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Date: Sat, 2 Oct 1999 23:29:05 -0500 (CDT)
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Subject: FW: Indigenous Peoples Tribunal Indictment (1992)
Article: 78565
To: undisclosed-recipients:;
Message-ID: <bulk.27954.19991003091505@chumbly.math.missouri.edu>
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-----Original Message-----

From: Boyle, Francis [mailto:FBOYLE@LAW.UIUC.EDU]
Sent: Tuesday, June 16, 1998 2:01 PM
To: 'AALS Section on Minority Grps. mailing list'
Subject: Indigenous Peoples Tribunal Indictment (1992)

Indictment of the Federal Government of the U.S. for the commission of international crimes and petition for orders mandating its proscription and dissolution as an international criminal conspiracy and criminal organization

**By Francis A. Boyle, Professor of International Law,
18 September 1992**

Introduction

All citizens of the World Community have both the right and the duty under public international law to sit in judgment over a gross and consistent pattern of violations of the most fundamental norms of international criminal law committed by any member state of that same World Community. Such is the case for the International Tribunal of Indigenous Peoples and Oppressed Nationalities in the United States of America that convenes in San Francisco during the weekend of October 1-4, 1992. Its weighty but important task is to examine the long history of international criminal activity that has been perpetrated by the Federal Government of the United States of America against the Indigenous Peoples and Peoples of Color living in North America since it was founded in 1787.

Toward that end, I have the honor to present to the Members of this Tribunal the following charges against the Federal Government of the United States of America under international criminal law. In light of the gravity, severity, and longstanding nature of these international crimes and also in light of the fact that the Federal Government of the United States of America appears to be irrevocably committed to continuing down this path of lawlessness and criminality against Indigenous Peoples and Peoples of Color living in North America

and elsewhere, I hereby petition the Members of this Tribunal to issue an Order proscribing the Federal Government of the United States of America as an International Criminal Conspiracy and a Criminal Organization under the Nuremberg Charter, Judgment, and Principles as well as the other sources of public international law specified below. For that reason, I also request that the Members of this Tribunal issue an Order dissolving the Federal Government of the United States of America as a legal and political entity. Finally, I ask this Tribunal to declare that international legal sovereignty over the Territories principally inhabited by the Native American Peoples, the New Afrikan People, the Mexicano People, and the People of Puerto Rico resides in the hands of these respective Peoples Themselves.

In this regard, I should point out that the final Decision of this Tribunal will qualify as a “judicial decision” within the meaning of article 38(1)(d) of the Statute of the International Court of Justice and will therefore constitute a “subsidiary means for the determination of rules of law” for international law and practice. The Statute of the International Court of Justice is “an integral part” of the United Nations Charter under article 92 thereof. Thus, this Tribunal's Decision can be relied upon by some future International Criminal Court or Tribunal, as well as by any People or State of the World Community that desires to initiate criminal proceedings against named individuals for the commission of the following international crimes. The Decision of this Tribunal shall serve as adequate notice to the appropriate officials in the United States Federal Government that they bear personal criminal responsibility under international law and the domestic legal systems of all Peoples and States in the World Community for designing and implementing these illegal, criminal and reprehensible policies and practices against Indigenous Peoples and Peoples of Color living in North America. Hereinafter, the Federal Government of the United States of America will be referred to as the “Defendant.”

BILL OF PARTICULARS AGAINST THE FEDERAL GOVERNMENT OF THE UNITED STATES OF AMERICA

The Native American Peoples

1. The Defendant has perpetrated innumerable Crimes Against Peace, Crimes Against Humanity and War Crimes against Native American Peoples as recognized by the Nuremberg Charter, Judgment, and Principles.
2. The Defendant has perpetrated the International Crime of Genocide against Native American Peoples as recognized by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.
3. The Defendant has perpetrated the International Crime of Apartheid against Native American Peoples as recognized by the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid.
4. The Defendant has perpetrated a gross and consistent pattern of violations of the most fundamental human rights of Native American Peoples as recognized by the 1948 Universal Declaration of Human Rights.
5. The Defendant has perpetrated numerous and repeated violations of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination against Native American Peoples.

6. The Defendant has systematically violated 371 treaties it concluded with Native American Peoples in wanton disregard of the basic principle of public international law and practice dictating *pacta sunt servanda*.
7. The Defendant has denied and violated the international legal right of Native American Peoples to self-determination as recognized by the 1945 United Nations Charter, the 1966 International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, fundamental principles of customary international law, and *jus cogens*.
8. The Defendant has violated the seminal United Nations Declaration on the Granting of Independence to Colonial Countries and Territories of 1960 with respect to Native American Peoples and Territories. Pursuant thereto, the Defendant has an absolute international legal obligation to decolonize Native American Territories immediately and to transfer all powers it currently exercises there to the Native American Peoples.
9. The Defendant has illegally refused to accord full-scope protections as Prisoners-of-War to captured Native American independence fighters in violation of the Third Geneva Convention of 1949 and Additional Protocol I thereto of 1977. The Defendant's treatment of captured Native American independence fighters as "common criminals" and "terrorists" constitutes a "grave breach" of the Geneva Accords and thus a serious war crime.
10. The Defendant has deliberately and systematically permitted, aided and abetted, solicited and conspired to commit the dumping, transportation, and location of nuclear, toxic, medical and otherwise hazardous waste materials on Native American Territories across North America and has thus created a clear and present danger to the lives, health, safety, and physical and mental well-being of Native American Peoples in gross violation of article 3 and article 2(c) of the 1948 Genocide Convention, *inter alia*: "Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; ..."

The New Afrikan People

11. The Defendant has perpetrated the International Crime of Slavery upon the New Afrikan People as recognized in part by the 1926 Slavery Convention and the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. The Defendant has illegally refused to pay reparations to the New Afrikan People for the commission of the International Crime of Slavery against Them in violation of basic norms of customary international law requiring such reparations to be paid.
12. The Defendant has perpetrated innumerable Crimes Against Humanity against the New Afrikan People as recognized by the Nuremberg Charter, Judgment, and Principles.
13. The Defendant has perpetrated the International Crime of genocide against the New Afrikan People as recognized by the 1948 Genocide Convention.
14. The Defendant has perpetrated the International Crime of Apartheid against the New Afrikan People as recognized by the 1973 Apartheid Convention.
15. The Defendant has perpetrated a gross and consistent pattern of violations of the most fundamental human rights of the New Afrikan People as recognized by the 1948 Universal Declaration of Human Rights and the two aforementioned United Nations Human Rights Covenants of 1966.

16. The Defendant has perpetrated a gross and consistent pattern of violations of the 1965 Racism Convention against the New Afrikan People. The Defendant is the paradigmatic example of an irretrievably racist state in international relations today.

17. The Defendant has denied and violated the international legal right of the New Afrikan People to self-determination as recognized by the United Nations Charter, the two United Nations Human rights Covenants of 1966, customary international law, and *jus cogens*.

18. The Defendant has illegally refused to apply the United Nations Decolonization Resolution of 1960 to the New Afrikan People and to the Territories that they principally inhabit. Pursuant thereto, the Defendant has an absolute international legal obligation to decolonize New Afrikan Territories immediately and to transfer all powers it currently exercises there to the New Afrikan People.

19. The Defendant has illegally refused to accord full-scope protections as Prisoners-of-War to captured New Afrikan independence fighters in violation of the Third Geneva Convention of 1949 and Additional Protocol I thereto of 1977. The Defendant's treatment of captured New Afrikan independence fighters as "common criminals" and "terrorists" constitutes a "grave breach" of the Geneva Accords and thus a serious war crime.

The Mexicano People

20. In 1821, Mexico obtained its independence from colonial Spain as a sovereign Mestizo State, extending from Yucatan and Chiapas in the south, to the northern territories of California and New Mexico, which areas the Defendant today calls the "states" of Texas, California, Arizona, Nevada, Utah, New Mexico, and Colorado. Nevertheless, in 1836 so-called "settlers" under the sponsorship of the Defendant began the division of the Mexicano People and State by causing the division of the Mexican state of Coahuila-Texas into the Mexican state of Coahuila and the so-called "republic" of Texas.

21. In 1846, the Defendant perpetrated an unjust, illegal and unjustifiable war upon the remainder of the sovereign People and State of Mexico that violated every known principle of public international law in existence at that time, including, but not limited to, the Christian Doctrine of "just war," which was the then reigning standard of customary international law. As a result thereof, the Defendant illegally annexed close to 51% of the territories of the sovereign State of Mexico by means of forcing it to conclude the 1848 Treaty of Guadalupe-Hidalgo under military duress. For these reasons, this Treaty was and still is null and void ab initio as a matter of public international law. The Defendant acquired more Mexican territory through the Gadsden Treaty (Purchase) of 1854.

22. Since these 1848 and 1854 Treaties, the Defendant has perpetrated the International Crime of Genocide against the Mexicano People living within these occupied territories, as recognized by the 1948 Genocide Convention.

23. The Defendant has perpetrated the International Crime of Apartheid against the Mexicano People living within these occupied territories, as recognized by the 1973 Apartheid Convention.

24. The Defendant has perpetrated a gross and consistent pattern of violations of the most fundamental human rights of the Mexicano People living within these occupied territories, as recognized by the 1948 Universal Declaration of Human Rights and the two aforementioned United Nations Human Rights Covenants of 1966.

25. The Defendant has perpetrated a gross and consistent pattern of violations of the 1965 Racism Convention against the Mexicano People living within these occupied territories.

26. The Defendant has denied and violated the international legal right of the Mexicano People living within these occupied territories to self-determination, as recognized by the United Nations Charter, the two United Nations Human Rights Covenants of 1966, customary international law, and jus cogens.

27. Since the militarily-imposed division of the Mexican State, the Defendant and its agents have militarily occupied other portions of the Mexican State, have sought to influence the outcome of the Mexican Revolution of 1910, have practiced a consistent pattern of intervention into Mexico's internal affairs, all of which have resulted in the arresting distortion and deformation of the Mexican social and economic order. In this regard, Defendant's so-called "North American Free Trade Agreement (NAFTA)" constitutes nothing more than an attempt to impose its hegemonial imperialism, economic colonialism, and human exploitation upon the People and State of Mexico.

28. The Defendant has illegally refused to apply the United Nations Decolonization Resolution of 1960 to the Mexicano People and to these occupied territories that they inhabit. Pursuant thereto, the Defendant has an absolute international legal obligation to decolonize both the Mexican occupied territories and the Republic of Mexico immediately, and to transfer all powers it currently exercises there to the Mexicano People.

The People and State of Puerto Rico

29. Since its illegal invasion of Puerto Rico in 1898, the Defendant has perpetrated innumerable Crimes against Peace, Crimes against Humanity and War Crimes against the People and State of Puerto Rico as recognized by the Nuremberg Charter, Judgment, and Principles.

30. The Defendant has perpetrated the International Crime of Genocide against the Puerto Rican People as recognized by the 1948 Genocide Convention.

31. The Defendant has perpetrated the International Crime of Apartheid against the Puerto Rican People as recognized by the 1973 Apartheid Convention.

32. The Defendant has perpetrated a gross and consistent pattern of violations of the most fundamental human rights of the Puerto Rican People as recognized by the 1948 Universal Declaration of Human rights and the two aforementioned United Nations Human Rights Covenants of 1966.

33. The Defendant has perpetrated a gross and consistent pattern of violations of the 1965 Racism Convention against the Puerto Rican People.

34. The Defendant has denied and violated the international legal right of the Puerto Rican People to self-determination as recognized by the United Nations Charter, the two United Nations Human Rights Covenants of 1966, customary international law, and jus cogens.

35. The Defendant has illegally refused to apply the United Nations Decolonization Resolution of 1960 to Puerto Rico. Pursuant thereto, the Defendant has an absolute international legal obligation to decolonize Puerto Rico immediately and to transfer all powers it currently exercises there to the Puerto Rican People.

36. The Defendant has illegally refused to accord full-scope protections as Prisoners-of-War to captured Puerto Rican independence fighters in violation of the Third Geneva

Convention of 1949 and Additional Protocol I thereto of 1977. The Defendant's treatment of captured Puerto Rican independence fighters as "common criminals" and "terrorists" constitutes a "grave breach" of the Geneva Accords and thus a serious war crime.

An International Criminal Conspiracy and a Criminal Organization

37. In light of the foregoing international crimes, the Defendant constitutes an International Criminal Conspiracy and a Criminal Organization in accordance with the Nuremberg Charter, Judgment, and Principles and the other sources of public international law specified above. The Federal Government of the United States of America is legally identical to the Nazi government of World War II Germany. Indeed, the Defendant's President, George Bush, has proclaimed a so-called "New World Order" that sounds and looks strikingly similar to the "New Order" proclaimed by Adolph Hitler over fifty years ago.

Conclusion

Like unto a pirate, the Defendant is *hostis humani generis*: The enemy of all humankind! For the good of all humanity, this Tribunal must condemn and repudiate the Federal Government of the United States of America and its grotesque vision of a "New World Order" that is constructed upon warfare, bloodshed, violence, criminality, genocide, racism, colonialism, apartheid, massive violations of fundamental human rights, and the denial of the international legal right of self-determination to the Indigenous Peoples and Peoples of Color living in North America and elsewhere around the world. Consequently, this Tribunal must find the Defendant guilty as charged on all of the counts specified above beyond a reasonable doubt. This Tribunal must also issue an Order that formally proscribes the Federal Government of the United States of America as an International Criminal Conspiracy and a Criminal Organization. This Tribunal must also issue a separate Order mandating the dissolution of the Federal Government of the United States of America as a legal and political entity. Finally, this Tribunal must declare that international legal sovereignty over the Territories principally inhabited by the Native American Peoples, the New Afrikan People, the Mexicano People, and the People of Puerto Rico resides, respectively, in the hands of these Peoples Themselves. The very lives, well-being, health, welfare, and safety of the Indigenous Peoples and Peoples of Color living in North America and elsewhere around the world depend upon the ultimate success of your deliberations.

Respectfully submitted by,

FRANCIS A. BOYLE
PROFESSOR OF INTERNATIONAL LAW
SPECIAL PROSECUTOR

Dated: September 18, 1992

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See USA on Trial: The International Tribunal on Indigenous Peoples'and Oppressed Nations in the United States. The Book and Verdict are available from Editorial El Coqui, 1671 N. Claremont, Chicago Illinois 60647. Or you can try calling the Puerto Rican

Cultural Center in Chicago at 312-342-4295. The Video can be obtained from Mission Creek Video, PO Box 411271 San Francisco CA 941141 (phone:415-695-0931).
