

The Tribunal on Violations of Human Rights
of Political/POW Prisoners in U.S.A.

Luis Nieves Falcon

Historically the development of a philosophy on individual human rights has been grounded on the notion that fundamental human rights stem from attributes inherent to human beings. Their collective disregard or violation is sufficient cause for people deprived of their basic human rights to seek redress of their grievances outside the normative sphere prevailing in a particular society at a particular moment, since the official normative sphere may constitute itself a principal source of such violations. This conceptual relationship has been most clearly established in the North American Declaration of Independence where it is clearly stated:

"...all men are created equal...they are endowed by their creator with certain inalienable rights...among these are life, liberty, and the pursuit of happiness...when a long train of abuses and usurpations pursuing invariably the same object evinces a design to reduce them (the people) under absolute despotism, it is their right, it is their duty to throw off such government, and to provide new guards for their future security"

These principles sustained the armed struggle which the original 13 colonies waged against English colonialism in America. It is the first expression to question prevailing dogmas assuming a divine justification for oppression and subordination.

The repudiation of behavior violative of human dignity by authorities of the state and the belief in the right of the people to search for a redress of their grievances, fundamental aspects of the U.S. Declaration of Independence, are the main sources of inspiration for the French Revolution of 1789, the Latin American Revolutions of 1808 and the Russian Revolution of 1917. All these liberation struggles consolidate the principle that the people have the right to use all means at their disposal, including armed struggle, to get rid of a despotic regime which threatens their life, their liberty and their pursuit of happiness.

The use of despotic and tyrannic behavior to oppress people is a crime which justifies redress by those subjected to it. This is the legal principle established at the International Tribunal of Nuremberg which, in expanding previous dimensions, concludes:

"...murder, extermination, imposition of slavery, deportation or any other inhuman act committed against the civil population...including persecution on account of political, racist or religious reasons, whether they are considered or not violations to the national law where they are committed, constitute a crime against humanity."

A crime against humanity is one that not only affects an individual but is offensive to the whole conscience of humanity in so far as it has destructive effects over the possibilities of civilized living. The legal principles laid down at Nuremberg were defined within the context of an armed conflict. But, on 11 December 1946, the United Nations adopted the juridical principles of Nuremberg without restricting them to a situation of war. In this way, they expanded their international scope and the obligation for all member states to abide by them.

Further development of the concept that some crimes transcend national boundaries and are offensive to all humanity, and all member states should assist in their eradication, moved the U.N. to declare genocide, apartheid and colonialism a crime against humanity. And, like in 1776, 1789, 1808 and 1917, people subjected to those crimes have a right to use all means at their disposal to overcome the detrimental effects of such criminal actions.

The crimes against humanity represent a tremendous challenge to the so-called "Occidental democracies" since many of their leading countries have been habitual offenders. On this side of the Atlantic, the U.S. has been a principal promoter of genocide, racism and colonialism with particular reference to Native Americans, Africans, and Puerto Rico. In this regard it is significant to point out that the Convention on the Prevention and Punishment of the Crime of Genocide which was approved on 9 December 1948 and put into effect on 12 January 1951, was not ratified by the U.S. Congress until 16 July 1985, only with reservation, and went into effect on 4 November 1988, forty-four years after it was approved by the United Nations. Additionally, the International Convention on the Suppression and Punishment of the Crime of Apartheid which was adopted on 30 November 1973 and put into effect on 18 July 1976 was never signed by the United States; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 10 December 1984 and put into effect on 26 June 1987 has not been signed by the United States; and the U.S. opposed the typification of colonialism as a crime against humanity as well as the U.N. resolution to terminate colonialism by the year 2000.

The behavior described previously with regard to those international instruments and national behavior inside the U.S.A. tends to indicate that there is no effective recourse for the grievances of these nationalities within the official structure of the U.S. government. Thus, the fate of Native Americans as a perpetually subordinated people was affirmed in 1831 when the U.S. Supreme Court, in The Cherokee Nation vs. The State of Georgia justified the continuous pillage of Indian territory stating:

"...If it be true that the Cherokee Nation have rights, this is not the tribunal in which those rights are to be asserted. If it be true that wrongs have been inflicted, and that still greater are to be apprehended, this is not the tribunal which can redress the past or prevent the future."

The door was widely opened to the crime of genocide against Indigenous Americans. It took the 73-day occupation of Wounded Knee in 1973 to bring the approval of the Self-Determination Act which has not solved either the economic exploitation nor the problem of Indian self-determination.

The subordinated condition of Black/New Afrikans is upheld in the infamous Dred Scott v. Sanford in 1857 where the U.S. Supreme Court declared:

"...the right of property in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guaranteed to the citizens of the United States, in every state that might desire it...And the government in express terms is pledged to protect it in all future time, if the slave escapes from his owner...and no word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection than property of any other description...."

This, again, opened the door to the southern apartheid, to the systematic lynching of Black people, the sharecropper repression in the '30's, the criminalization of the Black Panther Party, the murder of civil rights activists and Martin Luther King. The self-determination of the Black Nation has not been solved and "...hate crimes have tripled over the past seven years, many of them committed by young people... who think their white skin confers privilege and superiority. There has been a rise in the number of openly racist organizations who preach violence and incite attacks on African-Americans..."

Puerto Ricans have not fared any better. In 1901 the U.S. Supreme Court in DeLima v. Bidwell stated:

"The Constitution confers absolutely upon the government of the Union the power of making war and of making treaties; consequently that government possesses the power of acquiring territory, either by conquest or by treaty."

And then proceeds to indicate that Puerto Rico belongs to but is not part of the United States. It belongs "to the government of the United States, consisting of the President, the Senate...and the House of Representatives."

This decision justifies the imperialistic expansionism of the United States which has ignored persistently the United Nations request that it allow Puerto Rico to exercise its right to self-determination and independence. The net result has been the systematic persecution of anti-colonial forces, the sterilization of one-third of women of child-bearing age, the militarization of the country and the displacement of more than one-third of its population from their homeland.

As you can see, it comes as no surprise that individuals from these oppressed national groups, and their supporters among white Americans, are the most prevalent among political prisoners in the

U.S. They are people who are morally convinced that, like the 13 original colonies, they will not be able to get a redress for their grievances from the existing official normative structure.

In fact, that official structure has not only paid no attention to their claims but shown a history of unremitting injuries which, in effect, prevent them from exercising their right to life, liberty, and the pursuit of happiness.

Under such a predicament individuals from these oppressed groups have called to their assistance the international legal principles which support their just cause. The reply of the U.S. government has been to ignore the applicability of international law, to deny the existence of political prisoners, to criminalize their behavior and incarcerate them for protracted periods of time in order to prevent their continued involvement in their revindicative struggle. To make things worse, their conditions of incarceration are selectively discriminatory and violative of each and every one of the Standard Minimum Rules for the Treatment of Prisoners, a United Nations instrument designed for the protection of persons subjected to detention or imprisonment, of which the United States is a signatory party.

What is there to do in order to change such conditions of a clearly tyrannical domination? At the national level, there is the recourse of town meetings to bring into the open the whole issue of violations of human rights to oppressed national groups in the U.S. and white Americans who have supported them. At the international level there is the possibility of a Moral International Tribunal: one not invested by any power from the state but by the ethical conscience of humanity expressed through distinguished personalities from the world. This type of tribunal originates with the Bertrand Russell Tribunal that passed judgment on the crimes committed by the United States and other accomplice states against the people of Viet Nam. The Tribunal we are convening is a moral one. We are asking a group of eleven international jurists and personalities of moral rectitude to pass judgment on the conditions of political prisoners in the U.S., to examine the persistent violations of their human rights while incarcerated under the most degrading conditions and to condemn in no uncertain terms the "long train of abuses and usurpations" designed "to reduce them under absolute despotism" and affirm their right to the pursuit of happiness as guaranteed both by international law and the U.S. Constitution. Two basic considerations are necessary if the moral judgment we are requesting is to take place. First, we must help to break the impact of the economic subordination of Indigenous Americans, Black/New Afrikans, and Puerto Ricans which prevents them from the accessibility to economic resources to help finance the design and implementation of strategies towards their own recuperation. They need your material help as of now. Be as generous as you can to make sure that the issue of human rights violations gets a fair chance of being aired publicly. Secondly, there is a need for a moral indignation condemning these crimes against the whole of humanity--genocide, racism, and colonialism--violative of the inherent and inalienable rights endowed upon all human beings by their creator and which have become part and parcel of the power structure governing this country.

I am asking that we all make the condition of suffering and exploitation of these persons our own personal situation. I invite each and every one of you to emotionally travel with me the roads to the prisons. To cross the barbed wire, to feel the metal doors close behind you and relate to Alejandrina Torres. One of our political prisoners. Battered, raped and isolated in an effort to force her to commit suicide. Unable to cry. There are no more tears to shed. Her body controlled by the jailers but her faith and her absolute hope that her people will be free have sustained her through this ordeal. Let us share her suffering with action.

I invite you to share with Alan Berkman the agony of his death. He knows he has cancer. He also knows that urgent medical treatment can save him. But the remedies are kept away from him by his jailers. He dies hour by hour while the sadistic bureau of prison officers enjoy his agony. His spirit gives him the strength to hope and wait. Let us join Alan in his suffering for his commitment to a more humanitarian society. Let us share his sacrifice in action.

I invite you to share with Leonard Peltier the trail of tears of his incarceration. Condemned to life imprisonment for a crime American authorities know he did not commit. A government who hid the exculpatory evidence to eliminate by his incarceration a defender of his people's rights. Let us share the deprivation of his liberty with action.

I invite you to share with Mumia Abu-Jamal the chilling silence of his cell while waiting for the final time to be moved to the death cell. For a crime he did not commit. But, for his engagement in the struggle for the betterment of his Black brothers and sisters. Let us all go in spirit to that jail and live in our own soul and body the oppression he is suffering for his dedication to freedom. Let us join Mumia Abu Jamal in action.

Let us, brothers and sisters, commit ourselves to a continuous work towards the elimination of existing abuses towards the political prisoners and help in culminating a strategy of redress that will assure their freedom. Because, brothers and sisters, their freedom, not only in the written context of the law but also in the experiential content of their daily lives, is an expansion of our own freedom; their liberation is an extension of our own liberation; and, mutual liberation is an expression of love. Thanks to you all with the affection and love of all the political prisoners and prisoners of war in this country. Let's redeem their agony!