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ON CAPTURED CITIZENS, POLITICAL PRISONERS, AND PRISONERS OF WAR: A NEW AFRIKAN PERSPECTIVE

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The New Afrikan Independence Movement (NAIM) continues to have a need for a clear, commonly-held stand (i.e., shared consciousness; further development, dissemination, and grasp of the ideological, theoretical, and political bases of our line) on New Afrikan citizens held in U.S. prisons and jails. This stand is particularly necessary, in some respects, relative to our captured nationals, i.e. conscious New Afrikan citizens who are held as political prisoners and prisoners of war.¹

We need this stand not only so that it can serve as a guide to enhance our work around prisons and prisoners. The consciousness which inspires our work with and for New Afrikan prisoners is the same consciousness which guides all other work, with and for all New Afrikan people, around all other issues and institutions that affect our lives.

The components of our stand are: 1) the relationship between New Afrikan people on the one hand, and the U.S. and its prisons on the other; 2) the levels of consciousness which distinguish conscious citizens from unconscious citizens; 3) the character of the activity which distinguishes captured unconscious citizens from political prisoners and prisoners of war.

The relationship between New Afrikan people and the U.S. settler-imperialist state, is one between oppressed and oppressor nations. This fundamental distinction was emphasized when We issued, in effect, a declaration of war (the New Afrikan DECLARATION OF INDEPENDENCE, wherein We proclaimed ourselves "free and independent of the jurisdiction of the United States of America and the obligations which that country's unilateral decision to make our ancestors and ourselves paper-citizens placed on us". We then went on to list the basic objectives of the New Afrikan national liberation revolution. (The New Afrikan Independence Movement is not a "prison movement"-- it is a movement in the process of becoming a State. This process required the assumption of even greater responsibility for the welfare of all New Afrikan people, as We seek to become recognized for the welfare of all New Afrikan people, as We seek to become recognized by them as their legitimate representatives (i.e., as their government, and vis-a-vis the U.S. and the world community). The movement should, therefore, begin to manifest greater cooperation, centralization, and coordination, and it should become more adept at the proportional allocation and expenditure of resources, based on the strategic and/or tactical priority given the various fronts and projects undertaken within them.)

Because New Afrikans are engaged in a struggle for national independence and socialism, our aim, relative to the U.S. prison system, is not to reform it, We plan to secure the release of all New Afrikan citizens from U.S. prisons -- but We will do so only as a consequence of national liberation revolution.

In the short term, We'll continue to be concerned with such things as securing the release of certain prisoners, and with struggling to improve treatment and the living conditions of captured citizens and nationals. However, the success of these efforts will greatly depend upon our success in educating, organizing and mobilizing our people on all

¹The term "national" is used throughout this article to distinguish unconscious citizens from conscious ones, i.e. those who owe an allegiance to the defined objectives of New Afrikan people, and to the organs representing us in our struggle for national self-determination.

other fronts. This will, in turn, be dependent upon the movement's ability to effectively engage in struggle in all spheres of the lives of New Afrikan people.

Our stand on New Afrikan citizens held in U.S. prisons and jails also rests on our consideration of the different levels of consciousness among them, and upon recognition of the different kinds of activity that they are and/or were engaged in.

The distinction between "conscious" and "unconscious" New Afrikan citizens was made -- and the importance of the distinction was emphasized -- in the first Article of the CODE OF UMOJA, our nation's Constitution:

Article I
New Afrikan Citizenship

Section 1 -- Citizenship By Birth
Each Afrikan person born in America is a citizen of the Republic of New Afrika.

Section 2 -- Citizenship By Parentage
Any child born to a citizen of the Republic of New Afrika is a citizen of the Republic of New Afrika.

Section 3 -- Citizenship By Naturalization
Any person not otherwise a citizen of the Republic of New Afrika may become a citizen of the Republic of New Afrika by completing the procedures for naturalization as proved by the People's Center Council.

Section 4 -- Pre-Ratification Citizenship Retained
Each person who is a citizen of the Republic of New Afrika at the time of the passage of this CODE OF UMOJA is hereafter a citizen of the Republic of New Afrika.

Section 5 -- Right To Choice of Citizenship
Notwithstanding Sections 1,2,3, and 4 of Article 1, the right of any person to expressly deny or renounce his/her citizenship shall not be denied.

Section 6 -- Citizenship of Other Afrikans
Persons of Afrikan descent, wherever their original place of birth or domicile in the world, have a right to New Afrikan citizenship, as provided by the People's Center Council.

Section 7 -- Conscious Citizenship
All citizens of the Republic of New Afrika who are aware of their citizenship are conscious New Afrikan citizens. As a result of an over 300 year old policy of force and fraud used by the

United States go government and the government of various American states against the New Afrikan nation, many citizens of the Republic of New Afrika are not aware of their human rights to New Afrikan Citizenship and indeed are not aware of the existence of the New Afrikan nation in North America. The growth of conscious New Afrikan citizenship is related to the success of the liberation struggle. The objective measurement of that growth shall be a consideration in the development and implementation of Provisional Government policy, programs and structure as determined by the People's Center Council.

(Emphasis added -- A.S.)²

One cannot fight for national self-determination if one is unaware of the very existence of the nation. Unconscious citizens owe no permanent allegiance to the defined objectives of New Afrikan people, and they owe no permanent allegiance to any organ represent the people, e.g., the Provisional Government. Acts performed by unconscious citizens can rarely, if ever, be accorded the status of acts performed by New Afrikan political prisoners and prisoners of war:

What We got to see more clearly is that exile all colonial subjects are "the same" vis-a-vis the oppressor, one of the requirements for genuine and successful national liberation revolution is the making of an analysis of the colony's social structure {i.e., class analysis}.

The conditions that all Afrikans in {the U.S.} experience are essentially and objectively colonial. But this doesn't mean that all Afrikan people have the same revolutionary capacity of inclination.

When We define all Afrikan prisoners as political prisoners and/or as prisoners of war, We aren't defining "political prisoners"--We're simply defining Afrikan prisoners as colonial subjects--captured colonial subjects³

Captured (unconscious) citizens "are the mass, general prison populations which Afrikans comprise. The simple status of a 20th century slave gives political character and significance to us all -- but doesn't determine whether that political character and significance will be good or bad for the nation and the struggle.

"The New Afrikan nation...was formed because of and during the battles with Europeans in which We lost our independence. During our enslavement the many nations...from the continent {of Afrika} shared one history, developed essentially one consciousness, acquired objectively one destiny -- all as a result of the suffering We all experienced as a dominated people.

" '... But so far as the struggle is concerned it must be realized that it is not the degree of suffering and hardship involved as such that matters: even extreme suffering in itself does not necessarily produce the prise de conscience required for the national liberation struggle.' (Amilcar Cabral, Revolution In Guinea, p. 63.)

²Code of Umoja (Code of Unity) of the Republic of New Afrika, Published by the Justice Minister of the Provisional Government, R.N.A., July, 1984

³Notes From A New Afrikan P.O.W. Journal, Book Two, p. 25.

"While the 'criminal' acts of all Afrikans are the results of our general economic, political and social relationships to the oppressive, imperialist state, there is no automatic unquestionable revolutionary nationalist capacity and consciousness.

"If We say the 'crime' is a reflection of the present state of property relation,' then We must also say that for us these relations are those between a dominated nation and its oppressor and exploiter. The method of economic organization which governs our lives is an imperialist, a colonialist method. Although this colonial system is structured so as to force many of us to take what We need {from the oppressor} in order to survive, and although there are conscious political decisions made by the oppressor once We find ourselves in the grips of his 'criminal justice system', it must also be seen that a conscious political decision must also be made on the part of the colonial subject before his {or her} acts can have a subjective, functional political meaning within the context of the national liberation struggle.

"Put another way: If the 'criminal' acts of Afrikans are the results of a 'grossly disproportionate distribution of wealth and privilege,' which stems from our status as a dominated, colonized nation, then the only way to prevent crime among us is to make a conscious decision to liberate the nation and establish among ourselves a more equitable distribution of wealth and privilege."⁴

The movement's major responsibility toward imprisoned unconscious citizens is, at this time, to promote New Afrikan consciousness, and to involve them in structured activity which will promote the further development of the movement, and of the national liberation struggle.

New Afrikans held by the U.S. as political prisoners, and those held as prisoners of war, are conscious citizens of the nation. What distinguishes political prisoners from prisoners of war is the the latter (POW's) are classified as armed forces of the nation. However, political prisoners and prisoners of war owe a permanent allegiance to the defined objectives of the New Afrikan Independence Movement, and an allegiance to an organized formation which represents New Afrikan people and fights in their interest. The Provisional Government of the nation is one such organ.

In the Preamble to the CODE OF UMOJA, The Provisional Government specifically recognized "the importance and necessity of the campaigns of all the nation's armed freedom fighting forces fighting in accordance with international law, including the Geneva Convention..."

As We pursue our campaign for international recognition of the legitimacy of our struggle for national self-determination, and thus for the recognition of POW status for our captured nationals, We, too, must abide by international humanitarian laws.⁵ Of primary concern to us is the law as codified in the Geneva Convention Relative to the Treatment of

⁴Ibid., p. 26

⁵A distinction is usually made between "international Law" which applies to the relations between nations and "international humanitarian law," which regulates the conduct of warfare.

Prisoners of War of 12 August 1949, known as the Third Convention, and⁶ and the Protocol Additional to the Geneva Convention of 12 August 1949, known as Protocol I.)⁷

The Third Convention, written shortly after what's commonly referred to as "World War II," was not originally designed or intended to apply to wars of national liberation and against colonialism, and in which guerrilla or irregular units operated or were the primary form of the liberation movement's armed forces:

Article 2. In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations to the said Power, if the latter accepts and applies the provisions thereof.⁸

Article 2 is significant not only for its reference to the applicability of the Convention "even if the state of war is not recognized by one of them." In fact, Article 2 makes it clear that the Convention can be applied by a "party" that was not one of the original "High Contracting Parties."

To begin with, in our situation, it is New Afrikan people that is the "party" in our conflict with the U.S. bodies, such as the Provisional Government, constitute an organ representing the people. It remains, therefore, for the Provisional Government to issue our "declaration of acceptance," as required by Article 2 of the Third Convention, and by Article 96 of Protocol I:

2. When one of the parties to the conflict is not bound by this Protocol, the Parties to the Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to

⁶The Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

⁷Protocol I Additional to the Geneva Conventions of August 12, 1949, and relation to the Protection of Victims of International Armed conflicts approved for signature Dec. 12, 1977, entered into force Dec. 7, 1978, U.N. Doc. No. A/32/144 (1977, 72 American Journal of International Law 457 (1978), 16 International Legal Materials 1391 (1977)

⁸ Third Geneva Convention, Article 2.

each of the Parties which are not bound by it, if the latter accepts and applies the provisions thereof.

3. The authority representing a people engaged against a High Contracting Party in an armed conflict of the type referred to in Article 1, paragraph 4, may undertake to apply the Conventions and this Protocol in relation to that conflict by means of a unilateral declaration addressed to the depository. Such declaration shall upon receipt by the depository, have in relation to that conflict the following effects"

(a) the Conventions and this Protocol are brought into force for the said authority of a Party to the conflict with immediate effect;

(b) the said authority assumes the same rights and obligations as those which have been assumed by a High Contracting Party to the Conventions and this Protocol; and

(c) the Conventions and this Protocol are equally binding upon all Parties to the conflict.⁹

Although the definition of prisoners of war in the Third Convention were rather restrictive, relative to guerrilla warfare and national liberation struggles, it would be in our interests to study it"

Article 4. A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy"

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movement, fulfill the following conditions:

(a) that of being commanded by a person responsible for his subordinates;

(b) that of having a fixed distinctive sign recognizable at a distance'

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a government or authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, member of labor unit or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

⁹Protocol I, Article 96.

(5) Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favorable treatment under any other provisions of international law.

(6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention:

...(2) The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and when these Powers are required to intern under international law, without prejudice to any more favorable treatment which these Powers may choose to give and with the exceptions of Articles 8, 10, 15, 30, fifth paragraph, 58-67, 92, 126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. When such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties. ¹⁰

The Third Convention continues to apply--in a less restrictive manner--to national liberation struggles, because it has been supplemented with Protocol I.

Protocol I extended and broadens the rules regulating the conduct of international armed conflicts to cover changes which have taken place in the relations between nations and in the conduct of warfare. The imperialist powers are on the defensive; new nations have emerged, and others are struggling to liberate themselves.

In view of such changes, Protocol I defines a new category of war -- wars for national liberation"

Article I...

3. This Protocol, which supplements the Geneva Conventions of 12 August 1949 for the protection of war victims, shall apply in the situations referred to in Article 2 common to those Conventions.

4. The situations referred to in the preceding paragraph includes armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of United Nations. ¹¹

Whereas the Third Convention made the status of guerrilla combatants largely dependent upon criteria difficult for liberation movement to meet, Protocol 1 defines combatants and POW's in a more realistic manner:

¹⁰Third Geneva Convention, Article 4 (A).

¹¹Ibid., Article 4 (B) (2).

Article 43 -- Armed forces

1. The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict.

Article 44 -- Combatants and prisoners of war

1. Any combatant, as defined in Article 43, who falls into the power of an adverse Party shall be a prisoner of war. ¹²

The major task now before us is not that of haggling over the definition of a prisoner of war. At bottom, our words about POW's weigh far less than our practice on their behalf.

Seeking recognition of the legitimacy of our claims regarding the nation's right to national self-determination, and/or regarding the status of our captured nationals as political prisoners and prisoners of war, is done in two ways.

We must continue to pursue and exhaust all "legal" avenues (i.e., in U.S. courts, through international bodies, etc.). However, these approaches will mean little or nothing unless there is further development of the New Afrikan Independence Movement and our national liberation struggle, so that the objective existence of a people's war will allow our practice to be the ultimate criteria of the truth of our claims.

Re-Build!
Free The Land!

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Notes

The present article is an updated version of "Toward Clarity on CC's, PP's and POW's," written in 1978, and published in Notes From A New Afrikan P.O.W. Journal, Book Two in that same year.

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