self-respect, as well as their mental and physical health, violate their human rights and many, many of the provisions of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

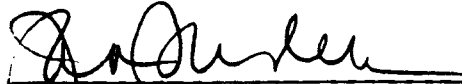
The Puerto Rican people, as well as the international community, have worked to expose these human rights violations and have met with some success in tempering the government's abuses. A campaign for the unconditional release of the five Nationalist prisoners culminated in their release in 1979. The U.S. would hope to prevent future such successes. Yet the people and the prisoners will not be deterred. The National Committee to Free the Puerto Rican POWs continues its mass work among Puerto Rican communities all over the U.S. Similar committees have begun in Puerto Rico. Popular support for the prisoners and against human rights abuses was reflected recently in the 1986 Encuentro Latinoamericano y del Caribe Por Los Derechos Humanos y la Soberania de Los Pueblos, sponsored by a coalition of over 35 groups (religious, labor, community, etc.) and dedicated to all the Puerto Rican nation's prisoners. Representatives from nongovernmental human rights organizations from all over Latin America and the Caribbean attended. The Encuentro was followed by a rally against repression and in support of the prisoners, attended by thousands.

The prisoners continue to receive the support of their nation, those who work in solidarity, and the international community. Yet the counterinsurgency against them not only continues -- it accelerates.

We ask that the United Nations Human Rights Commission send representatives to the United States to interview the political prisoners and prisoners of war and report on their conditions. We ask further that the Commission establish a committee to review and monitor their prison conditions.

Respectfully submitted,

Dated: May 13, 1987



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Further information can be obtained from the National
Committee to Free Puerto Rican Prisoners of War, P.O. Box
476698, Chicago, IL 60647.

THE CASE OF HEKAYA KASHIF
and
REPRESSION AT SAN QUENTIN PRISON
by
Taliba Safidi

Comrads, Brothers and Sisters:

The cadres here at the California Koncentration Kamp at San Quentin hope this finds you all well, re-building to win, and struggling to grow.

This open letter is sent to make you aware of the situation confronting one of our comrads, Brother Hekaya Kashif. But before going into those particulars, let us give you some background about ourselves and the general situation here.

We represent a small unit of active, conscious citizens of the Republic of New Afrika, who have been relentlessly struggling to re-build the kamp movement out this way. Due to our continuous resistance toward the u.s. empire in general, and this kamp-regime in particular, we have been under tremendous "scrutiny" and often subjected to flagrant acts of colonial violence.

In the last three years, three RNA citizens have been assaulted by agents of the kamp-regime. Although many of us have been in disciplinary or administrative segregation units since early 1983 (usually on trumped up charges such as "threat to security" or some form of "conspiracy"), we've still managed to build a small yet effective infrastructure capable of meeting some of our needs and goals.

We have set up political science classes as well as classes on military defense and physical education. Our objectives have been to politicize and build a revolutionary consciousness among all the Brothers of San Quentin, as well as among all the other oppressed nations behind these repressive walls. Yet, because some petit-ideological differences still exist among units here, the kamps' counterintelligence network often uses less conscious Brothers to put military moves down on "suspected" leaders or political science coordinators. They have used agents to infiltrate and antagonize and to create anarchy on the yards. These trained mercenaries have attempted to disrupt both physically and psychologically the total makeup of our struggle. The kamp-regime has placed us on extensive lock-downs (i.e., no showers, no visits, delay of mail) and targeted direct assaults on our unit members

The kamp-regime has set out to not only victimize us, but criminalize us as well. One such criminalization campaign is the direct attack on Comrad-Brother Hekaya Kashif. In an attempt to defend himself and the members of our unit against acts of repression, Comrad-Brother Kashif has been hauled into the California court system, charged with assault and possession of a weapon.

Hekaya Kashif was defending himself from an agent sent by the kamp-regime. He was defending our right to educate ourselves, our right to politicize and revolutionize our mentalities toward self-determination, liberation, and New Afrikanism.

The kamp-regime has stepped up this type of activity against progressive units and consequently have diminished their own DIRECT involvement, letting their agents do their dirty work, to keep units and cadres at one another's throat, and the heat off them (the kamp-regime).

Comrads, Brothers and Sisters, we have remained theoretically and ideologically firm. We can only ask that the counter-revolutionary terrorist actions against the New Afrikan population in general, and against Comrad-Brother Hekaya Kashif in particular, be brought to the attention of all CROSSROAD readers and New Afrikan communities. Our intentions are to gain outside support for the kamp movement--support that would help prepare us for the next high tide of struggle.

Comrad-Brother Hekaya Kashif will be indicted July 31, 1987, at the Marin County Kourt House, at which time he will denounce the jurisdiction over his person by the u.s. kourt system, announcing that he is a citizen of the Republic of New Afrika. Any and all advice and support is needed and will be appreciated. Thank you for hearing us out.

Re-Build To Win!

Taliba Safidi
C-64882
San Quentin Prison
Tamal, CA. 94964

Letters of support, etc. should
be sent to:

Hekaya Kashif
s/n Kenneth Lewis
C-81804
San Quentin Prison
Tamal, CA 94964

BACKGROUND AND UPDATE ON THE QUEENS 2 --

BASHIR HAMEED AND ABDUL MAJID

Bashir Hameed (s/n James York) was born December 1, 1940, in Elizabeth, New Jersey. After graduating college and holding several jobs in New Jersey in 1968 Bashir moved to California, where he joined the Oakland chapter of the Black Panther Party.

Bashir worked in the Party's first Breakfast for children program. Moving back to New Jersey in 1969, Bashir was appointed Deputy Chairman of the Party. He soon became a target of the u.s. government's counter-revolutionary campaign, and was constantly hounded by federal, state, and local authorities. In 1975, Bashir was convicted of "assaulting a police officer," and served three years in Trenton State Prison.

Upon release from prison, Bashir relocated to New York City, where he was employed at Cony Island Hospital under a CETA funded program aiding elderly and handicapped persons.

Abdul Majid (s/n Anthony Laborde) was born June 25, 1949, in Flushing, New York. In 1966-67 he worked with the Grass Roots Advisory Council in Jamaica, Queens, New York. He attended college in North Carolina in 1969, where he worked with the Student Nonviolent Coordinating Committee (SNCC).

Returning to New York in 1969, Abdul again worked with the Grass Roots Advisory Council, and was instrumental in forming a Queens chapter of the Black Panther Party. Abdul worked in various programs the Party implemented (free breakfast and clothing distribution, liberation schools for youth and adult political education). Abdul was also involved in community control of police, schools, and the struggle around health care in the Brownsville and East New York communities. He lectured on college campuses, and worked with political prisoners and their defense committees.

Between 1974 and 1981, Abdul was employed by the Bronx Legal Services as a Legal Assistant, and worked with tenant organizing, welfare rights, and a community newsletter which covered all issues of relevance to our communities, i.e., drugs, busing, legal counseling, welfare, daycare.

Statement of Facts

The recent conviction of Abdul Majid and Bashir Hameed for the April 16, 1981 murder of Police Officer John Scarangella and wounding of Richard Rainey in St. Albans, Queens, raises many serious questions about prosecutorial misconduct. Five days after the incident occurred, Hameed's and Majid's pictures were selected from a group of 51 or more photographs of ex-Black Panther Party members--WHY?

The District Attorney, John Santucci, said "Laborde and York are nobodies and we must use our anglo-Saxon laws to convict them." The F.B.I., the police, the media and prosecutor view Hameed and Majid as Black Panthers and Black Liberation Army "terrorists"--yet, they all continue to say this is NOT a political trial. There was a \$30,000 reward for any information leading to the arrest and conviction of person or persons involved in the incident.

Only one witness was located at the scene of the shooting. A young teenager, Carol Hunt, who observed the shooting from her bedroom window. However, she was unable to identify either Hameed or Majid as the shooters. She further stated that the man she observed was in his "early twenties." This same eye-witness testified that there was no other car in the area as she watched the whole incident from her window. Her testimony directly contradicts the State's two star witnesses, Charles George and Harry Benjamin. George and Benjamin very close friends, presented themselves as a cab driver and passenger who claimed they witnessed the entire incident. Police Detective Arthur Molinelli testified that he learned of these two witnesses from his brother-in-law, who owned a meat market several blocks from the shooting.

After over 55 hours of deliberation in the first trial, the jury was unable to reach a verdict. The judge sent the jury back, demanding that they try to reach a verdict on the four counts in the indictment. In his instructions to the jury, the judge stated that the jury COULD NOT find the defendants not guilty in the first or second count, and guilty of the other counts. The jury's decision was: Hung on the first count of murder of a police officer, NOT guilty on the second count of attempted murder in the first degree of a police officer, NOT guilty of the fourth count of assault in the first degree of a police officer, but GUILTY of the third count of attempted murder in the second degree which applies to a civilian. There was NO CIVILIAN involved in the incident! Judge Kenneth Browne violated his own instructions by accepting the confused verdict. (It was he who convicted the Brothers, NOT THE JURY.) Chief District Attorney, John Santucci, said that the verdict was legally and logically inconsistent, but he would accept it. Attempted murder of a civilian is punishable by 8-1/3 to 25 years in prison. Hameed (York) was sentenced to 12½ to 25 years; Majid (LaBorde) was sentenced to 8-1/3 to 25 years.

Judge Cornelius O'Brien, in the second trial, upon finding out the jury's decision was 8 to 4 in favor of acquittal, refused to replace one juror who became ill during deliberations with one of the alternates, in spite of the law mandating that he do so. Thus, the second trial resulted in a jury decision of 8 to 4 in favor of acquittal of Hameed and Majid and declared a mistrial by Judge O'Brien.

Although the third trial was originally assigned to a sitting judge, just prior to trial was was mysteriously reassigned to acting Supreme Court Judge John T. Gallagher. Gallagher, the son and brother of police officers, who admits to "hundreds" of police officers among his friends. The same judge to whom the trial of Sekou Odinga (for attempted murder of police officers) was assigned.

The change from 8 to 4 to acquit in the second trial, to 12-0 to convict in the third trial, was obtained in the following manner:

- A. A witness, Wooten, who could not identify the Brothers in court in 1982, now gave a positive identification of Majid four years later.
- B. Three black witnesses, Fred Bennet, Douglas York, and Harvin Thurman, had never testified at the two previous trials, were arrested as material witnesses and brought into court. Although statements had been taken from them during the initial investigation five years earlier, it was not until the third trial that they were finally threatened into making the incriminating statements supposedly made by Hameed and Majid. Bennett would later return to the stand to retract his testimony.
- C. A new witness, Janet Blair, the daughter of police Sergeant Blair, testified that she had seen Majid in the murder van just prior to the incident.
- D. Despite the fact that a police expert had previously testified to finding only one fingerprint (behind duct tape) in the murder van, at the third trial a new expert was brought in who testified to having found additional incriminating prints (one of each defendant) where none had been found before.
- E. A crucial police intelligence report was suppressed; it cited two known drug dealers from New Jersey seated in the van in the area of the incident two weeks prior to the shooting.
- F. Police interviewed Bashir Hameed's brother, Douglas York, who told them he had sold the van personally to a Ken Thompson in Newark, New Jersey, one month before the shooting. During the third trial his brother was arrested and police tried to coerce him into saying that Hameed told him he "shot the cops."
- G. Judge Gallagher also refused to allow a police composite sketch of a description given by the surviving police officer, Richard Rainey, of one of his assailants into evidence. The composite in no way resembled either Hameed or Majid.
- H. The district attorney was allowed by Judge Gallagher to show witnesses the testimony of other witnesses. When it was brought to Judge Gallagher's attention that this was in violation of his own order, his response was "that was not what his order meant."
- I. The defense was prohibited from subpoenaing the counsel for the Church Committee (committee headed by Senator Frank Church to investigate illegal activities of the F.B.I.) to prove the harassment of Black Panthers by the F.B.I. and local police during the 60's and 70's, to prove the defense contention that the police had fabricated the charges against Hameed and Majid.

The threats against witnesses as well as the harassment of family and friends was carried out continuously throughout the five year ordeal. The state's tactics continued even after their frame up ended in a well orchestrated verdict. On the very day of the sentencing, family and community supporters were forced out of the court to make room for police and their supporters. Uniformed police and plainclothes officers made blatant, obscene and

threatening gestures, verbal threats, racist remarks, and exposed their weapons. This was clearly an attempt to create an extremely tense, potentially volatile and intimidating climate in an effort to diffuse the uplifting impact of the supporters' presence upon Hameed and Majid and diminish the power of our unity.

QUEENS 2 UPDATE

BASHIR HAMEED

Since July, 1986, Bashir has been shipped from one prison to another. First Comstock, then Attica, then Clinton, and now, since July 1987, back to Comstock.

Bashir was ill before leaving Clinton and was scheduled for examination and tests the very day he was boated out. Upon arrival at Comstock, word was received from Bashir that he was very ill and feared being placed in Involuntary Protective Custody (locked in cell 23 hours a day) because it was common knowledge of the lack of proper medical attention in this particular unit at Comstock. Bashir was examined by a doctor at Comstock and given medication for high blood pressure only.

Bashir has been placed in IPC for one reason only: The state sees his case and has always seen his case as a POLITICAL one. As quoted by Sergeant Merton of Comstock, "IN HIS (Bashir's) FOLDER ARE REFERENCES TO HIS MEMBERSHIP IN RADICAL AND REVOLUTIONARY ORGANIZATIONS, HE HAS HIGHLY DEVELOPED ORGANIZATIONAL SKILLS AND LEADERSHIP QUALITIES, HE IS ALSO HIGHLY ARTICULATE, WHO IF ALLOWED TO GO TO GENERAL POPULATION WOULD DISRUPT THE ORDER OF THE FACILITY. HIS LEADERSHIP ABILITIES ARE ATTRACTIVE TO OTHER INMATES, GIVING HIM THE ABILITY TO ORGANIZE AND INFLUENCE THEIR BELIEFS. HE IS A THREAT TO THE SAFETY AND SECURITY OF THIS FACILITY."

ABDUL MAJID

Abdul has spent the past year in solitary confinement at Greenhaven prison. Since his release from the "box" (solitary) one and a half months ago, he was shipped to the infamous Attica, seven hours driving time from NYC, with only one bus service that goes directly there on the weekends, making it difficult for family and supporters to visit often. The move was also convenient for the state, since Abdul has a lawsuit pending against Greenhaven and this move to Attoca makes it extremely hard for client and attorney communications.

WRITE TO THE BROTHERS:

Bashir Hameed/York
#82 A 6313
Box 51
Comstock, NY 12821

Abdul Majid/Laborde
#83 A 483
Drawer B
Stormville, NY 12582

For more information on Bashir and Abdul, write for the pamphlet,

FREE THE QUEENS 2: BASHIR HAMEED and ABDUL MAJID

\$2.00

which is available along with other information on how you can assist the campaign to free these Brothers and to assist other Political Prisoners and Prisoners of War, from:

QUEENS 2 COMMUNITY SUPPORT COALITION

P.O. Box 1354

Brooklyn, NY 11247

1-718-638-4610

...WHEN THERE IS DISCORD WITHIN THE COUNTRY,
THE ARMY CANNOT BE MOBILIZED. WHEN THERE IS
DISCORD IN THE ARMY, IT CANNOT TAKE THE FIELD.
WHEN THERE IS A LACK OF HARMONY IN THE FIELD,
THE ARMY CANNOT TAKE THE OFFENSIVE. WHEN THERE
IS LACK OF HARMONY IN BATTLE, THE ARMY CANNOT
WIN DECISIVE VICTORY....FIRST ESTABLISH CONCORD,
AND THEN UNDERTAKE MATTERS OF GREAT IMPORTANCE.

Sun Tzu

UPDATES

KOJO SABABU and OSCAR LOPEZ-RIVERA

New Afrikan POW Kojo Bomani-Sababu, Puerto Rican POW Oscar Lopez-Rivera, and independentistas Dora Garcia-Lopez and Jaime Delgado, are scheduled to begin trial in Chicago on September 21, 1987. Comrades Delgado and Garcia-Lopez are charged with conspiring to help the POWs escape from Leavenworth Federal Prison. Two Northamericans are also charged in the case, but they remain free and are being sought by the u.s. government.

The National Committee to Free Puerto Rican Prisoners of War has launched a massive campaign to build support for the case inside the u.s., in Puerto Rico, and internationally. The campaign will include speaking tours, forums, radio announcements, an aggressive media campaign, and national demonstrations that will coincide with the beginning of the trial.

All the comrades were charged in July, 1986, when the state claimed to have uncovered a "major terrorist conspiracy." However, events over the past year have shown that the only conspiracy is one involving the state and a few paid agents. Even with the u.s. government's immense resources and effort, its case seems to be fizzling under the pressure of the defense attorneys' efforts to secure documents and other evidence which reveals the government conspiracy.

KAZI TOURE and the OHIO 7

During pre-trial hearings which began June 15, the case of New Afrikan Political Prisoner Kazi Toure (s/n Chris King) was severed from the trial of the Ohio 7. Kazi and the Ohio 7 (Patricia Gros, Raymond LaVasseur, Carol Manning, Thomas Manning, Barbara Curzi Laaman, Jaan Laaman, Richard Williams), are charged with seditious conspiracy (conspiracy to violently overthrow the u.s. government) and "racketeering" under the RICO statute.

Barry Wilson, Kazi's attorney, has argued before the court that the charges against his client should be dropped because Kazi was serving a 5 year sentence when the acts he's now charged with under the RICO statute occurred, and that the act of conspiracy (the attempted murder of a Massachusetts state trooper) is one that Kazi has already stood trial on--and been acquitted. Thus, according to Wilson, Kazi is being tried twice for the same offense, and having his rights under the u.s. constitution violated.

The seditious conspiracy law has been referred to as the "John Brown Law," because it was passed only two years after the raid on Harper's Ferry (and four years after the Dred Scott case). This charge has only been leveled in recent years against Puerto Rican independentistas--Kazi Toure is the first New Afrikan, and the Ohio 7 are the first Northamericans that the charge has been used against in recent years.

Also during those hearings, Ray LaVasseur and Jaan Laaman argued an International Law motion, seeking the dismissal of the charges against them, or a transfer of their case to the United Nations' Human Rights Commission. Citing U.N. resolutions and its Charter, Laaman and LaVasseur argued their rights as captured combatants supporting and allied with anti-colonial,

national independence struggles. As Political Prisoners, certain facets of international law as it pertains to protections offered captured combatants, should be extended to them. The comrades also cited the Nuremberg Principals, which apply to the Ohio 7 as citizens of the u.s. who are part of a resistance movement in opposition to u.s. policies and practices that violate international law against colonialism. Citizens of the u.s. and any colonial power have an obligation to resist violations of international law, by any means necessary.

Jury selection is underway in Kazi's trial. The others are expected to begin trial in late November, 1987.

THE INSURGENT
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(Translation)

CUBAN NATIONAL UNION OF JURISTS

Provisional Convocation

We would like to inform you that from 14-17 September 1987 the VIII Conference of the American Association of Jurists will be held in Havana. The theme for discussion will be "The Systems of Justice in the American Continent" in which will participate jurists of the region and from other continents who are interested in the study of the american problem.

There will be five work commissions in which the following themes will be analyzed:

Penal Law and Prison Organization
The Rights of Women & Family Law
Human Rights and the Right of Self Determination
Peace between the States

In the next bulletin the official convocation of this important international event will be distributed. It will contain additional information of interest for the future participants.

We have coordinated this event with tourist agencies so that participants of this conference can acquire tourist packages at very favorable rates.

You can obtain further information on other aspects of this conference from the following.

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32-7561

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The VIII Conference of the AAJ on The Systems of Law on the American Continent is being organized by the National Union of Cuban Jurists together with the AAJ.

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