

GUILTY OF GENOCIDE!

*Proceedings of the International
Tribunal on US Human Rights
Abuses Against Black, Brown,
and Indigenous Peoples*



GUILTY OF GENOCIDE!

BLACK, BROWN and INDIGENOUS PEOPLE)	International Convention on
)	the
RESIDING IN THE UNITED STATES)	Prevention and Punishment
)	of the Crime
Plaintiffs)	of Genocide,
)	General Assembly Resolution
)	260A, et plus
v.)	
)	
THE UNITED STATES and STATE and)	18 U.S. Code 1091 -
)	Genocide
LOCAL POLITICAL SUBDIVISIONS)	
Defendants.)	

**FINAL VERDICT of the 2021 INTERNATIONAL TRIBUNAL
On U.S. Human Rights Abuses Against Black, Brown, and Indigenous
Peoples**

In Response to the [People's Indictment 22 October 2021](#)¹

Introduction: The Context of Our Work and Why We are Here

1. The fact that the United States of America (hereafter referred to as U.S.) has committed an array of human rights abuses against Black, Brown, and Indigenous Peoples should be as uncontroversial as it is incontrovertible.

¹ https://www.tribunal2021.com/_files/ugd/b9e395_08fab0e6c40f4637917c8912996f8704.pdf

2. There is widespread agreement that settler colonialists committed genocide and other crimes against the Indigenous populations while taking their lands, implementing a brutal relocation strategy, and attempting to erase their histories and cultures. No one would disagree that enslaved Africans were forced to work the stolen settler colonial lands for centuries in subhuman conditions including torture, human trafficking, family separations, and forced breeding. These truths have been well-documented and established, to the extent that the U.S. government itself has admitted to these atrocities in various forms, using various wordings, over many decades. Despite the fact that reparations for the holocaust of African enslavement and crimes against humanity perpetrated against Indigenous peoples by the U.S. have not been forthcoming, genocide itself has been acknowledged though the use of that terminology still sparks controversy. It was notable in 2019, for example, that California Governor Gavin Newsom - in a statement giving context to the planned California Indian Heritage Center which referenced the formal Executive Order recognizing the state's discriminatory practices against Indigenous Peoples - cited the remarks of California's first governor, Peter Burnett, who vowed in 1851 to fight against Native American peoples until they become extinct.
3. Governor Newsom's recent remarks asserted: *"It's called a Genocide. No other way to describe it. And that's the way it needs to be described in the history books."*²
4. The 2021 International Tribunal on U.S. Human Rights Abuses Against Black, Brown and Indigenous Peoples argued that the conditions faced by the original inhabitants of these lands have extended and continued in various forms through to the modern era and to peoples of African descent as well as other peoples still under direct or indirect colonial control by the U.S. government and military. Reviewing the testimony and citations of dozens of expert witnesses, affected peoples, and their counsel, this Panel of Jurists collected documents based on Five Counts of human rights improprieties, examining the claims based on international law and the recognized norms of international human rights policies.
5. Before the founding of the United Nations (UN), the term "genocide" was coined by Polish lawyer Rafael Lemkin partly in response to the Nazi policies of systemic murders of people of Jewish religion and heritage during the Holocaust. The act then went on to be recognized as a crime under international law by the United Nations General Assembly in 1946 ([A/RES/96-I](#)) and was codified as an independent crime in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

² <https://www.culturalsurvival.org/news/its-called-genocide-strength-language-us-government-apologies-native-americans>

It has subsequently been ratified (as of 2022) by 152 nation-state members of the UN, including by the United States. Repeated clarifications by the International Court of Justice argue that the prohibition of genocide is a peremptory norm (*or ius cogens*), and as part of customary international law binds all States to follow its guidelines whether or not they have formally ratified the Convention.

6. In the current context, the Convention defines Genocide as: *“The intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:*
 - a. *Killing members of the group;*
 - b. *Causing serious bodily or mental harm to members of the group;*
 - c. *Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
 - d. *Imposing measures intended to prevent births within the group;*
 - e. *Forcibly transferring children of the group to another group.”*
7. To be clear, though, despite the fact that intent is required, and harm must go beyond destruction of cultural institutions, the crime of genocide may take place in the context of an armed conflict as well as in the context of a “peaceful” situation; it may be in international or non-international conflicts. The target of genocidal acts must be group-based and not individual but can be committed against only a part of the whole group, so long as that group part can be established as “substantial” (including within a distinct geographic area).
8. The 2021 International Tribunal Jurists’ ruling finds substantial evidence of genocide in U.S. policy and actions towards Indigenous peoples living in North America long before the advent of the U.S. government. Furthermore, peoples of African descent—enslaved since the [Middle Passage](#)³ origins in 1619 (the stage of the Atlantic triangular slave trade in which millions of enslaved Africans were transported to the Americas), and intensified during the development of the independent United States—have also suffered consistently with the intent to destroy as a racialized national grouping. The colonial treatment of peoples of Puerto Rican and Mexican descent has also crossed the line beyond simple neo-colonial norms, to acts of genocide based on plans to destroy those living within U.S. territory.
9. Our Verdict will be further detailed in the rulings to follow on the five counts charged in the Indictment and judged herein:
 - Police Racism and Violence

³ <http://slaveryandremembrance.org/articles/article/?id=A0032>

- Mass Hyper-Incarceration
- Political Prisoners and Prisoners of War
- Environmental Racism
- Public Health Inequities

10. In summary, however, we find the following: As Article 7 of the UN Declaration on the Rights of Indigenous Peoples clearly states: Indigenous Peoples have the collective right to live in freedom, peace and security as distinct people and shall not be subjected to any form of genocide or any other act of violence,” including the forcible removals of children or others ([United Nations Declaration on the Right of Indigenous Peoples](#))⁴
11. U.S. Presidential Medal of Freedom recipient Suzan Shown Harjo (Cheyenne and Hodulgee Muscogee) has documented, historically and in contemporary terms, the consistency of broken treaties between the U.S. government and *Native peoples*. In *Nation to Nation: Treaties Between the United States and American Indian Nations* (Harjo/Smithsonian Books, 2014), this history is laid bare. Prior works explicitly deepen the case of genocidal policy and practice, as in *American Holocaust: The Conquest of the New World* (Stannard, 1992), and *A Little Matter of Genocide: Holocaust and Denial in the Americas: 1492 to the Present* (Churchill, 1997). In the more recent *Surviving Genocide* (Ostler, 2020), it is noted that the argument for “a total, relentless and pervasive genocide in the Americas” has become accepted in areas of Indigenous studies and genocide studies, but not as much so in mainstream U.S. legal circles or scholarly texts. Thus, the author considered changing their book from one focused on genocide to the simpler designation of “*forces of destruction*,” intended to ameliorate political-legal implications of genocide.
12. Ostler concluded, however: “I could not escape the sense that genocide is an integral part of the history I have written about. Genocide was not present at all times,” however, suggesting that genocide was not a core part of existing practice would be to “fail to fully reckon with the fact that government officials consistently used genocidal threats to secure consent” and that “the U.S. adopted a policy of exterminating Indians who resisted its demands.”
13. We are then faced with the daunting and controversial question: Was/is there a Black genocide in the U.S.? For us, an appropriate analysis of “genocide” in its defining moments—as international humanitarians and legal policymakers reviewed

⁴ ([United Nations Declaration on the Rights of Indigenous Peoples \(Article 7.1 and 7.2, Article 8.1 and 8.2, Article 10](#))

the policies and actions of the Third Reich and Nazi terror—is what activities, as Hannah Arendt famously wrote at the time, “explode the limits of law.” If the atrocities about which Arendt was writing exploded the limits of law of her time, so too did the violence, terror, and oppression of Black men and women at least through the time of the 1951 *We Charge Genocide* petition compiled and submitted by Paul Robeson, Walter Patterson, W.E.B. DuBois and others.⁵

14. Though contemporary scholars may shy away from the term “genocide” as a whole, there is, in fact, little disagreement that Black Americans before and after WWII satisfied the *actus reus* of genocide. The horror and magnitude of the physical acts committed against peoples of African descent suggest at very least the constitution of cultural genocide, and clear and consistent indication of crimes against humanity. The question of “special intent” upon which the current Genocide Convention relies is itself still the source of ongoing debate, requiring further interpretation before universal application can definitely be stated.⁶
15. From our standpoint, the evidence from *We Charge Genocide* strongly indicates (and there is voluminous further evidence in fields like African American, postcolonial, and race studies about the genocidal logics of the U.S. [racial formation⁷](#)), that structural and ongoing crimes against the U.S. Black population fit appropriately into a special intent legal frame.⁸
16. Furthermore, Tribunal Lead People’s Lawyer (Chief Prosecutor) Nkechi Taifa argues for an understanding of “institutional genocide” in terms of the treatment of African descendants in the U.S. criminal justice system. Her statements before the Tribunal correspond to her brief for the American Constitution Society, which asserts:
17. “Racially biased executions and extrajudicial killings against Black people—whether by lynch mobs or officers of the law, fall within the first definitional prong of the Genocidal Convention...As long as the lives of the people in...African American communities as a whole are being destroyed; as long as discriminatory treatment is embedded in police departments, prosecutor’s offices, and courtrooms, and the perception of unequal justice is perpetuated throughout the system; and as long as

⁵ (<https://babel.hathitrust.org/cgi/pt?id=mdp.39015074197859&view=1up&seq=15>)

⁶ (<https://digitalcommons.usf.edu/gsp/vol5/iss3/3/>; see also <https://journals.sagepub.com/doi/abs/10.1177/0921374005061991?journalCode=cdya>)

⁷ Michael Omi and Howard Winant, *Racial Formation in the US*, Routledge, 2014: provide an account of how concepts of conflict come to shape and permeate both identities and institutions.

⁸ (<http://opiniojuris.org/2022/01/13/black-genocide-and-the-limits-of-law/>)

legislatures continue laws and policies that have a damaging effect, there will be dire consequences for Black people...The cumulative impact of destructive treatment against Blacks in the criminal justice system, combined with challenging conditions of life negatively impacting generations, constitutes institutionalized genocide—the human rights crisis facing twenty-first century Black America.”⁹

18. To disregard or negate such overwhelming historical evidence is to embark upon a dangerous Holocaust exceptionalist definition of Genocide as a term not applicable to modern, ongoing conditions.
19. Finally, beyond peoples of Indigenous and African descent, the record of U.S. policy tells the story of additional human rights abuses committed against Mexicans and other groups as the U.S. expanded West. Colonized countries such as Puerto Rico (*The Insular Cases*)¹⁰ have also been subject to heinous policies including assassination and sterilization. U.S. President Joseph Biden has openly acknowledged these crimes; his Secretary of State in 2021 confirmed this while stating, “great nations such as ours do not hide from our shortcomings; they strive to improve with transparency.” (U.S. Congress H. Res. 279)¹¹
20. This same race-based disproportionality is also evident in the inhumane treatment of refugees and other emigrating Black, Brown, and Indigenous People of Color (BIPOC). Indigenous peoples from Africa, South and Central Americas, and the Caribbean face harsh restrictions, [arbitrary detention](#) ¹²and deportations, compared with the U.S. open door policy and welcoming stance for European arrivals. Highly publicized images of Haitian refugees being whipped by U.S. Border Patrol agents is a recent example of this distressing status quo, despite public relations statements by the U.S. President condemning such abuse as “outrageous”.¹³

⁹ (https://www.acslaw.org/wp-content/uploads/2018/04/Racism_in_the_U.S._Criminal_Justice_System.pdf)

¹⁰ The leading insular case in U.S. jurisprudence was *Downes v. Bidwell*; see also: [THE INSULAR CASES: THE ESTABLISHMENT OF A REGIME OF POLITICAL APARTHEID](#)

¹¹US acknowledgment of racism and white supremacy - <https://www.congress.gov/bill/117th-congress/house-resolution/279/text>

¹² UN Working Group on Arbitrary Detention 11-24 October 2016. USA Visit Report. A/HRC/36/37/ADD.2

¹³ See: <https://www.hrw.org/news/2021/09/21/us-treatment-haitian-migrants-discriminatory>; [nbc.com/2021/09/23/us-special-envoy-to-haiti-resigns-over-migrant-expulsions.html](https://www.nbc.com/2021/09/23/us-special-envoy-to-haiti-resigns-over-migrant-expulsions.html);

21. If laudable, such sentiments ring hollow unless met by action. The continued disparity of police killings and hyper-mass incarceration; prolonged [incarceration of such prisoners of conscience as Leonard Peltier, Mumia Abu Jamal, Imam Jamil Al-Amin](#)¹⁴; ongoing extreme health inequities causing the avoidable deaths of countless members of the affected groups, and state-sanctioned intimidation or retaliation against those advocating for change, all indicate a need for urgent and immediate remediation. Short of this, the essential conditions evidenced in these findings continue if not worsen for U.S. Indigenous, Black and Brown Peoples.
22. As Jurists considering this case, the purpose of the International Tribunal is to go beyond simply viewing the violence of racism and its many consequences in the current life of Black, Brown and Indigenous Peoples. It is also essential to highlight the egregious violation of human dignity and critique the negation of individuality—the despoliation of land on the pretext that upon their arrival, the settlers assured the world that “no one” lived on these lands. To summarize, the verdict of this International Tribunal aims to participate in international reflection in order to redress this denial of humanity.
23. The work of the Tribunal from a historical and legal analysis, therefore, is to consider and rule on evidence charging that the U.S. government and its state institutions and leaders are **Guilty of Genocide**.

Background to the 2021 Tribunal

24. From October 23-25, 2021, the International Tribunal on U.S. Human Rights Abuses against Black, Brown, and Indigenous Peoples convened as an independent body to hear the case. We did so as a quasi-legal body in the tradition of People’s Tribunals dating back to the Russell Tribunal and Permanent People’s Tribunal, among others. While evaluating the charges in terms of international and domestic human rights law and practice, we also recognize that such legal structures have limitations that can reinforce racism and deny voice and redress to Black, Brown, and Indigenous peoples as the prosecution in this case alleges.

<https://www.cnn.com/2021/09/24/biden-condemns-border-patrol-treatment-of-haitian-migrants-in-del-rio.html>

¹⁴ https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/session9/US/USHRN_UPR_USA_S09_2010_Annex23_US_Political_Prisoners_Joint_Report_USA.pdf

25. To assess the merits of the case, the Panel of Jurists (from South Africa, France, Haiti, Eritrea, India/Manipur, Puerto Rico, the Wampanoag Nation, and two from the U.S.) heard eighteen attorneys and students of law solicit evidence from thirty witnesses from across the US, over the course of two days. The testimony emphasized the millions upon millions of Indigenous and African peoples murdered, disappeared, and nearly exterminated over a period from 1492 through the present. Further, the witnesses and prosecution argued that the wrongs have been historic and deliberate, with colonization, racism, militarism, imperialism, materialism, criminalization, patriarchy, neo-colonialism, and internal colonialism as part of the larger process that now manifests itself in medical, digital, and economic apartheid; chemical warfare; environmental violence and racism; divestment; and a pandemic of accessible guns and drugs - with the majority of gun violence perpetrated by police and security forces in the false claim of upholding law and order. Statements were made testifying to new forms of colonialism which include the Prison Industrial Complex, the Military Industrial Complex, and the commercialization of our health and privatization/commodification of all social services.
26. The Tribunal elicited testimonies that were very detailed, consistent, factually coherent, and emotionally distressing. The witnesses' accounts were of extensive experiences to the point of producing fact-finding outcomes in the greater interest against racial oppression and genocide. The testimonies included substantial evidence of the erasure of histories; distortion and cultural misappropriation contributing to and exacerbating the attempted invisibilization and denial of People's basic humanity. The profound impacts of all these realities extend beyond the erasure and attempt to exterminate Black, Brown and Indigenous lives. Hence, as one witness stated, "*the colonization of the spirit and mind continues to this day.*"
27. The testimonies of this Tribunal reaffirm the traditional wisdom and knowledge of Black, Brown, and Indigenous Peoples. Strong evidence was presented on the indomitable, unbreakable resistance and resilience of the peoples' struggle for justice and dignity. In the face of egregious human rights violations and crimes against humanity, this spirit of collective survival shone through.
28. The 2021 International Tribunal on U.S. Human Rights Abuses Against Black, Brown and Indigenous Peoples was initiated by a U.S. coalition, *In the Spirit of Mandela*.¹⁵ In addition to a coalition of hundreds of U.S.-based non-governmental organizations, churches, and human rights academic institutes, the Spirit of Mandela enjoyed

¹⁵ <https://spiritofmandela.org/>

international support including the endorsement of Her Royal Highness Princess Zenani Mandela-Dlamini, daughter of Winnie and Nelson Mandela.¹⁶

29. Its own recognized legacy, based on efforts dating from the 1951 “We Charge Genocide” petition to the present, rests on the idea that any examination of U.S. human rights must be done in an international context. The Panel of Jurists came together as an independent body made up of legal scholars, human rights advocates and activists, and community leaders. Utilizing the International Criminal Law on Genocide and other instruments, the Panel convened to hear and review the testimony organized by *Spirit of Mandela* Legal Team. The Accused, though informed, did not respond to the charges and indictment against them, nor did they appear as invited to present a defence.

Historical Precedents

30. In our contextual understanding, we cannot render judgement without carefully reviewing the historical conditions faced by those making claims against the U.S. government, its states, agencies, and antecedents. It is an incontrovertible and widely recognized fact that European conquest of the lands which would become the USA began around 1491, with enslaved Africans forcibly shipped to these lands beginning in the period from 1640 to 1680. There was a phenomenal increase in slave trade and kidnapping of African peoples in the years immediately following the U.S. Declaration of Independence, from 1780 onwards. The U.S. Constitution ratified in 1787, in its [Article 1, Section 2, Clause 3](#)¹⁷ formally defined all African peoples as less than fully human, as the three-fifths compromise took effect to “count” the enslaved peoples as 3/5 of a “full” person.
31. Though the State of Massachusetts passed its first anti-slavery law in 1807 and Great Britain abolished the slave trade in 1819, the patenting and widespread use of Whitney’s and later McCarthy’s cotton gin for processing the southern cash crop meant heightened use of forced slave labour from 1807 and 1840 onwards, despite growing opposition to the practice as inhumane. In addition to “King Cotton”, “Queen Sugar” was an even more barbaric yet equally lucrative, thus politically and economically important, international business product which bolstered the U.S.

¹⁶ <https://www.tribunal2021.com/mandela-foundation-endorsement>

¹⁷

<https://www.thirteen.org/wnet/slavery/experience/legal/docs2.html#:~:text=Article%20one%2C%20section%20two%20of,political%20power%20of%20slaveholding%20states.>

and its allies' addiction to chattel slavery. The [Act of 1820](#)¹⁸, as part of a U.S. federal law enacted to protect commerce (especially against maritime piracy), declared participating in the slave trade or robbing a ship to be considered acts of piracy as well. However, without the abolition of slavery itself, this little-known Act had almost no effect on the substantial business interests of the U.S. South and their Northern financial backers. [The Black Law of Connecticut](#)¹⁹ stands as one prominent symbolic example: though considered one of the most progressive “free” states which began a “gradual emancipation” as early as 1784 (when anyone born into slavery after that year would be granted freedom when they reached their twenties), the 1833 “Black Law”—passed some years before Connecticut abolished slavery outright—prohibited the education of all peoples of African descent and stipulated that enslaved peoples who managed to flee their conditions in the South must be returned to their masters if captured. Even before the Fugitive Slave Act of 1850 criminalized anyone “aiding or abetting runaway slaves” on the federal level, these Connecticut policies set in place “post-slavery” conditions of human rights abuse which would last long after the institution itself officially ended.

32. Further evidentiary case material indicating U.S. disregard for international norms and its own conflicting judicial policies was highlighted in the [prominent case of Cinque of the Mende peoples, captured into slavery from Sierra Leone in 1841](#) and central to the rebellion which took place aboard the slave ship Amistad while at sea (U.S. Government National Archives).²⁰ The legal question—whether the Africans were kidnapped and acting in self-defense or whether they were slaves entitled to no legal recourse—was argued in the U.S. Supreme Court with former U.S. President John Quincy Adams serving as counsel for Cinque and his collaborators. Ultimately, the Africans were acquitted and released, but had to stay in the U.S. to raise funds for the return trip to West Africa! In some ways this history parallels the activities surrounding the West African nation of Liberia, established in the 1820's as a refuge for enslaved Africans from the U.S. to colonize in order to rid the U.S. of its slave problem. Far from opposing slavery, however, the tactic of “return” was widely seen as developed to uphold it, with reference to *A Review of Anti-abolition Sermon* preached at Pleasant Valley, NY by John H. Wiggins, [simply avoiding the human rights issues](#) and disposing of the more unruly elements of African rebels whose fightback was increasing.²¹ The acts later recognized as Crimes Against Humanity—the crime of slavery and the crime of colonialism—were intermingled to the benefit of the U.S. states, north and south.

¹⁸ <https://loveman.sdsu.edu/docs/1820antipiracyactAct.pdf>

¹⁹ <https://glc.yale.edu/sites/default/files/files/The%20Black%20Law%20of%20Connecticut%281%29.pdf>

²⁰ <https://www.archives.gov/education/lessons/amistad>

²¹ <https://archive.org/details/reviewofantiabol00wigg/page/n3/mode/2up>

33. Unlike times when these same principles have been applied in different colonial and post-colonial situations, we see in the U.S. that the criminals received reparations and the victims became precarious, exploited laborers of their former "masters." Here we find the founding element and burden of proof: the presumed culprit must provide evidence that he has not committed a crime. We must finally confront the legal and historic question: What crime did the enslaved Africans commit? What proof must they bring of their humanity? The plantation system cynically imposed the idea that the victim of crimes against humanity was, in fact, guilty of simply "being."
34. From a U.S. Constitutional perspective, the years leading up to, during, and immediately following the Civil War showcase the consistent view of Africans as less than citizens, less than fully human beings, and thus open to abuses potentially leading to eradication or elimination. The more obvious judicial decisions such as *Dred Scott v. Sandford* were the tip of a larger series of precedents underscoring that abolition of slavery was the goal of only a set few. The [original 13th Amendment of 1861](#)²² (before the War itself began) offered a potential solution which would grant southern states the rights to retain their property—including human chattel. Once the [famous 1865 post-War compromise version of the 13th Amendment](#)²³ came to be proclaimed the act which ended slavery, the loopholes written directly into the document were overlooked for generations. In addition to the continuation of forced (primarily Black) labour in prisons and the perpetual debt scheme of virtual re-enslavement through [share-cropping](#),²⁴ the modern amendment leaves open the state-based possibilities always central to U.S. governmental leadership. [The 21st Century U.S. movement calling itself abolitionist not only looks at mass incarceration implications, but at those areas and wording of the 13th amendment](#) which maintain human rights violations in the guise of progressive policy.²⁵ As the Civil War was coming to a close, those potential policies which would have opened the door to realization of what was owed to a people whose very individuality and personhood was negated—such as [General Sherman's Special Field Orders No. 15 granting formerly enslaved Africans up to forty acres of land](#) and a mule²⁶—were quickly overturned by the post-War Congress.

²² <https://www.gilderlehrman.org/history-resources/spotlight-primary-source/proposed-thirteenth-amendment-prevent-secession-1861>

²³ <https://www.cairn.info/revue-francaise-de-droit-constitutionnel-2015-2-page-353.htm#no19>

²⁴ <https://eji.org/news/history-racial-injustice-sharecropping/>

²⁵ <https://www.washingtonpost.com/outlook/2021/01/27/loopholes-have-preserved-slavery-more-than-150-years-after-abolition/>

²⁶ <https://www.washingtonpost.com/history/2021/04/15/40-acres-mule-slavery-reparations/>

35. The stated abolition of slavery did not mark the end of domination and oppression based on skin colour and other racial phenotypes. The southern states, having unsuccessfully opposed this abolition, tried to take revenge on the northern pro-Union states by establishing Jim Crow laws (a collection of state and local statutes that legalized racial segregation), which are segregationist laws par excellence. We must understand that the Jim Crow laws were nourished by the laws initiated by each State during colonial times. Taking advantage of the federal system, eleven of the southern states enacted new policies which had no other objective than to perpetuate the denial of the humanity of people of African and Indigenous descent by regulating the status of those they considered non-humans. This was done despite Congress's ratification of the [13th](#),²⁷ [14th](#),²⁸ and [15th](#)²⁹ Amendments to the U.S. Constitution even after the Civil War supposedly decided the matter. It should be noted that the definition of citizenship, which corresponded with the right to vote, was not granted in communication or dialogue with any African persons but was "granted" as part of U.S. reunification. Unlike France, where the Black Code-royal ordinance (written by Colbert) was promulgated by Louis XIV in 1685, the U.S. Jim Crow laws (the Black Code of modern times) arrived in the U.S. *after* abolition. These laws, known for a vast number of prohibitions punctuating the lives of Black people, lasted for more than one hundred years and remnants remain to this day. The one that is still most visible today concerns the right to vote and representation within U.S. land-based districts and counties.

36. Of note, the [13th Amendment to the U.S. Constitution and multiple state constitutions also explicitly authorize slavery](#),³⁰ for persons who have been convicted of crimes. Thus, the racialized nature of law enforcement and incarceration has, from its inception, served as a proxy to extend the inhumane and genocidal practices supposedly "abolished" with the Emancipation Proclamation which falsely purports to have ended chattel slavery in the mid-1800s. [Moreover, longstanding people's resistance and numerous appeals to the UN and international human rights mechanisms have exposed terrorism in the criminal punishment system](#).³¹ Evidence of what happens "behind the wall" is even damning in terms of human rights and genocide of incarcerated victims/survivors. [The strategic,](#)

²⁷ <https://www.washingtonpost.com/history/2021/04/15/40-acres-mule-slavery-reparations/>

²⁸ <https://www.archives.gov/milestone-documents/14th-amendment>

²⁹ <https://www.archives.gov/milestone-documents/15th-amendment>

³⁰ <https://www.washingtonpost.com/outlook/2021/01/27/loopholes-have-preserved-slavery-more-than-150-years-after-abolition/>

³¹

https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT_CAT_CSS_USA_18614_E.pdf

[racialized patterns and practices of torture, medical neglect, psychological and physical violence, sexual violence, rampant abuses of women and juveniles, forced sterilizations, murders, endless solitary/segregation \(all meeting the definition of torture under international human rights standards\), sabotage of parole, essentially death by imprisonment, legalized slavery, and more are well documented in personal testimony and media.](#)³² Advocates continue revealing to the world that U.S. imprisonment is brutal, not rehabilitative nor restorative, but extremely punitive and is not just warehousing or "incarcerating" Black, Brown, and Indigenous people at stunning rates. These are disturbing and entrenched structural aspects of the mass incarceration system as graphically documented in the film [#13th](#).³³

37. Contemporary struggles within the U.S. for states' rights parallel these 150-year-old racialized power disputes. The Jim Crow laws which swept away all Reconstruction era advances, were quickly replaced post-1960s with "[the New Jim Crow](#)" of automatic abuse. Former litigator Michelle Alexander, noting this historical context in her New York Times bestseller, framed the current oppressive policies as a "prevailing system of racial meaning, identities, and ideologies" which "already seemed natural" because of these distinctive, long-held atrocities.³⁴ The United Nations Office on Genocide Prevention and the Responsibility to Protect cites the basic areas indicating that [Crimes Against Humanity](#)³⁵ are present. Among these are: murder, enslavement, imprisonment in violation of fundamental rules of international law, torture, rape and sexual slavery, and persecution against any identifiable group (based on political, racial, national, ethnic, cultural, religious or gender specifications). These crimes—kidnapping, enslavement, colonization, rape, torture, intentional assault and battery, and other atrocities—have inflicted serious suffering and disrupted the social order by destroying the sense of humanity.
38. These illicit acts were, of course, committed by individuals—but they were done in accordance with the policy of the State which privileged white supremacy anchored in Western Modernity.
39. In light of the historical elements, this Panel of Jurists agrees that action is required based on the common law of the condemnation of slavery, as a fundamental norm of

³²

https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT_CAT_CSS_USA_18552_E.pdf

³³ <https://www.youtube.com/watch?v=krfcq5pF8u8>

³⁴ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, New Press, 2010

³⁵ <https://www.un.org/en/genocideprevention/crimes-against-humanity.shtml>

law. These include the 25 September 1926 Convention relating to Slavery; the 7 September 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery; the International Criminal Court Statute, Article 7; The 10 December 1948 Universal Declaration of Human Rights (UDHR), Article 4;³⁶ and,

40. In keeping with international law and human rights precedence, we also cite the Nuremberg Military Tribunal, United States c. Oswald Pohl, November 3, 1947; ECHR, Siliadin, 26 July 2005; ICTY, Kunarac, February 22, 2001 and June 12, 2002; ICTY, Krnojelac, 15 March 2002; the ICC, Katanga, September 26, 2008; and the ECOWAS Court of Justice, Hadijatou Mani Koraou c. Niger, October 27, 2008. A noteworthy decision of the Inter-American Court of Rights (September 10, 1993. IACHR, Aloeboetoe et al., Series C n° 15.I/A) found unequivocally that a 1762 treaty between the Netherlands and a tribal group in Surinam which established the rights of the colonial and enslaving nation to re-capture escaped and runaway Africans could not be invoked before an international court. The common law, traditional practices, and modern international laws agree on these fundamental rights of personhood and against the crimes of humanity represented by all forms of human enslavement.
41. This brief and partial Historical Context therefore shows ample evidence of genocidal crimes against humanity perpetrated by the U.S. government.

International Legal Precedents and Traditional People's Justice Systems

42. While accepting the 1946 UN General Assembly definitions of Genocide and the 1948 Genocide Convention as a foundational framework, we see the need to go beyond these definitions to the root meanings noted by Raphaël Lemkin. Lemkin suggested that Genocide includes all that aims *"(to) destroy or (to) demean a whole national, religious or racial group by attacking some members of this group. This attack is a serious threat to life or for freedom, health, economic survival, or for all these conjugated factors. The culprits can be representatives of the state or organized political or social groups."* Always for Raphael Lemkin, *"the genocide aims at the national group as an entity, and the actions in question are directed against individuals, not es-quality, but as a member of the national group."*
43. In this regard, Americans of African descent were indeed the victims of a crime against humanity and genocide during the period of enslavement and well beyond.

³⁶ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

We must therefore consider that the consistent and direct U.S. governmental attacks - on African and Indigenous resistance movements, Black-led freedom movements, and the more recently and specifically targeted Black Panther Party, the American Indian Movement, the MOVE organization of Philadelphia, PA, representatives of the Puerto Rican independence movement including Filiberto Ojeda Rios, contemporary civil and human rights advocates including the Black Lives Matter movement, protestors demanding racial justice and law enforcement accountability, and others - are a continuation of that genocidal legacy.

44. More generally, these attacks on Black, Brown, and Indigenous bodies are part of what Lemkin identifies as genocide in a broader sense than that of 1946, which *de facto* excluded the victims of such a crime. It is now time to resituate the crimes committed since 1492 on Indigenous and Black bodies, and to understand that the structural racism evident throughout the original colonizing Western states cannot end without correcting the injury done to humanity as part of a necessary recognition and repair of this genocidal history. This is the promise of the universal human rights standard to which the U.S. attempts to hold other nations accountable, while reserving an entitlement and exceptionalism for itself. All contemporary organizers who follow in the earlier liberation movement traditions—human rights defenders, trade unionists, proponents of the New Afrikan Independence Movement³⁷, and many others—continue to face destructive and demeaning attacks which include the serious threat to life, freedom, health, economic survival, et al. Therefore, the accumulated need for ongoing repair continues to grow.
45. This is, moreover, what was pointed out in the legal and ethical framework outlined by the [2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance](#) (WCAR), held in Durban, South Africa under the auspices of the United Nations.³⁸ Those proceedings concluded that:
46. “Slavery and the slave trade, including the transatlantic slave trade, were appalling tragedies in the history of humanity not only because of their abhorrent barbarism but also in terms of their magnitude, organized nature and especially their negation of the essence of the victims, and further acknowledge that slavery and the slave trade are a crime against humanity and should always have been so, especially the transatlantic slave trade and are among the major sources and manifestations of

³⁷ Imari Obadele, *War in America: The Malcolm X Doctrine*, Malcolm X Society, 1968; see also Nkechi Taifa, Viola Plummer and Chokwe Lumumba, *De-colonization USA: the Independence Struggle of the Black Nation in the United States Centering on the 1996 United Nations Petition*, House of Songhay, 1997

³⁸ <https://www.un.org/WCAR/durban.pdf>

racism, racial discrimination, xenophobia and related intolerance, and that Africans and people of African descent, Asians and people of Asian descent and indigenous peoples were victims of these acts and continue to be victims of their consequences...

47. *"We recognize that colonialism has led to racism, racial discrimination, xenophobia and related intolerance, and that Africans and people of African descent, and people of Asian descent and indigenous peoples were victims of colonialism and continue to be victims of its consequences. We acknowledge the suffering caused by colonialism and affirm that, wherever and whenever it occurred, it must be condemned and its reoccurrence prevented. We further regret that the effects and persistence of these structures and practices have been among the factors contributing to lasting social and economic inequalities in many parts of the world today..."*

48. *"We recognize that apartheid and genocide in terms of international law constitute crimes against humanity and are major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance, and acknowledge the untold evil and suffering caused by these acts and affirm that wherever and whenever they occurred, they must be condemned, and their recurrence prevented."*

49. It is worth noting that the U.S. and other original colonizing nations resisted 20th Anniversary celebrations of this historic conference and its unprecedented outcomes. Notwithstanding the pattern and practice of racism evident in that behaviour, we reaffirm the [2009 Durban Declaration and Plan of Action Outcome Document of the Durban Review Conference](https://www.un.org/en/durbanreview2009/pdf/Durban_Review_outcome_document_En.pdf)³⁹, which carried on the WCAR work and reiterated that:

50. *"Poverty, underdevelopment, marginalization, social exclusion and economic disparities are closely associated with racism, racial discrimination, xenophobia and related intolerance and contribute to the persistence of racist attitudes and practices which in turn generate more poverty."*

51. Furthermore, they noted that it is *"the responsibility of Governments for safeguarding and protecting the rights of individuals within their jurisdiction against crimes perpetrated by racist or xenophobic individuals or groups or agents of the State."*

52. In specifically condemning *"legislation, policies and practices based on racism, racial discrimination, xenophobia and related intolerance which are incompatible with*

³⁹ https://www.un.org/en/durbanreview2009/pdf/Durban_Review_outcome_document_En.pdf

democracy, transparent and accountable governance,” the 2009 Outcome Document instructs the U.S. to support active measures for reparative justice and an end to all forms of genocidal policy which continue the destructive practices.

53. Among several lasting outcomes of the Durban World Conference were the establishment of an International Year⁴⁰, later expanded to the current International Decade for People of African Descent (2015-2024)⁴¹, and an independent Working Group of Experts on People of African Descent (UNWGEPAD)⁴². Not coincidentally, the two decades since “Durban” have seen growing engagement in the international human rights mechanisms by U.S. residents embracing a “people-centered” human rights mission of awareness and action to apply these principles “at home”. This Tribunal continues the momentum of increasing and impactful U.S. grassroots interventions⁴³ to the global community including the Human Rights Council (HRC)⁴⁴, UNGA⁴⁵, and various Treaty Bodies⁴⁶ via a Human Rights Network reflecting collective efforts of many U.S. NGOs, law schools, human rights educators, independent organizations and individuals. Their commitment to challenging the U.S.’ historic rejection of international human rights standards has been met with characteristic undermining and surveillance, yet unprecedented positive results as well⁴⁷, in terms of global solidarity and accountability⁴⁸. Black, Brown, and Indigenous people continue to organize for justice on human rights terms, especially post-2020 amid the twin pandemics of COVID-19, and white nationalist domestic terrorism underscored by overtly hostile racial politics, new age lynching, and the January 6th insurrection, as mass media and political rhetoric continue to be used as tools to criminalize Black, Brown, and Indigenous people and justify genocide.

54. In the 2016 Report of the [United Nations Working Group of Experts on People of African Descent on its mission to the United States of America](#)⁴⁹, a Legal Framework

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https://www.researchgate.net/publication/265602678_The_2011_International_Year_for_People_of_African_Descent_IYPAD_The_paradox_of_colonized_invisibility_within_the_promise_of_mainstream_visibility

⁴¹ <https://www.un.org/en/observances/decade-people-african-descent>

⁴² <https://www.ohchr.org/en/special-procedures/wg-african-descent>

⁴³ <https://justiceroundtable.org/resource/report-back-full-recording-of-the-people-speak-us-grassroots-voices-at-the-un/>

⁴⁴ <https://www.ungeneva.org/en/news-media/press/taxonomy/term/175/60215/human-rights-council-holds-urgent-debate-current-rationally>

⁴⁵ <https://www.ohchr.org/en/node/1527/permanent-forum-people-african-descent>

⁴⁶ https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/CERD_C_USA_CO_7-9_18102_E.pdf

⁴⁷ <https://www.ohchr.org/en/racism/agenda-towards-transformative-change-racial-justice-and-equality> :

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<https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F47%2F53&Language=E&DeviceType=Desktop&LangRequested=False>

⁴⁹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/183/30/PDF/G1618330.pdf?OpenElement>

was outlined to put into place the “*protection of the human rights of people of African descent*” and, as implied, other related groupings.

55. This Report and framework noted: *“The United States has ratified two of the international instruments related to the fight against racial discrimination: the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. Despite having also signed other relevant instruments, such as the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, which could enhance the protection and recognition of the rights of people of African descent, the internal processes for ratification of these instruments have been stalled for a long time. The United States has not signed and ratified any of the human rights treaties that would allow United States citizens to present individual complaints to the United Nations human rights treaty bodies or to the United States Census Bureau.⁵⁰*
56. *“The United States is subject to the individual complaints procedure in the Inter-American Commission on Human Rights. The Working Group was informed that due to the standing declarations by the United States considering the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as non-self-executing, courts in general in the United States are reluctant to consider international human rights treaties and jurisprudence when these are invoked as independent legal arguments. Owing to these factors, human rights treaties are generally not recognized as giving rise to individually enforceable rights in United States courts.*
57. *“In its first report to the United States, in 2010, the Working Group provided an overview of the strong legal framework in place to combat racial discrimination. The Working Group recognizes that the country’s Constitution, particularly its Thirteenth, Fourteenth and Fifteenth Amendments, in combination with civil rights legislation and the Supreme Court’s jurisprudence, have provided people of African descent with legal tools to combat interpersonal and institutional discrimination. However, having listened to African Americans in different parts of the country, the Working Group considers that civil rights laws are not being fully implemented, and even if fully implemented, they are insufficient to overcome and transform the institutional and structural racial discrimination and racism against people of African descent. Mass*

⁵⁰ See <http://factfinder.census.gov>. A/HRC/33/61/Add.2 5 Inter-American Court of Human Rights.

incarceration, police violence, housing segregation, disparity in the quality of education, labour market segmentation, political disenfranchisement and environmental degradation continue to have detrimental impacts on people of African descent, despite the application of civil rights laws.”

58. In addition, the Working Group was informed that the federal structure of the United States has the virtue of allowing some states to explore more progressive policies, but that *“the autonomy of the states and of local government also allows for the establishment of more regressive policies.”*
59. Among the Recommendations of the Working Group were an acceptance that broad reparations are necessary to stave the continued abuses. They encouraged the U.S. Congress to pass H.R. 40 — the [Commission to Study Reparation Proposals for African-Americans Act](#) — and to “establish a commission to examine enslavement and racial discrimination in the colonies and the United States from 1619 to the present and to recommend appropriate remedies.”⁵¹
60. In recognizing the need to examine, rectify and repair policies which *continued “to the present,”* the Working Group urged the United States *“to consider seriously applying analogous elements contained in the Caribbean Community’s Ten-Point Action Plan on Reparations, which includes a formal apology, health initiatives, educational opportunities, an African knowledge programme, psychological rehabilitation, technology transfer and financial support, and debt cancellation.”* This Panel of Jurists notes that these recommended measures, brought before the UN General Assembly’s Human Rights Council in 2016, have yet to be enacted in any form.
61. Similarly, much work remains to be done with regard to transparency, accountability and justice for genocide against Indigenous Peoples. Historical evidence unearthed, quite literally, in recent years has once again put the cruelty of U.S. and Western policies mandating Indian schools on display for the world to see. The bones of sacrificed childrens’ remains are an undeniable testament to the devastating practice of removal, cultural annihilation and abuse that countless Indigenous children were subjected to as a result of this, and other white supremacist government’s inhumane policies.⁵² Further concerns include the

⁵¹ <https://www.congress.gov/bill/117th-congress/house-bill/40#:~:text=This%20bill%20establishes%20the%20Commission,present%20and%20recommend%20appropriate%20remedies.>

⁵² <https://www.doi.gov/pressreleases/department-interior-releases-investigative-report-outlines-next-steps-federal-indian>

shocking prevalence of missing and murdered Indigenous women⁵³, and the extreme poverty inflicted on Indigenous nations as the divestment and deprivation of structural racism takes its anticipated toll. The recent convening of the Permanent Forum on Indigenous Issues and testimony at the 2021 International Tribunal ensures that these human rights violations do not go unheard, and unaddressed.

Proceedings

The following is a summarised and excerpted presentation of the testimony. A complete list of those testifying and links to full recordings is provided in the Appendix.

Count One: [Police, Law Enforcement, State/Community and Paramilitary Killings](#)⁵⁴

62. Testimony was heard regarding an alarming pattern and practice of police murdering with impunity people of Black, Brown, and Indigenous descent. We were informed that the recent [International Commission of Inquiry on Systemic Racist Police Violence](#) found that “Black people are 3.5 times more likely than white people to be killed by police when Blacks are not attacking or do not have a weapon.”⁵⁵ Disaggregated data for other Peoples is lacking. Given the overall specificity of the work of that Commission, and the overlap of both our work and our personnel (as one of our Jurists served as one of their Commissioners), many of our findings for this Charge are supported by the conclusions of that contemporary Commission.
63. Experts and affected peoples provided confirmation of these systemic human rights abuses, through their assertions that throughout the US, “*the criminal justice system is [itself] very foundationally racist and flawed.*” National Black Police Association Executive Director Ronald Hampton forcefully noted that if the U.S. is to properly deal with police violence and killing, “*we need to address the entire system, not just the police - the arrest of the individual by the police officer - but the entire system, through prosecution to court and then ultimately the incarceration of our people.*” We find Hampton, a retired Washington, D.C. metropolitan police officer with years of

⁵³ <https://ge.usembassy.gov/joint-statement-by-trilateral-working-group-on-violence-against-indigenous-women-and-girls-following-21st-session-of-un-permanent-forum-for-i/>

⁵⁴ <https://www.youtube.com/watch?v=sms81ZIKDSs&t=1873s>

⁵⁵ <https://inquirycommission.org/>

experience and knowledge both locally and nationally, to be an extremely credible source.

64. The results of such systemic violence were dramatically demonstrated by the testimony of Hawa Bah, Mother of Mohamed Bah, who was fatally shot eight times inside his Manhattan home by New York City Police officers. Bah had called for medical assistance.
65. *"I saw my son dying,"* Hawa Bah cried. *"I begged and I said 'please, please let me talk to my son. He never do nothing wrong. I just want to take him to the hospital.' Bah continued sharing her painful memories to the jurists: "Nobody listened to me, they murdered my son in the cold blood and they covered it... It took me six years before I put the truth out from the civil suit. Judge and jury, they're liable, they're still walking around, nothing happened to them but me and my family are suffering. I will never be the same in the rest of my life."*
66. The Bah family was ultimately awarded \$2.21 million after the killing of Mohamed, one act of fiscal restitution among a national and historic epidemic of murder. Despite this well-publicised and financially adjudicated civil case, the police officers involved—in a more typical governmental reaction—did not face charges or recrimination despite having been found to have used unnecessary force.
67. The evidence of systemic policing killings of Black, Indigenous People of Colour (BIPOC) peoples in the United States can be found in the lived experiences of those impacted and also in the research of leading human rights experts. Carrie Mclean, International Human Rights Lawyer, provided expert testimony based on the aforementioned Independent International Commissions' investigation on policing in the United States.
68. *"The Commissioners found that the actions of the police resulted in a pattern of gross violations of the human rights and fundamental freedoms of black people in the United States,"* noted Mclean. *"In addition, based on the evidence given during the hearings and based on systemic racism the commissioners found a 'prima facie' case that crimes against humanity had been committed and the commissioners recommended the crimes against humanity be investigated and prosecuted as allowed by law."*
69. Testimony further pointed to the fact that there has not been adequate legal or policy-level responses acknowledging the genocidal nature of police killings. This lack of accountability and action is what led expert witness UD Nnamdi,

international legal scholar, analyzes the disproportionality in racialized law enforcement abuses and cited statistics elevating racism to the level of a public health crisis. She further recommended specific international mechanisms as a means of holding the United States accountable for its deadly policing practices.

70. *"We currently have had no genocide cases for prosecution under the 2007 genocide accountability act or the implementing legislation under the genocide convention"* asserted Cements, who also noted that there has been no U.S. legislation addressing domestic crimes prosecutable based on the International Convention on Crimes Against Humanity. *"Therefore, we must look to international remedies rather than going after individual police perpetrators."* We must *"look at holding the United States accountable for its failure to abide by international legal standards and human rights norms, so the type of remedies available to Black people are the type of remedies available to any victims of race-based human rights atrocities. That involves reparations that involves truth-telling."*

71. In summary: a medical emergency turns into the shooting of an unarmed individual, unusually acknowledged but without adequate remediation; a leading and retired police officer confirms systemic inhumane practices; a legal expert calls for international intervention and remedies; and a UN report confirms gross human rights violations. These testimonies by expert witnesses provide substantial evidence of the significant human rights abuses and genocidal actions by the United States in the form of police killings. As such, they therefore reinforce our findings that the United States is guilty of genocide. We find the U.S. and its institutions guilty on the first count: systemic and institutionalised police killings and violence against the affected groups under consideration.

Count Two: [Mass Incarceration](#)⁵⁶

72. Testimony emphasized that while U.S. Constitutional law points to the 13th Amendment as the promised abolition of the process of chattel slavery, the facts presented demonstrate a consistent and historic exception—created and enshrined in the Amendment itself—incentivizing the incarceration of people of African descent and others. Furthermore, expert witnesses argued that a school-to-prison pipeline has been set in motion by the racialized policies and programs of the U.S. federal and state governments. One testimonial noted, *"the law is used as a weapon of war"* against Black, Brown and Indigenous Peoples. Further testimony indicates that

⁵⁶ <https://www.youtube.com/watch?v=Kq1AO30dLQ0&t=14s>

there are U.S. policies which have created wars on poverty, on drugs, on terror, and others—together amounting to a war on Black, Brown, and Indigenous Peoples as they disproportionately criminalize their youth and communities.

73. Mass incarceration in the United States, from the statistical evidence alone, spotlights evidence of a genocide committed. There is overwhelming documentation submitted and testimony provided proving the deliberate mental and physical violence experienced by BIPOC caught in the wake of the carceral system. Through the systemic separation of families, destruction of communities, state-sanctioned killing within prisons, jails, death in detention centres (due to [inadequate healthcare, poor safety and sanitation measures](#), and/or [lack of protections against violence](#))⁵⁷, mass incarceration as a whole has been a historic and contemporary tool for committing gross human rights violations amounting to genocide.
74. Jose Saldana, Director of New York's Release Ageing People in Prison, demonstrated the generational impact of mass incarceration and the toll it takes on BIPOC communities: *"In mass incarceration, I see the face of grandfathers, fathers, sons, brothers, grandmothers, mothers and daughters,"* he said. *"They are all scattered across the New York state prison system. Just imagine the devastation that this would do to the family structure and then to the community. Mass incarceration is to eliminate vital parts of families and communities."*
75. Saldana continued, further uncovering the physical and mental harm which mass incarceration causes, especially to youth and entire communities: *"Sixteen and seventeen year old kids languish in prison for thirty or thirty-five years. Coming in at that young age, some die and never return back to their families,"* Saldana noted. *"I see this as neo-genocide because if it was happening to white kids at the level that it is happening to black and brown kids, there would be a public outcry. But it is happening to black kids and brown kids. To me, this is neo-genocide. It's definitely a new form of genocide. It's just as devastating, and it is annihilating the people that it is targeting."*
76. Legal scholar Saleem Holbrook, Executive Director of the Pennsylvania-based Abolitionist Law Centre, added: *"When you have a system that was founded on exploitation that was founded on genocide and its legacy continues today, I don't think there's any alternative but abolition... I think that we have tried for centuries to end it. This is an epidemic in this country that we have been dealing with for generations."*

⁵⁷ https://www.prisonpolicy.org/reports/states_of_emergency.html

77. The systemic genocide of BIPOC communities is also experience throughout the immigration detention system as demonstrated through the testimony of Christin Saldivar, wife of George Saldivar, who at the time of the hearing was detained in custody by Immigration and Customs Enforcement (ICE). *“In the detention facility,”* Saldivar reported, *“[my husband] was neglected medically, mentally, and emotionally. He was starved and then forced to work if he wanted extra food.”*
78. Laura Peniche, a Hotline Manager with Colorado Immigrant Rights Coalition, provided testimony that further established the harms of the immigration detention system, as it is historically rooted in forms of detainment which have subsequently been deemed illegal under U.S. state and federal law. *“While the detention system has massively expanded since 2001, the United States has a long history of racist immigration and detention policies specifically towards immigrants of colour starting in 1790 with the First Naturalisation Act in which white people were granted citizenship based on good behaviour, while Native Americans, enslaved people, indentured servants, free Blacks and Asians were excluded. We see this trend continue with the Chinese Exclusion Act in the 1800s, and the mass detention of Haitian refugees in concentration camps in the 1900s.”*
79. In order for genocide to be fully determined, two main elements–bodily and mental harm–need to be met. As concluded through these testimonies and historical records, mass incarceration in the United States blatantly conforms to Article II requirements of the Genocide Convention’s definition. Since the inception of mass incarceration in the U.S. and its territories, genocide against people of African, Indigenous descent has been consistently committed.

Count Three: [Political Prisoners/Prisoners of War](#)⁵⁸

80. Arguments were made presenting the criminalization of legitimate political protest, most particularly involving human rights activities and struggles of Black, Brown and Indigenous Peoples. One witness testified that it is like a “Counter-Intelligence Program on steroids,” referencing the COINTELPRO practices which have been scrutinised and found illegal even by the US’ own standards of practice: the U.S. [Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities](#) (the Church Committee)⁵⁹ condemned their own government’s practices as basic rights violations. The Church findings concluded

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<https://www.youtube.com/watch?v=PY9NR7ajXuc&list=TLPQMTYwNTIwMjK7nLFcfKRMKg&index=1>

⁵⁹ <https://www.senate.gov/about/powers-procedures/investigations/church-committee.htm>

that, as late as the 1970's, agencies including but not limited to the Federal Bureau of Investigation had, through COINTELPRO and other means, "undermined the constitutional rights of citizens." Testimony before our 2021 Tribunal indicated that these practices have not only continued under other programmatic titles and practices, but - in the case of the treatment of prisoners apprehended and tried on largely political grounds - have intensified in terms of basic cruel and inhuman conditions, as well as regarding interminably long sentences incongruent with non-political defendants charged with similar or worse crimes.

81. Several witnesses testified that with regard to traditional torture techniques, there is ample evidence of solitary confinement lasting for decades, which go far beyond the UN constituted definitions of torture that they defy any modern standard of humane governance. Black Unity Council founder Russell Maroon Shoatz, for example, suffered over twenty-two consecutive years in solitary confinement, mainly as punishment for organising fellow inmates.⁶⁰ Previous testimony of former UN Special Rapporteur on Torture Juan E. Mendez indicated that the UN guidelines suggested anything over fourteen consecutive *days* in solitary should be considered torture, and that Maroon's case was deserving of special attention.⁶¹ Further testimony was presented arguing that decades-long sentences have been imposed for those imprisoned for their political beliefs. One witness stated, "*the U.S. is the only industrialised nation in the world that denies the existence of political prisoners.*"

82. Two former leaders of the Black Panther Party—Sekou Odinga and Jalil Muntaqim—provided in-person testimony before the Tribunal. Muntaqim provided a litany of still-incarcerated Panthers, most having served well over thirty years (a few over fifty years) behind bars, many suffering from life-threatening medical conditions which could be easily alleviated through non-prison hospital treatment. Muntaqim himself served close to fifty years incarcerated, released barely one year before the Tribunal despite having been eligible for parole (and denied it on fourteen separate occasions) since 1993. His testimony recounted denial of parole and other forms of judicial relief despite having contracted COVID-19 while in prison, noting that the U.S. government fears "the setting of precedents" regarding granting any form of release to political prisoners, whatever the parole regulations state or U.S. and UN-recognized humane standards suggest. Muntaqim mentioned that fellow Panther Russell Maroon Shoatz remained in prison despite late-stage cancer, where even compassionate release to allow him to die in a hospice was being denied at the time.

⁶⁰ <https://abolitionistlawcenter.org/2016/02/22/media-release-trial-ordered-in-challenge-to-22-years-of-solitary-confinement-in-shoatz-v-wetzel/>

⁶¹ Mendez and Matt Meyer present on Pacifica Radio/TV Democracy Now! - https://www.democracynow.org/2013/12/23/time_for_compassion_aging_political_prisoners

Immediately following the Tribunal, this Panel of Jurists notes that increasing pressure did lead to Maroon's release—though family members noted that his treatment in prison essentially hastened his death, which occurred just 52 days after his release—very much not a “compassionate” response.

83. Muntaqim has also consistently and convincingly [argued that self-determination statutes relating to people's fighting for sovereignty need to be applied to combatants](#)⁶² of the Black liberation movement/New Afrikan Independence Movement, American Indian Movement, Puerto Rican Independence Movement and related groupings. [Citing U.S. legal history](#), Muntaqim's arguments at very least substantiate and spotlight the fact that members of those movements have been disproportionately jailed, sentenced with more years and harsher conditions than those apolitical citizens convicted of comparable offences, and consistently denied forms of redress whatever their behaviours once incarcerated.⁶³ Though apparently convicted of non-political crimes, Muntaqim testified that the U.S. government and its agencies “criminalise our politics” with leaders targeted before, during, and after incarceration. [Previous Tribunals](#) have long documented these irrevocable facts.⁶⁴
84. Attorney Soffiyah Elijah, formerly of Harvard University's Criminal Justice Institute and Executive Director of the Correctional Association of New York, testified and submitted documentation regarding conditions of confinement faced by U.S. political prisoners. As founder and current CEO of Alliance for Families for Justice, Elijah also noted the widespread effects which political imprisonment has not solely on the individuals incarcerated but on the entire community and movements impacted by these targeted imprisonments.
85. Dr. Johanna Fernandez, who successfully sued the New York Police Department for the criminal records of the Young Lords, ultimately uncovering over one million records documenting many decades of substantial political repression against Black, Brown and Indigenous communities—the largest repository of police surveillance records in U.S. history so far revealed. “*Law and order*,” recounted Fernandez, “*became the language to bring Black people who were resisting racial apartheid to heel.*”

⁶² <https://www.journals.uchicago.edu/doi/abs/10.1086/716494?journalCode=jaah>

⁶³

<https://repositories.lib.utexas.edu/bitstream/handle/2152/10595/Towards+a+new+American+Revolution,+Jalil+Muntaqim.pdf?sequence=2>

⁶⁴ <https://openyls.law.yale.edu/handle/20.500.13051/7730>; See also Matt Meyer, *Let Freedom Ring: A Collection of Documents from the Movements to Free U.S. Political Prisoners*, PM Press, 2008

86. Sekou Odinga, Black Panther elder and founding member of the Black Panther International Section in Algeria, testified that *“based on how they treated me while I was in prison, I’d say that the state also considered me a political prisoner”* even though the U.S. has long denied having anyone in custody who fits that internationally recognized position. Odinga presented evidence of the systemic torture he underwent upon his 1981 capture, including incidents of waterboarding, use of cigars to burn him, and beatings which caused severe damage to his pancreas requiring three months of hospitalisation immediately following his arrest. Odinga noted that *“the international community has recognized, in the Geneva Convention and treaties signed in the UN dealing with colonised and oppressed people, that oppressed people have the right to struggle against their oppressors by any means including arms.”* He described his 16 years at the super-maximum security prison-within-a-prison, the U.S. Penitentiary at Marion, a behaviour modification “control unit” prison with a disproportionate number of political prisoners labelled the most dangerous inmates despite the lack of evidence supporting this claim.
87. Oscar Lopez Rivera, dubbed “the Mandela of the Americas” by the heads of state of Venezuela, Cuba, Nicaragua, and other progressive Latin American governments, spent more than 34 years in jail for his activism for Puerto Rican independence. In his testimony he explained how the U.S. government used the criminalization of political ideas by prosecuting freedom fighters for sedition conspiracy when they could not prove specific violations of law. He recalled the incarceration of independence nationalist leader Pedro Albizu Campos, who spent most of his adult political life in prison for sedition. He also recalled the torture applied to Don Pedro through exposing him to radiation. Lopez Rivera declared that he was put in solitary confinement for twelve years and tortured with sleep deprivation. He was separated from his family and comrades for long periods of time. Echoing decades of findings by the United Nations Decolonization Committee of 24, Lopez Rivera stated *“no Puerto Rican can really state that they have achieved their self-determination.”*
88. Though the question of crimes against humanity—including war crimes and genocide—are still undergoing academic debate from decolonizing perspectives⁶⁵, the case of Puerto Rico overall is clearly central to that of U.S. historical and ongoing human rights abuses. In fact, evidence presented points to ways in which the case of Puerto Rico has helped shape United Nations and international legal policy, as “the

⁶⁵ Lily Hamourtziadou and Shehla Khan. War crimes and crimes against humanity: Decolonizing discourses of international justice. *Journal of Global Faultlines*. Vol. 8(2):147-150. DOI: 10.13169/jglobfaul.8.2.0147

recalcitrant attitude of the United States” has, given its vast power, come to “impede the United Nations [from] performing its role,”⁶⁶

89. Pertaining to the question of self-determination rights, human rights, and genocide, a growing understanding is emerging regarding the specific issues faced by Indigenous Peoples and Peoples of African descent within the U.S. The First International Conference on the Right to Self-Determination and the United Nations, held in Geneva in August 2000, included testimony and review by eminent legal scholars such as Princeton’s Dr. Richard Falk, a United Nations Human Rights Special Rapporteur who serves as a Special Advisor to this Tribunal. There is a consensus concern particularly relevant to the U.S., regarding the connections between forced assimilation, racism, and ethnocide.⁶⁷
90. Attorney Efia Nwangaza presented both oral testimony and substantial documentation of reports previously presented and filed with the [United Nations Human Rights Council in Geneva on several occasions \(including hearings focused on the U.S. Universal Periodic Review and on the UN Convention Against Torture\)](#).⁶⁸ The sum total of anecdotal personal reports, historical evidence, and contemporary documentation provide a clear and ongoing use of political imprisonment as a form of collective repression against Black, Brown and Indigenous leaders of all ideologies and time periods, constituting a deliberate infliction of life-threatening measures calculated to bring about the physical destruction (in whole or in part) of those peoples.
91. Finally, El-Hajj Mauri Saalakhani Director of Operations for the Aafia Foundation detailed ongoing efforts to secure justice and access to freedom for a Pakistani Muslim woman targeted post 9/11 for her activism while a student for 12 years in the U.S. He detailed her kidnapping, extradition and disappearance for 5 years. Dr. Aafia Siddiqui, was detained in Afghanistan where she was shot by an American soldier under suspicious circumstances, brought back to New York City and sentenced to 86 years in the U.S. for attempted murder in the incident in which she was the only one injured. The witness explained the term prisoner of conscience and detailed the example of Imam Jamil al Amin (formerly known as H. Rap Brown), as a long-time COINTELPRO target and survivor. Linking the targeting of Muslims, civil

⁶⁶ Humberto Garcia Muñoz, *Puerto Rico and the United States: The United Nations Role 1953-1975*, file:///C:/Users/mmmsr/Downloads/Puerto_Rico_and_the_United_States_The_Un.pdf

⁶⁷ Y.N. Kly and D. Kly (editors), *In Pursuit of the Right to Self-Determination*, Clarity Press, 2001

⁶⁸

https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT_CAT_CSS_USA_18533_E.pdf

and human rights defenders to the charge of genocide, Mr. Saalakhn emphasized that today's government overreach continues at a heightened level with activists being targeted for "*imprisonment, elimination, extrajudicial killings*" and more - exemplifying a sustained, overt, media-fueled and militarized COINTELPRO on steroids.

Count Four: [Environmental Racism](#)⁶⁹

92. Testimony was received arguing the impact of environmental violence. Expert witnesses in the fields of agriculture, environmental and climate science, and public policy asserted that the climate crisis disproportionately impacts Black, Brown and Indigenous Peoples, constituting both indirect and direct forms of violence and harm. The Prosecution contended that there is a deliberate and callous poisoning of land, water, air, and soil, reflecting the valuing of profits over peoples which threatens the survival of the planet and impacts most devastatingly the lives of Black, Brown and Indigenous peoples.

Rukia Lumumba, the executive director of the People's Advocacy Institute—a Southern-based resource, training and capacity-building incubator for transformation justice—testified that in 2005, in the wake of Hurricane Katrina, the people of New Orleans, Louisiana, "*saw the federal government completely neglect and wilfully allow folks to die.*" For at least three days, state and national authorities "*left people in flood waters with snakes and alligators and every creature you could imagine.*" They were left "*without food and in heat - dying heat, over 100 degrees heat.*" Lumumba added that, while New Orleans was highlighted in the news, the devastation took place not only in Louisiana. "*We saw that same impact in Mississippi,*" she noted, "*and it also hit as well as Alabama.*"

93. However, the United States did not heed the lessons taught by the tragedies of Hurricane Katrina's aftermath and in 2021, BIPOC communities in the South were disproportionately impacted by climate change disasters. "*Just this year, at the beginning of the year, we saw the state fail yet again to respond to keeping our communities safe,*" Lumumba expressed. "*In 19 cities, including the capital city of Jackson, Mississippi, there were over 50,000 residents were without water, after experiencing what people called an 'arctic blast', leaving over 130 pipes busted throughout the city, leaving thousands of residents without heat during the coldest time we have ever experienced in our lives.*"

⁶⁹ <https://www.youtube.com/watch?v=9nmOLfhn40c>

94. As daughter and sister of the former and current Mayors of Jackson, respectively, Rukia Lumumba is in an especially sensitive space to evaluate the city, state, and federal complicity in climate policies which will negatively impact the peoples and communities in question. Not only has a historic lack of response caused suffering during times of crisis, but it has also led to long-term suffering. Instead of investing in additional community resources to curb the impact of future catastrophes, response and infrastructure in cities throughout the American South remains neglected, underfunded, and ignored—resulting in contaminated water systems, and communities steeped in toxic fumes. The toxic materials found in local water supplies have been found to cause major health issues and residents fear exposure, leading them to have to boil water regularly or invest in costly filters in order to have access to clean, potable water. Lumumba recounted the experience she has in her community with water: *“We have a problem with contamination of our water from other substances every time there is a climate disaster, because our pipes are so bad. Things can get into the water supply easily and pipes burst, so every time we have a major crisis there is water contamination. I can't tell you the last time I drank tap water in Jackson without a filter.”*
95. Temple University's Dr. Wende Marshall, an expert on race, class, medicine, science and social change, continued testimony on the contamination and toxicity facing communities of colour. *“The United Church of Christ commissioned a racial justice report [‘Toxic Wastes and Race in the United States’](#)⁷⁰, and found that race was the most significant variable in the location of commercial hazardous waste sites nationally and that's still true today,”* Marshall stated. *“Three out of five commercial hazardous waste sites were in predominantly Black or Latinx communities and the landfills and Black and Brown communities accounted for 40% of the total estimated commercial landfill capacity in the US.”* Marshall went on to share the toll this continuous exposure takes on all communities, but especially on Black, Brown and Indigenous people and on all working-class people across the United States.
96. Omaha Tribal member and environmental activist Nathan Phillips substantiated these claims, also describing both personal and community abuse based on racist policies against Indigenous peoples within U.S. borders. Phillips painful testimony specified concretely the ways in which the forcibly transfer of children to non-Native families is still a practice, one clearly outlined as part of the Genocide Convention.

⁷⁰ <https://www.nrc.gov/docs/ML1310/ML13109A339.pdf>

97. Imani Jacqueline Brown – Forensic architect, fossil fuel extraction and production expert, presented path-breaking interactive research and analysis on environmental violence and racialized global human rights violations perpetrated by states (governments) and multinational corporations. Ms. Brown’s testimony presented the perspective of spatial logics utilizing cutting edge technologies investigating the multigenerational crises resulting from the continuing legacy of settler colonialism and chattel slavery. Her testimony utilized an interactive presentation with digital mapping revealing desecration and otherwise invisible pathogens in Louisiana’s petro-chemical corridor, aka Cancer Alley formerly Plantation Row – in a vivid illustration of capitalism’s generational genocidal impact.
98. Despite scientific proof of the disastrous and preventable effects of these policies and practices, environmental racism and neglect rages on across the country. In their wake, a cycle of human suffering, disease and death is left spreading. These expert testimonies confirm human rights abuses by disinvestment, neglect, and inequity in response to climate disasters which are now part of our foreseeable futures. Continued inaction constitutes genocide through the imposition of measures designed to eliminate peoples due to disease and unliveable conditions.

Count Five: [Public Health Inequities](#)⁷¹

99. The testimony presented for Charge Five highlighted deep public health inequities including both physical and mental manifestations designed to spread rather than cure disease. Further assertions were made that the COVID-19 pandemic and an “inadequate and incompetent federal response to this crisis” magnified the disparate impact of structural racism affecting access to health care. Moreover, testimony was heard regarding indifference to the suffering of groups of people considered expendable due to the profit model of U.S. health care, leaving behind those most vulnerable. The Prosecution argued that, from forced sterilisation to “food deserts” and chemical contamination, from toxic stress based on the environment in which one lives to the criminalization of mental illness, Black, Brown, and Indigenous people are neglected and left out of any illusion of the human right to health.
100. While these crimes are well-documented, they have more rarely been acknowledged, remedied, or addressed, with some very distant from public knowledge of their very existence.

⁷¹ <https://www.youtube.com/watch?v=CdrJO21gT6E>

101. Dr. Marylouise Patterson, paediatrics practitioner, public health expert, and daughter of William H. Patterson (one of the original 1951 “We Charge Genocide” petitioners), opened testimony on this charge by affirming the broad range of violations found not only in experience with the American healthcare system but in social determinants of health. All of these compound and result in health disparities and inequities which have lasted for generations throughout out Black, Brown and Indigenous communities.
102. *“Latinx American, African-American, First Nation Indian Americans and Pacific Islanders’ infant mortality is more than three times that of whites and our maternal mortality is more than twice that of whites,”* Patterson explained. *“Our longevity is at least seven years less, not to mention the poor quality of that longevity. Structural racism is reflected in discriminatory healthcare policies in the underfunding of preventive care, in the fewer and poorer quality healthcare facilities that are chronically understaffed and under resourced, in the rationing of care, in racist curricula in medical nursing and social work schools, in fewer doctors and nurses of colour, in the denial of, or limited access to, the latest treatments or best medications, in the inaccessibility of long-term care, in the leaving out of government coverage for glasses, hearing aids, dental care.”*
103. Additionally, Patterson spoke to the medical atrocities experienced by Black and Brown throughout history—where BIPOC were illegally, inhumanely, and unjustly used as medical experiments and/or subjected to forced medical procedures. She shared examples such as the Tuskegee Experiment, which saw Black men seeking medical treatment being illegally and inhumanely infected with syphilis. She recounted the case of Henrietta Lacks, whose HeLa Cell Line would go on to become the most widely used cell line in biological research, contributing major scientific breakthroughs without her or her family’s consent. Additionally, the undisclosed and forced sterilisations of thousands of Black Women in the South, Indigenous women on reservations, and the women in Puerto Rico point to the direct article of the Genocide Convention stipulating the intention to cause the prevention of births within a community.
104. Reverend Dr. Willard Ashely, a professor at Rutgers University, certified psychoanalyst and certified group psychotherapist, presented further the evidence of public health inequities. His testimony centered on the mental health disparities experienced by BIPOC, especially in the contemporary conversations on racism and discrimination. He described what he referred to as “polite genocide,” where BIPOC who call attention to racially-motivated mistreatment, inequities, and inequalities

are ignored, de-platformed, defamed, and have their mental health, lived-experiences, and qualifications questioned.

105. *“We have polite genocide now you know,” Ashely proclaimed. “It’s not just hanging from a tree, we do it electronically through character assassination. We attempt to dilute your power, to dilute your following so that the minute you get too many folks listening or think that someone is making sense, they’re stopped and demonised. You can be a Black physician and say ‘No, I’m sick’ and they’ll send you home because you don’t know what you’re talking about. You can be Serena Williams—a well-trained athlete, number one in her field—and say ‘something’s wrong with my body’ and they say ‘no, you get the Black girl treatment’. The genocide takes a different form, but it’s still very real.”*
106. Attorney Olga Sanabria Davila, representative of the Committee for Puerto Rico at the United Nations, shared her insights and expertise of the inhuman treatment which Puerto Ricans have faced in the U.S. healthcare system. This, Davila asserted, is [mirrored in the colonial settlement providing further proof of the race/ethnic-based nature of health disparities](#). *“Puerto Rico as a nation was invaded in 1898 and as a result of the impact of colonialism, there has been a massive migration from Puerto Rico to the United States,”* stated Sanabria Davila. *“The problems with inequities in health are reflected not only in Puerto Rico, but in the Puerto Rican community in the United States where at the present time Puerto Ricans represent some of five million people experiencing health issues within the U.S. healthcare system.”*⁷²
107. Chase Iron Eyes of the Lakota People’s Law Project, an Ojibwe Sioux tribal member raised on Standing Rock Indian Reservation and living on the Pine Ridge, closed out the testimonies by sharing his experiences and expertise as a citizen of the Lakota nation. He affirmed the genocidal nature of the United States treatment of Indigenous communities and how this treatment resulted in mental and physical health abuses. *“We’ve got to take full stock and full assessment of the reality of genocide, colonization and racial and working-class subjugation,”* noted Iron Eyes. Describing ancient peoples who lived on these lands long before European conquest and U.S. nationhood, he reflected that the current conditions are *“not something that was experienced by our ancestors.”* In contrast to those long-past day, he remembered that *“my grandfather was born in 1900 and my grandmother and my mother went to these boarding schools which are euphemistically called ‘Residential*

⁷² <https://jpinyu.com/2017/12/15/at-the-united-nations-and-at-home-a-push-to-recognize-puerto-ricos-right-to-self-determination/>

Schools.' But these were not schools in any sense of that word, these were concentration camps—these were torture camps. They are where my hair would have been cut, I would have been sexually assaulted, I would have been raped, my peers would have been assaulted and raped just for speaking their language. Genocide is very, very real for Indigenous nations, on a visceral level."

108. Further materials obtained by the Jurists since the Tribunal have documented alarming patterns of systemic disappearances and murders of at least Indigenous and Black women as well as Black Transgender people, particularly women.

109. In the case of Indigenous women, there is a clear, continuing pattern of systemic murders in communities where they live across the U.S. In 2021, a joint statement by four Indigenous advocacy organizations observed that *"Indigenous women are murdered at a rate 10 times higher than other races in some communities."* They added: *"Hundreds of Indigenous people go missing every year. Many of them vanish without a trace, never to be seen or heard from again. Too many of them are found murdered with their cases often left un-investigated and unresolved by local, state and/or federal authorities."* At the same time, the groups noted that the institutional responses have been grossly inadequate to identify and track down the perpetrators, or even to alert the broad public about the problem: *"[N]one of our relatives to date have received much, if any, attention from the news media, concentrated efforts by law enforcement departments, or an outpouring of financial contributions from ordinary citizens. Indian tribes, communities and family members don't have unlimited financial resources to help U.S. locate our missing relatives."*⁷³

110. In the case of Minnesota, a state with a significant Indigenous population, the Minnesota Department of Health found that between 1990 and 2016, the homicide rate for Native women in Minnesota was seven times that of white women. Further, the state's Missing and Murdered Indigenous Women (MMIW) Task Force found that 27-54 Native American women were missing in Minnesota in any given month from 2012 to 2020. According to Task Force Chair, Senator Mary Kunesh, *"The deep, deep pain that runs through our Indian nations is so heart-breaking. And it really*

⁷³ "Joint Indigenous Organizations Statement About Gabby Petito Case," by StrongHearts Native Helpline, Alaska Native Women's Resource Center, National Indigenous Women's Resource Center and Alliance of Tribal Coalitions to End Violence, September 30, 2021, <https://www.indianz.com/News/2021/09/30/our-missing-and-murdered-indigenous-relatives-deserve-attention-and-resources/>. See also Rosay, André B., "Violence Against American Indian and Alaska Native Women and Men," *NIJ Journal* 277 (2016): 38-45, <http://nij.gov/journals/277/Pages/violence-againstamerican-indians-alaska-natives.aspx>.

cannot continue to be this way, and we have to do our best to make sure that we are eliminating this kind of behavior in our state and across our nation."⁷⁴

111. Dr. Wendelin Hume, professor of criminology at the University of North Dakota, reported in December 2021: *"After suffering massive historical trauma, including through forced relocation and forced assimilation, many Indigenous people do not trust authorities. As a result, they do not report the crimes that are taking place. Crimes that do not get reported typically do not get counted. Problems of jurisdictional authority further complicate the issue of poor data....[T]ribal authorities may lack the resources required for a missing person investigation."* Dr. Hume also notes, *"Missing person cases involving people of color in the U.S. are less likely to be solved than cases involving white victims. U.S. attorneys declined to prosecute two-thirds of the Indian country sexual abuse and related cases referred to them between 2005 and 2009."* The cross-racial nature of these assaults is also clear. Again, Dr. Hume: *"The majority of violence experienced by Native Americans is committed by someone of another race. This interracial violence rate is much higher for Native Americans (70%) than for white (38%) or Black victims (30%). Also, about 90% of Native American rape victims have assailants of another race – typically white."*⁷⁵

112. Similar realities face Black women and girls in the U.S. According to FBI statistics, at least four Black women and girls were murdered per day in the U.S. in 2020, a sharp increase over 2019. A media account notes that "experts caution that even that stark number probably represents an undercount." The article goes on to conclude, "To families of victims and local activists, the release of the data is just the latest reminder that violence against Black women and girls often goes ignored, and should be made a more urgent public priority."⁷⁶ Angela Walker, a Black leader of the U.S. Green Party, commented in 2021, "The epidemic of missing Black girls and women (both cisgender and transgender) in the United States has been underreported for far too long. It is unacceptable that these disappearances are not

⁷⁴ New report: The root causes and first steps to helping the Missing and Murdered Indigenous Women crisis," Dec. 15, 2020, <https://www.kare11.com/article/news/crime/new-report-the-root-causes-and-first-steps-to-helping-the-missing-and-murdered-indigenous-women-crisis/89-e64ab742-8dcc-4a02-962a-f8fb96d98a76>

⁷⁵ "Missing Indigenous women often ignored," Dec. 1, 2021, <https://www.streetroots.org/news/2021/12/01/opinion-missing-indigenous-women-often-ignored>

⁷⁶ "At least four Black women and girls were murdered per day in the U.S. last year," Oct. 6, 2021, <https://www.theguardian.com/us-news/2021/oct/06/black-women-girls-murder-rate-us>

prioritized, and this disregard only highlights the fact that this country does not protect or respect Black girls and women.”⁷⁷

113. Finally, Black Transgender people—especially women—have been especially hard hit by chronically high rates of assaults and murders, which have escalated in recent year in response to increasingly visible political organizing by the Black Trans community. In November 2021, the National Black Justice Coalition, a civil rights organization dedicated to the empowerment of Black lesbian, gay, bisexual, transgender, queer, and same-gender-loving people, stated: “With at least 46 transgender people murdered in the U.S. this year, 2021 is on track to be the deadliest year ever for transgender people in America. The number of deaths compared to the population size of less than 0.8% is a national crisis. For Black people who face an onslaught of violence, the murders of Black transgender people feel like a silent epidemic that prevents every member of our beautifully diverse community from being safe, happy, healthy, and whole.” The coalition also decried the extreme inaction by all levels of government in taking steps to stem this tide of murderous violence.⁷⁸

114. Further perspective was provided by Joe Hawkins, co-founder and CEO of Oakland LGBTQ Community Center, who said, “*People are ready to attack transgender people, just because they’re transgender.*” He said discrimination in housing and employment are factors putting their lives at risk. “*The people who kill them feel that they’re not worthy. Who’s gonna care? Black transgender people deserve and need the support that they have not been given.*”⁷⁹

115. In the public health arena relating to women’s reproductive rights, evidence of systemic racism and explicit bias has been undeniable. From 2007 to 2015, for example, Syria’s maternal mortality rate rose from 26 deaths per 100,000 live births to 31 deaths per 100,000 live births—a result of the country’s war and a crumbling health care system. During the same period in the U.S. capital of Washington, DC, where politicians make decisions about both the U.S. involvement in Syria and in

⁷⁷ (Green Party USA, "As Black Women and Girls Go Missing, and the Media and the Police Do Little, a National Task Force is Required to Address the Issue." January 20, 2021.

https://www.gp.org/as_black_women_and_girls_go_missing_and_the_media_and_the_police_do_little_a_national_task_force_is_required_to_address_the_issue

⁷⁸ (Leading Black LGBTQ+ Civil Rights Group Commemorates Transgender Day Of Remembrance As 2021 Remains On Track To Be The Deadliest Year Ever For Trans People In The United States," Nov. 19, 2021, <https://nbjc.org/nbjc-commemorates-transgender-day-of-remembrance/>)

⁷⁹ (Washington Blade, "Black Trans woman killed in California, 50th violent death of this year," December 7, 2021; <https://www.washingtonblade.com/2021/12/07/black-trans-woman-killed-in-california-50th-violent-death-of-this-year/>

U.S. women's access to reproductive health, the average maternal mortality rate was 33 deaths per 100,000, for women of all races. The rate of maternal mortality for African American women living in the nation's capital was 59.7 deaths per 100,000 live births—worse, according to the World Bank's own data, than Panama, Ecuador, and others.

116. Even high profile and well-insured women like tennis star Serena Williams have spoken out on the impact of medical racism and how it has deadly implications for black mothers. In a survey conducted by NPR, the Robert Wood Johnson Foundation and the Harvard T.H. Chan School of Public Health, 33 percent of Black women said that they personally had been discriminated against because of their race when going to a doctor or health clinic, and 21 percent said they have avoided going to a doctor or seeking health care out of concern they would be racially discriminated against.⁸⁰ But it's the discrimination that Black women experience in the rest of their lives—the double whammy of race and gender—that may ultimately be the most significant factor in poor maternal outcomes.
117. It doesn't matter whether racism is direct or implicit when the policies that are put in place work to continue and further the harm being done to Black and Brown people.⁸¹ Making abortions and birth control illegal while simultaneously not doing anything to address the problems within the health care system will further exacerbate and already dangerous system. Since James Marion Sims, the "*father of modern gynecology*," conducted research on "*enslaved Black women*" without anesthesia, the history of human rights abuse has amplified. Sims' decision to not use any numbing technique was based on his misguided belief that Black people didn't experience pain the way white people did.⁸² It's a notion that persists today, according to a study conducted at the University of Virginia.⁸³ It is undeniable that the impact of repealing Roe V. Wade will affect Black, Brown, and Indigenous women more. From an international legal and human rights perspective, it is not only a question of whether old and new laws will send women deeper into poverty, but whether it will send them to their deaths.
118. The inequities, abuses, and disparities shared by these expert witnesses and additional submitted evidence, serve as proof of the United States' culpability. These current and historical realities are proof of the genocide being perpetrated.

Judgement

⁸⁰ <https://www.colorlines.com/articles/how-restrictive-abortion-laws-kill-black-mothers>

⁸¹ <https://www.npr.org/2017/12/07/568948782/black-mothers-keep-dying-after-giving-birth-shalon-irvings-story-explains-why>

⁸² <https://www.history.com/news/the-father-of-modern-gynecology-performed-shocking-experiments-on-slaves>

⁸³ <https://www.pnas.org/doi/full/10.1073/pnas.1516047113>

119. After having heard the testimony of numerous victims of Police Racism, Mass Incarceration, Environmental Racism, Public Health Inequities, and of Political Prisoners/Prisoners of War, together with the expert testimonies and graphic presentations, as well as the copious documentation submitted and admitted in the record, We the Jurors Hold as Follows:

120. **As to Count One:**

We the Jurists find that the United States, its federal, states and local governments guilty of inflicting police racism and violence against Black, Brown, and Indigenous communities, in gross violations of international and U.S. domestic laws on genocide, civil and human rights, torture, and racial discrimination, in disregard of the *“just requirements of morality, public order, and the general welfare,”* as called for in the Universal Declaration of Human Rights, Article 29, inasmuch:

- A. The United States systemically executes Black, Brown, and Indigenous communities through unchecked practices of Police Brutality.
- B. The United States’ practices police racism and violence through hyper-criminalization of Black, Brown, and Indigenous communities.

121. **As to Count Two:**

We the Jurists find that the United States maintains a criminal justice system that results in hyper mass incarceration in its disregard of the *“just requirements of morality, public order, and the general welfare,”* as called for in the Universal Declaration of Human Rights, Article 29. inasmuch:

- A. The United States has refused to acknowledge clear evidence of systemic racial bias in the administration of its criminal justice system.
- B. The United States has systematically criminalized poverty to the specific detriment of Black and Brown individuals through pretrial detention schemes, the punitive exercise of the cash bail system, and the failure to provide adequate counsel.

122. **As to Count Three:**

We the Jurists find that the United States has committed gross violations of international and U.S. domestic laws on genocide, civil and human rights, torture, and racial discrimination, as it maintains incarcerated and in continued confinement political prisoners/prisoners of war of post-Civil Rights era revolutionaries and activists in disregard of their right to struggle against their historical, systemic, and often, brutal government sponsored and supported oppression.

123. **As to Count Four:**

We the Jurists Find the United States perpetuates environmental racism through the establishment, implementation, and enforcement of practices, policies, and regulations that have intentionally destroyed, in whole or in part, Black communities, by causing serious bodily or mental harm to members of the group; and deliberately inflicting on the group conditions of life that would bring about its physical destruction in whole or in part, in violation of Article II of the Genocide Convention, inasmuch:

124. A. The local, state, and federal government have caused serious bodily harm to Black people by contaminating their water source, delaying information to Flint residents even though state officials were privy to regarding an outbreak of Legionnaires Disease triggered by contaminated water, knowingly allowing residents to suffer from lead poisoning, and being slow to move in correcting the environmental hazard in violation of Article II(b)-(c) of the Genocide Convention.

125. B. The United States failed to produce and enforce environmental regulations and practices to protect Black residents in “Cancer Alley” and perpetuate harmful practices there that are causing Black people serious bodily harm from cancer and pollutants thus deliberately inflicting toxic conditions of life calculated to bring about their destruction, through unsustainable living conditions, in violation of Article II(b) and (c) of the Genocide Convention.

126. C. The United States has deliberately inflicted upon Black people of Louisiana, conditions of life that would bring about their physical destruction through faulty engineering, their negligent approach to preparing for the downfall of Hurricane Katrina in partnership with their inadequate response to Black victims and the disparate treatment of Black and white people with rebuilding and assistance efforts, in violation of Article II(c) of the Genocide Convention.

127. **As to Count Five:**

We find that: The United States has created a health crisis that aids in the destruction, in whole or in part, of the Black and Brown communities, inasmuch:

128. A. The United States has created a substantial mental health crisis in the Black community through a historically oppressive system of mass incarceration and police violence.

129. B. The United States facilitated an inaccessible health care system resulting in disproportionate health issues including long-term disease, conditions, and rates of maternal and infant mortality in the Black Community.
130. C. By and Through its Colorblind Policy Response to the COVID-19 Pandemic Specifically, the United States Has Deliberately Chosen to Perpetuate Conditions Originally Calculated To Annihilate Physical “Unfit” Members of the Black Working Class, thus Continuing its Genocidal, Eugenics-Based Program.
131. Based on these deliberations and the evidence presented to us, we find that the process did sufficiently cover the scope and elements of all five counts in the indictment as having legal standing and hence legitimacy.
132. The Jurists further establish that the grounds for each of the five counts in the indictment presented the basis for successful intervention due to the extensive testimonies of both witnesses and expert witnesses.
133. After having heard the testimony of numerous victims of Police Racism, Mass Incarceration, Environmental Racism, Public Health Inequities and of Political Prisoners/Prisoners of War, together with the expert testimonies and graphic presentations, as well as the copious documentation submitted and admitted in the record, the Panel of Jurists find the U.S. and its subdivisions GUILTY of all five counts. If the more overt practices of genocide, based on racial considerations in order to maintain white supremacy, have been curtailed in the context of modern-day “peace,” their consequences continue as underlined.
134. **We find grounds that Acts of Genocide have been committed.**

Signed 25 October 2021, Preliminary Unanimous Verdict, Church Center for the United Nations, officiated by Dr. Betty Reardon with Omaha Elder Nathan Philips

Delivered 16 May 2022 by Chief Jurist Magdalene Moonsamy to Spirit of Mandela elder Baba Sekou Odinga and SoM Coordinating Committee members dequi kionisadiki and Matt Meyer, officiated by His Excellency Ambassador Mohamed Yeslem Beisat (Western Sahara). Full Final Verdict Rendered 19 May 2022

Please note: Future individual commentaries - from Dr. Alexander Hinton and other Jurists plus members of the Jurists’ Advisory Committee - will be included in the final publication.

Panel of Jurists

1. Chief: Her Honorable Magdalene Moonsamy (South Africa), former Member of Parliament (ANC); Deputy Chair of the African Peer Review Mechanism, an instrument of the African Union; attorney-director of the Women's Justice Foundation; Admitted Attorney of the South African High Court; lecturer of the Law Society of South Africa's Legal Education and Development (LEAD) school
2. Deputy Chief: Wilma E. Reveron Collazo (Puerto Rico), long-standing member and leader, Colegio de Abogados de Puerto Rico (Puerto Rican Bar Association); former Executive Director of the Puerto Rico Center for Research assigned to the United Nations Office of Information on the Right to Self Determination; former Senior Staff Attorney, American Civil Liberties Union
3. Dr. Vickie Casanova-Willis (USA), recent Executive Director, U.S. Human Rights Network; past president, National Conference of Black Lawyers (NCBL); founding member of Black People Against Police Torture; co-organizer of the UN Working Group of Experts on People of African Descent and Working Group on Arbitrary Detention (US Visits); co-author of multiple historic policy-shaping reports including the first UN Universal Periodic Review raising the issue of U.S. Political Prisoners and COINTELPRO
4. Kassahun Checole (Eritrea/USA), CEO and publisher, Africa World/Red Sea Press; renowned Pan Africanist and Pan American scholar; lifetime advisor of the Association of Concerned African Scholars and the African Studies Association
5. Sherly Fabre (Haiti/USA), International Fellowship of Reconciliation United Nations Representative; member, Muslim Peace Fellowship/Community of Living Traditions; co-founder, Proyecto Faro
6. Professor Mireille Fanon Mendès-France (France), former Chair of the United Nations Working Group on People of African Descent; former Commissioner of the 2020 International Commission on Inquiry (Systemic Racist Police Violence against U.S. People of African Descent); Judge of Permanent Peoples Tribunal; Co-Chair of the Frantz Fanon Foundation

7. Dr. Alexander Hinton (USA), Director of the Center for the Study of Genocide and Human Rights, Rutgers University; UNESCO Chair on Genocide Prevention; Distinguished Professor of Anthropology
8. Chairman Brian Moskwetah Weeden (Mashpee Wampanoag), Chairman of the Mashpee Wampanoag Tribe; Bear Heart from Eel Clan; Co-President/Trustee of the United National Indian Tribal Youth (UNITY); Co-Vice President of the National Congress of American Indians (NCAI) Youth Commission
9. Binalakshmi "Bina" Nepram (Manipur/Northeast India), Founder-Director, Manipur Women Gun Survivors Network; Founder-Director, Global Alliance of Indigenous Peoples, Gender Justice and Peace; Board member of the International Peace Bureau (1910 Nobel Peace Laureate)

Special Advisory Committee convened to assist Panel of Jurists

Nozizwe Madlala-Routledge, Chair

Director, Quaker United Nations Office (Geneva); Former Deputy Speaker of the South African Parliament, South African former Deputy Minister of Health; South African former Deputy Minister of Defense

Matt Meyer, Co-Chair

Secretary-General, International Peace Research Association

Members:

Diana Marcela Agudelo-Ortiz (Colombia), Professor/Psychologist, Universidad Externado de Colombia; IPRA Executive Committee

Celia Cook-Huffman (USA), Vice President for Academic Affairs, Manchester University

Richard Falk (USA), Professor Emeritus of International Law, Princeton University; UN Special Rapporteur

Sahar Francis (Palestine), Lawyer/Director, Addameer Prisoner's Support and Human Rights Association

Ela Gandhi (South Africa), Founder/Director, Gandhi Development Trust; South African Member of Parliament (1994-2004)

Janet Gerson (USA), Educational Director, International Institute on Peace Education (IIPE)

Lennox Hinds (Trinidad/USA), African Bar Association; UN Representative of the International Association of Democratic Lawyers; counsel for Nelson Mandela, the African National Congress, and the South African government

Mairead Corrigan Maguire (Northern Ireland), Nobel Peace Laureate (1976); co-founder, Community for Peace People, Northern Ireland

Gustave Massiah (France), Founder, France ATTAC; Secretary General, International League for the Rights and Liberation of Peoples; International Council of the World Social Forum; member, Permanent People's Tribunal

Marie-Lou Nahhas (Lebanon), Actress, *Orange is the New Black*, UN Population Fund spokesperson on girl's and women's rights

Moses John Monday (South Sudan), Convener, Pan African Nonviolence and Peacebuilding Network

Sri Nuryanti (Indonesia), Co-chair, Asia-Pacific Peace Research Association; Researcher, Indonesian Institute of Sciences

Betty Reardon (USA), Founding Director of Peace Education Center, Columbia University; co-founder of IPRA, the International Institute on Peace Education, and the Global Network of Women Peacebuilders

Stellan Vinthagen (Sweden), Endowed Chair of the Study of Nonviolent Direct Action, UMass Amherst; IPRA Council member

Polly Walker (Cherokee/USA), Chair, Indigenous Educators Network; former Director, Baker Institute of Juniata College

Hakim Williams (Trinidad), Professor, Africana Studies and Director, Peace and Justice Studies, Gettysburg College

Prepared and presented with the assistance of Matt Meyer, Secretary-General of the International Peace Research Association (IPRA); Nozizwe Madlala-Routledge, South African former Member of Parliament and National Assembly Speaker and current Executive Director of the Quaker United Nations Office in Geneva; and Amber Crossen, IPRA Executive Intern. Cover designs by Emok Quint

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APPENDIX

Witnesses and Testimony

2021 Tribunal (recordings accessible via YouTube as listed below)

"We Still Charge Genocide"-

In the Spirit of Mandela International Tribunal 2021; October 22-25, 2021

Count One: Police Racism and Violence

<https://youtu.be/sms81ZIKDSs>

- UD Udodilim Nnamdi, JD – International legal scholar; Expert on racialized police violence statistics and racism as a public health crisis
- Ron Hampton - Executive Director, National Black Police Association
- Hawa Bah – Mother of Mohamed Bah, fatally shot eight times inside his home by NYPD called for medical assistance
- Melina Abdullah - Prof of Pan African Studies, Cal State; Founder, Black Lives Matter (LA)
- Kerry McLean - Attorney, Former Commissioner – Int'l Commission of Inquiry on Policing.

Count Two: Mass/Hyper-Incarceration

<https://youtu.be/Kq1A030dLQ0>

- Jose Saldana (RAPP) - Executive Director, Release Aging People in Prison, wrongfully incarcerated for 38 years
- Saleem Holbrook - Executive Director, Abolitionist Law Center; sentenced to death at age 16, incarcerated 27 years, (10 years in solitary confinement)
- Laura Peniche - Colorado Immigrant Rights Coalition Hotline Coordinator
- Christina & Jorge (Colorado Immigrant Rights Coalition)
- Oscar Lopez Rivera – longest held former Puerto Rican Political Prisoner
- Sharonne Salaam - mother of Yusef Salaam, wrongfully accused defendant in the Central Park jogger case; advocate for the rights of the wrongfully accused

Count Three: Political Prisoners/ Prisoners of War

<https://youtu.be/PY9NR7ajXuc>

- Jalil Muntaqim - Black Panther former political prisoner and author; Spirit of Mandela Coordinating Committee

- Soffiyah Elijah - Executive Director, Alliance of Families for Justice; former director of Harvard Law School's Criminal Justice Institute
- Johanna Fernandez - Prof of History at Baruch College CUNY; founder of Campaign to Bring Mumia Home and author *The Young Lords: A Radical History*
- Sekou Odinga - Black Panther former political prisoner and founder of the Northeast Political Prisoner Coalition; Spirit of Mandela Coordinating Committee member
- Efia Nwangaza - South Carolina lawyer; Director, Malcolm X Center for Self Determination
- El-Hajj Mauri Saalakhani - DC based operations director, Aafia Foundation; former director of the Peace thru Justice; activist with Imam Jamil Action Network

Count Four: Environmental Racism

<https://youtu.be/9nmOLfhn40c>

- Rukia Lumumba, Founding Director of the Peoples' Advocacy Institute; M4BL member; Jackson, MS transformative justice practitioner
- Dr. Wende Marshall, Peoples Strike National Organizing Committee
- Imani Jacqueline Brown (recorded) provides testimony. New Orleans-based artist, environmental justice activist, and extractivism researcher
- Nathan Phillips aka *Sky Man*. Indigenous elder of the Omaha people; Standing Rock and Indigenous Peoples March activist
- Nayyirah Shariff, Co-founder of the Flint (MI) Democracy Defense League

Count Five: Public Health Inequities

<https://youtu.be/CdrJO21gT6E>

- Dr. MaryLouise Patterson, retired pediatrician (Weill Cornell Medicine); board member of Physicians for a National Health Program – NYC; daughter of William Patterson (WCG '51)
- Abdul Hafeedh ibn Abdullah, Community health worker and educator, STRYVE Multnomah County Health Department.
- Rev. Dr. Willard Ashley, Psychoanalyst; Sr. pastor and founder of the Abundant Joy Community Church (NJ).
- Olga I. Sanabria Dávila, President of the Committee for Puerto Rico at the United Nations
- Chase Iron Eyes, Oglala Sioux activist raised in Standing Rock and living in Pine Ridge; founder of the Lakota People's Law Project.

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