

Updates for September 16th

4 Sept - New writings by Mumia Abu-Jamal

We're including transcripts of Mumia's latest commentary.

MORE:

September 4th - Post-Ferguson

As the body of Michael “Mike “- Brown is consigned to the earth, network newscasters and broadcasters are packing their gear, canceling their hotel rooms, and setting their sights on new wonders, new images and new stories.

That the tragic saga in Ferguson struck national newscasters is both rare and unprecedented, given the length and depth of the story.

But, to reporters, stories come; and stories go.

And the Brown story is going.

Part of the reason is the incessant media chorus for the expulsion of so-called ‘outside agitators’, seen as the violence-prone troublemakers coming on the scene.

Once gone, tension drained away like an unwanted migraine.

And tension, in the words of Dr. Martin Luther King Jr., “creative tension”, is the stuff that animates protests and helps fuel movements.

It is the job of the managerial class of lawyers, preachers and politicians to reduce tensions, to de-radicalize movements; to make them manageable.

And once they become manageable, they lose their mass base, and with it, it’s social power. For the masses know the essential nature of the police; for they see them and gauge them daily. They know them as violent, vicious and venal government officials. And they are hungry, anxious to oppose them.

Movements are a lot like volcanoes, which appear dormant, or sleeping.

Unseen are underground forces, churning, boiling, crashing like waves against a hidden shore.

Until one day (usually a day none had foreseen), it erupts, splashing its red molten rage over miles, changing everything.

That’s what movements do; and what they are. If hot enough, they can change everything.

Everything.

But political, media and state forces don’t want change; they want continuity, for therein lies both their profits and their power; and who wants to lose either of those things?

Thus, the tragedy of Ferguson will be stuffed back into the pillow of forgetfulness.

Until next time.

10 Sept - Great News in the Lawsuit Against Idaho's AgGag Law

Idaho's "ag-gag" law against photographing factory farms and slaughterhouses raises serious constitutional issues that need to be evaluated, a federal district court judge recently ruled.

MORE:

by Will Potter (*Green Is the New Red*)

That means the lawsuit by the Animal Legal Defense Fund, ACLU of Idaho, PETA, undercover investigators and others (including me — I'm a plaintiff because ag-gag threatens journalists) is moving forward.

It's a milestone in the case, and on top of that it's an incredibly strong ruling.

Idaho was the 7th state to pass an "ag-gag" law, and it was in direct response to an undercover investigation by Mercy For Animals which exposed workers at Bettencourt Dairies punching and sexually abusing cows.

Idaho's Section 18-7042 created a new crime called "interference with agricultural production" which criminalizes photography and undercover investigations at agricultural production facilities."

Ag-gag May Violate the First Amendment

The government argues that ag-gag doesn't restrict First Amendment activity, because undercover investigators may misrepresent themselves on job applications in order to film.

Chief US District Judge B. Lynn Winmill said in his ruling that a ban on photography and videography is clearly a free speech issue. And if journalists or investigators lie on a job application, that's still fully protected speech.

As an example, Judge Winmill cited union activity called "salting," where unions send paid reps to apply for jobs so that they can recruit new union members. Because union organizers are often denied access to worksites, they have to lie or misrepresent themselves on job applications. Salting is completely legal, and it's even protected by the National Labor Relations Act.

"Misrepresentations would be protected speech," Judge Winmill said, "because they are not made to cause material harm to an agricultural production facility but to expose truths about the agricultural industry."

Ag-gag May Violate the Equal Protection Clause

The plaintiffs argue that ag-gag laws are meant to single out animal rights activists and journalists for harsh penalties solely because they speak critically of the agriculture industry.

In other words, ag-gag creates a separate classification under the law "between whistleblowers generally and whistleblowers in the agricultural industry."

Judge Winmill seems to agree, and says that ag-gag is neither content nor viewpoint neutral.

Under the law, it's illegal to film animal abuse without permission, but it's not illegal to film the farm owner's children, he notes.

"Likewise, the law only prohibits unauthorized filming, so it is more likely that those who wish to portray the agricultural facility in a positive light will be allowed to film while those critical of the industry will not," Judge Winmill writes. "By, in effect, privileging speech that is supportive of the agricultural industry, section 18-7042 impermissibly discriminates on viewpoint."

Backlash against effective advocacy

Perhaps most important is that Judge Winmill acknowledged that ag-gag, at its core, is an attempt by the industry to stifle negative publicity by effective undercover investigators and the media.

“In fact, the more successful an activist is in mobilizing public opinion against a facility by publishing a video or story critical of the facility the more the activist will be punished,” he wrote.”

That point wasn't lost on a recent editorial by the Idaho Statesman, which called ag-gag “misguided” and “overripe with spoiled-milk special interest meddling and influence that offer a nuclear solution to a conventional trespassing problem.”

The editorial board said that if the law is not overturned, lawmakers should be held accountable in the next legislative session:

“Because right now Idaho is in full ripeness as a state that looks like it has something to hide. And that is not a good place to be.”

10 Sept - Welcome Home Brian Jacob Church!

Brian “Jacob” Church of the NATO 3 is scheduled to be released in November of this year, so his support crew launched a campaign to raise money for his release.

MORE:

On May 16th, 2012, just prior to the NATO summit in Chicago, three Occupy activists were arrested and eventually charged with 11 felony counts, including four under the never-before-used Illinois terrorism statute. Brian “Jacob” Church, Brent Betterly, and Jared Chase came to be known as the NATO 3. The case went to trial in January of 2014, and the NATO 3 were acquitted of all of the terrorism charges. Unfortunately, the jury found them guilty of two felonies each—possession of an incendiary device with the intent to commit arson and possession of an incendiary device with the knowledge that another intended to commit arson. They were given sentences ranging from 5 to 8 years.

Jacob is the first of the three to be released. He is scheduled to return to us in early November! Please donate to his release fund to help ease the transition after 2 and a half years behind bars. Donations are needed to help pay for Jacob's living expenses while he works to get back on his feet during the immediate aftermath of his incarceration.

Donate at j.mp/JacobChurch

10 Sept - The Prosecution of Environmental Activists: District Attorney Sam Sutter Sets Bold Example for Other Prosecutors

When Bristol County District Attorney Sam Sutter surprised two environmental activists and reduced all criminal charges against them to civil infractions, it was an unusual and rare example of a prosecutor exercising his conscience and using prosecutorial discretion while still upholding the rule of law.

MORE:

by Kevin Gosztola (*The Dissenter*)

It led activists to praise him for his courage as someone who had linked his office to the need for leadership and action on climate change.

Ken Ward and Jay O'Hara had used a white lobster boat, which they called the Henry David T, in a direct action in May 2013 to block a 40,000 ton coal shipment from making its delivery to the Brayton Point power plant.

The action successfully stopped the shipment of coal to the largest coal plant in the New England region. It also resulted in them being charged with disturbing the peace, conspiracy to disturb the peace,

negligent operation of a motor vessel and failure to act to avoid a collision of a boat. If convicted, Ward and O'Hara could have spent a couple of years in prison.

The activists were set to go on trial and were planning to argue the “necessity” defense, that they had no choice but to act because everything else had failed thus far. Stuningly, Sutter could not ignore the fact that he agreed with them—the world is at a crisis point when it comes to climate change.

“Because of my sympathy with their position, I was in a dilemma,” Sutter said afterward, according to the Boston Globe. “I have a duty to go forward to some extent with this case and to follow the applicable case law, but they were looking for a forum to present their very compelling case about climate change.”

Sutter came out of the courthouse on September 8 to explain what his office had done.

“The decision that Robert Kidd and I—that’s the assistant district attorney who handled this case—reached today was a decision that certainly took into consideration the cost to the taxpayers in Somerset, but was made with our concern for their children, the children of Bristol County and beyond, in mind,” Sutter stated.

“Climate change is one of the gravest crises our planet has ever faced. In my humble opinion, the political leadership on this issue has been gravely lacking,” Sutter declared. “I am heartened that we were able to forge an agreement that both parties were pleased with and that appeared to satisfy the police and those here in sympathy with the individuals who were charged. I am also extremely pleased that we were able to reach an agreement that symbolizes our commitment at the Bristol County District Attorney’s Office to take a leadership role on this issue.”

Sutter appeared on “Democracy Now!” two days later. He described more details on how this outcome had occurred:

...[T]hrough a very open discussion, which I like very much, there was a synthesis, and we came up with what I thought was really the ideal resolution. This was an act of civil disobedience, so this should be treated as a civil infraction. And I was extremely pleased when we broached the idea with the defense attorneys and they embraced it. And after that, it was simply a question on Monday morning of determining what was a fair figure for the restitution. Once again, the defense attorneys showed great reasonableness. So, I thought that aspect of the case and what we did was not unusual. I thought that was prudent, reasonable and wise...

Prudence, reasonableness and wisdom do not typically factor into prosecutors’ decisions when faced with cases involving environmental activists. All too often a person’s commitment to engaging in civil disobedience for a cause is perceived as a sign that a person is committed to law-breaking and needs to be punished.

Climate activist Tim DeChristopher served twenty-one months in prison after engaging in nonviolent direct action. He was prosecuted for bidding on land in December 2008 to stop oil and gas companies from obtaining leasing rights to exploit resources around the Arches and Canyonlands National Parks in southeastern Utah as well as nearby the Book Cliffs in eastern Utah.

DeChristopher sought to argue the “necessity” defense, that drilling for resources would pollute the lands and contribute to climate change. However, at trial and during appeal, judges prohibited the argument. On appeal, judges determined that prohibiting the argument was justified and noted

statements where he had said “he would ‘continue to fight’ and it was ‘fine to break the law.’” These were “relevant sentencing factors” to deter future violations and “promote respect for the law.

Barbara Carter, Lisa Leggio and Vicci Hamlin of the Michigan Coalition Against Tar Sands (MICATS) “locked down equipment” at an Enbridge construction site and stopped construction of a tar sands oil pipeline for one day. They were arrested and charged with misdemeanor for trespassing and a felony for resisting and obstructing a police officer. They spent over a month in a county jail before being sentenced to time served and 13 months probation.

Enbridge was responsible for the largest inland oil spill in United States history in 2010. Over a million gallons of tar sands oil polluted the Kalamazoo River and Talmadge Creek. The MICATS activists wanted to argue that they had acted out of “necessity,” to prevent another spill. The judge did not want to hear anything about pollution or climate change. He would have considered their act as “necessary” if they were stopping an oil spill in progress, but since that wasn’t this case, the activists could not raise the issue of Enbridge or tar sands at trial.

The jury found them guilty of all charges, and the judge immediately had the activists jailed and revoked their bond.

It does not always end this way though. In April 2012, prosecutors in Vermont dropped criminal trespassing charges against 136 protesters arrested at the corporate offices of the Vermont Yankee nuclear power plant. According to the Brattleboro Reformer, “Windham County State’s Attorney Tracy Shriver decided against moving forward with the charges given the limited resources of her office and the courts.”

When activists are committed to their direct action, including making the case for why they did what they did at trial, that can overwhelm the system.

Activists from Seattle, who took action and blocked oil trains at risk of explosion, are facing charges and may get to try a “necessity” defense at trial. They took action because highly volatile tar sands oil is being transported on tracks that ran under Everett and Seattle.

There was a horrible tragedy where a train carrying oil in Canada exploded and killed 47 people in July 2013. While they are concerned about fossil fuels fueling climate change, they also don’t want the same tragedy to happen in their community.

Very few prosecutors in office would refrain from treating activists who engage in direct action as recidivist criminals who need to be turned into examples so others do not follow their lead.

Sutter described himself as a “passionate environmentalist.” That may be unique among prosecutors in the United States and may be why this outcome is unfortunately unlikely to be repeated. But what is undoubtedly even more unique are elected officials, who are willing to actually use their office to take the actions necessary to disrupt business as usual and recognize the world is in a climate crisis.

Honestly, Sutter’s action could not get enough attention. The more it is held up as a model, the more likely it is to influence another district attorney who has to handle these kinds of cases.

Sutter did not just take a conscientious action that supported his commitment to environmentalism, but he showed if a government must hold environmental activists accountable it can do so without severely disrupting their lives. That is the way it should be.

11 Sept - All Charges Dropped Against MI CATS Tar Sands Protestors!

After their wrongful arrest during a July protest, charges against environmental activists Al Smith and Jake McGraw have been dropped.

MORE:

On July 24th in memory of the 2010 Tar Sands disaster in the Kalamazoo River, over 20 protesters gathered for an afternoon of speeches, music, and, resistance to the controversial Enbridge line 6B. During the protest Al Smith and Jake McGraw were wrongfully arrested on the Polly Ann Trail outside of a Precision Pipeline staging area in Oxford, adjacent to Lakeville Elementary School. They were taken into custody and charged with failure to obey a police command and mass picketing. This morning both charges were dismissed in Rochester Hills District Court.

“It is a clear conflict of interest for a corporation such as Enbridge to contract local police forces as their private security guards. The dismissal of our charges is evidence of this conflict. We were acting within our first amendment rights to peacefully protest. We were wrongfully arrested in violation of our civil rights. I was assaulted by a security guard that day. Today, we were vindicated thanks to the commitment to justice by our National Lawyers’ Guild attorney Denise Heberle.” Jake McGraw, from Hartland Michigan.

Enbridge continues to wreak havoc on the environment. After their 2010 Tar Sands disaster, when over one million gallons of tar sands oil spewed into the Kalamazoo River, Enbridge has been expanding the leaky pipeline 6B and more than doubling its capacity, all under the guise of piecemeal repairs to avoid a more thorough and inclusive permitting process. The expansion is a part of the dubious Alberta Clipper pipeline expansion project. If the Alberta Clipper is approved, Enbridge intends to pump 800,000 barrels of tar sands through the Great Lakes per day. Tar sands oil is one of the planet’s dirtiest sources of energy and Enbridge has a long history of neglect and resulting spills, placing communities all along the pipeline routes at risk of another disaster.

The men are members of a larger coalition called the Michigan Coalition Against Tar Sands (MI-CATS), the coalition is composed of survivors of the 2010 spill, affected residents, and, concerned citizens from across the Great Lakes region. MI-CATS is a part of a grassroots push to halt all tar sands pipelines, stop climate change, and protect fresh water for generations to come.

12 Sept - Mohaman Koti Granted Parole!

The political prisoner at Mohawk Correctional Facility who has been incarcerated over 35 years, Mohaman G. Koti, has been paroled!

MORE:

At 89 years old, having served over 35 years, and following a concerted campaign by Release Aging Prisoners Project (RAPP), Mohaman Koti will be released on October 21st.

12 Sept - Political Prisoner Robert Seth Hayes Denied Parole Again!

NYC Jericho spoke with Seth's wife Sheila on Friday and are saddened and disappointed to report that Seth, despite being a model prisoner, having an excellent parole plan, and thousands of signatures in support of parole, was once again denied parole by the parole board.

MORE:

At least one of the parole board members, Mr. Ferguson, has sat at previous hearings for Seth, and has consistently voted against parole for him.

13 Sept - Parole Granted: Free At Last! by Joel Bitar

We are excited to announce that Joel Bitar is free!

MORE:

Joel was granted parole in mid-August and the Canadian authorities, in their infinite wisdom, waited until September 11th to drop Joel off at the border—where he left behind prison walls and jail cells on one side and joined his loving family and friends on the other.

Joel has been stalwart throughout his arrest, extradition, house arrest, and imprisonment and we have been inspired by his courage in facing the grinding gears of justice by not only one, but two nation-states, and remaining true to himself and his convictions.

Joel's statement upon release reads:

For folks who have been following my blog over the months you may have noticed that I hadn't posted anything in a while. There was a reason. Back in mid-August my parole (parole for deportation) was granted!

A couple of days ago, 2 weeks after my parole eligibility day, I was driven to Niagra Falls by Canadian border police in handcuffs and dropped off on the U.S. side. U.S. Customs and Border Police then took my fingerprints, scanned my passport for outstanding warrants and eventually a door was opened and my freedom became official.

My parole conditions are basic: don't associate with anyone with a criminal record, attend counseling and don't attempt to return to Canada. If I return to Canada they can hold me for the duration of my sentence, which is September, 2015.

So it's finally over, I can't believe it. Getting out of jail is one of the best freaking feelings in the world. It's also kind of overwhelming. Emotionally speaking, I got out of there relatively unscathed. I did pick up a bunch of scars, bumps and injuries (mostly all connected to jail soccer games, therefore totally worth it). All-in-all I feel the same. If anything the experience made me tougher, stronger and wiser. I hope to be a source of information and support for those who will inevitably be put through the prison system in the future.

I want to thank everyone who submitted parole letters on my behalf. The parole board received over 30 letters (they couldn't believe it, they were shocked) and they read every single one. Each letter was integral in winning my freedom. Thank you to each of you who took some time to do that, I wouldn't be free right now if it wasn't for you.

I also want to thank everyone who corresponded with me over the past 7 months and I want to apologize to those whom I never replied. Each letter I received made my day a little brighter and allowed me to maintain emotional stability during dark times. My incarceration was a case study in how to do solid prisoner support work. The amount of solidarity I received throughout the process was outstanding and I wouldn't be in such good shape right now without it.

So thank you, thank you, thank you folks. I can't wait to give you all a hug when I see you. My heart is filled with so much joy right now.

Freedom is a must!!!

15 Sept - Senses of Freedom: A New Poem by Sundiata Acoli

With the call for a day of poetry and hip hop in solidarity with Sundiata Acoli, he has written a new poem that we include below.

MORE:

Freedom FEELS sublime
like a slow Sunday morn in the springtime
of your lover.
The kids are outside
delighting in the new turn of the tide

and each other.
Children are priceless again,
women are liberated.
All races are respected
and the people placated.
SOUNDS of a Sax Supreme,
riffs of laughter, Salsa and Country themes
all syncopate with the Trane.
Indigenous drums toll:
“The Long War’s Over” as soft wind chimes knoll
in matching refrain.
No “Shots fired!” today.
No mother crying for her child.
No stroll thru the morgue tonight.
Just the best night’s sleep in a long while.
Aromas of fine wines
and SCENTS of baked breads draw the masses to dine
outdoors in the street.
The Haves share freely
with the Nots now as both have equally
when they meet.
No need for snatching, grabbing
or fighting to be first.
There’s enough for all now
in this wisely-shared universe.
A TASTE honey
on earth, sweeter than the sweetest pastry,
milk, or sugar tea.
People living free,
controlling their own lives and destiny,
as it should be.
Looking back, SIGHTING
ahead to a legacy of lightings
delayed by theft.
But back on path at last,
seeking keys from the present past
to the age old mysteries of LOVE & JOY, LIFE and DEATH.

15 Sept - United Nations asked to investigate Omaha Two and other COINTELPRO cases

The effort to help political prisoners in America took a big step forward today with a formal request to the UN Human Rights Council to include the prisoners in the upcoming Universal Periodic Review of US human rights treaty compliance.

MORE:

by Michael Richardson (*The Examiner*)

A formal request of the United Nations Human Rights Council was made on Sept. 15 to review COINTELPRO prisoner cases during the upcoming Universal Periodic Review. Once every five years the United States has to account to the United Nations over its compliance with international human rights treaties and this cycle one of the questions will be what has the Obama administration done about COINTELPRO inmates. COINTELPRO was an illegal counterintelligence operation of the Federal Bureau of Investigation under J. Edgar Hoover that manipulated prosecutions against targeted individuals.

Efia Nwangaza, of the Malcolm X Center for Self-Determination, submitted a report calling for federal intervention in the cases of more than twenty prisoners convicted under COINTELPRO directives and other civil

rights era cases. Nwangaza said COINTELPRO was “a violent, race based, political program.”

“Under COINTELPRO, human rights defenders and activists, especially Blacks, Latinos, and Native Americans fighting injustice, were subjected to harassment, monitoring and intimidation, organizational infiltration, unlawful arrests, show trials, excessive sentences, and assassination at the hands of local, state, and federal law enforcement officials. While a few political prisoners have been exonerated, after spending years behind bars, most have not, and face cruel, inhuman and degrading conditions, including lack of medical care, prolonged (decades) solitary confinement, placement in super max prisons away from family and lawyers, denial of compassionate release, and perfunctory parole hearings.”

President Barack Obama may be asked what he has done to establish a National Truth and Reconciliation mechanism to investigate and compensate deaths and prosecutions of COINTELPRO/Civil Rights Era political activists. Richard Nixon was president during most of the excesses against the Black Panthers. The prosecutions were brought in state courts leaving the federal government an easy out, thus there has been no action taken by the Obama administration to correct misdeeds under Nixon.

Nwangaza’s report, No Access to Justice: Political Repression—Political Prisoners, was endorsed by the Jericho Movement which was formed to address the problem of political prisoners in America. Appendix Five of the report is titled, “Framing the Omaha Black Panther Party” and covers the cases of Edward Poindexter and Mondo we Langa (formerly David Rice). The two men were targeted by J. Edgar Hoover, director of the Federal Bureau of Investigation, for COINTELPRO action. The August 17, 1970 bombing murder of an Omaha policeman by a fifteen year-old was blamed on the pair and they have been in prison ever since despite a lengthy list of revelations about their manipulated trial that included withheld exculpatory evidence.

The Omaha Two case, as it has come to be called, is of particular significance because Mondo’s appeal was used by the United States Supreme Court to restrict prisoner appeals when it was consolidated with another murder case. *Stone v. Powell* limited prisoner Fourth Amendment appeal rights and became a milestone in the development of criminal law restrictions, magnifying the injustice in Omaha initiated by J. Edgar Hoover. The Supreme Court then applied the restriction ex post facto on Mondo denying him a hearing on the merits of his case. Mondo had won his freedom or a new trial at the U.S. District Court and also with the Eighth Circuit U.S. Court of Appeals. Justice William Brennan announced in a sharply worded dissent that the decision was “profoundly disturbing.”

Shadow reports earlier submitted under human rights treaty provisions have already alerted United Nations reviewers to the unresolved problem of unjust convictions for political reasons in the United States. The current filing with the Human Rights Council about COINTELPRO abuses supplement issues raised under the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant for Civil and Political Rights.

The Obama administration has until early next year to respond to the Universal Periodic Review. Ed Poindexter and Mondo we Langa remain imprisoned at the maximum-security Nebraska State Penitentiary where they continue to proclaim their innocence. Mondo has a pending post-conviction appeal before the Nebraska Supreme Court. No date for a decision has been set.

19 Sept - Books Through Bars Bingo

WHAT: BINGO!

WHEN: 7:30pm, Friday, September 19th

WHERE: ABC No Rio - 156 Rivington Street New York, New York

COST: Bingo cards will go for \$2 each and \$5 for three cards.

MORE:

The event will feature two comedienne, extraterrestrial hosts (Caitlin Steitzer and Brittain Ashford, formerly of the BCAT and CTOWN Variety Show) and DJ Anna Theodora, snacks, and baked goods.

Throughout the evening, we will be raffling prizes from Cinnamon Snail, Book Thug Nation, New York Public Library LIVE, Center for Sex and Culture, Babeland, Pok Pok Restaurant, Interference Archive, Wax Poetic Magazine, Just Seeds Collective, Third Root Community Health Center, Feminist Press, IFC Center, Shag Sex Shop, Verso Books, AMC TV Network, Gristle Tattoo, and BAM. The prizes will be raffled in this order (there will be approximately fourteen rounds).

This will be our eighth Bingo Night and it's our biggest fundraiser of the year. The money raised goes towards our only operating expense, which is postage for the book packages. We made enough at last Bingo Night to send packages of books to approximately 300 prisoners.

26 Sept - Black Panther Film Festival: Remembering Our Political Prisoners

WHAT: Film Festival

WHEN: September 26-27; October 3-4

WHERE: Maysles Cinema - 343 Malcolm X Boulevard, Harlem

COST: \$10 per festival day

27 Sept - Pam Africa & Razakhan Shaheed at CEMOTAP

WHAT: Love & Struggle to Defeat Police Terror

WHEN: 2:00pm, Saturday, September 27th

WHERE: CEMOTAP Center - 135-05 Rockaway Boulevard, South Ozone Park, New York 11420

COST: FREE

MORE:

The Committee To Eliminate Media Offensive to African People invites you to our monthly community forum. The speakers are the husband and wife duo Brother Razakhan Shaheed and Sister Pam Africa. These two tireless fighters for Mumia Abu Jamal and all political prisoners will speak about countering police terror and freeing Mumia Jamal and all political prisoners the way they do it--with love and struggle.