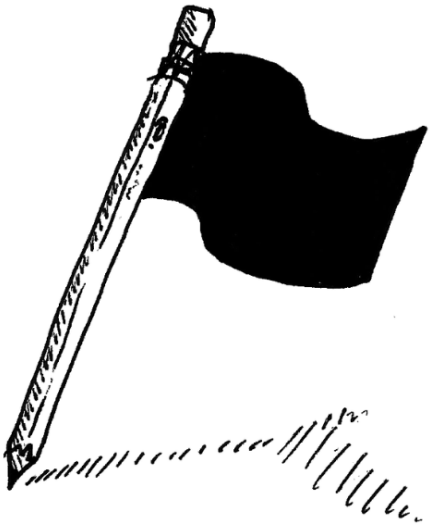
Guerrilla Litigation and Re-imagining Outside Support

by Anarchist Prisoner Sean Swain



An Introduction

I have a piece of advice for any prisoner thinking about pursuing legal action, the same advice I would give anyone: Don't do it.

Don't file the grievance. Don't go to the courts. Don't fight those in power. Don't do it.
Learn to live with whatever happened to you. Stop reading here. You can't win. I don't know the facts of your case, true, but I know this: You can't win. So, it's quicker, easier, cheaper, more painless to live with whatever has been done to you.

To even get a court to look at any kind of civil action you file against the state's employees, you must first exhaust the grievance process. You're not allowed to skip it and go straight to court. And courts later on will insist that you have to detail ALL of the claims you intended to raise in court, and you have to list ALL of the relief you'll seek from the court - monetary damages, declaratory and injunctive relief - and the prison administrators who run the prison grievance process require you to do it in the space provided on the grievance forms.

So, good luck with that. Good luck detailing 20 pages of legal brief into a space the size of a playing card.

If you don't, when you finally get to court, you'll be kicked out. The court won't even consider your case. And they will still charge you the money for filing it in the first place.

Now, once you cram 20 pages of legal brief into a space the size of a playing card, you submit your complaints and grievances to institutional inspectors or ombudsmen at the prison level who are regularly trained in seminars given by prison system lawyers. Those lawyers teach them the latest tricks to confuse and frustrate you. The local inspectors will enforce strict time limits on you, but not on staff. They'll stall you. Sometimes for months.

Depending on how good your claims are, they'll whisper to the staffers you have complained against, and they'll retaliate, sending their co-workers to shake your cell down. A lot. You'll pop up on every "random" urinalysis test. All the time. Your visitors will be harassed for inappropriate clothing. You'll receive hole-shots for really incredibly mind-numbingly stupid allegations - I saw one guy ordered by a captain to stop breathing, and the captain stood and waited as the prisoner held his breath... and when he finally breathed, the captain had him tossed in the hole for disobeying a direct order, breathing in the hallway. No shit.

Your legal work will disappear while you're in lock-up. You'll get moved from cell to cell, forced to live with really deranged and predatory prisoners that everyone tries to avoid.

Any answer you get at a local level will allege that you did something wrong when you filed, or you missed a deadline, or you don't know what you're talking about. If the actual merits of what you presented even get addressed, the prison employee responding to your complaint will pretend not to understand what you described, and will write an answer totally and completely unresponsive.

If you take that answer to the next level at the institution and successfully untangle the mess created at the first level, and if you disassemble the reason given for turning you down, the official at the second level will merely present some new rationale for what you did wrong when you filed, or assert some other deadline you missed, or reaffirm you still don't know what you're talking about. No matter how clearly you describe the problem, they will find a way to misunderstand you and answer unresponsively.

When you finally get denied on the local level, you typically send appeals to the prison system's central office. Those appeals will disappear in the mail.

A good friend of mine, AdamBomb, had appeals pending over a year. So did I. I prepared mandamus actions in court for Adam and for me, actions designed to get courts to order officials to do what they are obligated to do. The attorney general, representing the chief inspector, did not know Adam and I were working together, and filed answers to both actions in court claiming our appeals to central office must have been lost in the mail... that, after a year of awaiting answers, we learned that the chief inspector claimed to never receive the appeals in the first place.

Adam and I got with other prisoners whose appeals had been "lost" in the mail, and we consulted the postal service's own data on the success of mail delivery in the United States. We discovered that the chief inspector's "lost" incoming mail was responsible for more than a year's worth of unsuccessful deliveries.

The chief inspector's office was a cosmic anomaly, the Bermuda Triangle of mail delivery. Adam's action and mine were dismissed. The courts determined that, despite specific rules or laws that say otherwise, prison officials have no obligation to provide answers to grievances or to grievance appeals. They can just remain silent... for months... or years... as you wait and wait... experiencing heightened retaliation from ruthless thugs with 360-degree full-spectrum control over every aspect of your life.

And so, the courts require you to exhaust grievances before going to court... and the courts have told prison officials they don't have to provide you answers and allow you to exhaust them. Thus, the burden is on you to exhaust while the courts and prison officials collude to make it impossible to ever exhaust.

But let's pretend you do manage to jump through those flaming hoops. Now you're finally heading to court. A judge is going to hear your case.

News flash, but it's very rare to find a judge who was not a prosecutor. That means a judge's primary claim to fame before putting on that black robe was to put people like you behind bars. The judge worked with the cops, developed a whole world view of "us" against "them." And YOU are not part of "us." You are most definitely part of "them."

That judge, while your case is pending, is going to be sending dozens of other criminal defendants into the bowels of the prison industrial complex that you're sniveling about, and that judge will do it without blinking an eye. We're not talking about a sympathetic or even an impartial audience here. That judge has been hating you - or someone just like you - for an entire career, and has made good money and reputation by hating you.

When you finally get your action filed, the state agents who did terrible and reprehensible things to you will go on with their lives unaffected. The civil actions get handled by the state attorney general or, in the federal system, by the U.S. attorney general. All of them are likely former prosecutors who hate you.

Ohio has several skyscrapers filled with assistant attorneys general who do nothing more than defend the state's terrible and reprehensible monsters from prisoners like you. They have whole cans of attorneys, hundreds and thousands of lawyers, and those lawyers are aggressive and ruthless. They will file piles and piles of paperwork, malign you, overwhelm you. And the state agents who did terrible and reprehensible things to you don't have to pay them a dime. Representation is free.

Costs to YOU are NOT free. No. Even if the courts accept you as indigent, in most jurisdictions, you still have to pay the exorbitant filing fees. The federal courts will charge you as much as $425 to file an action in their courts, and will simply garnish your prison account until that's paid. For many of us, that amount of money equates to about two-and-a-half year's worth of income.

Also, you have to find a way to pay for copy costs and mailing costs and paper and pens while the court is snatching away all your money. If you fail to file something on time because you had no money for postage, the court doesn't want to hear it. Dismissed.

And, in the meantime, if you have a really good claim against your captors, expect the retaliations to multiply. You'll get transferred to other institutions and your legal work will be lost. You'll get tossed in the hole and your legal work will be lost. You'll regularly end up where you can't get effective law library access or do legal research, and your efforts to alert the courts of any of this will just annoy that former prosecutor in a black robe hearing your case and wondering why you snivel so much.

That former prosecutor would rather be playing golf than dealing with you. No. Really. Judge Jack Zouhary, in the U.S. District Court in Toledo, has never seen a prisoner-filed case he could not find some rationale for dismissing. He has close to a 100% dismissal ratio for prisoner actions. So, he weeds out cases that way. Few prisoners pay the exorbitant fees to appeal the dismissal to the circuit court; of those who do, fewer succeed. And for those who do appeal and succeed, Zouhary begrudgingly gives them their day in court.

It's even worse if you're complaining to state courts. In Ohio, prisoners must file a sworn affidavit with any new civil action, declaring all civil actions filed in the last five years - where they were filed, the name of the judge, who got sued, what the claims were, the case number, the

date it was filed, the outcome of the case, and the date of the outcome, as well as whether or not the court determined you to be a malicious litigator. Failure to include all of that information about every single case you previously filed in the last five years is grounds for dismissal. And, if you've never filed anything before, you better declare that - or your case will get dismissed.

Also, no one will tell you about this fine-print technical shit. You won't find out until your case is dismissed... and you still have to pay for it. And if you re-file after dismissal, that's a whole new set of court costs. Years of being broke.

All of that might be worth it, you may think, if that's the price for getting justice... but it isn't. It's the price for injustice. Your rights aren't what they think they are.

A prisoner I knew was held in a cage the size of a phone booth for roughly two days, forced to piss and shit in the corner. He was over three hundred pounds and could not lay down to sleep in the small space provided for him. He wanted to sue prison officials for cruel and unusual punishment. Problem is, the federal circuit court had previously ruled in a case where a prisoner spent several days in a space that size and had not so much as been provided food or water... and determined that it did not meet the threshold of cruel and unusual punishment.

Not to belabor the case law here, but the U.S. courts have done a deliberate and calculated job of defining "cruel and unusual" as essentially involving physical injury. Anything "bloodless" is not actionable in court. At the same time, the U.S. is the foremost leader in researching and developing "enhanced" techniques of bloodless torture, which is far, far more effective for disassembling a human personality than infliction of physical injury.

So, torture is perfectly constitutional, so long as expert torturers do not leave bruises or wounds.

Free speech doesn't exist. "Equal protection" does not mean equal protection. The recent incarnation of the supreme court has determined that in the prison disciplinary processes, due process does not apply unless there results a "significant and atypical hardship" as a consequence. Years in solitary doesn't count as a "significant and atypical hardship." In fact, virtually nothing constitutes a "significant and atypical hardship." So, prisons can conduct disciplinary hearings however they like, using their power to punish political undesirables, litigators, and so on, and courts generally will not intervene.

In the 1980s, the supreme court issued an opinion in a case where they said that prison management is a complex business and courts should generally defer to prison officials on matters of what constitutes "safety" and "security," thus leaving it to wardens and staffers to determine what rights they need to infringe in order to maintain order... as if maintaining health

care systems or religious institutions or bars or restaurants or power plants or radio stations are not complex businesses.

For all practical purposes, this signaled the courts' reluctance to remain in the prisoner rights business.

Further still, you should also keep in mind that the rights the courts say you have are not the rights you have. Just because the courts have already ruled in a prior case just like yours and the prisoner won, that's no indication that you'll win too. Here's why:

In the federal courts and in most state courts, you have three levels. You have the trial court at the bottom of the hierarchy, an appeals court in the middle, and a supreme court at the top. The trial court's job is to apply the law as that law is interpreted by the supreme court and court of appeals. Its job is to follow what the higher courts say. If there is no case that speaks directly to the issue in controversy, then the trial court uses higher courts' decisions to inform an approach to the controversy and makes a ruling.

Except that doesn't happen.

The trial court picks winners and losers. Flat out. It ignores higher courts whenever it feels like it.

So, when the trial court picks you to lose - and you lose, you appeal to the court of appeals and point out that the trial court completely ignored thousands of years of unanimous case precedent. The court of appeals might or might not care. It depends more on what they think of that trial judge than what they think of your case. If they play golf with that trial judge, if he's on their bowling team, if he was a member of their favored fraternity in college, then the court of appeals will go out of its way to misunderstand your issue or else find an incomprehensible way to excuse the trial court's behavior.

They will do this even though the trial court clearly disobeyed a clear and decisive opinion of the supreme court. The reason is, they can. Here's why:

The supreme court cherry-picks the cases it hears. It only addresses novel questions. Once that question is settled, it moves on and never looks back. So, if, for example, a case arises as to whether the state can use "prior bad acts" a defendant committed to prove guilt in the case at bar, the supreme court may hear that case and rule that the state is forbidden from introducing "prior bad acts." It's unconstitutional.

At your trial, the state introduces testimony of prior actions of yours and argues that if you did it before, you likely did this too. The trial court lets the state do that. You get convicted and appeal, and the court of appeals carves out an exception in your case due to some incomprehensible rationale.

What do you do?

You appeal to the supreme court and explain the "prior bad acts" issue... and the supreme court refuses to take your case. Why? It already answered that question.

So, this reveals the ultimate flim-flam that the judicial structure perpetuates. The highest courts SET the precedents but don't ENFORCE them... while the lower courts find ways to subvert and navigate around those precedents, remaining free of any real oversight in doing so. And, they do this while projecting the idea of a “rule of law,” and “equality before the law,” as if there is an objective approach to jurisprudence that provides a kind of scientific and exact result for everyone. Nothing could be further from the truth.

You’ve got the system that’s on paper... and you've got a whole different system in practice. As a consequence, every litigant coming before every court really does so in a vacuum, as if nothing has ever come before. How you are treated depends on who you are, who you know, and how the court perceives you in terms of social capital.

Where does that leave prisoners? Exactly.

A Conclusion and a Beginning

Taking all of this together, it is clear that a prisoner cannot approach the grievance process or the courts or even the legislative oversight committees expecting any substantial justice, no matter what the situation is. Short of digging mass graves and shooting prisoners in the head, prison administrators can get away with just about anything committed against anyone. So, it is a great act of naivety to expect an inspector or a judge to “do the right thing.” We cannot approach those in power with any sense that a fair outcome can result; we cannot be personally invested in what results from grievances or lawsuits or complaints to oversight committees.

That is not to say that we should lay down and accept the world as it is. It is to say that we have to re-imagine our approaches to these authorities, re-imagine how we confront even the courts,

how we develop systems of support inside and outside of the prison complex to coordinate strategies that envision grievances and lawsuits and complaints differently.

When we imagine that prison officials are the enemy... and the oversight committees are their accomplices... and judges are their enablers... and the attorneys general are their apologists... then we have to recognize that all of those components of state power are the enemy, are forces waging an undeclared war, and they are, then, legitimate targets for the war we wage in response. So, this re-imagined approach to confronting the system rather than petitioning it is something I have termed “Guerrilla Litigation.”

There are many facets to this, depending on the resources available, the willingness of the people involved to engage, and the structures those people can develop.

Moving the World: Application of Guerrilla Strategy to Prisoner Litigation and Support

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"You cannot trust those in power unless you have a way to hold them in your hands."

- Unnamed Rebel from the Tupac Amaru guerrilla movement in Bolivia

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"When the oppressor gives you two options, always take the third."

-Meir Berliner, who died in guerrilla fighting against the SS at Treblinka Death Camp

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Physics

A famous dead physicist once snarkily observed that if he had a big enough fulcrum and a long enough lever, he could “move the world.” Descartes, perhaps? I don't remember. Anyway, what he meant was, if you lay a plank across the top of a rock, sort of like a teeter-totter on the playground, only wedging one end of that plank under the object you wish to move, you can apply downward force on the opposite end - and the longer the plank is, the bigger the rock, the more your downward force is multiplied to push up on the object at the other end.

Leverage

He was talking about “moving the world” in a way far different than how radical anarchists want to “move the world,” but there is something to be gained from pondering this famous dead physicist’s observation.

Consider: we often think of institutions of our hierarchical order as permanent fixtures, firmly grounded both in place and in history, perpetual, permanent, immovable. The administrators and officials of those institutions certainly see their institutional power that way. Even the structures in which power ostensibly resides reflect this immovability - made of granite, marble, brick, projecting permanence in a very tangible way. Statehouses, courthouses, prisons, all very solid and permanent and forever. And the authority of those who run these institutions has, in the modern era, been very scientifically and methodically centralized, concentrated, immunized from any effective challenge that could conceivably occur in the established channels of redress that those in power dictate to us.

This unquestioned perception of institutional permanence divests us of any sense that we can recreationally “cow-tip” this system, just shove it over and run. We are dissuaded from trying... from thinking about trying... from even imagining what trying might look like. Cow-tipping something so permanent and powerful would be like trying to cow-tip the gods. If we continue to only avail ourselves to the channels of redress dictated to us by those in power, and if we only do it the way they designed it, we will appeal to their courts... vote... lobby for reform legislation... petition... build movements composed of larger and larger numbers of the powerless and dispossessed... peacefully protest... and snivel at the results. We will continue to ask power to operate differently, and power will unilaterally opt to keep operating as it has for the last 8,000 years of swivelization

In such an approach, we lack leverage.

So, what follows in subsequent sections is a collected vision of resistance that might make a famous dead physicist happy... if he wasn't, well, already dead. I propose abandoning the traditional approaches to power and even abandoning our false conception of how the bilateral relationship of power actually operates, so that we may figuratively create a larger fulcrum, a longer lever, and by doing so, “move the world.” We develop a strategy for gaining leverage, applying force to move an otherwise seemingly immovable system.

What I present is greatly informed by the strategies and tactics of irregular warfare or “guerrilla warfare,” to the extent that the principles of guerrilla theory can aptly be applied to the context of prisoner litigation and prisoner support. As such, before presenting the vision for guerrilla

litigation and support, it is necessary to briefly premise my arguments with an overview of guerrilla warfare, its theory and general principles as I apply them.

Guerrilla Warfare

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"We are walking on pure history...
and we know it."

-Che Guevara, who died waging
guerrilla war in Bolivia

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"We are the dignity of rebellion."

-Insurgente Marcos of the
Zapatista National Liberation Army

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Guerrilla warfare in western history traces its origins back to the invasion and colonization of the New World, where Europeans first encountered indigenous fighting methods wholly foreign to their European minds. Traditionally, Europeans marched out to the field of battle, arranged themselves in ranks across from their opposing force, and politely gunned one another down while observers ate cake and drank tea on the side.

Something like a game of football. Only with muskets.

In contrast, indigenous tribes engaged in a hit and run kind of ambush strategy, attacking by surprise and then just as quickly melting away, vanishing into the wild.

Revolutionaries in the war for American independence used these tactics to great success, defeating the British forces.

An analysis of guerrilla warfare reveals a handful of very important principles that must be followed for guerrilla warfare to be successful and, also, for guerrilla warfare to be guerrilla warfare.

The guerrilla must always have the initiative. That is, the guerrilla always plans the engagement and carries it out on the guerrilla's terms, serving the guerrilla's larger agenda. At no time does the guerrilla stand and fight when the regime's forces initiate the combat. Instead, the guerrilla

withdraws, avoiding encirclement, content not to hold ground, regrouping to instead attack the enemy at some other point where the enemy is weak and unprepared.

The guerrilla always attacks with maximum force and numbers where the enemy is weakest, in situations most-advantageous to the guerrilla and least-advantageous to the regime forces. More important to the guerrilla than body-counts or other such metrics that seemingly matter so much to military officials of existing governments is the guerrilla's ability to capture weapons and material from regime forces and to gain actionable information from regime forces' captives. It is more important to project the sense of their dignity and legitimacy to the population for whom they fight - the population whose support is absolutely vital for the guerrilla's survival.

Writer Robert Taber equates guerrilla warfare with "the war of the flea." The flea is seemingly small and powerless compared to the terrifying dog on which the flea feeds. But the dog's sharp claws and teeth and powerful muscles, gaining it great advantage over most other animals its own size or bigger, provide the dog little benefit in eradicating an infestation of fleas.

For the flea to prevail against the dog, which is much bigger and more powerful, the flea must simply survive - biting, feeding, hopping, hiding, feeding again. Simple survival is an act of resistance. Alternately, for the dog to prevail against the flea, the dog must liquidate the entire population of fleas; even just one flea remaining alive is, over time, a second and third infestation.

All things being equal, if the flea can survive long enough and continue feeding, the dog is slowly overwhelmed, overcome, exhausted, worn down by a million microscopic wounds, until he succumbs. Beleaguered, he lays down to sleep and simply doesn't awaken, defeated not with a bang but with a whimper.

So it is with the guerrilla. Survival is resistance against the bigger and more powerful enemy, making it possible to increase numbers and make the rule of the existing regime unstable, too cumbersome, unwieldy, provoked to blunders that further disaffect the population... that runs into the arms of the guerrilla... who constantly capitalizes on those blunders.

Mao Ze Dong developed a theory of guerrilla warfare, providing an analysis of this approach. By Mao's understanding, guerrilla warfare was the most effective method for armed resistance by those who were outnumbered, out-gunned, out-trained, and out-spent. For the guerrilla, "numbers" and money are irrelevant.

Further, it mattered not whether the guerrilla ever actually "won" an engagement against the regime's military forces. The outcomes of engagements were wholly irrelevant, as the military

was not the enemy; the regime was. So, in this sense, the battle was understood more as political theater or propaganda of the deed; simply by fighting, the guerrilla made a symbolic statement that the regime was illegitimate, that armed resistance was necessary. The guerrilla, by fighting, became a symbol in the minds of the people and the fighting, then, inspired the disaffected to withdraw support from the regime, undermining its prestige.
In this way it was more important to attack the symbols of the regime's power.

Mao developed the "30 second attack," where guerrilla forces would ambush regime forces simultaneously and then withdraw, no matter the circumstances of battle, after 30 seconds. This did not create casualties so much as it created news stories and popular myths that galvanized support and admiration from the peasantry and the workers.

By Mao's theory of guerrilla warfare, the goal was to wage protracted war while building in numbers, until the popular guerrilla forces could match the regime forces and convert itself into a popular army, employing regular warfare. Mao proposed that when the guerrilla forces reached this stage, they would have the power to topple the existing regime and supplant it with its own popular leader.

The theory evolved again in the course of the Vietnamese resistance to both French and U.S. colonization. General Vo Nguyen Giap, building upon Mao's theories, proposed that the guerrilla never had to achieve comparable strength to the regime's forces, but could instead remain in perpetual guerrilla war, a long and protracted conflict that would inevitably end when the regime forces, demoralized and exhausted, simply withdrew from the fight. By Vo's contribution to the theory, the guerrilla must be prepared to fight forever, and must project this dedication, psychologically defeating the opponent and undermining the regime for which the opponent fights.

In Algeria, guerrillas shaped the theory of guerrilla warfare to fit into urban scenarios, creating the concept of "urban guerrilla warfare," which included bombings of government and economic targets as well as kidnappings and hostage-taking - tactics that destabilized the existing order and led to the regime's collapse.

In Cuba, Ernesto "Che" Guevara contributed to the theory of guerrilla warfare, asserting that the Cuban example - in which he himself had fought - proved his proposition that the guerrilla never had to wait until "conditions" for revolution were present; that is, the guerrilla need not wait until the larger population reaches some critical mass of political consciousness and will before taking up arms. Che Guevara insisted that the opposite was true, that the guerrilla, by resisting, inspired the population, raised its consciousness, and created the "conditions" that everyone else was talking about and waiting for.

The dangerous implications for all governments, if this theoretical proposition is true, is that any regime anywhere can be toppled at any time... if only a handful of rebels grab guns and take to hills to ambush regime forces. And thus, a half-century-long embargo of Cuba by the United States, which prefers its "hills" to be guerrilla-free.

From Cuba, guerrilla strategy proliferated Sandonistas in Nicaragua... the FARC in Colombia... the FMLN in El Salvador... Zapatistas in Mexico... the Weather Underground and Symbionese Liberation Army within the United States... each formation adapting guerrilla theory to local, subjective situations, but relying upon the same general principles for success. Anyone interested in further reading should locate Robert Taber's 'War of the Flea,' Mao Ze Dong's 'Military Writings,' Vo Nguyen Giap's 'Guerrilla War,' and Ernesto "Che" Guevara's 'Guerra de Guerrillas: Un Metodo (Guerrilla Warfare: A Method).' But, for our purposes, it is necessary only that you can read what follows in light of the principles of guerrilla theory:

The regime is the enemy; we resist on our own initiative and fight our own battles, never fighting where or how the enemy chooses; our resistance is part actual infliction of damage or loss, part political theater, part propaganda, part disruption; we evolve, remaining unpredictable, building upon lessons and experience while our enemy remains regimented, predictable, lumbering; we project our will to fight forever; we maintain singular dedication to struggle in the interests and liberation of the population for whom, with whom, and among whom we struggle; we engage consultation and consensus, breaking into smaller affiliated groups when our numbers make consultation and consensus too difficult; our dividing becomes a method for proliferating, replicating, expanding.

This is the strategic approach implicit in the sections that follow, applying this mindset, this orientation to the questions of how we may engage in effective prisoner support, litigation efforts, and even prison abolition "abolition," as in the collapse of the existing prison industrial complex, bringing it to an end (rather than speaking in terms of "abolition" while, in practice, actually working for reform).

Pens Are Weapons Too: A Vision of Prisoner Guerrilla Litigation

To recapitulate very briefly the factors that make the traditional approach to successful prisoner litigation impossible, already covered more fully in the *Introduction*: the grievance process that you must exhaust is deliberately obstructive and unnavigable; retribution and retaliation crush you; the state represents its baddest actors for free with thousands of ruthless lawyers; the costs

to you are exorbitant; even the federal judges (who are all former prosecutors) hate you and seek ways to dismiss your case.

Thus, it is necessary to develop an "irregular" or guerrilla approach to prisoner litigation. In what follows, much of what I present is based upon federal and state law related to Ohio. It should be noted that state law can vary greatly from state to state and, to a lesser degree, federal court precedents differ from federal circuit to federal circuit, so some of the specific mechanisms described in Ohio law and in Ohio courts may not translate at all to other jurisdictions. However, the same political orientation and the same mindset can translate anywhere, and that can be applied to litigation in creative ways.

Civil Litigation

Probably, there is no place on earth where civil litigation is more necessary than to address the wrongs that accumulate and continue in the prison environment. Yet, these are the very places where the repression and circumstances often make litigation impossible. The following strategies arise from thirty years of battling in the prisons and the courts.

The Court of Claims

The Court of Claims exists principally to recover from the state compensation for lost or damaged property caused by the state or its agents. If a snow plow hits your mailbox, for example, you file a claim in the Court of Claims for the damage to your mailbox.

The Court of Claim has two tiers. For anything under the $5,000 threshold, the case is heard by a clerk who makes the determination. For anything over $5,000, it goes before a judge. In addition, the Court of Claims has a wholly separate function as well. The court is vested with the responsibility for making determinations as to whether any case against the state or its agents can be pursued in the county courts when the award sought is $50,000 or more. So, if I intend to sue the state in the county court of common pleas, and I intend to ask for $50,000 in compensation, I must first present the case to the Court of Claims for its review, and request that court to certify my case for $50,000 or more. If the Court of Claims certifies my case for $50,000 or more, I then proceed to the court of common pleas and file the action; if the Court of Claims determines instead that my case cannot proceed for that amount, the Court of Claims determines the compensation I get, if any.

This may seem a little confusing. But, for our purposes, this is the take away: You can file in the Court of Claims without paying the fees up front... you can skip the grievance process... you can

forego submitting the affidavit declaring all the actions you filed in the last five years... and if you seek $5,000 or more, your case goes before a judge rather than the clerk.
Also important, at least as of 2017, if you seek more than $5,000, the Ohio prison system's in-house lawyers cannot defend the case. This means the ODRC lawyers they have already paid on staff cannot handle it. Instead, the ODRC must forward the case to the Attorney General for that office to represent the ODRC.

Why does that matter? It matters because every time the ODRC must outsource to the Attorney General, the ODRC must also transfer $12,000 from its operating budget to cover the expenses of the Attorney General's office, to pay for representation.

In one year, in cases I prepared against the ODRC for myself and other prisoners, I single-handedly cost the ODRC half-a-million dollars from its operating budget in transfers of funds to the Attorney General for cases filed in the Court of Claims. Half a million dollars equates with the yearly pay of ten correctional officers that they could not hire that year.
In one case I filed for myself, the medical clinic had gouged me $3 for medical co-pay after assuring me that I would not have to pay the co-pay for that visit. The unauthorized seizure of $3 left my account short for legal postage, obstructing my ability to timely file pending court actions and forcing me to scramble to get everything mailed. So, in response, I sued them for $5,000.

Over $3 medical co-pay, $12,000 was removed from their operating budget and transferred to the Attorney General. Three months into the action, the magistrate determined my case was not worth $5,000 and should be handled by a clerk instead, but the Attorney General had already been paid by the ODRC. For 3 more months, I objected until the judge also said my case was worthless. Then it went before the clerk, and I bogged him down for a whole year before the case was finally dismissed. The case cost me nothing. It cost the ODRC upwards of $20,000.

But they got to keep my $3 medical co-pay.

Criminal Acts

Most of the prison staff's conduct that results in prisoner litigation is criminal. That is, smashing someone's property is vandalism, a crime; kicking and beating someone is assault, a crime; depriving someone of basic necessities while holding them hostage is interference with civil rights, a crime.

In Ohio, these acts and many more routinely carried out by prison staff are crimes:

Theft, O.R.C. Section 2913.02
Receiving Stolen Property, O.R.C. Section 2913.51
Tampering with Evidence, O.R.C. Section 2921.12
Obstructing Official Business, O.R.C. Section 2921.31
Interfering with Civil Rights, O.R.C. Section 2921.45
Falsification, O.R.C. Section 2921.13
Obstructing Justice, O.R.C. Section 2921.32
Dereliction of Duty, O.R.C. Section 2921.44
Attempt, related to other criminal acts, O.R.C. Section 2923.02
Complicity, related to other criminal acts, O.R.C. Section 2923.03

Of course, the reality of the crimes notwithstanding, the prosecutors never opt to prosecute. But, the Ohio Revised Code provides for a process whereby you write an affidavit (O.R.C. Section 2935.09) and send it to the county judge, clerk, or magistrate (O.R.C. Section 2935.10) seeking criminal charges. This bypasses the prosecutor, and though the matter will eventually get referred to the prosecutor, other court officials have now been involved in the matter.

Will that alone change outcomes? No. Not likely. But imagine if multiple prisoners from that same prison continue sending sworn affidavits about the criminal misadventures of the same prison staff members to that same judge. At some point, this can reach a threshold where the judge gets annoyed and finally has some cross words for the prosecutor, letting the prosecutor know that this nonsense is interfering with the judge's golf game, and the prosecutor, in turn, may call the prison and tell the warden to straighten out the clown show he or she is running. That warden, then, may call those walking crimes-against-humanity into the office and chew them out.

This might have an impact. If not, there's always guerrilla litigation.

Criminal Acts II

Federal civil rights actions are very costly. But, in Ohio, courts of common pleas can entertain federal claims (see: WHITE V. MORRIS, 590 NE 2d 57). So, federal civil rights claims can be presented instead to state courts that waive prepaying the filing fee and charge far less in the long run. The grievance process still needs to be exhausted, and you have to submit the affidavit declaring all actions filed in the last five years, but costs are considerably less and the case moves slightly faster.

Also, you can include state claims. You can file civil state claims for criminal acts committed against you.

O.R.C. Section 2307.60 allows you civil recovery for a criminal act (see: JACOBSON V. KAFOREY, 149 Ohio St. 3d 398). This means that, besides attempting to get criminal charges against those prison staffers who commit criminal acts, you can file a civil action against them too. For every single criminal act you allege, you can request $5,000 in exemplary damages (see: O.R.C. Section 2307.611). So, if you can point to five criminal statutes that guards violated when they smashed your property and pepper sprayed you in the face, you can sue each of them for $25,000.

An example of this kind of litigation, seeking civil recovery for criminal acts, can be obtained from the Warren County, Ohio, Clerk of the Court of Common Pleas, requesting the complaint (see: SWAIN V. APPLEGATE, ET AL., Case No. 18-CV-091089), or the Franklin County Clerk of the Court of Common Pleas (see: SWAIN V. CLARK, ET AL., 18-CV-004272).

Will you win? No. Probably not. But it provides a process of "discovery," where you send questions, true-or-false statements, and requests for physical evidence that you want turned over to you. Interesting things can develop when you do this.

In one case, I assisted a prisoner whose finger was almost chopped off in a meat slicer. Aramark food service contractors had ordered the prisoner to chop vegetables in the meat slicer because the other equipment was inoperable, leading to the injury.

In discovery, the state had to turn over the entire Aramark contract and Aramark's bid package, including several pages marked "Not for Public Disclosure," detailing numerous instances of Aramark overcharging other states for food or other times when maggots were found in the food. I immediately photocopied those and sent them out for online posting.

In another case, a Black prisoner was assaulted by two white officers with a history of assaulting Black prisoners. The state turned over security footage and, in a serious lapse of judgment, allowed me to be present when the prisoner viewed it.

The footage showed the officers approaching the prisoner much differently than their sworn statements had described; rather than walking up together, one officer encircled the prisoner from behind, in a clearly pre-planned maneuver. The other officer, approaching from the front, had previously described how he had drawn his can of pepper spray in response to an aggressive move made by the prisoner. Yet, footage showed the officer stopping and turning to answer

another prisoner's question, and as he turned, the pepper spray can was visible in his hand - at least 20 yards from the encounter.

The officers had also sworn to other provocations that would justify the prolonged beating that followed, except the footage showed that those provocations never occurred. Did the prisoner win? Of course not. At his kangaroo trial, the video footage was not available for the court to review, despite the prisoner's request for it to be present, and I was not allowed to attend. But, the state also turned over the ten-page Safety Data Sheet on that pepper spray, a copy of which will be forwarded for inclusion with these materials. This Safety Data Sheet shows how toxic and carcinogenic the pepper spray is.

I made dozens of copies and handed them out for free to corrections staffers all over the prison, highlighting the good parts - how the pepper spray was linked to cancer and birth defects. Two pregnant female guards and several of their co-workers filed grievances with their union representatives about the pepper spray and its dangers to them, and reportedly, in one union meeting, one guard stood up, waving around the Safety Data Sheet, and aggressively demanded, "Get this fuckin' shit out of our work environment... now…"

The state had to procure a new pepper spray and cancel its prior contract with the old spray's manufacturer.

In another case, I assisted a prisoner who had been repeatedly stabbed by two members of the Aryan Brotherhood while he slept in his cell. Two guards facilitated the assault by opening the cell door remotely - because the prisoner was convicted of child sex crimes and they wanted to teach him a lesson.

In discovery, the state turned over almost a hundred pages of medical records and internal documents including statements from officers. I relied on the medical data and prepared a motion for summary judgment, requesting the Court of Claims to certify the case for more than $50,000. While judgment on that request was pending, the Attorney General offered the prisoner a settlement of $25,000. In addition, both officers were fired. This case was an anomaly - not just a win, but a big pay-out and the punishment of law-breaking staff.

As the head law clerk at Warren Correctional, I created and saved prefab forms on the computer so that I could write up entire lawsuits for filing in the Court of Claims in less than fifteen minutes. I printed out as many as eight separate lawsuits for prisoners in one day.
Once Central Office became aware of my work, I was quickly driven out of the job. In my own litigation, I became so infamous that the Attorney General sought an order banning me as a "malicious litigator." In other actions, attorneys from that office sought permission to conceal

their identities, blocking out their names, signatures, and contact information, telling the court that they feared for their lives because I was a home-grown terrorist. This request too was eventually denied, but the fact that it was even made reveals how hysterical and irrational the state's agents can be when they perceive this guerrilla approach as a "threat" or "danger." Not even the prosecutors in the cases against Timothy McVeigh or the Unabomber attempted to conceal their identities.

If just one or two prisoners at each prison learned these strategies, coordinating with outside support, it would prove economically crippling to the state prison system and incapacitating to the already-overloaded courts. Examples of this litigation can be obtained from the Clerk of the Court of Claims by requesting the complaints in the following actions:

SWAIN V. ODRC, Case No. 2017-00337JD
SWAIN V. ODRC, Case No. 2017-00335AD
SWAIN V. ODRC, Case No. 2016-00935JD
SWAIN V. ODRC, Case No. 2016-00375JD
SWAIN V. ODRC, Case No. 2016-00051JD
SWAIN V. ODRC, Case No. 2016-00936JD

Personal Capacity

One of the principle factors that perpetuates human rights violations against prisoners is the fact that there exists virtually no consequences for prison employees - even in really reprehensible, low-down cases of torture, torment, or rape. By virtue of state employment, any act they commit on the job instantly and automatically results in their representation by the office of attorney general, thousands of lawyers with bottomless pockets of loot to spend in defeating you, and terrible childhoods they seek to avenge upon you.

So, one method for ensuring accountability for the state's bad actors is to develop a system of collaboration between prisoners and outside support who are willing to experiment in guerrilla litigation themselves.

It should be remembered that prison employees only receive free representation by the attorney general for acts alleged to have occurred during the course of employment - not for acts occurring at home, in private life. If a prison employee in private life were to steal a valuable boat and not return it, or breach a contract to put a roof on someone's house, that prison employee could not seek free representation from the attorney general, but would have to scrape together enough money to hire counsel to defend themself against those civil actions.

So, imagine for a moment that Corrections Officer Snowbucket has engaged in reprehensible conduct against prisoners, but is shielded by teams of attorneys general. He will not be held accountable through traditional channels. Perhaps someone in the free world who is tech savvy and knows how to navigate search engines could locate Officer Snowbucket's home address. Likely, this is not too difficult. Previously, a hacktivist dumped all of the ODRC's employees' home addresses online.

Once his home address is located, Officer Snowbucket can be served civil actions at his residence, in his personal capacity, sued by non-prisoners for events alleged to have happened in his private life.

A collective of prisoner supporters who operate in the shadows could have prefab civil actions drawn up. One collective member could allege that Officer Snowbucket stole her $35,000 boat and never returned it. That action would be filed, say, in the county where Snowbucket lives.

Another member would sue Snowbucket for failing to fulfill a deal to put a roof on his house, demanding the return of a $42,000 payment. That action could be filed in a neighboring county.

A third member could sue Snowbucket for personal injury, alleging Snowbucket ran into her with his car when backing out of a parking space. She sues for $61,000 in yet a third county, or perhaps even another state.

Important to this strategy, there should be no connections between these litigants that can be easily revealed. It should also be noted, in filing civil actions, no evidence is required. The complaint is only a mere allegation, and can be voluntarily dismissed at any time by the person who files it if, it turns out, the facts related are erroneous. So, if anything is proven to be false, the action can be withdrawn and refiled with a new set of facts that reflect the new, known reality.

With these actions filed one after another, Snowbucket is soon facing half a million dollars in lawsuits, filed across several counties and maybe even in different states. He has, by Ohio law, a maximum of 28 days to answer in each action. This means Snowbucket has to frantically scrape together enough funds for hiring a lawyer to answer all of these actions. Facing half a million dollars in losses, the costs for counsel would be upwards of $50,000 - and likely much more, as counsel would need to scramble to answer multiple lawsuits in multiple jurisdictions. Further, Snowbucket might have to hire multiple lawyers if he cannot find a single lawyer licensed to practice in all of the states in which he has been sued. Further still, consider that attorneys would likely be hesitant to defend someone who has so many lawsuits pending at once, as he is a terrible risk.

Where does a corrections officer find $50,000 in liquid assets to hand to a lawyer? If Snowbucket does not accomplish all of this (while maintaining his 40-hour work week) in just 28 days, the guerrilla litigants file for default judgment, which almost invariably is granted. These are wins by default. Once judgment is entered, guerrilla litigants would immediately file for liens against Snowbucket's house, car, bank accounts, credit cards. His assets would be frozen, his credit ruined.

Perhaps Snowbucket hires a fly-by-night ambulance-chaser for bargain-basement prices. That's okay, too - because, if that ambulance-chaser misses just one small detail in his answers to the lawsuits, guerrilla litigants file for summary judgment and judgment on the pleadings, requiring multiple hearings where the lawyer charges double for his time and Snowbucket has to miss work.

For the actions that are answered properly and on time, guerrilla litigants begin discovery, slamming the ambulance-chaser with dozens of requests for documents and tangible evidence, demanding answers to interrogatories and admissions. If admissions are not answered in 28 days, they are accepted as being admitted, and that becomes evidence, admissions of guilt, and guerrilla litigants again file for summary judgment... with more hearings... in several jurisdictions and maybe across several states.

Snowbucket could run out of money and counsel would withdraw. Counsel might just get overwhelmed and quit, or seek settlements that we know will never happen. If counsel quits or withdraws and Snowbucket misses one deadline, guerrilla litigators again file for summary judgment and judgment on the pleadings.with more hearings and more lost work for Snowbucket.

If judgment is entered against Snowbucket in just one case, guerrilla litigants would immediately file for liens against Snowbucket's house, car, bank accounts, credit cards. His assets would be frozen, his credit ruined. He would be unable to finance his fight against the remaining lawsuits. One by one, the dominoes would fall. Snowbucket would owe guerrilla litigators a half a million dollars, debt he could never get out from under.

It would suck to be Officer Snowbucket. His wife and kids would leave him and, if he still maintained his job, he would be sleeping in a tent and riding a bicycle to work while guerrilla litigants spill bong water and pizza sauce all over what used to be Snowbucket's shag carpeting.

Note must be made that it is likely criminal in many respects to knowingly and deliberately file civil complaints containing false claims in court for purposes of harassing another. So, no one should ever knowingly and deliberately file civil complaints containing false claims, where it can

be proven conclusively that the claims were patently and wholly false, and where it can be proven that the filer knew them to be false, and it can be proven that the claim was not filed in mistake or in error of some facts - which is likely when people without law degrees or experience are filing actions on their own behalf. In other words, anyone pursuing this course of action must be at least moderately careful not to get caught.

It would be good to have a broader network of allies who plausibly-deniably have no connection to one another.

It should also be remembered that Snowbucket, even if he suspected conspiracy, would have to figure out the connection between the people suing him, and then find a way to prove they knew one another, and then prove they operated according to a plan - and he would have to do this while trying to raise $50,000 for counsel and research litigation and maintain a full-time job.

Consider the implications of successfully employing this strategy. First, loathsome monsters would be accountable and not knowing when guerrilla litigators might strike again. This would likely alter behavior, as they would fear utter ruination.

Second, guerrilla litigants would create their own revenue streams from collecting on the lawsuits they win - possibly even collecting houses or cars or large sums of savings. Guerrilla litigating could become a full-time job.

Third, based on the last two points, others would jump on the bandwagon. This strategy would be replicated and repeated and perfected, perhaps against racist cops who shoot unarmed Black men; perhaps against leaders of alt-right movements. As the strategy proliferates, there would be an accumulation of wealth for radical projects all syphoned from the worst actors in the control complex.

Fourth, continuation of this strategy could have an impact on institutional morale among the workers of the prison complex, leading to serious attrition in staffing due to fear that participation leads to ruination. Corrections officers would quit and go work at Staples where they won't get slapped with a half million dollars in lawsuits. This could lead to prison closure and internal crisis, forcing alternatives to the carceral program.

Guerrilla, Inc.

The ODRC and, likely, all other state prison systems ban “unauthorized group activities,” defined at length in statute. In essence, “unauthorized groups” are gangs, any organization the

prison doesn't like. Involvement or affiliation with such groups results is a Security Threat Group profile which, in turn, results in heightened monitoring and surveillance.

In the ODRC, virtually every prisoner has an “STG tag,” some kind of STG profile, whether a member of a gang or not. The reason for this is that the U.S. Department of Justice maintains a national database and provides block grant funding to the states. The amount of funding is dependent upon the number of gangs and the number of members of each gang. Thus, if the ODRC can find justification to “STG tag” all 50,000 prisoners as members of dozens of STGs, block grant funding increases exponentially. In this way, states have economic incentives for tagging every prisoner as a gang member - and so they do.

In 2012, the ODRC profiled me as the “leader” of the Army of the 12 Monkeys, a group that inspired widespread sabotage at Mansfield Correctional, resulting in hundreds of thousands of dollars in damages. I was entered into a DOJ database as a home-grown terrorist and the Army of the 12 Monkeys was listed as a terrorist organization.

Years later, I was informed by ODRC counsel that I would never be free of this profile; the ODRC had made me a “monkey” for life. Accepting this unjust exigency, I sought another method to get the STG designation removed. As I could not extricate myself from the group, my only alternative was to find a way to turn an “unauthorized” group into an “authorized” one, and began researching the issue. I learned there was a process for that.

There is a difference in the Moose Lodge, on one hand, and the Bloods or Crips on the other. The Moose Lodge is a registered organization with the state - a corporation or unincorporated association or limited partnership; the Bloods and Crips are not. I learned that corporations, unincorporated associations, and limited partnerships - each of these categories of organizations - obtain certain legal protections upon being registered.

So, I drew up the charter for the Army of the 12 Monkeys as an unincorporated association, naming myself as the authorized agent for purposes of legal capacity, and I filed the forms. It cost less than $100 to register the group and to own the rights to the trade name.

Because I own the trade name, no other entity may profit off of the name of the group or any derivation of that name. And that means the state can no longer legally receive block grant funds for including the Army of the 12 Monkeys into the federal database; any block grant funds the state receives legally belong to me. I own the trade name.

Also, and more importantly, as Ohio recognizes the Army of the 12 Monkeys as a nonprofit, as a registered organization, it can no longer call the Army of the 12 Monkeys "unauthorized." The nonprofit has statutory protections, and I have rights as a member of the nonprofit.

Further, the Army of the 12 Monkeys was registered as an “animal enterprise,” as defined by federal law (see: 18 U.S.C. Section 42). Federal law prohibits “interference” with an "animal enterprise" as a federal crime punishable by a minimum of twenty years with a terrorism specification. Thus, any effort to impede the business of the Army of the 12 Monkeys, defaming it as a gang and subjecting members to retaliation, is a federal crime. If prison officials do that, they become “terrorists.”

Copies of my registration of the unincorporated association and trade name will be transmitted for inclusion with this material.

Since registration, I have litigated on behalf of the Army of the 12 Monkeys, even to the Ohio Supreme Court, which recognized in its opinion that the Army of the 12 Monkeys is a registered unincorporated association and that I am its authorized agent (see: ARMY OF THE 12 MONKEYS V. WARREN COUNTY COURT OF COMMON PLEAS (2019), 156 Ohio St. 3d 346).

Is this enforceable? Not sure. I pursued this in 2019 and less than a month later I was in a van being illegally renditioned to Virginia.

But, I challenge you to contemplate the possibilities: What if, with outside support, members of the Crips, Bloods, Gangsta Disciples, Aryan Brotherhood, Latin Kings and any other prison gang could be persuaded to draw up charters and register as corporations, as animal enterprises?

What if those groups then sent cease and desist orders to each of the state departments of corrections and to the DOJ demanding an end to the use of those registered trade names, and demanded removal of their corporations from the threat group database? If simply pursued, states would respond by cleaning up their acts in anticipation of federal court scrutiny, and would cease using gang tags for neutralizing litigators and politicals. But further, if successfully pursued, this would radically change the prison industrial complex. The Pelican Bays and CMUs would cease to exist for isolating corporation members. Federal block grants would dry up and that absence of funding would plunge corrections systems into crisis. The very category of “unauthorized group” would go extinct and an entire paradigm of control would disappear overnight. Without the funding, prison officials would have to develop alternatives to the carceral project.

Would it work? It would seem from the ODRC response in tossing me in a van that they think there's a possibility of success.

Criminal Court Litigation

Prisoners arrive at the prison complex with criminal convictions, and have obvious motives for challenging those convictions and getting home. Most often, criminal appeals involve raising questions regarding the conduct of proceedings, asserting errors that resulted in an injustice. Seldom do prisoners raise challenges to the legitimacy of the very process itself or that question the authority of the courts to act in the first place. Seldom do prisoners argue that the very system itself is void and without legal force.

This is important. It is important because it is the objective reality that courts lack legitimate authority. So, two examples of this kind of approach to guerrilla litigation follow.

Treaty of Greeneville

In state appeals, I have argued that the Treaty of Greenville in 1795 set aside this area called Ohio as "unceded Indian Territory." As the U.S. Constitution declares treaties to be the supreme law of the land, and as the U.S. Supreme Court ruled that states may not abrogate the terms of a U.S. treaty, I have argued that the Ohio Constitution of 1803 is legally void.
As the constitution is void, all powers derived from that constitution - for the legislature, executive, and courts - are also invalidated. The government of Ohio is without legal force.
I presented this argument in state habeas (see: STATE EX REL. SWAIN V. HARRIS, Twelfth District Court of Appeals Case No. CA-2018-01-009). I appealed that court's decision to the Ohio Supreme Court (see: STATE EX REL. SWAIN V. HARRIS (2018), 154 Ohio St. 3d 194).

The Ohio Supreme Court, in its decision, held that the Ohio Constitution was valid because the Treaty of Fort Industry superseded the Treaty of Greenville, and the Treaty of Fort Industry relinquished the territory of Ohio to the United States. The problem with this decision is that the Treaty of Fort Industry did not occur until 1805; the Ohio Constitution was ratified in 1803. There is no conception of legality where an otherwise void constitution is made valid by a treaty that had not yet happened.

I now have actions pending in federal and international court that challenge whether the State of Ohio legally exists, whether its courts have enforceable power, and whether I am held by a legitimate state, or whether I am kidnapped and held hostage by agents of a rogue state without legal authority.

When I filed my federal claims in the federal district in Virginia, I was tossed into a black van and renditioned back to Ohio. My transfer from Virginia is basis for that court to dismiss my claims for lack of jurisdiction. I have subsequently filed claims in the federal court in Ohio. Will this work? No way to know. Curiously, in a very similar case, the U.S. Supreme Court recently ruled that a large swath of Oklahoma is still "Indian territory" and not the jurisdiction of the state.

Anything is possible, it seems.

Challenges like these are necessary to present the accurate narrative, the historical reality of invasion and colonization at the conception of statehood that renders state authority invalid. It is the presentation of a deeper question than how courts exercise authority, but is, rather, a question as to whether courts have any legal authority at all.

While conventional wisdom agrees with Thomas Aquinas that "non videtur esse lex quae iusta non fuerit" ("the law is not valid if justice is not served"), the guerrilla approach holds that all state authority, to include courts, is "non gratum anus rodentum" ("not worth a rat's ass").

"Personhood"

Another guerrilla approach to criminal litigation involves the legal concept of "personhood." While "personhood" is perhaps the single most critical concept central to euro american jurisprudence, its actual definition appears nowhere. Personhood is singularly important because the law only applies to "persons." Only "persons" have rights and duties, can enter into contracts, can act with self-awareness and volition.

Dogs and cats are not "persons" as the law understands "personhood." It seems only humans can be understood to have personhood, although being human does not equate with personhood. That is, one must be human to be a person, but not all humans are persons. "Human" is a biological distinction; "person" is a legal one. So, there are humans who have not been persons.

In SCOTT V. SANDFORD (1857), 60 U.S. 393, the U.S. Supreme Court held that slaves constitute only a fraction of a "person," and are not recognized as possessing "personhood." Though human, they were not "persons."

Contrary to popular myth, the Civil War did not end slavery and the Thirteenth Amendment did not abolish it. Rather, the Thirteenth Amendment permits slavery "as punishment for a crime whereof the party shall have been duly convicted…" This means that it is a criminal court which

now possesses exclusive power to turn a "person" into "property." By virtue of a criminal conviction, a person may be stripped of personhood and relegated a "slave."

This is the open secret of the American legal system, that criminal courts exist as a mechanism for turning persons into property, citizens into slaves. This understanding was set forth in RUFFIN V. COMMONWEALTH (1871), 62 Va. 790, a decision that has never been overturned or vacated. In that case, the court explained that one convicted of a crime became "civiliter mortuus," civilly dead. One convicted of a crime no longer possesses civil identity or life, but becomes a nonperson, possessing no rights.

This is important because only "persons" may be brought before a court. Laws only apply to "persons." In fact, all of Ohio's criminal statutes begin with the same three words: "No person shall…" This means the criminal statutes only apply to persons, those with recognized, legal personhood. Laws do not apply to dogs or cats, raccoons or lowland gorillas. No lions or alligators are ever arrested and brought before a court. All criminal statutes begin, "No person shall...," and therefore laws only apply to those with personhood.
We now turn briefly to indictments.

In STATE V. COLON, 118 Ohio St. 3d 26, the Ohio Supreme Court ruled that it is necessary for a criminal indictment to contain all of the elements of an offense it is charging, or else the indictment is void. If the indictment is void, the trial court has no jurisdiction to try the case. To give an example of what this means, Murder is defined in Ohio criminal statute: "No person shall purposely take the life of another…" So, in an indictment for Murder, the charge should accuse that the accused "purposely took the life of another." It is not enough to charge that the accused "took the life of another," leaving out the word "purposely." If the word "purposely" is left out of the indictment, then the accused was not charged with Murder; the accused has been charged with killing - perhaps accidental killing or self defense killing or some other kind of noncriminal killing.

All of the elements of an offense must be presented in an indictment for it to be valid. The problem arises with every indictment ever rendered in any state: The words, "a person," are never included. This is a problem because laws only apply to "persons," so "personhood" is an element of any criminal offense. If the indictment does not say, for instance, "X, a person, purposely took the life of another," then a necessary element of the offense is omitted.

Approached another way, consider: Being a nonperson is an absolute defense to any criminal charge. Laws only apply to "persons." So, proving oneself a nonperson, however one may go about that, would result in dismissal of any criminal charge.

That means “personhood” is a necessary element of any offense, and it must be alleged in any indictment for the indictment to be valid. If “personhood” is omitted from the indictment, the indictment is invalid, void, and the trial court has no jurisdiction.

This means that everyone currently imprisoned in every state prison system is held without a valid conviction or sentence, as no state court indictment has ever alleged “personhood.”
To be clear, this is not an argument that you or I are not “persons.” It is an argument that the state has a requirement to allege we are “persons” when rendering indictments, and if that allegation is not present, the indictment is invalid.

I have raised this argument once.

Another prisoner, whose legal work I was doing, asked me to help his younger brother. His younger brother, in one afternoon, went on a drunken crime spree, shooting and robbing drug dealers, kidnapping witnesses, and running his car into everything in sight. He was facing a slew of charges and a century of prison time. I was asked to fight his criminal case - from prison.

I drafted motions for the younger brother to file on his own behalf. One was a motion to fire court-appointed counsel. Another was a motion to dismiss the indictment, asserting the indictment failed to charge any crimes because it omitted the element of “personhood.”
The first judge assigned to the case read the motion to dismiss and recused himself. The second judge read the motion and called the prosecutor into his office, directing the prosecutor to make the case “go away” because the judge did not “want to rule on this.”
The younger brother ended up serving less than five years on a plea deal.

Would this “personhood” argument work? Based on the responses of the two judges who read the argument, perhaps so. And if it did work, consider: Every criminal conviction from every state court is legally void. Nearly two million people are unlawfully confined.

Conclusion

When others ask me for legal assistance, I often tell them that the last person who approached a court the right way was driving a Ryder truck filled with barrels of cow shit. When I say that, I pretend I’m joking. For purposes of protecting myself from agencies reading my emails, I will here assert that I really am kidding when I say that.

But the truth is, the courts are the enemy. We know they are the enemy because they behave as enemies behave. And as a matter of intellectual integrity, so long as they are the enemy, we have a duty to treat them as the enemy; to confront them, to expose them, to attack them with the weapons available to us, not to beg them to bestow their graces upon us, but to make the enemy so uncomfortable, so beleaguered, so encircled and overwhelmed as to surrender to what we demand.

The guerrilla does not ask government for its dispensations so as to achieve negotiated peace; the guerrilla has one demand of government: its nonexistence. So we are to the courts and the larger system of injustice, approaching with weapons drawn, without illusion that we must defeat just the adversary arrayed against us but that we must defeat the ostensible authority itself, creating the circumstances where the dissolution of power, the resignation of authority, is less painful and more tolerable than its continuation.

This is not easy. It is perhaps impossible. But if it is possible, it will be undertaken by those of us willing to confront the system in radical new ways, with the intentionality of ending the system and nothing less.

Pens are weapons too.

System Overload: A Vision of Prisoner Support and Collaboration

Introduction

Over a decade ago, I was held at Toledo Correctional and subjected to a campaign of reprisals and state terror. After a particularly brutal two-month stint in segregation, I collaborated with allies at the Burning River collective, now defunct, to develop a strategy in the event the enemy segregated me again. What we developed was a kind of experiment, one that predated troll factories or Russians stealing American elections.

Premises

There are certain premises to that strategy that still apply to what is proposed here.

First, the prison complex cares what others think. The ODRC has a computer program that searches out references to itself in media and social media so that the ODRC can get out its side of the story to journalists, as well as crush any prisoner who exposes the truth or any employee responsible for the leaks. Prison officials are particularly sensitive to opinions of media, legislatures, and courts - three ostensible checks on prison officials' abuses of power that have seemingly given prison officials a free pass.

Second, prison officials take cues from the media, legislature, and courts that tell prison officials what, essentially, they can "get away with." It is a system of cue-taking and cue-giving. While this process now gives prison officials confirmation that they have broad latitude to do anything they please, this process can be interdicted and highjacked.

Third, reality does not matter to prison officials or to what prison officials will do. Perception does. And this works both ways.

The reality of torture, abuse, and corruption is irrelevant to prison officials and the operation of the system tomorrow or the next day. What matters is the public perception. If the topics of torture, abuse and corruption remain absent from public discourse, they will continue to be committed, business as usual, until public perception shifts.

Also, the flipside - it does not matter, as a practical question, whether no one actually cares about torture, abuse and corruption; if it appears to prison officials that everyone cares, if it appears to prison officials that there exists a broad scale public outcry from every sector, this will radically alter the operation of the prisons, even if the reality is that no one cares at all.

In other words, prison officials do not respond to reality. They respond to their perception of it. Their perception of reality can be manipulated and exploited much easier than reality can be changed.

So, taken together, prison officials are sensitive to outside opinion of those in power; its cue interactions can be interdicted and their perception of reality manipulated; and prison officials will respond and behave predictably to what they believe to be their reality.

Then

At Toledo, prior to my next segregation stint, allies and I drew up plans. When I did eventually go to the hole again, we would be prepared. A prisoner I trusted would drop letters in the mail when I was taken to the hole and everyone involved in this campaign would be notified, and begin their attack.

It started with phone calls from concerned friends and family to the prison and to Central Office, as usual. Then came the calls from retained civil rights lawyers to Central Office seeking details. Or, so it seemed. They sounded like lawyers. This began the process of the prison getting calls of concern from officials at Central Office making inquiries, and making local prison officials nervous.

Then, more calls of concern regarding the hunger strike and whether I was receiving blood pressure medication, while I was eating well and taking my meds daily, working on Sudoku puzzles in my seg cell.

Then came the calls from the Red Cross seeking access to me due to concerns from family about my health. Or so it seemed. Of course this was denied, and then a reporter, or someone who sounded like a reporter and claimed to be one, called Central Office to inquire what Toledo Correctional was hiding from the International Red Cross, followed by inevitable calls from an annoyed Central Office to a very nervous Toledo Correctional.

That's when an aide to a state senator, whose name is always available online in a roster, called Central Office to inquire about my health and asking why the Red Cross was turned away... as if the Red Cross had arrived at Toledo Correctional... and the aide also asked why some reporter was calling the senator's office for comments.

At least, it sounded like a senator's aide.

Later that day, while I was doing push ups after a tasty lunch, the same reporter the aide had mentioned called Central Office and Toledo seeking comment as to whether my health was slipping and why I was held incommunicado and what they were hiding from the Red Cross.

Concerned friends and family, that reporter, and retained counsel all called the real senator's office. So, in frantic exchanges that followed, nobody questioned the reality of the prior calls that got things this hectic.

That's when Amnesty International entered the fray. Or so it seemed. The ACLU. Human Rights Watch. The Center for Constitutional Rights.

The reporter called the day before all of this culminated in my unexplained release from segregation, asking if officials had heard the rumor of a rally planned in the Toledo Correctional parking lot in my support, and a planned concert where the band, Rage Against the Machine, was getting back together to play a benefit.

The reality: I had a team of 5 people with burner cell phones and a multitude of email addresses, a handful of scripted talking points, and a schedule of when to introduce new characters into the mix... while I was reading pulp fiction novels in my seg cell.

Perception of officials: Lawyers, reporters, senators, globally-reputable human rights groups, and some band called Rage Against the Machine were aligned against them; the sky was falling, the world was ending, and they faced a catastrophic systems failure.

According to the institution shrink who came back regularly, amused, to check on me, Toledo Correctional administrators, for three days in a row, had staff conferences with Central Office on speaker phone, involving all upper level staff - the warden, deputy wardens, department heads - to talk about me. I was probably hand washing my underwear in the sink of my seg cell while that happened.

But, it worked. The machine blinked.

Now

Now, in the age of Troll Factories, this can be elevated to a science. The attorney can be created, given not just a name but a website, a Facebook page, a whole history. The name of the senator's aide can be mined and then used from a personal phone paid with a debit card in that aide's name.

Reporters from Buzzfeed and other outlets can be created. A chapter of Amnesty International can be given a Facebook page with names of its officials, as can a local Red Cross, the ACLU of wherever, and so on. Five to ten people with multiple phones and email addresses can project the false reality that an entire universe of media, legislators, lawyers, and human rights advocates are pounding down the doors of the prison complex, creating the prison officials' perception of a doomsday scenario.

Guerrillas can even contact the real senators as media, lawyers, human rights advocates; contact real media and human rights advocates and so on.

It becomes a kind of multidimensional mutually reinforcing spiral of chaos. Perhaps at points calls can be made to real media and human rights groups and senators' aides, as local prison officials, laced with blunders and gaffs and accidental admissions so that, when those people contact Central Office and the proverbial shit hits the fan, local prison officials deny saying anything at all... and no one believes them.

In the current era, all of this can be accompanied by a support site posting updates in real time, a public exposure machine pumping the fabricated narrative to the world as everything develops quickly, describing the actions of counsel, the involvement of human rights groups, the concerns of lawmakers, the idiocy of prison officials... all while friends continue to visit the site and artificially inflate its social media prestige numbers.

Added Layers

In some scenarios where the prisoner consents and supporters assume the risks, a shadow group of militant hacktivists seemingly unaffiliated with the prisoner or the support network can interject itself into the fray. These militants may send emails to prison officials to inform them that numerous prison administrators had received seemingly innocuous emails with attachments... and that they had opened the attachments... and that opening attachments to emails is terrible online security, as trojan horses are most often introduced through email attachments. The militants may then share plans to highjack the prison system's information systems and melt them down, using a virus introduced in email attachments, in retaliation for the treatment of the prisoner.

This requires officials to contact outside agencies to go through all of their information systems searching for viruses - a long, troublesome and embarrassing process.

These militants may also threaten release of media updates all over social media declaring that the prisoner was murdered in custody on orders of specific officials... that the death has been temporarily covered up until security can be sent to the homes of the officials responsible... and that those officials home addresses will be included in the update.

This requires officials to contact law enforcement to arrange for real security - a troublesome and embarrassing scenario.

Simultaneously, anonymous sources can report to Microsoft Copyright Enforcement that they are former employees of the prison system and personally witnessed widespread copyright violations; that all top administrators had Microsoft software reinstalled on their own home systems by prison IT personnel. Microsoft will get court orders within days and audit the entire prison system, digging around in every single computer searching for irregularities in installed programs.

All of these kinds of activities, if undertaken, should be undertaken with great care for online security, including tips that follow. As these tips are from 2015, it would be a good idea to search out developments since this was written.

Security Tips

- Uninstall programs you don't use, using Clam AV and Avast! to do it.
- Use Firefox for a browser and search engines like DuckDuckGo and Startpage to avoid tracking of search history.
- Use an anonymous browser like Tor.
- Use Tails by downloading onto a USB and inserting into any computer for an anonymous, open-source operating system.
- Use encryption tools such as PGP, GPG, BitLocker (Windows) or FileVault (Mac).
- Change passwords frequently using letters and numbers but never words or phrases.
- Type on virtual or onscreen keyboards only.
- Use FileShredder (Windows, Mac) or BleachBit (Linux) rather than recycling bins.
- Save information on encrypted or hidden drives.
- Other resources: anonymizer.com, crypto.com.

Information and Data-Mining Resources

- Excellent resources for data mining are Facebook, Data.com, and LinkedIn.com.
- Companies will sometimes develop Facebook pages where employees leave comments, or FB groups for employees to network. These can be infiltrated with fake Facebook profiles, friending employees to data-mine.
- Lexis Nexis does thorough searches while Intelius.com provides more bulk that may not be current or up to date.
- Other resources: whitepages.com, advancedbackgroundchecks.com, Spokeo.com.

The A— of the T— M— Insurrection: A Vision of Prisoner Support and Collaboration

Introduction

In August 2012, Mansfield Correctional Institution was wholly unremarkable as far as prisons go. It had opened in 1990, housing prisoners in the security level between medium and maximum, known as "close" security. Its 22-year existence had been generally uneventful.

The population of 2500 prisoners was likewise unexceptional. They possessed no special skill sets, knowledge or capacities that might distinguish them from prisoners housed anywhere else.

The compound of Mansfield Correctional was arranged in an imperfect circle, the buildings surrounding a vast grassy space crisscrossed with paved sidewalks and accentuated with landscaped rolling hills. At a glance, it looked very much like a college campus.

There were sixteen housing blocks, eight of them on the North Side, eight of them on the South Side. The North and South sides were kept completely separate, each having its own chow hall and recreation yard. Prisoners on opposite sides of the prison would have no easy time finding a way to congregate or communicate, and the North and South sides were, for all intents and purposes, two separate prisons within the same fence line.

The eight blocks on each side of the prison were further divided. On the North Side, four blocks were designated Unit 1 and the other four blocks were Unit 2. Units 3 and 4 were on the South

Side. Prisoners housed in one unit would rarely, if ever, see prisoners from the other unit even on their side of the compound.

Further still, two of the blocks in each unit were designated as “A” security, with more privileges, and 2 were designated “B” security, with fewer privileges. As a consequence, the hyper-vigilant security measures imposed had thoroughly divided the housing blocks, making it impossible for prisoners to communicate and collaborate beyond their own housing area.

At Mansfield, the daily operation of the prison, like most prisons, from meals to work call to recreation movements to lockdown, seemed to move along by its own kind of inertia. The prison, like all prisons, ran itself.

So, what happened at Mansfield in August of 2012 could happen to any prison at any time.

A Critical Disjuncture

At the end of August, it began. Thousands of pages of materials appeared in every single block within a 24-hour period, somehow transcending the draconian control measures designed to prevent such coordination. This would mean that prisoners from every single block had to be involved in the distribution of materials, though only four prisoners were ever accused of involvement.

The materials were computer generated, and since no prisoner had access to a computer with a printer, this would indicate the materials likely came from the outside, introduced by a collaboration between people on both sides of the fences. Also, the sheer volume of the materials was staggering, inexplicable given the amount of control staff exercised in surveilling the copying machines that only a few prisoners could directly use.

There were dozens of copies in every block of two separate manuals. Those manuals were printed in landscape and numbered 30 to 40 pages each. There were also numerous handbills, a kind of propaganda, each of them numbering in the hundreds in every block.

In addition, on several consecutive windy days, thousands of smaller handbills blew across the compound while prisoners walked to and from chow, those pages displaying the image of the ATM, a monkey swinging from a clock, just like the graphic from the movie. Below that graphic,

the words: “THEY’RE COMING!” These thousands of pages would blow across grass and sidewalks until curious prisoners picked them up, wondering what these messages meant.

The Invitation

One manual was entitled, “Orchestrating Manual.” The word “orchestrating” was used rather than “organizing,” as if the authors intended to make music rather than structure. The manual described how to form insulated cells, operating by consensus, a loose network of them, each independent but loosely affiliated.

The “Resistance” manual described categories of actions best undertaken by individuals, by small groups, by larger groups, all designed to grind the system to a halt.

Curiously, what was conspicuously absent from the manuals and propaganda was any kind of argument that explained to prisoners why they should resist. It would seem the ATM presumed it unnecessary to present such an argument. Instead, they simply provided the know-how for forming a loose framework and for resisting, and they floated - quite literally - an invitation to join in.

Also conspicuously absent was the traditional approach to recruitment and initiation that prison groups always employ. There seemed to exist no leadership, no structure, no one giving orders or demanding allegiance. So, in terms of an organization, the ATM both existed... and did not exist... at the same time.

In this sense, membership equaled participation, and one was a member only during the moments when one was engaging in the resistance activities that the ATM promoted. That is, members of various factions, even rival factions, did not have to renounce their existing affiliations and commitments in order to take part, and could continue their identification and associations with those factions while still participating in the ATM resistance.

Again, ATM was both everywhere and nowhere at the same time.

Monkey Business

For the first few days after literature proliferated, there was a decided and uncomfortable lull, a calm, nothing happening at all. It was as if, collectively, the entire prisoner population was

digesting the information, imagining, wondering if perhaps it was all just a prank, not really serious.

Then, in short order, upheaval. First, the guard shacks on the compound were targeted, staples jammed into the door locks. When guards crow-barred the doors at shift change, and the next shift left the shacks unattended, someone snuck in, stole the guards' lunches, stole their radios, urinated on their sofas, and left deposits of fecal matter in their refrigerators.

And, just a quick aside, it should be noted that pooping in refrigerators was not a tactic described in the manuals. This means the guerrillas were already innovating.

Word spread. Prisoners passed the shacks at every meal. Within days, those shacks would be pelted with ziplock bags full of paint, left as an eyesore and humiliation for those attempting to maintain order.

The number "12" was tagged on the outsides of buildings, in recreation and library bathrooms, in TV rooms in the blocks. Staples in the locks of the unit managers, case counselors, and sergeants prevented them from accomplishing any work in the blocks, and unit staff then barricaded themselves in offices away from the population, off the compound.

The kite box, used to send kite communications to staff, caught fire. Someone had burned and destroyed the mechanism by which prisoners could communicate with staff.

A Powerful Message

Then, the chow hall was assaulted. Debris was crammed down the kitchen drains, causing the entire kitchen to flood with dirty water. As collateral damage, the kitchen plumbing collapsed and all of the food debris and garbage that washed into the drains fell into the open cavity below the kitchen, rotting and toxic. This forced the institution to contract construction firms at a cost of six figures to yank out the cement floors, replace the plumbing, and pour a new concrete floor.

The kitchen operated for three days before guerrillas clogged the drains again, collapsing the plumbing and flooding everything.

Staples were put into the locks of the dry-goods room and sundry storage, as well as the walk-in coolers and freezers. Meals were sometimes delayed for several hours, enraging an already agitated population, who seemingly responded with more disruptive behavior.

Machinery at the Ohio Penal Industries factory at the prison continued to break, making production impossible. When machines were operable, staples in the locks prevented anyone from working. The institution lost tens of thousands of dollars in production a day.

Guerrillas in Their Midst

After a seemingly random assault on a staff member who was found unconscious on the yard, prisoners yelled, "ATM, bitch!" The administration responded by posting a lieutenant with a paintball gun of pepper spray pellets in the middle of the compound during meals, an object of insults and jokes by passing prisoners. Such responses only reinforced the sense of the administration's incompetence, and it elevated the prestige of the ATM, legitimizing resistance to a system that was increasingly recognized as oblivious and stupid. This emboldened the population to more resistance.

As weather cooled, prisoners took batteries and smashed windows, including the windows above the officers' station in each block, forcing guards to work their shifts, sometimes with rain or snow falling on their heads. The tension was palpable, reflected in the eyes of everyone working there. Staff were demoralized, under attack from unseen enemies blending in with the entire population, making every prisoner seem to be the enemy, and provoking them to responses that only increased the tensions. When ordered to participate in more extreme responses, many staff balked, their refusals motivated by fear of ATM reprisals, leading to widespread mutiny from staff against administration. This toxicity in the work environment would hang over the prison long after the ATM insurrection was finally resolved, and that toxicity resulted in an unraveling of institutional order.

Staff would later be caught in embezzlement scandals, with several staffers including the major arrested at the prison and taken away in the backs of squad cars; a prisoner would lean a ladder against the fence and leave; chow hall expenditures due to rampant theft would be the highest of any state prison. Staff attrition was a constant crisis. The warden would be unceremoniously relieved, walking out to the parking lot with a cardboard box of his property, under escort by an official from Central Office.

All of these symptoms were not just subsequent to the ATM insurrection, but were a consequence of it, results of a lasting breakdown of order, morale, and a sense of the administration's legitimacy.

The End of the Insurrection

The Federal Bureau of Investigation was on site within two weeks, working with prison officials to profile prisoners they believed to be responsible. Lockdowns and prison-wide cell shakedowns dampened the enthusiasm, and the insurrection slowly lost steam. But, the presence of the FBI reveals the gravity of these events.

The insurrection not only disrupted the operation of the prison in day to day functions, not only demoralized staff, but caused hundreds of thousands of dollars in structural damages to the prison and losses from halted production at the OPI factory.

But what did authorities view to be so dangerous?

Anatomy of an Insurrection

There are a few reasons that the ATM insurrection distinguished itself in the minds of those in power. First, its absence of organizational structure, its absence of leaders, made it impossible to neutralize by simply isolating its leaders. It was more of a "disorganization" than an "organization." That makes it distinct from all other prison groups.

Second, its activities and aims made it dangerous. The ATM did not seek to bring administrators to a negotiating table to gain an improvement in conditions or reforms to the prison's operations. Even in its literature, it said, "If you are a prisoner, consider this an invitation; if you are a warden, consider this a threat." In another flyer, a hovering helicopter was viewed through the forks of a slingshot with the caption, "JUST DO IT."

So the ATM approach was to attack, to "just do it," listing all of the disruptive actions that would destroy prison order, not to bring the administrators to a peaceful resolution, but seemingly to bring the prison system to its end.

There is nothing more dangerous than a hostile and implacable enemy who has no demands to be met.

Unlike reformist efforts like work stoppages or hunger strikes or even riots, the ATM approach was more dangerous. Even rioters take a prison in anticipation of someday giving it back in exchange for concessions; the ATM did not want control of the prison... did not want concessions... did not want to give it back. The ATM wanted the prison to stop existing. Forever, it seems.

And so, the ATM insurrection represented a different level of threat, one that had to be contained and neutralized at one prison before it spread like a cancer to other prisons and even other jurisdictions. The damage and disruption caused by one insurrection would be nothing compared to the exponential increase of damage and destruction caused by five or ten or a hundred insurrections occurring at the same time.

The replication of the ATM insurrection would be a practical end to the prison industrial complex.

Blood, Smoke and Freedom: Abolition Looks Like This

We must give words their proper meaning.

To “abolish” something is very different than to “alter” or “fix” or “reform” something. To abolish is to bring something to an end, while altering, fixing, or reforming something involves creating something better out of a thing that exists, not ending it entirely. So, if we are to use terms like “abolish” and “abolition,” but we pursue strategies in “reform,” we are being intellectually dishonest.

With prison reform, at the end of the struggle, you have better prisons. With prison abolition, at the end of the struggle, you have a smoldering pile of rubble where a prison once stood.

The concept of abolition also implies force or violence. This is impossible to separate conceptually. To abolish is to overthrow. Abolition does not seek the consent of the overthrown, it is not a process of asking nicely.

Abolition, particularly of any government entity, invariably involves and requires some degree of violence. When storming the bastions of power with the intent to topple them, one cannot reasonably expect those in power to go peacefully and without a fight. If they were inclined to peaceful resignation, then the struggle to abolish them would never become necessary in the first place. Power only dissolves when met with irresistible force.

So, to abolish anything, you must become an irresistible force. Anything less is just mental masturbation.

To achieve abolition, you must have that goal in mind, not some other goal; you must have a realistic strategy and approach that reasonably leads to abolition and not something else; you must have a realistic sense of the time, resources, sacrifice, and risks involved.

You should also consider that in prison abolition, you do not get to choose which prisoners you liberate. You don't get to only liberate the radical who attempted to free minks from a mink farm, or a radical prisoner you heard on radio segments, and keep the others out of your world. Upon abolishing prisons, you liberate the prisoners you like and the ones you don't. The prisoner with the huge swastika tattooed on his chest runs out the same gate that I do; so does the serial rapist who preyed on little children.

When prisons cease to exist, the predators and sociopaths contained in its walls do not disappear to some magical land far away. So, alternatives to the carceral system are necessary, and it makes sense to think through those, developing strategies for keeping your loved ones safe in a world without prisons.

Honest discussion demands that.

This is not to dissuade anyone from abolitionist struggle, but to ensure that everyone enters this struggle clear-minded and with eyes wide open. All radical change results in temporary upheaval; but a world without prisons, without the carceral system, is a world where, eventually, prisons are not needed. That is, collective reinvestment of resources in other ways, and development of non-oppressive means for preventing social deviance rather than reacting to it when it already manifests, will create a world with far less deviance, far less harm to address.

And so, to anyone truly seeking struggle for prison abolition, the course forward is simple. Imagine yourself the ruler of a world relying upon prison complexes, with its prisons and

warehouses and corporate profiteers, and then ask yourself, “What are the actions I would not want to see happen to me and my system?”

Brainstorm with others. Develop lists of activities and targets.

Find ways to do all of those things. And never stop.

About Sean Swain

Sean Swain has been held without legal conviction or sentence since 1991 for the self-defense killing of a court official’s relative who broke into Sean’s home and threatened his life. Before being taken hostage, Sean worked as a newspaper columnist and as a union organizer. Sean has renounced his high school diploma, his college degree, and his honorable discharge from the U.S. military. Though innocent of any crime, and though he is held without legal conviction or sentence, Sean will only be liberated when the illegitimate power of the lawless rogue state holding him hostage is abolished once and for all.

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