

United States of America

Submission to the United Nations Universal Periodic Review

Ninth Session of the Working Group on the UPR
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Political Repression – Political Prisoners

Submitted by:

National Conference of Black Lawyers
Malcolm X Center for Self Determination

Endorsed by the following 42 organizations and 50 individuals:

Organizations: A Movement Re-Imagining Change (ARC); African-American Police League and Chicago Human Rights Council; Afrikan Frontline Network; Albuquerque Jericho Movement for Political Prisoners and Prisoners of War; All-African People's Revolutionary Party (GC); Association Americana de Jurists (American Association of Jurists); Black Agenda Report; Black People Against Police Torture; Campaign In Support of C# Prisoners; Chicago Committee To Defend The Bill of Rights; Christian Council on Urban Affairs; Cidadao Global; Coalition of Black Trade Unionists; DC Radio Co-op; Earth First! Prisoner Support Project, Portland, Oregon; Education Not Incarceration, Bay Area Chapter; Family And Friends of Dr. Mutulu Shakur: For Our Children Productions; Free Mumia Abu-Jamal Coalition; Freedom Archives; FTP Movement - Behind Enemy Lines Initiative; Georgia Green Party; Human Rights-Racial Justice Center; Idriss Stelley Foundation; International Concerned Family and Friends of Mumia Abu-Jamal; Leonard Peltier Defense Offense Committee Chapter Silicon Valley, CA; Malcolm X Grassroots Movement for Self Determination; Meiklejohn Civil Liberties Institute, Berkeley, CA; Metro Atlanta Task Force for the Homeless; National Alliance Against Racist and Political Repression; National Coalition of Blacks for Reparation in America (N'COBRA), Oakland, California; National Islamic Solidarity Front; National JERICHO Movement; NYC Jericho Movement; People's Law Office-Chicago, Illinois; Public Interest Projects; San Francisco Women In Black; Shut-Up Prison Ministry; Spears & Shield Publications; The Leonard Peltier Defense Offense Committee; Three Treaties Task Force of the Social Justice Center of Marin; Youth Justice Coalition

Individuals: Alderman Lionel J. Baptiste, Attorney; Alice Palmer, educator; Andrea Hornbein, Massachusetts Statewide Harm Reduction Coalition; Anne Lamb, NYC Jericho; Annette Dickerson, Center for Constitutional Rights; Atty. Efia Nwangaza; Barbara Clark, Leonard Peltier Defense Committee-Support Group Coordinator; Bill Ware; Bonnie Kerness, American Friends Service Committee (AFSC); Bruce A. Dixon, Journalist; Calvin Cook, Black United Fund Illinois; Cliff Kelley, WVON Talk Show Host; Cynthia McKinney, Former Georgia Congresswoman and 2008 Green Party Presidential Nominee; Donna Wallach, LPDOC Chapter Silicon Valley, CA; Dorothy Burge, Educator, Chicago; Dr. Kwame Kalamara, Educator; Dr. Suzanne Ross, Co-chair, Free Mumia Abu-Jamal Coalition; Dr. Yvonne King, Educator; Edward “Buzz” Palmer, educator; Emile Schepers, Ph.D., Great Falls Virginia; Henry English, Black United Fund of Illinois; Jane Frankin, Author; Jeffrey Segal, Attorney at Law, Louisville, Ky; John Trimbach, Wounded Knee Victims and Veterans Assoc.; Joyce Carruth; Justin Cornett McGee, Activist; Kevin Gray, author; Larry Holmes, Activist NYC; Lawrence Kennon, Civil Rights Attorney; Leah Pemberton; Nahal Zamani, Center for Constitutional Rights; Naji Mujahid, Chairman, Black August Planning Organization; Pam Africa, Chair, International Concerned Family and Friends of Mumia Abu-Jamal; Paulette F. Dauteuil, Educator; Prexy Nesbitt, Educator; Prof. Raoul Contreras, Chair, Indiana Univ. NW, Minority Studies Dept; Prof. Soffiyah Elijah, Harvard Law School, advisor to the Committee for the Defense of Human Rights; Professor Robert Starks, Jacob Caruthers Center for Inner-City Studies; Randolph Stone, University of Chicago School of Law, Clinical Professor, Mandell Clinic; Rasheda Weaver, Community Activist; Renee Lovato; Rev. Dr. Jeremiah A. Wright; Rev. Luis Barrios, Prof CUNY & John Jay College of Criminal Justice; Standish E. Willis, Civil Rights Attorney, Chicago, Illinois; Steve Saltzman, Civil Rights Attorney; Susan Gzesh, Human Rights Educator; Thandisizwe Chimurenga, Journalist; Ute Ritz-Deutch, Ph.D., Tompkins County Immigrant Rights Coalition; William Crossman, San Francisco 8 Defense Committee; William Dunne, Political Prisoner.

I. Executive Summary

Background and Framework for Testimony

1. A Congressional Sub-Committee known as The “Church Committee”, (1976) made factual findings which amounted to massive human rights violations against U.S. citizens based on race, political ideas, and political affiliations. In the final reports of the Committee, permanent means of congressional review were recommended. None of the recommendations addressed the human rights violations suffered by dozens of political prisoners who were victimized by the U.S. government’s political repression against African-Americans, Puerto Ricans, and Native American communities. Such repression resulted in murders, injuries, false arrests, malicious prosecutions and lengthy imprisonments of scores of political activists. Many of these political prisoners and prisoners of war languish in prisons throughout the United States. U.S. political prisoners have languished in U.S. prisons for decades under cruel and inhumane conditions. Several have died in prison; others have endured years of solitary confinement, poor medical health care, various other forms of abuse, and perfunctory parole hearings resulting in routine denial of release.
2. The cluster group is comprised of NGOs, grassroots organizations, church groups, attorney organizations, elected officials, college professors, law professionals, students, concerned citizens, and others.

II. Scope of International Obligations

3. The United States is a member of the United Nations. The UN Charter commits all member States to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to *race*, sex, language or religion,”
4. The United States played an active role in the preparation and adoption of the Universal Declaration of Human Rights. The UDHR lays down fundamental *economic, social, cultural, political and civil rights which includes the right to life, liberty and security of person, right to recognition as a person before the law, freedom from torture and cruel, inhuman or degrading treatment or punishment;*
5. The United States has treaties as follows:

A. International Convention on the Elimination of All Forms of Racial Discrimination (CERD) which includes Article 2, in part, that the U.S. “...undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations. Article 5 of the CERD provides that the States shall “...undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour; or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (a) The right to equal treatment before the tribunals and all other bodies administering justice; (b) The right to security of person and protection by the State

against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; and Article 5(d)(vii) guarantees the right to freedom of thought, conscience and religion; (viii) the right to freedom of opinion and expression; (ix) the right to freedom of peaceful assembly and association.

B. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

III. Constitutional and Legislative Framework

6. “The Church Committee.” Following the “Watergate Scandal,” the United States Senate conducted a thorough review of the function, operation, and administration of the U.S. intelligence community. A special committee, the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities was established to conduct the sweeping audit of national intelligence services. Known as the “Church Committee” after its chairman Frank Church, the committee investigated not only the actions and operations of the intelligence and security services, but also abuses of those services by the Office of the President. The main targets of its investigations were the CIA, FBI, National Security Agency (NSA), and Internal Revenue Service (IRS). The Church Committee issued its final report in April 1976. The Committee concluded that the CIA, FBI, and other intelligence forces, had conducted “concerted campaigns of domestic espionage that threatened the Constitutional rights of ordinary citizens”.

IV. Introduction ¹

7. Prior to September 11, 2001, there were nearly 100 political prisoners and prisoners of war incarcerated in the United States. Political prisoners are men and women who have been incarcerated for their political views and actions. They have consciously fought against social injustice, colonialism, and/or imperialism and have been incarcerated as a result of their political commitments. This definition of the term "political prisoner" is accepted throughout the international community. Political prisoners have always been an especially vulnerable and abused subset of the American prison population.

Political Prisoners in the United States: A Brief History of Political Repression

8. Many of today's political prisoners were victims of an FBI counterintelligence program called COINTELPRO. COINTELPRO consisted of a series of covert actions directed against domestic dissident groups, targeting five perceived threats to "domestic tranquility." These included the Communist Party USA (1956-71), the Socialist Workers Party (1961-69), White Hate Groups (1964-71), Black Nationalist Hate Groups (1967-71) and the New Left (1968-71). People viewed as dissidents, Communists, or anti-establishment were at risk of prosecution, persecution or both:

9. In these programs, the Bureau went beyond the collection of intelligence to secret action designed to "disrupt" and "neutralize" target groups and individuals. The techniques were adopted wholesale from wartime counterintelligence, and ranged from the trivial (mailing reprints of Reader's Digest articles to college administrators) to the degrading (sending anonymous poison-pen

¹ The “Introduction” and “History” taken, in substance and form, from “The Reality of Political Prisoners in the United States: What September 11 Taught Us About Defending Them”, authored by J.Soffiyah Elijah in the Harvard BlackLetter Law Journal, Vol. 18, 2002.

letters intended to break up marriages) and the dangerous (encouraging gang warfare and falsely labeling members of a violent group as police informers).

10. In response to pressure from a broad spectrum of the American public, a Congressional subcommittee, popularly known as the Church Committee, was formed to investigate and study the FBI's covert action programs. In its report, The Church Committee concluded that the FBI had "conducted a sophisticated vigilante operation aimed squarely at preventing the exercise of First Amendment rights of speech and association, on the theory that preventing the growth of dangerous groups and the propagation of dangerous ideas would protect the national security and deter violence." It went on to report that "many of the techniques used would be intolerable in a democratic society even if all of the targets had been involved in violent activity".

11. In fact, before COINTELPRO was laid to rest, it was responsible for maiming, murdering, false prosecutions and frame-ups, destruction, and mayhem throughout the country. It had infiltrated every organization and association that aspired to bring about social change in America whether through peaceful or violent means. Hundreds of members of the Puerto Rican Independence movement, the Black Panther Party (BPP), the Young Lords, the Weather Underground, Students for a Democratic Society (SDS), the Republic of New Africa (RNA), the Student Non-Violent Coordinating Committee (SNCC), members of the American Indian Movement (AIM), the Chicano Movement, the Black Liberation Army (BLA), Environmentalists, the Revolutionary Action Movement (RAM), Peace activists, and everyone in between were targeted by COINTELPRO for "neutralization."

12. In 1969, the FBI and local Chicago police agents were responsible for the pre-dawn assassination of Fred Hampton and Mark Clark as they lay asleep in their beds. Hampton and Clark were the leaders of the Chicago office of the Black Panther Party. Among Hoover's other targets were Leonard Peltier of AIM; the Rev. Dr. Martin Luther King of the Southern Christian Leadership Conference (SCLC); El-Hajj Malik Shabazz (Malcolm X); Kwame Ture (Stokely Carmichael) of SNCC; Huey Newton (leader of the BPP); and Rev. Phillip Berrigan and his brother Rev. Daniel Berrigan, peace activists who challenged the Vietnam War and the U.S. military industrial complex.

13. Prosecutor's offices and the courts were complicit in the destruction meted out by the FBI. Prosecutors routinely withheld exculpatory evidence as was evidenced in the cases of Geronimo ji-Jaga Pratt, Dhoruba Bin-Wahad, and Mumia Abu-Jamal. Although Pratt and Bin-Wahad were eventually exonerated after serving twenty-seven and nineteen years respectively for crimes they did not commit, requests by Peltier and Abu-Jamal for new trials have been frustrated at every turn by law enforcement and the prosecution.

14. Many of today's political prisoners were incarcerated as a direct result of COINTELPRO's activities. They were targeted because of their political beliefs and/or actions. Unlike those convicted and sentenced for similar crimes, they were given much harsher sentences and routinely denied parole. Former BLA member, Sundiata Acoli (a.k.a. Clark Squire), the codefendant of Assata Shakur, was sentenced to life plus thirty years for the death of a New Jersey State trooper. He was eligible for parole after twenty years. After serving twenty-two years, however, the New Jersey parole board denied him parole and gave him an unprecedented twenty-year set off. Susan Rosenberg was sentenced to fifty-eight years for possession of explosives and denied parole despite her exemplary prison record. Geronimo ji-Jaga Pratt was denied parole at least seven times although he was innocent of the charges for which he was serving time.

V. The Promotion and Protection of Human Rights on the Ground through the Implementation of International Human Rights Obligations

United States Government Targets Civil Rights Movement

15. The Civil Rights Movement was a primary target of such misconduct. In an official memorandum dated March, 1968, the following long-range goals of the COINTELPRO against Blacks were outlined:

- (1) to prevent the “coalition of militant black nationalist groups,” which might be the first step toward a real “Mau Mau” in America;
- (2) to prevent the rise of a “messiah” who could “unify and electrify” the movement, naming specially Martin Luther King, Stokely Carmichael, and Elijah Muhammad;
- (3) to prevent violence on the part of black nationalist groups, by pinpointing “potential troublemakers” and neutralizing them ‘before they exercise their potential for violence”;
- (4) to prevent groups and leaders from gaining “respectability: by discrediting them to the “responsible” Negro community, to the white community and the “liberals” (the distinction is the Bureau’s), and to “Negro radicals”;
- (5) to prevent the long range growth of these organizations, especially among youth, by developing specific tactics to “prevent” these groups from recruiting young people.”

16. The politically punitive nature of their lengthy sentences becomes even more apparent when compared to sentences given to right wing offenders, as a few recent examples demonstrate. In 1997, a white supremacist received a three year sentence for a plot to bomb fifteen cities. In 1981, an anti-abortion proponent responsible for torching seven family planning clinics throughout the western states over the course of five years, causing over \$1 million in damages, received “almost seven years in prison”. In 1997, a former member of the Klan was sentenced to 12 years in prison for bombing the car of a white woman who was dating a Black man. The bomb killed a 23 month old child and injured her father. And in 1997, a militia leader charged with a plot to blow up the FBI’s Criminal Justice Information Services, who provided resources, sold blueprints of the building to an undercover FBI agent, and recruited others to supply explosives, was to receive a sentence of less than 25 years.

Denial of Parole

17. Germany, France and Spain Release Political Prisoners: U.S. Should Follow Example and Release Political Prisoners and Prisoners of War. In February 2007, news of the release of political prisoners splashed the front pages of Europe’s newspapers. Political prisoners with sentences far lengthier than most US Political Prisoners and Prisoners of War were to leave prison after serving less time than most US PP/POWs. On February 12, a German court ordered the release of Brigitte Mohnhaupt, a leader of the Red Army Faction [RAF], after serving 24 years in prison. Mohnhaupt was serving a term of five life sentences plus 15 years, having been convicted of politically motivated kidnappings and murders in the 1970s. On February 14, Philippe Bidart, a leader of the Basque armed independence organization Iparretarrak, was released from a French prison after serving nine years of two life sentences plus 20 years for the deaths and injuries of various police. On February 12, the Spanish Supreme Court reduced the sentence of ETA hunger striker Iñaki de Juana Chaos, who, after serving 18 years of his 3,000 year sentence for causing 25 deaths, was serving a sentence of 12 years and 7 months for making terrorist threats in two newspaper articles.

As word of the release or sentence reductions of these European men and women reached Puerto Rico, Carlos Alberto Torres and Oscar Lopez Rivera were contemplating the 27th and 26th anniversaries of their imprisonment, while their supporters hoped President Bush would follow the example of his European counterparts.

18. In his report on his first year as president of Ecuador, Rafael Correa asked Congress to grant amnesty to political prisoners who participated in strikes, as well as to former government officials who are considered victims of political persecution. He also asked Congress to pardon hundreds of “mules,” or people who transport small quantities of drugs.

19. The Chilean Supreme Court reduced the sentences of two officials, reversed the conviction of one, and ordered their release. The three had been convicted of kidnapping and then assassinating 22 political prisoners in 1973, whose bodies were found burned. The officials had originally been sentenced to 17, 10, and 7 years in prison

20. Venezuelan President Hugo Chávez granted amnesty to opposition leaders connected to the April 2002 military coup against his government. The amnesty also covers those charged with detaining the Interior Minister, invading the home of a National Assembly Deputy, taking over the Governorships of Merida and Tachira and the Court of Justice in Tachira, closing the state owned television station, taking over oil tankers during the oil industry shutdown, and inciting civil rebellion through 2007. Chávez said the amnesty was intended to “send a message to the country that we can live together despite our differences.” In another amnesty which he said was a humanitarian gesture, Chávez pardoned 36 prisoners convicted of various crimes, including some diagnosed with AIDS.

21. In February 2008, The Revolutionary Armed Forces of Colombia [FARC] announced it would free three politicians in its custody for the past six years, as part of a process of seeking a solution to Colombia’s lengthy conflict. The FARC’s hope is to win the release of hundreds of its imprisoned compatriots in exchange for releasing some 40 people in its custody. Both releases have been stalled by the Colombian president’s refusal to accede to FARC demands that its representatives be allowed to carry arms to talks to be held in a proposed demilitarized zone.

22. United States PP/POWs receive excessive sentences and are routinely denied parole. For example, in 1973 Sundiata Acoli was sentenced to life imprisonment; 37 years later, despite an exemplary prison record, he was again denied parole in March, 2010. Leonard Peltier was sentenced to life in 1975; another model prisoner, he was denied parole again in 2009. Acoli and Peltier are but recent examples of the U.S. rule regarding prison officials’ use of the parole process to exact political punishment. Parole officials often acknowledge the advancing age, deteriorating health, significant release plans and good prison records of these aging PP/POWs.

Prolonged Isolation: Violates Convention Against Torture

23. U.S. PP/POWs are confined in prolonged isolation or “control units” due to their status as political prisoners or prisoners of war, not because of disciplinary infractions, which is in direct violation of The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The UN Human Rights Commission has specified prolonged solitary confinement” as prohibited as a form of torture under the CAT. Despite their excellent prison record, PP/POWs are placed in “control units.” The men’s federal prison in Marion, Illinois, which includes several political prisoners among its 400 inmates, has been condemned by Amnesty International for

violating international standards on the minimum treatment of prisoners. The men in Marion are locked in their cells 23 hours per day and are sometimes chained spread-eagle to their beds for days at a time.

24. The “control unit” for women at Lexington, Kentucky, was an experimental underground political prison that practiced isolation and sensory deprivation. It was finally closed by a federal judge after years of protest by religious and human rights groups.

Human Rights Violations with Impunity

25. The United States has ignored claims of Human Rights violations against PP/POWs. On December 11, 1978 the National Conference of Black Lawyers, the National Alliance Against Racist and Political Repression and the United Church of Christ’s Commission on Racial Justice filed a Petition to the United Nations Commission on Prevention of Discrimination and Protection of Minorities – raising the plight of political prisoners and victims of racist repression.

26. In 1981, Amnesty International issued a “Proposal for a Commission of Inquiry into the Effect of Domestic Intelligence Activities on Criminal Trials in the United States of America.” Amnesty urged an investigation into the plight of political prisoners.

27. Independent examiners, such as Yale Law Professor Thomas I. Emerson, could not avoid the “inescapable message of [such material] that is: the FBI jeopardizes the whole system of free expression which is the cornerstone of our society...at worst it raises the specter of a police state...In essence, the FBI conceives of itself as an instrument to prevent radical social change in America...The Bureau’s view of its function leads it beyond data collection and into political warfare.” Yet not only were the FBI personnel involved in the activities which so concerned Dr. Emerson rewarded rather than punished, the bureau itself was left essentially unchanged in the wake of public revelations concerning COINTELPRO. The most that can be said is that, in 1979, it was subjected to a “rechartering”, the terms of which it itself had taken a most prominent role in formulating.

Facing Continued Abuse: The Post-September 11 Treatment of Political Prisoners²

28. In concluding its review of COINTELPRO, the Church Committee wrote: “The American People need to be assured that never again will an agency of the government be permitted to conduct a secret war against those citizens it considers threats to the established order”. Just over twenty-five years later, the American people are again in need of such assurance. In the wake of the attacks on the World Trade Center and the Pentagon on September 11, 2001 the use of the nation’s jails and prisons for political repression was renewed. Within hours of the attacks, several of the political prisoners were rounded up and put in administrative segregation, generically known as ‘the hole’. No charges or allegations were levied against them. Some of them were told that they were being placed in the hole for their own safety. They were held in solitary confinement and restricted to their cells twenty-three or twenty-four hours a day.

² “Facing Renewed Abuse: the Post-September 11 Treatment of Political Prisoners is taken, in substance and form,” from “The Reality of Political Prisoners in the United States: What September 11 Taught Us About Defending Them”, authored by J. Soffiyah Elijah in the Harvard BlackLetter Law Journal, Vol. 18, 2002.

29. Some, like Marilyn Buck, Sundiata Acoli, and Richard Williams were held incommunicado for weeks without access to legal counsel. Other prisoners were told that they were to have no contact of any kind with Marilyn Buck once she was thrown in administrative segregation “for her own safety.” Numerous requests to arrange for legal visits and phone calls with these prisoners were flatly refused by administrators of the Bureau of Prisons (BOP). All legal mail was suspended; no letters were allowed out of the prison and legal mail that was mailed in was neither given to the prisoners nor returned to the attorneys. From September 11 to October 24, 2001, Sundiata Acoli was not allowed any access to his lawyers. Social visiting, mail, and phone calls were suspended for many of these prisoners. The actions of the Bureau of Prisons were so unusual that initially the BOP General Counsel denied that any prisoners were being refused access to their lawyers. The Bureau continues to put forward this position as recently as February of this year (2010). Yet on September 26, 2001, the Warden of USP Allenwood, where Mr. Acoli was being held, wrote to his attorney to inform her that he was “denying her request to allow Inmate Squire (Acoli’s former name) a legal telephone call.

30. Between September 11 and 17, 2001, the restrictions placed on the prisoners were in flux, and it seemed clear that the individual prison authorities were trying to determine exactly what the directions from Washington dictated. But on or about September 17, Attorney General John Ashcroft issued a memorandum to the Bureau of Prisons directing them to terminate all communications, both social and legal, for certain prisoners. Some have posited that the memo left the discretion to the prison wardens. Others believe that Ashcroft determined who should be held incommunicado. No matter who had the final discretion, the result was the same for the political prisoners; they were in the hole and some had no access to the outside world.

31. Other present day violations, in the 2006 report “Out of the Shadows: Getting Ahead of Prisoner Radicalization” by George Washington University’s Homeland Security Policy Institute, it is stated that the “potential for radicalization of prison inmates poses a threat of unknown magnitude to the national security of the United States.” On November 7, in that same year, USA Today reported that the FBI and Homeland Security were “urging prison administrators to set up more intelligence units in state prisons...” In the case of Ojore Lutalo, former United States political prisoner, there is Department of Corrections paperwork acknowledging that “he was kept in isolation for twenty-two years due to his radical views and ability to influence others.” On January 26, 2010 he was “disappeared” off an Amtrak train in La Junta, Colorado and charged with “endangering public transportation.” Although a judge dismissed all charges one week later, we now know that the past history of abuse can become current.

32. The United States government is increasingly violating the Constitution when it comes to Muslim, Arab and South Asian inmates. In 2006 and 2007, the Federal Bureau of Prisons (BOP or “Bureau”) secretly created the Communications Management Unit (CMU), a prison unit designed to isolate and segregate certain prisoners in the federal prison system from the rest of the BOP population. The Bureau claims that CMUs are designed to hold dangerous terrorists and other high-risk inmates, requiring heightened monitoring of their external and internal communications. Many prisoners, however, are sent to these isolation units for their constitutionally protected religious beliefs, unpopular political views, or in retaliation for challenging poor treatment or other rights violations in the federal prison system. Over two-thirds of the CMU population is Muslim, even though Muslims represent only six percent of the general federal prison population.

Recommendations

33. All U.S. Political Prisoners/Prisoners of War (PP/POWs) imprisoned as a result of COINTELPRO must be immediately and unconditionally released from U.S. imprisonment.
34. The United States must institute an Executive review of all cases involving those imprisoned as a result of COINTELPRO.
35. The United States must initiate a criminal investigation into the conspiracy to commit the murder of Fred Hampton, Mark Clark and other political activists targeted by COINTELPRO.
36. The United States must adopt the necessary measures to ensure the right of PP/POWs to seek just and adequate reparation and satisfaction to redress acts of racism, racial discrimination, xenophobia and related intolerance, and to design effective measures to prevent the repetition of such acts.
37. The United States must, at a minimum, afford Mumia Abu Jamal and Leonard Peltier, new trials.

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APPENDIX I

Imam Jamil Al-Amin: [Personal Statement: COINTELPRO LIVES!](#), [A brochure about Iman Jamil Al-Amin's case](#), [The FBI Conspiracy Against H. Rap Brown](#), [FBI Murders Iman Luqman Ameen Abdullah](#) (Currently held: USP Florence ADMAX, Florence, CO)

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Jaan Laaman: [Personal Statement; Status Report.](#) (USP Tucson, AZ)

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APPENDIX-2

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