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POLITICAL REPRESSION: CONTINUUM OF DOMESTIC REPRESSION

Submitted by:

African American Institute for Policy Studies & Planning
October 22nd Coalition
Ida B. Wells Media Institute

Endorsements:

Organizational Endorsements: Afrikan Frontline Network; Albuquerque Jericho Movement for Political Prisoners and Prisoners of War; DC Radio Co-op; Education Not Incarceration, Bay Area Chapter; For Our Children Productions; Free Mumia Abu-Jamal Coalition; FTP Movement - Behind Enemy Lines Initiative; Idriss Stelley Foundation; International Concerned Family and Friends of Mumia Abu-Jamal; Malcolm X Center for Self Determination; Metro Atlanta Task Force for the Homeless; National JERICHO Movement; NYC Jericho; Public Interest Projects; SC Malcolm X Grassroots Movement for Self Determination; Youth Justice Coalition

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1. This report provides information under Sections B, C, and D as stipulated in the General Guidelines for the Preparation of Information under the Universal Periodic Review regarding growing domestic, political repression, erosion of the right to dissent, and the return of once discredited regressive practices, domestic legislation, and policies, which undermine dissent, most notably the rights to freedom of speech, religion, and association and protections against racially disparate prosecution and its collateral impact, inhumane conditions of confinement, and social and civic death.
2. The submitting organizations and individuals are NGOs, professional, lay, and grassroots organizations and individuals committed to advancing freedom of speech, religion, and association.

EXECUTIVE SUMMARY: Background and Framework

3. It is appropriate for the Council to review to freedom of speech, religion, and association in the United States as the UDHR, the ICCPR as well as the ICESCR define such rights as basic human rights. While recent years mark key anniversaries in U.S. political and social history, e.g. public accommodation, voting rights, school desegregation, civil rights and anti-war protest landmarks, the protection and advancement of civil and human rights have declined amidst the celebration of those landmark years and the current environment and law enforcement has grown increasingly more repressive and hostile to the U.S. Constitutions 1st, 4th, and 14th Amendments, in addition to international obligations.
4. The National Lawyer's Guild (NLG), 2004, issued the report, "Assault on Free Speech, Public Assembly, and Dissent." It catalogued tactics, many of which were put into place to curb abuses exposed during the civil rights and anti-war movements of the 1960-70s and the U.S. Senate's, post-Watergate "Church Committee" COINTELPRO revelations. NLG reported that law Enforcement tactics included unwarranted collective punishment of individuals who peacefully exercised their First Amendment rights.
5. Today, police still routinely make unfounded mass arrests and detentions to keep people off the streets and out of the eye of the media which tends to be accommodating. There is the return of police-initiated violence at demonstrations, notably the use of so-called less-lethal weapons against peaceful protesters. Despite their name, such weapons—among them chemical sprays, impact projectiles, and electroshock weapons, cattle-prods from the 1960s—are often associated with fatalities. This police practice has been acknowledged and condemned by several independent panels investigating police actions and by the United Nations Commission on Human Rights and yet it persists.ⁱ
6. September 24, 2009, the long forgotten so-called, federal "H. Rap Brown Anti-Riot Act" was revived at anti-G20 mobilization, in Pittsburgh, Pa. The federal anti-riot statute—[18 USC §2101](#)ⁱⁱ—makes it a felony to engage in interstate

travel to "organize, promote, encourage, participate in, or carry on a riot." It was name for Brown, now known as Imam Jamil Al-Amin, currently held at the federal super max prison, in Florence, Colorado, on a questionable state conviction, when rebellions spread across the U.S. in the 1960s.

7. Just as the Anti-G20 protests were to begin, Pennsylvania State Troopers, their guns drawn, broke down the door of room 238 of the CareFree Inn on the outskirts of Pittsburgh. The troopers were acting on a sealed search warrant related to protests planned for the [G20 summit](#)ⁱⁱⁱ—a meeting of the heads of state of the world's major economies. Thousands of protesters had descended on the city, presenting demands ranging from curbs on carbon emissions to the outright abolition of capitalism.
8. Unlike the U. S. government praise heaped upon activist using social networking technology in Tehran, Elliott Madison and Michael Wallschlaeger, a couple of middle-aged housemates from Queens, New York, using a laptop, a cell phone, and police scanner for demonstrators' crowd control were arrested and charged with "criminal use of a communication facility," "possessing instruments of crime," and "hindering apprehension"—two felony counts and one misdemeanor. The charges were later dropped after they were forced to pay bail and their equipment taken and house ransacked.
9. Madison and Wallschlaeger, part of [Tin Can Comms Collective](#)^{iv}, a "collection of communication rebels" made up of several individuals in various locations across Pittsburgh. Madison's job was to verify information being sent in and then relay that to legal observers, street medics, and other organizers who could in turn tweet the information to the masses in the streets.
10. Academic freedom has also come under assault. *The NLG, along with other civil liberties organizations, joined in defense against termination of tenured Ward Churchill. It filed an amicus brief [Churchill v. The Board of Regents of the University of Colorado](#)*^v (February 18, 2010)
11. The brief argued that academic freedom, a central component of the First Amendment and essential to a thriving democracy, is imperiled when state university officials succumb to political pressure to fire a tenured professor over constitutionally protected statements. Further, that affording absolute immunity to university officials and vacating a jury finding of wrongful discharge in violation of the First Amendment threatens the fundamental rights of all faculty members. Fidelity to the rule of law, they point out, requires a remedy for those deprived of their constitutional rights by state officials. Barring legal recourse for politically-motivated investigations and terminations will have a chilling effect on professors, students, and citizens whose speech is unpopular but constitutionally-protected. The resultant suppression of free inquiry and critical thinking vitiates the First Amendment and undermines the foundation of higher learning in this country.

12. In the 2007 United States Human Rights Network report, submitted to the United Nations Committee on Elimination of Racial Discrimination, the Second and Third Periodic Report to the Committee on the Elimination of Racial Discrimination, "In The Shadows of the War on Terror: Persistent Abuse of People of Color in the United States," examples of the domestic use of torture against African Americans and other persons of color, under the guise of fighting terrorism, were cited.
13. In the section titled, *The Reality: Torture and Other Cruel Inhuman and Degrading Treatment* Torture, it was noted that cruel, inhuman or degrading treatment by law enforcement agents during interrogations and in police custody continues to take place within the U.S. Law enforcement officers, throughout the country, who have engaged in torture for the purpose of extracting confessions, continue to escape prosecution while individuals who were tortured continue to be prosecuted or languish in prison based on the use of coerced confessions in their criminal cases.
14. In addition to the Abu Ghraib style Chicago Police Torture Cases (Burge Cases)^{vi} of 1973, is the current case of the San Francisco 8 (SF8). Both are examples of the domestic use of torture against African Americans by law enforcement officers. The Burge Cases based on race; however, the SF8 based on race and political beliefs and activities. In 1973, John Bowman (deceased in December 2006), Harold Taylor and Ruben Scott were tortured by the New Orleans Police Department, with the assistance of two San Francisco detectives, Frank McCoy and Edward Erdelatz. The torture, which lasted for several days, included "strip[ing] the men, blindfold[in]g them, beat[ing] them and covering them in blankets soaked in boiling water. The detectives also used electric prods on their genitals."^{vii}
15. As a result of the torture, the men confessed and signed pre-written statements. They were then charged with various crimes, including the death of the 1971 death of Sergeant John Young, a San Francisco Police officer. In 1974, a federal court ruled that the statements of the three men were inadmissible because they were obtained through torture. Subsequently, a California court dismissed the charges against Bowman, Taylor and Scott; without any vindication of their human rights. The perpetrators have never been brought to justice; two former detectives serve as agents with the Anti-Terrorist Task Force of the Federal Prosecutor's Office under the auspices of U.S. Department of Homeland Security
16. Now, after 30 years, eight elderly Black activists ranging in age from 55 to 70 years old, including one of the men who was tortured, many of whom were former members or supporters of the Black Panther Party (a political justice organization), were arrested and charged in January 2007 with the murder of Sergeant Young based on the confessions obtained through torture. On October 10, 2007, a judge ruled the confessions, previously found inadmissible under the Constitutional doctrines relied upon by the U.S. government as evidence of its compliance with the Convention, can now be offered as evidence at trial. The

prosecution of the SF8, spearheaded by the officers who tortured several among them, and based on statements elicited by torture, violates article 5(b) and (d) of the Convention guaranteeing the right to be free of excessive force and the rights to freedom of speech, expression, assembly and association.^{viii}

17. The Government's increasing disregard for the Constitution is displayed in its treatment of Muslim, Arab and South Asian inmates. In 2006 and 2007, the Federal Bureau of Prisons (BOP or "Bureau") secretly created the Communications Management Unit (CMU), a prison unit designed to isolate and segregate certain prisoners in the federal prison system from the rest of the BOP population. The Bureau claims that CMUs are designed to hold dangerous terrorists and other high-risk inmates, requiring heightened monitoring of their external and internal communications. Many prisoners, however, are sent to these isolation units for their constitutionally protected religious beliefs, unpopular political views, or in retaliation for challenging poor treatment or other rights violations in the federal prison system. Over two-thirds of the CMU population is Muslim, even though Muslims represent only 6 percent of the general federal prison population. . In March 2010, the [Center for Constitutional Rights \(CCR\) filed a federal suit challenging unconstitutional policies and conditions at the CMUs.](#)^{ix}

18. Furthermore, CCR has joined Muslim community groups and human rights organizations in expressing grave concern about the conditions of confinement for inmates who are subject to Special Administrative Measures, or SAMs. Established in 1996 to limit the communications of prisoners with a demonstrated reach and ability to commit violence, now SAMs can be placed on anyone with a "proclivity for violence."^x The case of Syed Fahad Hashmi, who is scheduled to be tried in the Southern District of New York on charges of material support for terrorism in April 2010, is a stark example of the extreme features of SAMs. Mr. Hashmi, an American citizen, has been kept in severe solitary confinement under SAMs for three years awaiting trial. SAMs have severely limited Mr. Hashmi's ability to communicate with the outside world – including members of his family – even though he has not been convicted of any crime. SAMs are being imposed disproportionately on Muslims suspected of connections with terrorism and is typical of how terrorism suspects are being treated in U.S. prisons and courts.

RECOMMENDATION FOR ACTION BY THE U.S. GOVERNMENT

19. Take leadership role to insure protections afforded under U.S. Constitution are applied rigorously.

20. Adopt and ratify all major treaties and conventions, without RUDs.

21. Release all U.S. Political Prisoners/Prisoners of War (PP/POWs) imprisoned as a result of COINTELPRO must be immediately and unconditionally released from U.S. imprisonment.

22. The United States must institute an Executive review of all cases involving those imprisoned as a result of COINTELPRO.

23. The United States must adopt the necessary measures to ensure the right of COINTELPRO PP/POWs/Exiles to seek just and adequate reparation and satisfaction to redress acts of racism, racial discrimination, xenophobia and related intolerance, and to design effective measures to prevent the repetition of such acts.

ⁱ UN Commission on Human Rights, Promotion and Protection of Human Rights: Human RightsDefenders, submitted by Hina Jilani, Special Representative of the Secretary General on the status of human rights defenders, E/CN.4/2004/94/Add.3, 23 March 2004, p. 151, par. 476, <http://www.unhchr.ch/pdf/chr60/94add3AV.pdf>

ⁱⁱ http://www.law.cornell.edu/uscode/html/uscode18/usc_sec_18_00002101----000-.html

ⁱⁱⁱ http://en.wikipedia.org/wiki/2009_G-20_Pittsburgh_summit

^{iv} <http://tincancomms.wordpress.com/>

^v [Churchill v. The Board of Regents of the University of Colorado](#)

^{vi} At least eleven decisions in both federal and state courts have found or noted the practice of torture by Burge and his men. U.S. ex. rel. Maxwell v. Gilmore, 37 F. Supp.2d 1078, 1094 (N.D. Ill. 1999) ("It is now common knowledge that in the early to mid-1980s Chicago Police Commander Jon Burge and many officers working under him regularly engaged in the physical abuse and torture of prisoners to extract confessions. Both internal police accounts and numerous lawsuits and appeals brought by suspects alleging such abuse substantiate that those beatings and other means of torture occurred as an established practice, not just on an isolated basis."); Hinton v. Uchtman, 395 F 3d 810, 822-23 (7th Cir. 2005) (Wood, J., concurring) ("a mountain of evidence indicates that torture was an ordinary occurrence at the Area Two station of the Chicago Police Department . . . And, in language reminiscent of the news reports of 2004 concerning the notorious Abu Ghraib facility in Iraq, the report [OPS Goldston report] said that '[t]he type of abuse described was not limited to the usual beating, but went into such esoteric areas as psychological techniques and planned torture.' . . . Indeed, the alleged conduct is so extreme that, if proven, it would fall within the prohibitions established by the United Nations Convention Against Torture ("CAT") . . . thereby violating the fundamental human rights principles that the United States is committed to uphold. . . ") See also "Report on the Failure of Special Prosecutors Edward J. Egan and Robert D. Boyle to Fairly Investigate Systematic Police Torture," pp. 16-20 and Appendix A. 24 Investigators working with the OPS have sustained the torture allegations of seven individuals. In addition, attorneys on behalf of the City of Chicago have admitted "an astounding pattern or plan... to torture certain suspects, often with substantial criminal records, into confessing to crimes or to condone such activity." City of Chicago's memorandum in Opposition to the Motion to Bar Testimony Concerning Other Alleged Victims of Police Misconduct filed on January 22, 1992 before the Police Board In the Matter of Charges

Filed Against Respondents Jon Burge, John Yucaitis and Patrick O'Hara, Cases #1856-58).

Most recently, Special Prosecutors, appointed by a State judge pursuant to a request from several community organizations, recently confirmed that Burge and those under his command committed acts of torture. See supra note 21 at 3-5. Andrew Wilson was suffocated with a plastic bag, shocked on his genitals and ears, burned with cigarettes, and beaten and handcuffed across a hot radiator while interrogated by Burge and other detectives. Dr. John Raba, the medical director at Cook County Jail, examined Wilson after his interrogation, and noted Wilson's injuries in a letter sent to former Chicago Police Superintendent Richard Brzeczek, in which he requested an investigation. Brzeczek declined to act on this request, instead referring the investigation to Daley, the lead local prosecutor for the Chicago area at the time (now Mayor of Chicago), who took no action.

^{vii} Jaxon Van Derbeken & Marisa Lagos, Ex-militants Charged in S.F. Police Officer's '71 Slaying at Station, San Francisco Chronicle, January 24, 2007, at A-1

^{viii} It is well established that the U.S. Government deliberately sought to disrupt and destroy the members and activities of the Black Panther Party, a political organization that supported and promoted the rights, freedom and self-determination of African American people in the U.S. In the 70s, the Black Panther Party was comprised of human rights activists who built community programs such as free breakfast programs for Black children, as well as free legal and health clinics, and campaigned against police brutality. The prosecution of the SF8 is part of the continuing campaign to destroy and distort the work of the Black Panther Party. Beginning in the 1950's, the U.S. launched a series of covert actions against domestic 'dissident' groups. See United States Senate, Final Report of The Select Committee To Study Governmental Operations with Respect To Intelligence Activities, April 23, 1976 at <http://www.cointel.org> (last visited on Oct. 14, 2007) [hereinafter "Church Report"]; see also David Cole & James X. Dempsey, *Terrorism and the Constitution: Sacrificing Civil Liberties in the Name of National Security*, 3ded. (2006). The policy, entitled "Counter Intelligence Program", or COINTELPRO, included infiltration of organizations, external psychological warfare, harassment through the legal system and extralegal force and violence, including assassinations. Among those targeted were prominent peace activists such as Dr. Martin Luther King Jr., as well as organizations such as Students for a Democratic Society (SDS), the Student Non-Violent Coordinating Committee (SNCC), the National Association for the Advancement of Colored People (NAACP), and the Congress for Racial Equality (CORE). While COINTELPRO victimized a range of political movements, including women's rights, anti-war activities, the Puerto Rican Independence Movement and the American Indian Movement, its most profound impact was on members of the Black civil and human rights movement. With the expressed intent of "preventing the rise of a black messiah," the FBI set out to systematically disrupt, distort and destroy organizations and individuals which it deemed a "security risk." See Church Report. With the motto that "to be a black revolutionary is to be a dead revolutionary" the FBI's field offices from California to Chicago to New York sought to discredit legitimate organizations and movements by eliminating leaders. One of the most egregious examples of these tactics

was the murder of Fred Hampton, Chairman of the Black Panther Party in Chicago in a predawn police raid in 1969. John Kifner, F.B.I. Gave Chicago Police Plan of Slain Panther's Apartment, New York Times, May 25, 1974. Indeed, it is well documented that the FBI killed more than thirty Black Panther Party members. Church Report. COINTELPRO was exposed following the leak of FBI files to the media. Subsequently, a congressional sub-committee known as the Church Committee was established to investigate the existence, consequences and legality of COINTELPRO. The Committee concluded, inter alia, that the FBI had “conducted a sophisticated vigilante operation aimed squarely at preventing the exercise of First Amendment rights of speech and association” David Cole & James X. Dempsey, *Terrorism and the Constitution: Sacrificing Civil Liberties in the Name of National Security*, 3d ed. (2006). Moreover, the Committee found that while COINTELPRO “sow[ed] distrust and fear among many seeking peaceful change in government policies, ...[it] produced little evidence of criminal activity.”*Id.* While exposing the existence of illegal activities conducted by the U.S. government, the Church Committee failed to provide any real remedies for those whose lives were uprooted and destroyed by COINTELPRO. The renewed interest in prosecuting the SF8 for crimes that are more than 35 years old represents nothing more than a continuation of these policies in a climate of suppression of dissent.

^{ix} Learn more at: <http://ccrjustice.org/ourcases/current-cases/aref-et-al-v-holder-et-al>.

^x See REQUESTS FOR SPECIAL CONFINEMENT CONDITIONS—28 C.F.R. § 501.3, available at: http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/24mcrm.htm