



POST OFFICE BOX 110034 BROOKLYN, NEW YORK 11211

Updates for January 17<sup>th</sup>

## **2 Jan - Message from Dr. Mutulu Shakur regarding his clemency appeal**

*Message from Dr. Mutulu Shakur regarding clemency appeal.*

### **MORE:**

To all who have carried my burden in 2016 I'm humbly grateful. Allah knows it hasn't been easy. You've taken time of your lives and your family's. I don't know how I would come to this point without you. The struggle for freedom under any circumstances, is an arduous task and I do not take your sacrifices for granted. I am a product of our struggle and it goes without saying that I'm a flawed subject with contradictions still being struggled with. But because of you I have been able to hold on to our principles, resist temptation to compromise values and maintain a moral compass. To do otherwise would dishonor the many ultimate sacrifices made.

The task we are confronted with now is a historical one: It is the first time in the history of this country we have a black president with the power to grant pardons and clemencies. As far as our research reveals, not since the Civil War has a request for freedom been entertained for a subject that is considered to be a political prisoner of the struggles waged for civil rights and national liberation. We come to this point after exhausting every conceivable judicial and civil administrative remedy. Every issue that has been raised during the 31 years of this odyssey has been rejected by the judicial branch of every level, partnered with the manipulation of facts and denied the due process by government agencies. I come to you now for the only way, under these adverse conditions, to do as Pres. Obama suggested: "You got to make me do it".

I'm told, we have the Puerto Rican people leading by example for their political prisoner Oscar Lopez, with the submission of 145,000 signatures. The Native American struggle has submitted 100,000 signatures for Leonard Peltier, clearly showing a demand.

We understand that all things are not equal. My application could not have started collection until the last legal remedy was exhausted, which was Nov. 26. We are catching up, putting in real work, aiming high and going all out. Our team W some new, some experienced, some family, some young, and some vintage W you're getting right on down with it. I'm so proud of what we've done. As I said before, I'm somewhat flawed but you are my people and I'm all you got :).

In this Kwanza period looking forward to 2017, we will live with the results, holding our heads high and pursuing what we know to be correct. Freedom is earned and not given and I thank you all for putting me in your lives and giving me the strength for whatever comes. I truly love you and I'm honored that you hold me in your hearts and push forward the objective of my freedom. Please take good care for your health and spiritual strength.

A more extensive analysis and project foresight will come in the beginning of the year. January 20th is the deadline at this stage of the struggle.

Strong Kwanza.

## **3 Jan - Water Protector Still Faces Felony For Confronting Armed DAPL Contractor**

*Brennon Nastacio, a Standing Rock water protector fighting the Dakota Access Pipeline, disarmed a security contractor who pointed an assault rifle at him and others.*

### **MORE:**

by Kevin Gosztola (*Shadowproof*)

Although the contractor was arrested, the Morton County Sheriff's Department declined to charge the contractor. They have, however, slapped Nastacio with a felony for "terrorizing" the contractor.

Morton County has issued an arrest warrant and placed Nastacio on a "Most Wanted" list.

While hundreds of people face charges after arrests while resisting the pipeline, Nastacio is one of few water protectors dealing with a severe charge; in his case, a class "C" felony.

"It gives me mixed emotions and mixed feelings about Morton County and the oaths that they took [to protect and serve] the people," Nastacio told *Shadowproof*.

Nastacio said he watched Thompson point a gun at him with his finger on the trigger. He pointed the gun at multiple people. Nobody knew what his intentions were. The incident was captured on video, and he believes he helped prevent the incident from ending with any fatalities.

"I'm just confused because I was protecting the people, and I told Kyle Thompson as well that nothing would happen to him if he put his gun down," Nastacio added.

Nastacio must raise funds for a legal defense and has obtained a lawyer. That effort has not been without issues.

After his GoFundMe page was updated to mention funds would go toward "attorney consultant fees," GoFundMe suspended the account for the representative who launched the page and informed the representative they could not raise funds for "attorney fees for anyone accused of a crime." Even though there are various GoFundMe campaigns that request funds for bail and attorney fees, GoFundMe would not restore Nastacio's page or access to it.

The Sacred Stone camp, where Nastacio is living, is on treaty land and he could be arrested by federal police with the Bureau of Indian Affairs at any moment, as long as the charge is pending.

On October 27, 2016, Kyle Thompson, who had a "DAPL security" identification card, drove his truck toward the main encampment. He had an AR-15 on the passenger side of his truck. Water protectors followed the truck. Thompson left the truck and was pursued by protectors, who demanded he put down his weapon.

Nastacio did not mention a knife in his interview with *Shadowproof*, but in a separate interview for *Native News Online*, he said, "My son came to camp with me in August. All I could think about was his and everyone at camp's safety. That's why I went towards Kyle when folks called me, even though all I had to defend myself and everyone was a knife."

Thompson backed into a nearby body of water, and Nastacio followed while talking to him. According to Nastacio, he told Thompson nothing would happen to him if he put down his gun or gave him his gun. He wanted to protect everyone and prevent any incident, where law enforcement might shoot him because he was wielding a rifle.

Eventually, Thompson handed his weapon over to Bureau of Indian Affairs officers, who apprehended him.

Water protector Ryan Redhawk filmed the incident. In an interview for The Young Turks, Redhawk noted Thompson was dressed in attire that made him look like a water protector. Thompson initially suggested he was “there to support the cause.”

Thompson later changed his story and said he was there to document equipment that was set on fire. However, there are numerous questions related to what Thompson was doing that day, including why documenting equipment would require someone to drive at a high speed down a road with an assault weapon.

Dakota Access will not take responsibility for Thompson. Vicki Granado, a spokeswoman for Dakota Access, told the Bismarck Tribune that Thompson was working for Knightsbridge Risk Management, which apparently owned equipment that was burned. (It is apparently unknown who set fire to the equipment.)

Nastacio said he believes there have been multiple infiltrators at the camp intent to “instigate things,” whether they have guns or not. At least three people were ousted in the final months of 2016

Individuals suspected of supporting the water protectors have faced threats of violence in addition to police harassment. Masked men were caught on video in December accosting water protectors, as they pledged, “North Dakota people are going to fuck you up.”

### **January 5<sup>th</sup> - Water Protector Who Confronted Armed DAPL Contractor Bailed Out After Turning Himself Into Authorities**

by Kevin Gosztola (*Shadowproof*)

Brennon Nastacio, a Standing Rock water protector fighting the Dakota Access Pipeline, was bailed out of jail hours after turning himself into the Morton County Sheriff’s Department. He is not allowed to leave North Dakota.

Morton County charged him with a class “C” felony for “terrorizing” a Dakota Access Pipeline contractor after he helped disarm the security contractor, who pointed an assault rifle at him and other water protectors on October 27 last year.

The contractor, Kyle Thompson, was apprehended by the Bureau of Indian Affairs, however, the authorities declined to charge Thompson with any crimes. Instead, they placed Nastacio on a “Most Wanted” list.

In a video recorded before Nastacio turned himself in to the police, he declared, “At first, turning myself in wasn’t what I planned because I believe I’ve done nothing wrong. With over 4,300 folks pledging to support me, I trust that they will stand behind me today so I can put this stress behind me.”

“Since I found out I have a warrant, I have to live life looking over my shoulders, replaying that day over and over knowing what I did to protect [the Sacred Stone] camp was the right thing.”

Nastacio added, “I’ve been called a hero by many, but Morton County wants to see me locked up.” By turning himself in, he hoped Morton County would tell him why they think trying to save lives on October 27 was a bad thing to do.

“Did they not want me to confront Kyle and let him use his AR-15 on water protectors?”

Nastacio has a lawyer, but it is someone with the legal collective at Standing Rock that is handling over thirty other cases. He does not have a lawyer, who can solely focus on his case. But Nastacio is trying to obtain an out-of-state lawyer, who can represent him.

On October 27, Thompson, who had a “DAPL security” identification card, drove his truck toward the main encampment. He had an AR-15 on the passenger side of his truck. Water protectors followed the truck. Thompson left the truck and was pursued by protectors, who demanded he put down his weapon.

During an interview with Native News Online, Nastacio said, “My son came to camp with me in August. All I could think about was his and everyone at camp’s safety. That’s why I went towards Kyle when folks called me, even though all I had to defend myself and everyone was a knife.”

Thompson backed into a nearby body of water, and Nastacio followed while talking to him. According to Nastacio, he told Thompson nothing would happen to him if he put down his gun or gave him his gun. He wanted to protect everyone and prevent any incident, where law enforcement might shoot him because Thompson was armed with a rifle and dressed like a water protector.

Eventually, Thompson handed his weapon over to Bureau of Indian Affairs officers, who apprehended him.

Water protector Ryan Redhawk filmed the incident. In an interview for The Young Turks, Redhawk said Thompson initially suggested he was “there to support the cause.”

Thompson later changed his story and said he was there to document equipment that was set on fire. However, there are numerous questions related to what Thompson was doing that day, including why documenting equipment would require someone to drive at a high speed down a road with an assault weapon.

Thompson disputed the idea that he was driving toward camp in a posting on Facebook. But he did not dispute the fact that he cocked his rifle and pointed it at water protectors, who tried to convince for nearly a half hour to put his gun down.

“My role at camp is search and rescue, along with camp security,” Nastacio shared. “I make sure no drugs, alcohol, or weapons are brought into this camp.”

“On October 27, I was driving. People called me over shouting that someone had a gun. When I approached them, I saw a stranger with an AR-15. I didn’t know Kyle Thompson was a DAPL worker at the time because he was dressed as a water protector.”

Nastacio does not have a court date. He now must raise funds to pay for a legal defense in order to fight the felony charge Morton County brought against him.

### **3 Jan - Mumia Medical and Legal Update**

*Victory - late in the afternoon of January 3, Judge Robert Mariani of the federal court for the Middle District of Pennsylvania ordered officials from the Pennsylvania Department of Corrections to treat Mumia Abu-Jamal's chronic hepatitis C with the latest direct-acting antiviral medications that have a 95% cure rate.*

**MORE:**

This is the first case in the country in which a federal court has ordered prison officials to provide an incarcerated patient with the new medications that came on the market in 2013.

We expect an appeal, but for now this is a major victory.

Very honored to represent Mumia along with the impeccable Robert Boyle.

Much gratitude to the family and friends and supporters of Mumia who have rallied and fought for his health and his freedom - Pam Africa, Johanna Fernandez, Suzanne Ross, Keith Cook, Wadiya Jamal, Noelle Harrahan and so many others.

Hasta la victoria siempre!

### **January 4<sup>th</sup> - Federal judge orders state to provide Mumia Abu-Jamal with hepatitis C treatment**

by Robert Moran (*Philadelphia Inquirer*)

A federal judge on Tuesday ruled that Mumia Abu-Jamal should be provided new medications by the state to treat his hepatitis C infection.

U.S. District Judge Robert D. Mariani ordered that Abu-Jamal, who is serving life in prison for the 1981 killing of Philadelphia Police Officer Daniel Faulkner, must be seen by a doctor within 14 days to determine if there is a medical reason he should not get the expensive drugs.

If Abu-Jamal is medically cleared, the state must provide him with recently developed direct-acting antiviral medication, also known as DDA.

Susan McNaughton, a Department of Corrections spokeswoman, said, "We are reviewing the decision and cannot comment further at this time." She did not elaborate.

The DOC has argued in court filings that Abu-Jamal has not met the criteria for treatment.

The state has about 7,000 inmates with hepatitis C, and treating them - at a cost of \$84,000 to \$90,000 per person - would cost \$600 million.

Robert J. Boyle, a New York lawyer representing Abu-Jamal, said in a statement that he expected the state to appeal the ruling.

"The struggle is far from over: the DOC will no doubt appeal this ruling. But a victory!" Boyle said.

Bret Grote of the Abolitionist Law Center in Pittsburgh said the ruling was the first time "a federal court has ordered prison officials to provide an incarcerated patient with the new [hepatitis C] medications that came on the market in 2013."

In 2015, Abu-Jamal, who spent 29 years on death row, was hospitalized after he fell into diabetic shock and was found to have hepatitis C. Lawyers filed suit that year to improve his medical treatment.

Mariani, a Scranton judge who sits in the Middle District of Pennsylvania, previously stated that the Department of Corrections' interim protocol for treating hepatitis C "presents deliberate indifference to the known risks which follow from untreated chronic hepatitis C."

But he ruled against Abu-Jamal because members of the department's Hepatitis C Treatment Committee, which makes treatment decisions, had not been named as defendants. An amended complaint was filed in September.

Abu-Jamal, a former Black Panther and sometime radio reporter, was found guilty of the Dec. 9, 1981, slaying of Faulkner, 25.

He was sentenced to death in 1982, but that sentence was overturned by a federal appeals court and reduced to life without parole.

### **3 Jan - Top Prosecutor: Clemency for Leonard Peltier "in best interest of justice"**

*Last month, a letter in support of clemency for federal prisoner Leonard Peltier was sent to President Obama by former United States Attorney James H. Reynolds.*

#### **MORE:**

Supporters believe that Native American activist Leonard Peltier was wrongfully convicted in 1977 for the deaths of two agents of the Federal Bureau of Investigation (FBI). Imprisoned for over 41 years, Peltier has the support of Amnesty International and other human rights organizations. Over 50 Members of Congress and others—including Judge Gerald Heaney (8th Circuit Court of Appeals) who sat as a member of the court in two of Peltier's appeals—have all called for his immediate release.

As noted in his letter to President Obama, Mr. Reynolds was appointed to the position of U.S. Attorney for the District of Iowa by former President Jimmy Carter. He held the position in 1977, the year that Mr. Peltier's case went to trial, and supervised the prosecutors through trial and appeals, including Assistant U.S. Attorney Evan Hultman. He was later appointed as U.S. Attorney for South Dakota.

Appellate courts have repeatedly acknowledged evidence of government misconduct in the Peltier case—including knowingly presenting false statements to a Canadian court to extradite Mr. Peltier to the U.S., and forcing witnesses to lie at trial. A federal prosecutor has twice admitted that the government "can't prove who shot those agents." Per the 8th Circuit Court of Appeals "the FBI used improper tactics in securing Peltier's extradition from Canada and in otherwise investigating and trying the Peltier case." The court concluded that the government withheld evidence from the defense favorable to Peltier "which cast a strong doubt on the government's case," and that had this other evidence been brought forth "there is a possibility that a jury would have acquitted Leonard Peltier." In 2003, the judges of the 10th Circuit stated: "Much of the government's behavior at the Pine Ridge Reservation and in its prosecution of Mr. Peltier is to be condemned. The government withheld evidence. It intimidated witnesses. These facts are not disputed."

Per the U.S. Department of Justice (DOJ), from the time of Peltier's conviction in 1977 until the mid-1990s, the average length of imprisonment served for homicide in the U.S. prior to being released on parole ranged from 94 to 99.8 months (about 8 years). Per the existing standards at the time of his sentencing, Peltier is long overdue for discretionary parole. Per 1977 standards, he has served the equivalent of over five life sentences. But, in violation of the Sentencing Reform Act of 1984 (and its amendments), the government has illegally extended Peltier's prison term. Effective on October 12, 1984, the law ordered that parole dates be issued to all "old system" prisoners within the following five-year period, at the end of which time (on October 11, 1989) the U.S. Parole Commission would cease to exist. After it had technically ceased to exist, the Commission claimed it needed more time to complete its work. Congress inexplicably granted several after-the-fact extensions. These extensions were legally invalid and therefore inapplicable because, at the time they were made, the Parole Commission had already been abolished.

Further, in determining his release date, the government has failed to apply its 30 -year rule. After 30 years served, all sentences are to be aggregated and the prisoner released. In addition, the government has not considered the good-time credit earned by Peltier (20 years, to date). Peltier has long been eligible for mandatory release.

Clemency, Reynolds said in his letter to President Obama, is "...in the best interest of justice in considering the totality of all matters involved."

Age 71 and in poor health, Peltier formally applied for clemency on February 17, 2016, and awaits President Obama's decision.

January 5th - Let Leonard Peltier Go Free

by Kevin McKiernan (Santa Barbara Independent)

I don't know which Native Americans killed FBI agents Jack Coler and Ronald Williams in the notorious 1975 shootout in Oglala, South Dakota. Nor do I know the identity of the federal lawman who shot and killed Joe Stuntz, the American Indian Movement (AIM) member. But what is troubling is that federal prosecutors don't know either, yet Leonard Peltier has spent 41 years behind bars for the FBI agents' deaths. Now, in the waning days of the Obama administration, Peltier has petitioned President Obama to commute his sentence.

I was there on the Jumping Bull ranch on that hot June day in 1975 when some of the bullets were flying, recording the exchange of gunfire as part of my coverage for NPR. I've been able to interview Peltier several times since then, most recently from Florida's maximum-security Coleman penitentiary. The audio file of that conversation is below, and edited-for print extracts follow this story.

Over the last four decades, many groups, including Amnesty International, have advocated for Peltier's release. Amnesty maintains that Leonard Peltier, who is 72 and in ill health, did not get a fair trial. The former director of Amnesty International U.S.A., Jack Healey, has produced 11 video testimonials for Peltier's release in recent years from famous actors and musicians, including Ringo Starr, Bonnie Raitt, Harry Belafonte, and the late Pete Seeger.

Over the course of his imprisonment, Healey said, high-profile advocates such as Nelson Mandela, Desmond Tutu, Mother Teresa, and actor Robert De Niro all have lobbied the White House to free Peltier. In the last six months, he said, Robert Redford, who produced the documentary Incident at Oglala about the 1975 shootout and its aftermath, has met with President Obama to make the case in person. A former Franciscan priest, Healey said he is sending a message to Pope Francis through his friend Boston Cardinal O'Malley: "If I can reach the Holy Father to reach President Obama, I've done my job."

President Obama now has two weeks — until January 20 — to decide whether to release Leonard Peltier.

Though Peltier's current clemency plea is on humanitarian grounds for his age and declining health, the violations of legal procedure that occurred during trial continue to astound. The government has never produced an eyewitness to the deaths of the agents. The prime witness during Peltier's extradition from Canada, Myrtle Poor Bear, later recanted, saying she'd signed three affidavits under pressure from FBI agents. When she tried to come forward to tell her story at Peltier's trial, the North Dakota judge ruled her incompetent and barred that testimony.

The U.S. Attorney was castigated by the Eighth Circuit Court of Appeals for its use of the "fabricated evidence" — which prosecutors later acknowledged to be false — to secure Peltier's extradition. In the

past, Peltier has admitted to “firing in their direction,” meaning toward the FBI agents during the shootout, but said he did so “because they were firing at me.” The appeals court also chastised prosecutors for misconduct in withholding from the jury a key ballistics test that eliminated Peltier's gun as the murder weapon.

Peltier was indicted on the same evidence that ended up acquitting his two codefendants on the grounds of self-defense. However, his codefendants' trial was held separately, before an all-white jury, in Iowa. Their jury heard evidence from the U.S. Commission on Civil Rights about the "climate of fear" on the reservation between 1973 — when Indian activists occupied Wounded Knee for 10 weeks — and the shootout in 1975. Peltier told me, "Conditions there were worse than third world countries. ... People ... were being murdered, and people were living in terror."

His codefendants' jury also learned of an FBI connection to an anti-AIM group that called itself the GOONs (Guardians of the Oglala Nation). Some jurors said afterward that testimony countered the FBI's claim of neutrality between Indian factions following the Wounded Knee siege. Testimony about casualties during that 71-day siege in 1973 (in which two Indians were shot to death, and two lawmen and a dozen Indians wounded) was also blocked at Peltier's trial.

In fact, the climate of fear back then matched anything I have experienced in reporting from war zones in Central America and the Middle East. Former U.S. Senator James Abourzek (D-SD) told me that the near-lawless atmosphere on the reservation approached "total anarchy." In those days almost everyone was armed and the reservation resembled the Wild West. I once was threatened with guns in my face when I tried to film a GOON squad roadblock; on another occasion I was slammed up against a wall by GOONs, who tended to perceive the entire press corps as AIM sympathizers. The brakes on my car were cut, and, on one occasion, a high-powered rifle blew a hole in an automobile in which I was riding.

My experiences pale by comparison to the beatings, fire-bombings, and drive-by shootings were common during the period; at least 28 murders of Indians still remain unsolved, and the Oglala Sioux tribe has repeatedly petitioned the federal government to reopen these cases.

Former Senior U.S. District Judge Fred Nichol, who tried many of the Wounded Knee cases, told me in a filmed interview, "The FBI and the GOON squad worked pretty much together ... because they were against AIM." In a 1984 televised interview that I conducted for PBS Frontline, a leader of the GOON squad claimed that FBI agents provided his group with intelligence on AIM and, in one instance, "armor piercing" bullets for use against AIM members who, like the GOONs, were heavily armed at the time.

Fourteen years after Peltier's 1977 conviction, Gerald W. Heaney, chief judge of the U.S. Court of Appeals that upheld the verdict, surprised court watchers by petitioning the White House to commute Peltier's sentence. Heaney later told 60 Minutes that Peltier's was the most difficult case of his career in light of governmental misconduct, which he branded “a disgrace.” Advocating for Peltier's release in his 1991 letter, Heaney said the government “must share the responsibility” for the deaths of the two agents and Joe Stuntz in the shootout. He said the government had "overreacted" to the 1973 occupation at Wounded Knee. Instead of "carefully considering the legitimate grievances of Native Americans," he said, "the response was essentially a military one that culminated in a deadly firefight on June 26, 1975.” According to Judge Heaney, “the government's role in escalating the conflict into a firefight ... can properly be considered as a mitigating circumstance.”

At press time, Peltier's clemency attorney, Cynthia Dunne, a former assistant U.S. Attorney, released a letter from James H. Reynolds, the U.S. Attorney who had overseen the government's opposition to

Peltier's appeals. He wrote to President Obama in support of the bid for clemency. Reynolds said his change of heart was "in the best interest of Justice in considering the totality of all matters involved."

According to Jack Healey, the former Amnesty official, that leaves as Peltier's most potent opponent in the current clemency drive a group of retired FBI agents who had pressured the Clinton administration not to release Peltier.

As Bill Clinton's term was ending, Peltier's attorneys were invited to the White House and given strong indications that the president would grant clemency. But a few weeks before Clinton left office in 2001, 500 agents protested outside the White House, prompting the president to renege. Today, the FBI Retired Agents Association (which also played a role reportedly in convincing FBI Director James Comey to announce 11 days before the presidential election that he was re-opening the investigation of Hillary Clinton's emails) is lobbying President Obama to keep the Indian activist in prison.

When I spoke with Peltier last month, he was reluctant to rehash details of the oft-debated shootout and trial, as he had in previous interviews. And while there is no doubt that someone killed the two FBI agents, Jack Healey wasn't interested in doing so, either. "When you're going for clemency, you don't reargue the case. ... By definition, clemency is not about guilt, and even if Leonard did it — which I don't believe — murderers are usually out in 12 years or so."

Healey noted that Peltier's next scheduled parole hearing is not until 2024, and he drew a distinction between justice and vengeance. "Leonard's served his time. If you hold him beyond 41 years in prison you are talking about vengeance."

Before he leaves office on January 20, 2017, President Barack Obama could provide closure to one of the most difficult, divisive periods in modern Indian history. As Judge Heaney wrote, "At some point, the healing process must begin. We as a nation must recognize their unique culture and their great contribution to our nation."

...

In the last year, it has become increasingly difficult to visit Leonard Peltier, who contends that authorities are restricting his visits, especially from the press, in an effort to keep the spotlight off his controversial prosecution. Only after months of intervention by Rep. Lois Capps (D-CA) did the Bureau of Prisons relent and permit me an interview by phone last month. Despite an overall record of good conduct, Peltier told me it had been several years since he'd been allowed to speak with a reporter.

**Tell me: What is your ancestry?** My father was from Turtle Mountain Chippewa Nation in North Dakota. My mother is a Dakota — "the people of the white corn" — from what's now called Spirit Lake. We were farmers, and my grandfather was actually from Mankato, Minnesota. After the Little Crow war in the 1860s, they hung 38 Indians [in Mankato], the largest hanging in the United States.

One of them was my great-grandmother's brother White Dog. There were 300-something indicted, and they had 10-minute trials, 10 at a time. Abraham Lincoln was going to execute everybody, but his aides sent him numerous memos — this is all in the record — telling him that if he killed all those people, he'd be known as a mass murderer. So he stopped at 40. Two escaped to Canada, and 38 were hung.

**Did you grow up knowing all this history?** Yes, I used to sit around and listen to my elders talking. I was born in 1944, and I grew up in apartheid conditions. A candy bar was a rarity [and] meat on the table wasn't a regular thing. We had to have a (written) pass to leave the reservation! Even to go shopping in

bordering towns, or to go work in the migrant fields of the Red River Valley or the barley fields of Montana.

The media was doing major articles, calling us the vanishing American Indians. By 1985, the "Termination Act" was going to be completed, and we would no longer exist. They were implementing the assimilation [policies] to "take the Indian out of being Indian" through the boarding schools, which have a horrific history — I was in one of those schools from 9 to 13 years old.

**On the Pine Ridge Reservation, after the Wounded Knee Occupation in 1973, were people divided?**

Yeah, there was pro-termination; there were traditionalists who refused to give up their lands.

**And there were factions loyal to the tribal chairmen who were against AIM, the group you were with.**

Yes, precisely.

**May I ask you about June 26, 1975?** Oh, yeah. Well, I mean, I was at camp, and there was some gunfire up at the Jumping Bulls'. A couple of days before that, somebody down there at the dam was firing off an automatic weapon, getting everyone all paranoid and scared. He said he was shooting fish. So at first that's what everybody thought it was, but by the time we got up there, it was a full-scale gun battle going on.

Until the shooting stopped, everything was surrounded with SWAT teams. My responsibility was to try to get those women and children out of there. That's precisely what I did.

**The government said that the agents were killed at close range after a period of gunfire exchanged from both sides.** The government also said they don't know who killed the agents nor what participation either culture may have had in it.

**In other interviews, you admit you were firing a weapon that day.** Yeah.

**Wasn't there an Indian who was killed at Oglala?** Well, somebody sniper-shot him and killed him. We've been fighting for 41 years to get that investigated. Who killed that man?

**Were you sentenced for two lives without parole?** No, nope, no. I've been to the parole board numerous times. I was found guilty of first-degree murder in 1977 and sentenced to two life sentences with parole. I appealed it ... and the main issue that we argued was ... jury instructions of aiding and abetting and manslaughter and first-degree murder. Under the extradition treaty, they [could] only charge and prosecute for first-degree murder because that's what they asked (Canada) to return me for.

The appeal courts said the most critical evidence against me was the murder weapon. I filed a Freedom of Information Act, and they turned over 18,000 documents about a year after I was convicted. Two FBI documents said all scientific tests came out negative, so this was not the murder weapon.

In 1984, at the appellate court, the judge says, "Just what was Mr. Peltier convicted of? 'Cause we can't find no evidence of first-degree murder in the record." The prosecutor responded with this: "Your Honor, the government does not know who killed the agents, nor do we know what participation Leonard Peltier may have had."

**During the 1980s you figured in the Cold War, didn't you?** Yes. Ronald Reagan and Gorbachev met, where was that at? Where they had the negotiation for nuclear weapons. The first thing Ronald Reagan starts telling Gorbachev is "You have political prisoners in your country; you should release this man." So

Gorbachev said, "Well, you have Leonard Peltier in prison. And, gee, there's no proof he killed anybody. How come you don't release him?"

It just wasn't the left that was demanding my freedom. It was in Time magazine. I even had people like George Will, a right-wing columnist. He said, "Why he didn't give clemency to Peltier is shocking to us." Fifty-five members of Congress demanded my freedom, 51 members of the Canadian Parliament, and 50 members of the European Parliament.

**That (FBI) demonstration at the Clinton White House, do you think that that played a part in the denial of your clemency?** I don't know, Kevin. I don't know. One of my lawyers who's friends with an FBI agent said that (FBI Director) Comey is going to oppose it, but right now they're all mad at him because he helped [Hillary Clinton lose the election]. She won by over two million votes because, you know, he went out there and pulled that bullshit he did. That's the reason she lost the election.

**When he came out two weeks before the election and said that there was more investigation to be done on Hilary Clinton.** Yeah.

**I'm interested in what ceremonies there are for Native Americans in prison.** Well, we have one, the inipi; the sweat lodge it's called in English. And we have the pipe ceremonies. And here, that's about it. ... I built the first sweat lodge in the prison.

**And now there's the possibility of clemency before President Obama leaves office. Is there a special prayer that you say?** Well, you know, we don't believe in praying for yourself. It keeps you from being arrogant, you know. We don't say, "God, please make me rich." We don't believe in that way, so we pray for everybody else. So I pray for my people.

**What is your health situation?** They gave me some nitros the other day because my heart is bad. I need medical treatment. I have what they call an aortic aneurism in my chest. If this aneurism bursts, I'm dead. My joints are bad; my hip is bad, so I have a hard time walking from one place to another. I got all these old-man ailments comin' on me.

**Tell me about your kids and your family.** I'm great-grandfather now, and all my kids, of course, are grown. I haven't even met some of my grandchildren yet, because I can't afford to bring them all the way down here [to Florida] to visit.

**I imagine sometimes it gives you a frog in your throat ...** Talking about it right now ... (Laughs.) I'm doing everything to keep from crying. Yup. It would be great. I mean, just to see them little kids hanging all over. They know a lot about Grandpa, but some of them have never even seen me yet. I hope they all come running to me. I'm going to stay alive until that happens.

**If you knew that this would cost you some 40 years, would you do it all again?** We have just as much a right as any race of people on earth to live. So, yeah, I'd do it again. I'd be there for my people again.

### **3 Jan - Why Keep the Old and Sick Behind Bars?**

*Anyone who visits a prison these days might be shocked to see what looks more like a nursing home with bars and metal detectors.*

**MORE:**

The Editorial Board (*New York Times*)

Prisoners put away years ago under the wave of draconian sentencing are now turning gray and frail, suffering from heart disease and hypertension and feeling the effects of Alzheimer's and other age-related illnesses.

Corrections officials once thought they had time to prepare for this, but something unexpected happened. Federal data shows that prison inmates age more rapidly than people on the outside — because of stress, poor diet and lack of medical care — so much so that their infirmities qualify them as "elderly" at the age of 50.

This problem is overwhelming the state and federal prison systems' ability to manage it. And unless prisons adopt a common-sense approach of releasing older inmates who present no danger to the public, this costly group could soon account for a full third of the population behind bars.

Granting early release to sick, elderly inmates with families who want to care for them would be the humane thing to do. But it also makes good policy sense, given that they are far less likely than the young to commit new crimes. For example, a 2012 study by the American Civil Liberties Union documented that criminal activity drops sharply as people age. In New York, the study found, just 4 percent of prisoners 65 or older return to prison with a new conviction within three years of release; only 7 percent of those who are 50 to 64 do so. In contrast, 16 percent of those 49 or younger return.

A 2015 report on the federal prison system published by the Justice Department's Office of the Inspector General offers a sense of what managing aging inmates will cost if compassionate-release programs aren't expanded. Older prisoners are already more expensive than younger ones; treating the sick is more costly in prisons. The costs will grow as prisons are forced to hire more and more people to help elderly inmates feed, bathe and dress themselves or to escort them on trips to see medical specialists. Some elderly inmates will also require costly infrastructure improvements, like elevators and wheelchair-accessible cells, bathrooms and passageways.

The inspector general's report also found that the re-arrest rate for older inmates was relatively low compared with the rate for young inmates and said that many older inmates were good candidates for early release. But federal policies "limit the number of aging inmates who can be considered for early release and, as a result, few are actually released early," the report explained. This problem is echoed at the state level, where eligibility for compassionate release is so strictly defined that parole boards almost never consider granting it.

Prisons, of course, cannot release people based solely on age. But the states and federal government can expand medical parole programs under which far too few terminally ill and physically disabled people are now released. In addition, parole boards across the country can screen older inmates for release using widely accepted measures to determine whether or not the inmate poses a risk. The best answer for the future is for state legislatures to keep moving away from the disproportionately harsh sentencing laws that brought us to this point in the first place.

### **5 Jan - Steve's Statement of Non-Cooperation in the Face of #NoDAPL Grand Jury**

*An inspiring show of solidarity on January 5<sup>th</sup> outside the court in Bismarck, where Steve Martinez made clear his intention to refuse to cooperate with a federal grand jury that is investigating Water Protectors.*

#### **MORE:**

Steve made a statement to supporters outside before heading in:

*My name is Steve Martinez. I have been subpoenaed to this federal grand jury. I refuse to cooperate with these proceedings on the grounds of not helping opposition towards water protectors. I will in no way condone or cooperate with this attempt to repress the movement here at Standing Rock. I know that by refusing to cooperate I will most likely be incarcerated. The loss of my own freedom is a small price to pay for keeping my dignity and standing up for what is right- the defense of the earth and all that is sacred. Mni Wiconi!*

Steve Martinez then emerged from the federal courthouse in Bismarck, North Dakota after being issued a federal grand jury subpoena. The judge denied the motion to quash the subpoena. His next court date is February 1<sup>st</sup>.

### **6 Jan - Message from Oscar López Rivera on his 74th Birthday**

*On his 74<sup>th</sup> birthday, while waiting to find out if the campaign for secure clemency is successful, Oscar López Rivera wrote the following.*

#### **MORE:**

i have lived in this world for 74 years, and for me it has been a great blessing. i can affirm that i have lived because i have transcended some of the many challenges i've had to face, and have continued struggling to transcend the the ones i haven't transcended. Starting very early in my life i refused to turn my back on any adversity or injustice i faced. The drive to push on and to face whatever comes my way has made it possible for me to accumulate experiences that have made me very grateful to have lived all these years.

i'm hopeful that i'll be able to come out of prison and dedicate whatever time i have left in this world to work and to struggle to help resolve the greatest issue we face. That's the issue of resolving Puerto Rico's colonial status. Without the resolution of that issue Puerto Ricans will not enjoy a dignified, secured, productive and healthy life. We will not experience free will and self-determination. We will not be allowed to be a member of the community of nations. We will be pariahs in our own land if we are lucky enough to live on it. i dare say we will live like the natives in Hawaii, Alaska and in the Native Americans' reservations. What happens to the people who lose their homeland? Sean Amery, a survivor of Hitler's concentration camps, because he did not find a homeland once he was released, wrote the following: "Woe to him who has no home". And by home he meant a homeland. i love my homeland even though it is the oldest colony in the world. And it is why i keep on saying that to love Puerto Rico costs nothing. What would be costly is if we lose it.

i have faith in us being able to eradicate colonialism. And i'm certain the majority of the Puerto Rican people love Puerto Rico. The only people in Puerto Rico who don't love Puerto Rico are the ones who prostitute it, who sell it and who don't identify themselves as Puerto Ricans. The ones who love Puerto Rico have a heart full of love for freedom and justice and of compassion. We are a people who have dared to struggle and have dared to live. We are a courageous, sensitive, proud and creative people. And since the problems we face are man created we can resolve them and transform PR into the nation it has the potential for being. We can look up to the space above our homeland and see the potential Puerto Rico has. We can look at the Atlantic Ocean and the Caribbean Sea and see the potential PR has. We can feel the fresh air on our skin and the warm sun on our bodies and see the potential PR has. We can look at the earth we stand on and see the potential PR has. We can look at ourselves and see the human potential that we have. And it is that human potential that will drive us to eradicate colonialism and to transform our beloved homeland into the edenic garden it has the potential of being. We can do it. Let's dare to live and let's dare to struggle. Then we will live as a free people without any colonial chains. We can be a Big Family like Don Rosendo Matienzo Cintron used to say. We can be a nation of communities and each community making itself stronger by working together. We can be 8 million strong by uniting the Puerto Ricans in the diaspora with the Puerto Ricans in our small Archipelago.

Let's dare to struggle and let's dare to live.

En resistencia y lucha!

## **9 Jan - New federal charges filed against Red Fawn Fallis**

*More federal charges have been filed against Red Fawn Fallis, accused of shooting toward cops in October. The following is a corporate news article, so read it with a critical eye.*

### **MORE:**

by Caroline Grueskin (*Bismarck Tribune*)

Red Fawn Fallis, 37, of Colorado, allegedly fired a gun while being arrested during a police raid of the northern "front line" Dakota Access Pipeline camp Oct. 27.

An indictment filed Jan. 5 charges her with felony counts of civil disorder and discharging a firearm in relation to a felony crime of violence -- which, in this case, is civil disorder. These charges are in addition to an earlier charge of possession of a firearm by a convicted felon.

Fallis pleaded not guilty to all charges Monday morning. A three-day trial was scheduled for March 7 with U.S. District Judge Daniel Hovland in Bismarck.

If convicted of discharging the firearm, Fallis faces a minimum of 10 years in prison.

Federal public defender Neil Fulton, whose office is defending Fallis, said he has never seen a felony civil disorder charge in federal court.

"I don't think it's terribly common, but it exists on the books," he said.

During a December preliminary hearing for Fallis on the firearm possession charge, a federal agent said she fired three shots from a gun in her left hand while officers tried to subdue her. She was being arrested because she was acting as an instigator, according to Alcohol, Tobacco and Firearms agent Derek Hill.

In addition, Hill stated that law enforcement found three spent casings in a revolver allegedly possessed by Fallis and two speed strips with six live rounds in each of her pockets. Fallis has a prior felony conviction for being an accessory to a crime in Colorado, Hill testified.

The gun allegedly involved was a .38-caliber Ruger revolver. A complaint filed in the case said a boyfriend of Fallis' reported the same type of gun missing on Oct. 28.

Fallis' case has drawn national attention, spawning a "Free Red Fawn" movement. A website started for her says she was working as a medic on Oct. 27, and while she was being arrested, "one officer pulled his weapon and placed it against her back. While she was pinned to the ground, shots were fired."

Her cause has been endorsed by actors Jane Fonda and Mark Ruffalo, and an online fundraiser has solicited more than \$57,000 on her behalf.

Magistrate Judge Charles Miller asked Fallis on Dec. 12 to fill out a financial affidavit relating to funds raised online, with the idea being that she may need to repay some of her public defense costs. No such affidavit has been filed in the public records system.

Fulton said his office is working with Fallis and investigating the case, which may be delayed from its March trial date.

"What's next will depend on what we find," Fulton said.

### **9 Jan - Eric King has been transferred to Florence, Colorado + New Poetry**

*On Friday, January 6<sup>th</sup> we learned that Eric had been moved to another federal prison in Colorado.*

#### **MORE:**

This was an unexpected move and it was not a lateral move in regards to the security level either. Those are two distinctions that stand out and will most likely make this transition tough. Eric is now at a medium security institution in the southern part of the state, an institution that is situated in the same complex as the infamous super max prison in the federal prison system. While that is not the prison where Eric will be doing time, we can only imagine that the entire complex has a daunting feel to it. At every juncture, we arrive at with Eric along this journey there will be times where we may have to step up our efforts and this is one of them.

Please join us in spreading this message far and wide. Take some time to send letters, cards or printed off articles that you think he might find interesting, and encourage others to do the same. Also, please print off and pass out the support flyer to continue getting the word out about Eric's plight.

#### **January 13<sup>th</sup> - Eric King in SHU awaiting disciplinary charges**

We have received word that Eric is being held in the SHU (special housing unit) at FCI Florence with a status of "transfer segregation". He was told that he is facing charges and that his allegations include writing poems and drawing stick figures depicting violence towards the BOP and the government in general. They also mentioned his support site as well as his desires to live in a world without the state. His disciplinary hearing is in 2-3 weeks. If found guilty Eric will lose access to canteen (something that as a vegan prisoner can be super problematic as the BOP policy is to provide one fully vegan meal a day), among other things he will lose access to visits and "good time". He does not know what will happen with his placement after the hearing but he does know that he will be bumped up in points and assigned to a medium security prison instead of a low. This means that he will most likely be moved away from his family. Eric can receive letters and magazines (sent from publisher) however no books. He does not have access to a ton of stamps or paper. As folks who care deeply about Eric and his mental health through this vulnerable and intimidating time we ask that folks please send all of the love you can to Eric. Send cards, letters, postcards, energy and magic his way! Remind him that he is not alone in this fight! (remember that anything that is sent radical in nature stands the possibility to be added to his allegations, please use discretion).

#### **January 15<sup>th</sup> - We Don't have to**

We dont have to  
We dont have to accept this world  
We dont have to be ok with the cammo bros  
Destroying lives and invading worlds  
We dont have to be ok with orange rapist  
Becoming leaders  
They dont have to be our leaders  
We dont have to accept Veterans Day  
We dont have to tip toe around these clowns  
We dont have to Salute flags and Blue ribbons

We dont have to tolerate predators  
We dont have to build fucking walls  
and lock fucking cages  
We dont have to stand by while this happens  
We dont have to stay silent or submissive  
We dont have to forget our friends  
or pretend they are doing just fine  
We dont have to ignore our mental issues  
and act like we aren't on the brink  
We dont have to be ok with capitalism  
We dont have to fucking buy everything  
they push down our throats til were  
gagging on god damn receipts  
We dont have to laugh at rape jokes  
We dont have to quietly endure 'casual racism'  
We dont have to be accept 'locker room talk'  
We don't have to bow down  
We dont have to close our eyes to whats happening  
We dont have to belong and fit in  
We dont have to devour our world  
We dont have to hate and we dont have to stay angry  
We dont have to do anything that doesn't feel right  
We dont have to give our support to things that make  
us feel uneasy or uncomfortable  
We dont have to.

### **13 Jan - White House Justifies Chelsea Manning's Possible Commutation**

*President Barack Obama's administration has yet to indicate whether it will commute United State Army whistleblower Chelsea Manning's sentence to time served, but on January 13, it gave the clearest hint yet that a commutation is a distinct possibility.*

#### **MORE:**

by Kevin Gosztola (*Shadowproof*)

White House Press Secretary Joshua Earnest was asked about Manning and National Security Agency whistleblower Edward Snowden, who has sought a pardon from Obama.

At first, Earnest gave a boilerplate response. Obama and the Justice Department will consider "individual clemency applications on their merits." But then he launched into a more specific answer without any follow-up question or request to give additional information.

"There obviously are a wide range of factors that the president and the Department of Justice will consider, and I think to illustrate one of them would be to illustrate the pretty stark difference between Chelsea Manning and Edward Snowden."

"Chelsea Manning is someone who went through the military criminal justice process, was exposed to due process, was found guilty, was sentenced for her crimes, and she acknowledged wrongdoing," Earnest stated. "Edward Snowden fled into the arms of an adversary and has sought refuge in a country that most recently made a concerted effort to undermine the confidence in our democracy." [\*Note: Snowden says the State Department revoked his passport, and that's how he ended up stranded at a Moscow airport, where he sought asylum in Russia.]

“So, I think the situation of these two individuals is quite different,” Earnest suggested. “I can’t speculate at this point about to what degree that will have an impact on the President’s consideration of clemency requests. I know that there’s a temptation because the crimes were relatively similar to lump the cases together, but there are some important differences, including the scale of the crimes that were committed and the consequences of their crimes.”

“Obviously, as Chelsea has acknowledged and as we have said many times, that the release of the information that she provided to WikiLeaks was damaging to national security, but the disclosures by Edward Snowden were far more serious and far more dangerous.”

The comparison is remarkable, and it suggests Obama may be willing to offer her relief because she faced the consequences and took responsibility for her actions in a court of law.

Ever since NBC News reported on January 11 that Manning was on a “short list” for commutation, there has been a significant increase in media attention to her case. The *New York Times*, which sometimes showed interest in her court-martial, published a story profiling her incarceration at Leavenworth military prison.

Earnest was asked on January 12 whether Manning was on President Obama’s “short list.” He would not confirm this report. Even more significantly, he did not address any specifics of Manning’s case and stuck to a boilerplate answer.

“There is a well-established process for individuals to seek clemency from the President of the United States. That is a process that has been organized by the Department of Justice who will review those petitions for clemency,” Earnest said.

“But I don’t have any comment on any of the petitions that have been submitted thus far. I can’t even confirm the existence of a petition or rely on those who are filing the petitions to indicate whether or not they filed them. And this applies not just to people like Chelsea Manning, but also applies to people like Governor Rod Blagojevich whose representatives have made clear that he would like some clemency from the President of the United States. But I just don’t have any comment on those potential applications.”

Dinah PoKempner, general counsel for Human Rights Watch, called it “hopeful news” that Manning is reportedly on a “short list” for commutation. “She is serving a grossly disproportionate prison term in comparison with any other leaker of national security information in the U.S. or indeed any democratic ally of the U.S.”

“It’s also appropriate since she was unable under the law to argue that any of her leaks were justified in the public interest, nor did the government have to show that a specific harm resulted from her leaks,” PoKempner declared.

Manning has urged Obama to commute her sentence so she can have a “first chance to live a real, meaningful life.” She believes this may be “the last real chance” to make a case to go home “for a very long time.”

### **13 Jan - A Murky Legal Mess at Standing Rock**

*In early September, Alisha LaBarge, a member of the Mandan, Hidatsa, and Arikara Nation, travelled from Hibbing, Minnesota, to the Standing Rock Sioux Reservation, in North Dakota, where she began*

*living in a tepee and taking part in protests against the Dakota Access Pipeline, which is meant to transport oil eleven hundred and seventy miles to Illinois.*

**MORE:**

by Colin Moynihan (*The New Yorker*)

LaBarge, who is thirty-four, joined the protest camps, she said, because she believed that the pipeline, which some Native Americans call “the black snake,” would pollute the Missouri River, violate treaty rights, and harm lands and burial grounds sacred to the Sioux.

In October, LaBarge was arrested during a protest, becoming one of the nearly six hundred people who were taken into custody and charged during the months of prayer ceremonies, marches, and clashes with law enforcement that took place before the Department of the Army announced, in December, that it would not grant an easement that the pipeline needed to cross beneath Lake Oahe, about half a mile from the reservation. The announcement halted the project, at least until the next President is sworn in, and was greeted as a victory by the protesters.

LaBarge pleaded not guilty to trespass and riot charges, and her trial was scheduled to take place January 9th, at the Morton County Courthouse. But it was recently cancelled by North Dakota court officials, along with the trials and final dispositional conferences of about two hundred other pipeline defendants, also scheduled for January. Word of the cancellations went out by way of unsigned notices e-mailed to defense lawyers that stated, “Because of the volume of cases which have been filed in recent months, it is necessary to reschedule trials for the convenience of all parties.” The e-mails said nothing about new court dates.

Officials are rescheduling many of the pipeline-protest cases to insure that the oldest are tried first and to “allow parties appropriate time for discovery and motions,” Donna Wunderlich, the trial-court administrator for the South Central Judicial District of the North Dakota court system, told me recently. The large number of defendants, she said, had presented logistical difficulties for Morton County, which is used to a significantly lighter caseload.

For LaBarge and the others like her, who had spent weeks anticipating trials and preparing themselves for the possibility of guilty verdicts, the abrupt cancellations were jarring. “I feel like I just went through all that stress and anxiety for nothing,” she said. “If I’m going to have to go to jail, I’d like to get it over with.”

The cancellations came as defense lawyers and prosecutors made arguments to the court about what sort of legal representation the protesters are entitled to, and as they were battling over what evidence must be disclosed during pretrial discovery. These disagreements go beyond the typical courtroom back-and-forth: they reflect the polarized political dispute over the pipeline, and the conflict between local authorities and the throngs of protesters from across the country, led by the Sioux, who called themselves “water protectors” and camped for months on the North Dakota plains in an effort to stop it.

The first pipeline trial, involving ten people arrested on August 11th, was scheduled to begin on December 19th, but was adjourned that day when it emerged that the prosecution had failed to provide every defendant with five hundred and sixty-one photographs and about three hours of video that one defense lawyer said contradicted police reports. A judge ordered that the trial be moved back six weeks, and told the prosecution to insure that material connected to the arrests was given to defense lawyers.

“I’m going to give you until the end of the week to call all of the law-enforcement agencies involved to find out if there are any other pictures or videos or any other information related to these arrests themselves and to provide that,” the judge, Cynthia M. Feland, of North Dakota’s South Central District Court, said.\*

The next day, the prosecution produced more material related to the August 11th arrests, including twenty-five pages of police reports, notes about the specific times of arrests, and photographs. But defense lawyers said that they received nothing else before the judge's deadline of December 27th. On December 30th, Ladd R. Erickson, the state's attorney for McLean County, and one of the prosecutors handling the pipeline cases, told the court that "terabytes of information" existed in connection with some of the hundreds of arrests, including photographs and video footage from government and private aircraft. He asked for an order, which would apply to all pipeline trials, that would allow him to turn over to defense lawyers only evidence he planned to introduce or knew to be exculpatory. Existing North Dakota rules require prosecutors to turn over "all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense," and to allow defendants, upon written request, to inspect and copy documents, photographs, and other items "material to preparing the defense."

At the same time, Erickson asked the court to require that defense lawyers get permission from a judge to conduct depositions of prosecution witnesses. Erickson said that he feared lawyers working with the protesters might harbor ulterior motives, and seek sworn statements with an eye to reaping profits from future civil suits. "Essentially these groups just use protesters as plaintiff pawns," he wrote, referring to legal observers of the sort used by the National Lawyers Guild, a left-leaning legal organization. "To keep order and focus, the State seeks this protective order on depositions to ensure our criminal justice system doesn't get used for these groups' self-serving purposes," he added.

Brandy Toelupe, the president of the Water Protector Legal Collective, a National Lawyers Guild group working with pipeline protesters, said in a written statement that her group was providing "legal advocacy, criminal defense and civil rights litigation," but added, "Mr. Erickson's inflammatory public remarks are intended to poison local jury pools to prevent fair trials and to provide cover for his mass overcharging and false charging of arrestees, dearth of evidence, and refusal to comply with local and Constitutional requirements for producing required discovery in these cases."

Late last month, Chad Nodland, a lawyer representing one of the August 11th defendants, asked the court to dismiss the case against his client, saying that the prosecution had not followed the judge's order to find and turn over all information related to her arrest and had "dropped the ball in its rule-based, constitutionally rooted, and ethical obligations." Nodland told me that the orders requested in Erickson's December 30th filing would violate due process. "That's the sort of thing I'd expect the prosecution to ask Santa Claus for," he said. "It's truly a wish list for oppressive state conduct." This month, Nodland asked the court to reject Erickson's suggestions for handling evidence, writing that the prosecution had "thumbed its nose" at the court's discovery order.

One of the more striking aspects of Erickson's court filings is the way in which he has portrayed the pipeline protests as if they were performance art meant largely to generate radical propaganda. Meanwhile, he himself has used politically charged language. He has described protesters as "props for videos of staged events," criticized them for using "victimhood toned videos" to raise bail money, and accused them of taking part in demonstrations or skirmishes with police "to create fake news videos used to bring attention, celebrities, both passionate and gullible people, and finally, money—all to be focused on multiple issues of national discontent." In a December 30th filing, he warned the court that defense lawyers might try to present "propagandizing" videos as evidence:

*Some DAPL protester videos are designed for fundraising, or to get actors weeping into cameras. Pretend journalists like Amy Goodman of Democracy Now or The Young Turks have published manipulated DAPL social media videos with faux narratives in an attempt to be recognized as a news source by those who are duped by fake news.*

*We are in a facts and evidence format now—a trial. We are not in the fact-less video game world that has separated many people from their money, caused people to ignore blizzard warnings on their way to protest camps to sleep in tents, and influenced President Obama and the New York Times editorial board on the DAPL protests.*

Dave Archambault II, the chairman of the Standing Rock Sioux, has consistently said that the protests were about preserving treaty rights and the local land and water. Protesters I have spoken with scoffed at Erickson's descriptions of them, or laughed, or wondered aloud where he was getting his ideas. Erickson maintains that he has evidence to back up every assertion he has made in his filings. A longtime North Dakota resident, he told me last week that he began helping the prosecutors in Morton County with the pipeline-protest cases as a favor. Morton County normally employs five prosecutors, but it is currently down to three, and the avalanche of cases threatened to bury the county's state's attorney's office. His colorful prose was nothing new, Erickson added—it was part of an approach he developed a few years ago, after becoming bored with standard legal writing. "It's so dry, but the issues being written about are events and events have a story," he told me in an e-mail. "If you were to read my briefs on pretty much anything you would see the same style."

Discussing the material connected to the August 11th arrests, Erickson told me that he had not immediately turned everything over because he hadn't known how much existed. Photographs and video related to pipeline-protest arrests had been recorded by dozens of police agencies, the North Dakota Game and Fish Department, and individual officers using personal phones, as well as by private security contractors who, Erickson said, were connected to the company building the pipeline, Energy Transfer Partners, and who had sent up professional film crews in planes to monitor protest and arrest sites. (In response to questions about the contractors and the aerial surveillance, an Energy Transfer spokeswoman, Vicky Granado, said, "That is not something I have knowledge of or information on.") The result, Erickson said, was a vast, decentralized trove that was almost impossible for a small group of prosecutors and their assistants to corral and review. His December 30th request for a protective order regarding evidence was an attempt, he said, to create parameters that would help make an overwhelming situation more manageable. "We're not going to try people before juries that have discovery issues hanging over them," he said. "We don't want to redo cases because of appeals."

Alison Siegler, a professor at the University of Chicago Law School, had a different view of Erickson's discovery request. Siegler, who runs a legal clinic and has worked as a defense lawyer in federal court, said that discovery rules "reflect the core values of our criminal-justice system" and help codify a prosecutor's dual role as an advocate arguing for conviction and as a "representative of the people writ large," who has an obligation to see that justice is served. North Dakota's discovery rules, she noted, were particularly broad and beneficial to defendants, and Erickson's filing did not appear to offer a legal basis for turning over less material than he would otherwise be obliged to provide. "I think it reflects a great deal of chutzpah to think that there is any rationale in those papers for the judge to reconsider her order," Siegler said.

Well before focusing on evidentiary disputes, many pipeline defendants had difficulty finding lawyers to begin with. A significant number have gone unrepresented as the prosecution files motions and proposed orders. Of the two hundred-odd defendants whose January court dates were cancelled, about fifty did not have lawyers as of last weekend, according to court records. Some may not have tried to obtain a lawyer. Others applied for a court-appointed lawyer but were denied because, according to the records, their applications were deemed to be incomplete or because they did not meet income requirements. Some were denied for reasons that are not clear. A few were approved up to two months after they initially applied.

The flood of cases has swamped the local public defender's office, several local lawyers and the American Civil Liberties Union of North Dakota wrote in December. They asked in a filing that the court loosen

rules, to make it easier for lawyers from outside the state to be temporarily admitted to practice in North Dakota and represent protesters for free or at a low cost.

The prosecution has not taken a position on whether the court should make it easier for lawyers from other states to represent protesters. But Erickson has asserted in a filing that “out of state activist lawyers” are directing protesters to “clog jails and court systems.” Because of that, he has written, pipeline defendants do not deserve the free defense provided to those who cannot afford a lawyer. In that filing, dated December 12th, Erickson told the court that he would seek reimbursement to the state from pipeline defendants represented by court-appointed lawyers.

“With the DAPL protest defendants, we are not dealing with ‘normal,’ or cases that our court system and indigent defense programs are designed, staffed and resourced for,” he wrote. “Our systems are set up so criminal defendants have their constitutional rights enforced. To the contrary, our systems are not set up to be foddered by economic weaponry when people from around the world come to intentionally commit crimes for political purposes and have North Dakota taxpayers pick up the tab.”

Only one pipeline trial has taken place so far, on December 20th, and the two co-defendants were convicted of disorderly conduct and of blocking a highway. Both were given suspended sentences of ten days in jail. Erickson, true to his word, asked that they be ordered to reimburse the state for their representation, telling a judge that protesters had been encouraged “to flood our systems, cause economic damage.” Court-appointed lawyers representing the defendants took exception to his request, with one saying, “These are criminal cases, they have a right to an attorney.” But the judge, Bruce A. Romanick, agreed with the prosecution, and told the defendants that they owed five hundred dollars apiece.

“I’ve been involved with many of these cases: everybody’s arrested, everybody has no money, they need a court-appointed attorney, yet somebody bonds them out,” Romanick told the defendants in court. “A lot of folks tell me in court, ‘I quit my job to come do this.’ Well, that means you can get a job and pay these costs back.”

### **15 Jan - Update and Letter to the Community from Jalil Muntaqim**

*Jalil was recently moved to a different prison as a result of repression due to his continued activism around Black liberation.*

#### **MORE:**

Thank you all for extending your concern for my well being and supporting our continuing social media blast to Gov. Andrew M. Cuomo in demanding he grants my application to commute this sentence to time served.

While we are happy for Judith Clark, we must realize there is something inherently disturbing. When we compare our records of accomplishments in prison and the extent of community support, Gov. Cuomo's decision presents questions about racial injustices in the decision-making processes in New York State.

The *New York Times* December 4 and 5, 2016 exposé of NYS DOCCS and Board of Parole's overt racist practices left little to the imagination about what can be aptly described as apartheid. Gov. Cuomo proclaimed on December 6, 2016 that he would order a top-down investigation into discriminatory and biased practices in both the prison and parole system. However, his recent clemency decision indicates he is unable to lead by example.

Again, I am elated Judith Clark was granted clemency. I knew Judy long before she became a prisoner. In fact, the last time I saw her was on a visit in Attica in the late 1970's. Yet, understandably, the issue is one of Black political prisoners suffering the government's relentless vindictive posture of retaliation for our failure to succumb to white supremacy. Sundiata Acoli, Veronza Bowers, Dr. Mutulu Shakur, Herman Bell, Seth Hayes, to name a few, languish in prison because of the racial policy of the government. Therefore, my observation of Gov. Cuomo's clemency decision is based on historical and pragmatic analysis that must be pointed out as we proceed in the fight for freedom.

In this regard, I've asked we increase the social media blast directed to Gov. Cuomo's office to two days a month for the next six months. Each second and fourth Wednesday of the month, we should call, text, email, tweet and use whatever social media method to ensure he gets the message of our dissatisfaction with his failure to grant my application to commute this sentence to time served.

Beyond that, I would like to open a second front to achieve our goals. Specifically, I am asking all New York City and State activists to identify a member of the Black and Puerto Rican Legislative Caucus, and inquire why they have not challenged Gov. Cuomo on his lackluster approach in tackling the pervasive racially discriminatory practices in the New York State prison and parole system. These elected officials should not get a pass, and our activist community needs to establish a direct-action determination in making these representatives know that in 2017 they will be made to step up in response to our struggle for substantial institutional changes in the overall criminal (in)justice system in New York State. They each should be told to demand Gov. Cuomo grant my application in "good faith" if he is serious about ending racial and biased practices in the prison and parole system — To lead by example!

It is incumbent on the activist community to step up the work ... the *New York Times* exposure has provided the irrefutable foundation to make these demands on these elected officials. We only need to have the unrelenting audacity to demand the kind of government practices we believe should govern.

Thank you for your support. I will continue to teach and speak truth to power from behind the walls, but my freedom, like the rest of Black political prisoners, depends on the "Power of the People" to rise up and fight for freedom.

In the Spirit of Nelson Mandela!

### **16 Jan - Is Marxism Relevant? Some Uses and Misuses**

*We're sure David would love to communicate with people about ideas in this long, new article he wrote. We'll include part two in the next round of updates and announcements.*

#### **MORE:**

*"Imperialism is piracy [...] reorganized, consolidated and adapted to the aim of exploiting the natural and human resources of our peoples."*

*"[N]obody has yet made a successful revolution without a revolutionary theory."*

– Amilcar Cabral[1]

One of my biggest joys and most valued activities is corresponding with younger-generation—by now it's generations—white anti-racist activists. Most of them identify as anarchist or anti-authoritarian, but knowing my history, often ask what I think about Marxism. These activists have been mightily turned off by the examples of Marxist-Leninist (M-L) organizations in the U.S. which all too often have been characterized by dogmatism, sectarianism, and heavily top-down internal power dynamics. Political "debate" frequently devolved into each side plucking competing quotes from Marx or Lenin or Mao—as though that proved anything. Perhaps worst of all, many predominantly white and male "Marxists" used the

powerful terminology to insist that fighting white and male supremacy was “secondary” to the class struggle and that opposing homo- and transphobia was irrelevant.

Those examples are rightly rejected by radicals rooted in love for and commitment to oppressed and exploited humanity. But what led many of my generation to embrace Marxism, in sharp contrast to the above misdirections, was the reality that most of the exciting revolutions that were sweeping the third world (what’s now called the Global South) were led by M-L parties—not Marxism as some musty catechism from 19th century Europe but rather as a living tradition being applied and developed by modern third world revolutionaries.

A blanket dismissal of Marxism runs the risk of losing some important building blocks for analyzing the nature and vulnerabilities of capitalism. In addition, my experience during more than 50 years in the struggle has shown that those who were able to sustain activism over the long and difficult haul often had some foundation in theory and in a sense of history.

What follows is not an argument for or against Marxism as the defining framework, and it certainly isn’t an attempt to provide an overall or in-depth explanation.[ii] Instead I want to talk about a few broad concepts which I found very useful and still seem very relevant today. Often these ideas are markedly different from the more visible versions put forward by various predominantly white and male Marxists. (For brevity’s sake I’ll refer to those whom I feel distort the analysis in this way with quotes: “Marxists.”) Before getting into the heart of this paper, I’ll briefly review the path that led me to study and then try to apply Marxism.

### **Letting in the Sunlight**

Coming of age in the U.S. in the 1950s, I was reflexively anti-communist. The roar of the propaganda and “education” that engulfed us was reinforced by my distaste for the repressive East European regimes. Moving into the 1960s, my belief in U.S. democracy was shattered, first by the inspiring Civil Rights Movement, then by the inexcusable U.S. war on Vietnam. As I learned more, I became outraged that our government systematically crushed democratic movements in the third world in order to impose brutal dictatorships in league with U.S. business interests. By the time I started college in 1962, I was already on the road to committing my life to activism.

The political science classes that dealt with the basis and legitimacy of government relied on the myth that “men” (as they said) came together to agree on a social contract. Frustrated, I found a radical graduate student who recommended Karl Marx and Friedrich Engels’ *The German Ideology* (1845). They started with real human needs and activities—to produce for survival under primitive conditions. Those challenges led to certain divisions of labor. The way people came together to do that in turn shaped social relations. Their analysis explicitly included reproductive labor (the bearing and rearing of children and all that goes into caring for people in what we would now refer to as “household work”). This book certainly didn’t resolve all the issues, but it was a real beginning.

My next reading was Marx’s *Economic and Philosophical Manuscripts of 1844*. There was a lot to love there, especially his concept of “species being.” A big part of my identity, and therefore my feelings about myself, is that I’m a member of a species. That connection means that anything that harms or degrades other people also diminishes my sense of myself, of who I am as a human being. (Our species’ relationship to the rest of nature is also crucial to how I see myself.) **Having been surrounded by the darkness of the dominant ideology, these readings were like opening the shutters and letting in the sunshine.**

Of course it’s an anomaly to name a school of thought based in historical development and collective struggle after an individual. But the word is used to stand for a specific, penetrating approach that looked at

society from the standpoint of the oppressed majority, that saw class opposition and struggle as a central dynamic, that had an incisive critique of capitalism and that, very importantly, went beyond a Utopian vision to having an analysis of actual conditions and developments within capitalism that could lead to socialism becoming a real possibility.

The starting point for understanding society wasn't some mythology about God's will or pure reason or social contracts. First and foremost people had to engage in practical activities to ensure survival and build a basis for a way of life. Social relations, ideas and culture developed out of that primary experience. But Marx recognized that it wasn't a one-way street—once those ideas and values arose they in turn influenced how we conducted our practical activities.

Mainstream social science usually works by breaking things down to their smallest elements and then examining those in isolation. Many things can be learned that way. Marxism usually reveals a lot more by looking at how the elements interact, with an emphasis on process, the development of the whole. Standard social science often projects the future by extending current trends on a straight line, with the same direction and slope. Marx saw that real world dynamics often involved oppositions and tensions that could, at certain key points, erupt into dramatic changes. For Marx, understanding the world was interactive; knowledge first and foremost was generated out of our efforts to live in the world. His method of starting with material reality but recognizing that ideas in turn could influence practical activity has been called “dialectical materialism,” which can sound (and I found) pretty imposing. For myself, I preferred the term “historical materialist” to stress the centrality of understanding current reality through looking at the process of historical development.

But it wasn't the books alone that led me, that led many of us, to come to consider ourselves Marxists. In Students for a Democratic Society of the mid-1960s we flew both the black and the red flags. What tipped, what shifted the balance was what was happening in the world: revolutions. More than a dozen were raging, and they embodied the hope of reshaping the world in a humane way. Almost all of those which had a strong base in the oppressed of their countries and were pushing for fundamental change were led by M-L parties. It wasn't an academic or ossified Marxism but rather a vibrant, evolving analysis providing guidance for real revolutions in progress. By the late 1960's, perhaps in too rote a fashion, we too proclaimed ourselves to be Marxist-Leninists.

### **Relations of Production**

A standard but misleading characterization of Marxism is that it's all about class. Race or gender or LGBTQ concerns may (or may not) be seen as important, but at the heart of capitalism and central to overthrowing it is the opposition between wage labor and capital. Some social movement activists in turn have tried to argue for the crucial role of their struggles by saying, “race is class,” or “sexuality is class.”

To me, the best starting point for analyzing society is Marx's “the totality of [the] relations of production,” (from the Preface to the Critique of Political Economy, 1859). He zeroed in on the relationship of wage labor and capital. Naturally, as insightful as Marx was, his perspective wasn't magically untethered from being a European male. What's even more relevant to his focus was the tremendously dynamic economic and social role industrialization was playing in mid-19th century Europe. But as I understand the sum total of the relations of production, they involve a lot more.

Patriarchy preceded capitalism and provided a big part of the foundation for it. Then capitalism incorporated the subordination of women to massively exploit their unpaid reproductive labor—a giant portion of the world's work—and to impose lower pay in jobs. Homo- and transphobia have been key, often vicious, means of enforcing patriarchy along with the terribly pervasive violence against women.

Imperialism is also a fundamental relation of production with its super-exploitation—work at far lower wages—of the labor and the rip-off of the natural resources of entire nations and continents. At home, the U.S. was built on the foundation of white supremacy—with people of color in effect internal colonies—which is a totally central and defining relation of production.

And while I'm not sure exactly how to phrase it, imperialism's rapacious plunder of humanity's (along with that of all forms of life) common wealth in nature is also critical to defining today's economic and social reality. (Because Marx emphasized the development of the forces of production, he is often caricatured as an advocate of unbridled industrialization. In reality, as John Bellamy Foster and others have shown, Marx had a penetrating and still useful critique of capitalism's "metabolic rift with nature"—the way capitalist agriculture and industry have damaged and destroyed nature.)

**All these gigantic structures of ruthless oppression are fundamental to how the ruling class both maintains its power and extracts the massive profits that are the Holy Grail and core necessity for capitalism.** We can see these different forms converge in how the most exploited workers, often in toxic industries, are women in the Global South; for example those employed in the fire-trap garment factories of Bangladesh, working 70-hour weeks and getting paid \$73 a month.

Even more than an astute textual analysis, this fuller and more applicable understanding of Marx was mainly a response to the world we live in. By far the leading, most revolutionary struggles of the day were the national liberation movements in the Global South. Within the U.S., genocide and slavery were the foundation of the society and continue to structure political developments. Those of us steeped in anti-racism became painfully aware of the history of promising radical movements within the U.S.—labor, populism, women's suffrage—that got coopted with concessions to whites at the expense of excluding people of color. And we were living in a period when the Black struggle had cracked open the possibilities for a flowering of radical movements and changes within the U.S.

The system is like an airplane in that it fully needs wings and a body and an engine to be able to fly. **Patriarchy, imperialism, white supremacy, class exploitation and environmental havoc intersect and reinforce each other in many ways, but cannot be reduced to any one of them.** Such a reduction would lead us to miss the scope of demands and mobilizations needed to build toward revolution, to fail to grasp the importance and complications of putting together coalitions, and to deny the necessity of struggling against the ways we have internalized class/race/gender privilege and arrogance. On the other hand, recognizing the essential roles of all these areas can help us expand the number of people and range of struggles that can work together to overthrow this mega-destructive system.

### **Waged and Unwaged Labor**

The advent of capitalism was marked by a change in the characteristic way the ruling class extracted value from those who do the work. Under feudalism wealth was based on the land, and serfs and peasants had to turn over a major portion of the product of their labor to the lords. The exploitation was very visible in the days of the week they worked on the lord's estate and/or the portion of their product they turned over to him. Under capitalism that exploitation is masked in that workers "get paid for their labor" to produce commodities that are sold. But in reality the worker gets paid less than the value of what he or she produces; that difference is the surplus value kept by the capitalists, which is the basis for profits and can also be distributed for other non-work income such as rent and interest payments.

A basic way capitalism keeps wages low and undermines workers' ability to fight onerous conditions is what Marx called "the reserve army of labor": the unemployed and underemployed, as well as other

potential pools of labor such as peasants (small farmers) being driven off the land. Thus, official unemployment figures way underestimate the number of potential job seekers. With so many looking for jobs, those who have them and need them to support their families are in a precarious position which severely weakens their bargaining power. The size of the reserve army will vary according to various economic and political conditions, but unemployment can never be eliminated under capitalism.

While the burgeoning role of wage labor characterized the emerging industrial production, the exploiters haven't been at all purist in their relentless search for profits and have incorporated, on a vast scale, other forms of labor, including women's domestic work, slavery, and peasants who produce commodities for the world market. Many of the "Marxists" saw the emblematic form—wage labor—as the whole story, the only one that creates surplus value. Marx understood that slavery and plunder were used by capitalism to extract a steep rate of exploitation and wrote (in *Capital*, Vol. I) that capitalism came into the world covered in blood and gore as it was born out of "the discovery of gold and silver in America, the extirpation, enslavement and entombment in mines of the aboriginal population, the beginning of the conquest and looting of the East Indies, the turning of Africa into a warren for the commercial hunting of black skins..."

In the 1960s, we read Eric Williams' *Capitalism and Slavery*, which showed that the slave plantations in the Caribbean were the greatest sources of the profits that financed England's vaunted industrial revolution. (For a more recent and thorough description of that reality, see Walter Johnson's *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom*.)

Similarly, Marx and Engels articulated, although didn't develop, the role of reproductive labor. Contemporary authors like Angela Davis, Silvia Federici, and Selma James have shown the giant role that reproductive labor plays in generating surplus value. If those who did the domestic work were paid, even just at minimum wage, the cost of maintaining the current and raising the next generation of workers would go up astronomically, and the capitalists would have to pay out much higher wages to cover that. Women's unwaged contribution to surplus value is cashed in at the point of lower wages to those in paid jobs. In addition, the oppression of women is a basis for much lower wages when in the job market, with the global average of wages only 52% of men's.

Even the old form of peasant (small farmers in the Global South) labor is used by capitalism. They may not be paid in wages but their products enter the world market at very low prices for the benefit of the transnational corporations (TNCs) in the Global North—either to provide cheap raw materials or to be processed and then resold at much higher prices. These products from the Global South sell at much lower prices relative to the labor involved than high end products from the North; overall the exchange is highly unequal. (Because of the stark power differential in who runs the global economy, we sometimes refer to the imperial nations as the "centers" of the system and the Global South as the "peripheries.") Those who considered peasant labor as extraneous to capitalism missed this major, very profitable transfer of value via unequal exchange. In addition, there are still some 45 million human beings in 167 countries held in the thrall of outright slavery.

The "Marxists" say that the workers in the Global North are the most exploited because they have such a high level of productivity—but that is largely a product of technology, a social product associated with the accumulation of capital that has come from many sources. In those instances where such technology is employed in the Global South, workers who typically make 1/10 the wages have similar levels of output. For example, a study of autoworkers showed that those in the U.S. are 18% more productive than their counterparts in Mexico, but are paid 14 times (1,400%) more.[iii] Similarly, if the differences were based on higher productivity in the North, then the prices on those advanced goods would have fallen relative to the Global South's labor-intensive commodities. In reality, the long term trend in relative pricing has gone in the completely opposite direction.

In addition to these more traditional forms of labor, modern imperialism has engendered a burgeoning informal sector—those whose efforts to survive occur in areas totally outside of any government regulation or oversight. As subsistence agriculture has declined and poverty has risen in the rural areas of the Global South, hundreds of millions of people have migrated to the cities, often living in sprawling, makeshift slums, in their own slapped-together housing, with very little in the way of sanitation or other services. They become a source for completely unprotected and deleterious sweatshop labor. Even more of them live by scavenging in garbage dumps or abandoned buildings or by other recycling activities. They sell the items they find cheaply, thus lowering costs for industry or for consumers, which lowers the wage needed for survival of the workers' families. Probably the most important function of the informal sector for capitalism is that their desperation means an additional and very deep layer of the reserve army of labor.

In short, slavery, peasant labor and women's domestic work (and now along with aspects of the informal sector) are all invaluable—and completely essential for the survival of the system—sources of capitalist profits.

### **Contradictions of Capitalism**

Marx is most noted for his penetrating analysis of capitalism, much of which is still relevant today. His standpoint is alongside the oppressed, eloquently expressed in his vivid description of how capitalism was born dripping in blood and gore and in his biting exposé of the hellish conditions—increasingly being imposed on women and children—in Europe's factories.

His critique went beyond the brutal physical level with his explanation of alienation. Those whose labor produces society's wealth are pitted against each other by how the system generates competition to get and hold the jobs desperately needed to feed their families. Then, they have no control or even say over what gets produced, regardless of their community's needs. In fact, the more they produce the more they enhance capital's power over them. Thus the workers are alienated from one another, from the product of their labor, and as we saw before from their species being.

I'll resist the temptation to attempt—which would undoubtedly be unsuccessful—a brief explanation of Marxian economics, and instead try to offer a few broader points. Establishment economists, then and now, usually extol how well the system works. Marx elucidated how imbalances and instability were built into the system. And, in fact, many economic crises and upheavals have occurred. Most importantly, Marx saw these contradictions as driven by the class nature of society: the control by a small minority and their compulsion to accumulate capital can lead to all kinds of dislocations.

Some “Marxists” have reduced his analysis to a kind of iron law for a “falling rate of profit,” which would inexorably lead to depression and revolution. But for Marx that was a tendency with various possible countermeasures. The same goes for capitalism's difficulty in selling all that it produces, at least at the expected prices. The measures to counteract these tendencies can lead to new problems.

Capital was not a work of narrow economic determinism. Instead, capitalism as an exploitative class system creates and intensifies many economic tensions which in turn can give rise to various arenas of class and social struggle. Of course since the 19th century, capitalism has developed new methods and structures—highly irrational and inhumane—such as a deepened and more integral penetration abroad and the mushrooming of waste sectors, like the sales effort, the military industrial complex, and finance at home. All of these create new or additional terrains for political struggle.

### **Imperialism**

Capitalism was a global project from the beginning, with the plunder of the Americas, Africa, and Asia providing huge amounts of capital. But several qualitative structural changes developed at the end of the 19th century that were described by Marxists such as Vladimir Lenin and Rosa Luxemburg. Capitalism had become highly monopolized (or more accurately oligopolized, where a handful of giant firms dominate an industry) with finance capital playing a leading role. In addition to the long-standing plunder, imperialism now meant that capitalist production was more organized on a global level.

Investments in the peripheries became crucial for the centers to control the extractive industries that provided key raw materials. Many products of peasant labor were now exchanged on the world market, to be used in Northern industries. With Southern labor paid at a pittance compared to the North, these new investments were highly profitable. These exploitative terms also kept raw material prices low, thereby lowering capital costs for Northern industries. This way of organizing production and guaranteeing the sanctity of investments became so essential that imperial powers fought world wars, and many smaller ones, over who controlled various highly lucrative Southern territories. (Even after the demise of colonialism, the essential role of maintaining such exploitation is why the U.S. has systematically and viciously overthrown any government in the South, including those which were democratically elected, which tried to redirect their resources and labor for the needs of their own peoples instead of for the TNCs headquartered in the U.S.)

Reaping such vast riches, the imperialists were able to provide significant benefits to maintain the loyalty of their home working classes, such as the consumer society in the U.S. and the welfare states in Europe. In the U.S. these benefits piggybacked on top of the longstanding privileges most white workers had relative to Blacks and other people of color. For the 30 years following World War II there was a tacit pact that a large sector of white male workers could enjoy a rising “standard of living” as long as they supported the U.S. imperial mission. Now, since the late 1970s, real wages have not been rising, and that’s led to a change in the dominant politics from the old maintenance of passivity to more of a deflecting of white working class anger away from the ruling class and toward the racial “other”—immigrants (seen as Latino/a), “criminals” (seen as Black) and “welfare queens” (seen as Black women).

**To me, the best term to name the current system is “imperialism.” That underscores the global organization of production, with its high rate of exploitation and the horrendous violence used to maintain that.** A defining aspect of imperialism is a polarization of wealth and power, more precipitous than the Grand Canyon, with its main divide between a few controlling centers, the banks and the TNCs in the U.S., Europe, and Japan, and the 3/4 of humanity who live in the peripheries. In today’s world, the 62 richest individuals own as much wealth<sup>[iv]</sup> as the 3.6 billion people who constitute the poorest 1/2 of humanity. Additionally, the class polarization within each of these arenas is steep, with elites in the Global South who collaborate with and benefit from imperialism, and with many who are oppressed in the North. The oppression and exploitation of women, while the forms may vary, are central in both arenas.

Given these realities we can continue to look to the Global South for the fiercest battles and strongest leadership for change. At the same time, the center/periphery divide underscores the reasons that the struggles of people of color within the U.S., a country built on genocide and slavery and the theft of Northern Mexico, are so central. In addition, the very rapaciousness of the system is the driving force for a reckless and now extremely dangerous destruction of the environment.

While “imperialism” might be the best, it’s not an adequate way to name the system unless we’re explicit about how it’s been built on and incorporates patriarchy and class rule; how it’s defined by the sum total of the relations of production. We have to be clear about naming and fighting all the major forms of oppression.

## National Liberation

The four decades that followed World War II were the most exciting and promising in world history—the era of national liberation. The imperial powers, exhausted by that cataclysmic war, could no longer maintain the dam holding back the flood waters of uprisings for independence in Africa and Asia. The weakened colonial powers regrouped with a strategy of neocolonialism, following the example of the U.S. in Latin America. They were willing to grant formal independence—a new flag and a native president—as long as they could continue to dominate the economy.

But many of the decolonization efforts, along with movements in Latin America, weren't settling for that. They got to the root of their problems by fighting for their nations' labor and resources to be redirected away from enriching the TNCs and back to the needs of the home populations. These national liberation movements faced fierce attacks. Usually the only way they had a chance against awesomely superior military technology was to fight a "people's war," making use of guerrilla tactics and developing an active base among the majority of their people—peasants, workers, women, youth, minorities.

From 1949–1979 such movements won in China, Ghana, Tanzania, North Korea, Algeria, Cuba, Vietnam, Laos, Cambodia, Angola, Mozambique, Guinea-Bissau/Cape Verde Islands, Zimbabwe, and Nicaragua. Similar struggles were raging in the Philippines, Eritrea, and several countries in Latin America, while others were emerging in Palestine, Namibia, South Africa, and Northern Ireland. This range, the number of people involved, the startling victories against superior military power were breathtaking; they also provided inspiration for a proliferation of radical movements within the U.S., Europe, and Japan.

What made this unprecedented wave all the more earth-shattering was the qualitative difference from all past revolutions where one elite replaced another (e.g., the bourgeoisie overthrowing the feudal lords). **Now we had the "wretched of the earth," the most direly oppressed and the vast majority of humankind, rising up and reshaping the world in a more equitable and humane way.**

As opposed to simply formal independence, the revolutionary movements were characterized by 1) a goal of economic independence; 2) a commitment to ending illiteracy and poverty; 3) being prepared to wage guerrilla war; 4) mobilizing the oppressed majority; 5) having a formal commitment (although more limited in practice) to women's emancipation; 6) expressing solidarity with other struggles around the world; and 7) seeing the possibility for solidarity and radical movements within the imperial nations. Almost all the struggles with such programs were led by Marxist-Leninist parties.

Events in the real world seemed to contradict established theories. Traditional Marxists had held that socialist revolution could not happen in such economically backward countries. The prerequisites for socialism were seen to include advanced industry, an educated population, and a more or less unified working class that comprised the majority of the population. The countries in the peripheries were economically impoverished, with widespread illiteracy, and usually comprised of a small working class and a large peasant majority. So it wasn't just Northern "Marxists" but also many communist parties in the Global South that asserted that socialism could not be on the agenda until these countries first had a bourgeois revolution led by the national capitalist class.

**Some more realistic and creative Marxist-Leninists refuted the conventional wisdom because waiting for the bourgeois revolution was like waiting for hell to freeze over.** As Che Guevara and others explained, the realities of imperialism had demolished the road to capitalist development in the Global South. Not only did imperialism extract vast wealth that these countries needed for development, but it also channeled economic activity away from building the home economy and instead toward exports that

benefited the TNCs—the extraction of raw material and low-level, labor-intensive manufacture. Most of the local elites were closely tied to imperialism, so there was no strong national capitalist class to lead a bourgeois revolution. The unforgiving nature of this structure of exploitation was enforced by more than 50 U.S. interventions since the end of World War II to overthrow or block Southern regimes that tried to redirect economic activity toward domestic needs. (Monthly Review Press in New York became a major source for literature on how imperialism kept these countries impoverished—“the development of underdevelopment.”)

The Soviet Union was another important factor. Under incredible pressure, it had devolved, in my opinion, into more of a bureaucratic state than a socialist society. Nonetheless the U.S.S.R. opposed U.S. hegemony and provided significant military and economic aid to many national liberation movements.

The national liberation movements couldn't wait for a bourgeois revolution that would never happen, but for all the earlier stated reasons they weren't in a position to achieve socialism. Instead, their historic task was, as Mao Tse Tung put it, “New Democracy” (the Vietnamese called it “National Democracy”) to accomplish the progressive tasks of the bourgeois revolution: reclaim self-determination and a national direction for production, land to the tiller, emancipation of women, universal education, political experience and participation for the masses of people. Since these New Democratic revolutions were based in the lower classes, the reforms would be more thoroughgoing and entail giant social advances—and the changes would be structured to be most favorable to lead into the next stage, the transition to socialism.

How could impoverished peripheral countries feel that they had any chance at all against the imperial Goliaths? A strategy to win emerged out of the realities on the ground, Che's “2, 3, many Vietnams.” Even the mighty imperial octopus couldn't wage multiple simultaneous wars abroad against popularly-based revolutions. The very extent of its lucrative outreach was also its vulnerability because the arms could be chopped off, eventually draining the blood needed to sustain the head. This approach was having dramatic success. At the same time, Black and other people of color rebellions, along with a number of emerging radical movements, within the U.S. challenged the system with an additional and debilitating internal front.

### **National Liberation and Socialism**

By 1980, a dozen revolutions had taken power, while similar struggles were raging in a dozen more. In contrast, even while there were some vital struggles, there hadn't been a single working class revolution in Europe or the U.S. This overwhelming empirical reality didn't deter Northern “Marxists” from insisting that the working classes in the advanced countries would make the revolution. While also calling themselves “Leninists,” they did not incorporate Lenin's analysis of the impact of imperial profits on the home working class, an obstacle that had only grown, immensely, since Lenin's day.

Those of us who understood the priority of solidarity with national liberation—not simply because they were just struggles but even more as the route to weakening imperialism enough to break open revolutionary potential at home—tended to be too facile about a direct road to socialism. Looking back in 2017, it's clear that the promising strategy of “2, 3, many Vietnams” hasn't defeated imperialism and that even the liberated countries are a far cry from socialism. On the most negative side, a few have devolved into dictatorships, most prominently North Korea, while Cambodia was taken over by genocidal criminals. (The U.S. had installed the unpopular dictator, Lon Nol; the rapid collapse of his regime meant the Khmer Rouge seized power without ever developing deep roots in the population.)

In almost all other cases, the victories meant dramatic advances for the people with the launching of successful mass literacy campaigns, establishing health clinics in rural areas, and advances for women's rights and participation (some of which were eroded once the new regimes consolidated power).

China has become an economic powerhouse, something that would have been impossible if it had remained under the imperial thrall, but at the expense of intense exploitation of its working class and growing inequality. In many ways it seems to be a state capitalist regime. For the other liberated countries, while there have been important social advances, there's been precious little in the way of achieving autonomous and thriving economies, or even having a conscious and mobilized majority playing a determining role in political and economic decisions. Assessing what happened merits a book, at least, in itself. Here I'll just mention some of the factors, under two broad categories: the assaults by imperialism and underdevelopment's legacy of damage and distortion.

**Imperialism doesn't just give up once the revolutionary movement seizes state power. As with any extortion racket, it exacts brutal and visible punishment on those who try to opt out in order to show they won't achieve a better life for their people.** That's why long after the U.S. realized it would have to withdraw from Vietnam, it continued its unprecedentedly massive bombings and chemical ecocide. Some farmland there still can't be used because of the danger of unexploded bombs that lie buried in the ground, even though these are just a tiny percentage of all the bombs dropped. And Vietnam still is dealing with the tragedy of babies being born with birth defects due to the residue of Agent Orange in the water supply.

Cuba has been perhaps the most promising example of mass participation, free education through graduate school, excellent medical care for all, and a magnificent internationalism that played a key role in defeating both Portuguese colonialism and the apartheid regime in southern Africa. But Cuba has had to deal with incessant CIA-sponsored invasion, assassination attempts, economic sabotage—all of which push the government to become more repressive—on top of a crippling economic blockade.

Nicaragua, Angola and Mozambique's dramatic advances in literacy, health and women's rights were soon beset and then severely set back by CIA-sponsored terrorists who, amid wholesale attacks on civilians, went after village health and educational workers in particular. In addition, imperialism will do anything in its power, with its bountiful assets, to promote internal antagonisms based on tribal or ethnic or religious differences. This basic divide and conquer strategy is used not only against revolutionary governments but also against any Southern regime (and also Yugoslavia in Europe) that doesn't fall into line with the dictates of the world market and U.S. military domination.

If the only obstacles were sabotage and terrorist attacks, the mass-based revolutions would have prevailed, but the newly liberated nations were also being strangled by economic embargoes and the tyrannies of the world market. Embargoes can mean that these still poor countries can't even get the spare parts needed to keep the limited machinery they do have up and running and that they can only access sorely needed medications at exorbitant prices. Small, poor countries can't develop such technologically advanced sectors overnight. And in many ways they still have to function in a capitalist world market where the centuries-long trend has been for businesses in the centers to extract much higher prices for the advanced goods and services relative to raw materials and labor-intensive goods from the peripheries. The collapse of the U.S.S.R. in 1991 ended it as a limited source of fairer aid and trade.

The inequities of the world market compound the ravages of underdevelopment, which not only constrict economic advances but are also reflected in society. While the revolution may have launched successful literacy campaigns, only a small elite have the level of technical skills key for organizing production and the state. Internal class divisions and patriarchy are still major forces. Despite some inspiring examples of solving problems through mass participation, the tremendous pressure to get the economy going leads to reliance on an elite with managerial skills.

Meanwhile the military attacks evoke a consolidation of the repressive capabilities of the state. Then in a situation where social and economic advances are being stymied, some formerly self-sacrificing cadres become susceptible to corruption from the blandishments of the TNCs seeking to re-implant their tentacles into these still juicy Southern morsels. This formidable series of barriers doesn't mean that the road to socialism is impossible, but it sure is a hell of a complicated, contested, difficult route.

**National liberation struggles, against all apparent odds, made dramatic advances and inspired a vision of potential world revolution, but we're still a long, long way from socialism.**

*About the author:* David Gilbert has been an activist since the early 1960s and a New York State political prisoner since 1981.

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**Endnotes:**

[i] Both quotes are from *The Weapon of Theory* (1966). Amilcar Cabral was the leader of the independence struggle in Guinea Bissau/Cape Verde Islands and was assassinated in 1973. While not necessarily calling himself a Marxist, he made brilliant use of the historical materialist method, along with his grounding in African traditions, to create an invaluable contribution to revolutionary theory on a world scale.

[ii] While I asked friends to send me the few passages I quote, I haven't otherwise read the books in some 30 or more years.

[iii] Zak Cope, *Divided World, Divided Class* (2012) p. 241.

[iv] In addition to yearly income, wealth includes all assets, ranging from cars to stock holdings. The inequality of wealth is a lot greater than that of income and also more telling for life prospects.

## **25 Jan - Black Panther Party at 50: Two Book Launches**

**WHAT:** Public Talk

**WHEN:** 7:00pm Wednesday, January 25

**WHERE:** Bluestockings Bookstore, Café, & Activist Center - 172 Allen Street (Manhattan)

**COST:** FREE

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This past year marked the fiftieth anniversary of the Black Panther Party. Come hear Lehman College professor Robyn C. Spencer and a multimedia presentation of Mumia Abu-Jamal's work, to learn about the evolution of the Party, women's experiences within it, and the lessons for current struggles for liberation.

In "The Revolution Has Come: Black Power, Gender and the Black Panther Party in Oakland," Robyn C. Spencer traces the Party's evolution, centering women's experiences, their contributions to the Panthers and the Black Power movement as a whole. The new, expanded edition of Mumia Abu-Jamal's "We Want Freedom" provides an account of daily Party life alongside an analysis of the tradition of Black resistance.

Both books offer a rich historical analysis that provide us with the political backdrop to consider the lessons and the legacy of the Black Panther Party and what this means for contemporary movements for Black liberation.