

Appeal to United Nations to Halt Racial Discrimination and Acts of Genocide against the People of Detroit

Draft Appeal to the United Nations High Commissioner for Human Rights

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Moratorium NOW! Coalition and the Michigan Emergency Committee Against War & Injustice (MECAWI)

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A Call for Assistance in the Efforts to Halt Racism, Racial Discrimination and Acts of Genocide Directed Towards the People of the City of Detroit in the United States of America

The following draft appeal was submitted and accepted by the United States Human Rights Network (USHRN) to be included in their report related to the gross human rights violations being committed inside the country. This appeal is an important contribution to the annual submission by the USHRN that is designed to point out the violations by the U.S. government of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The appeal requests the direct intervention by relevant UN agencies including, but not limited to, the High Commissioner for Human Rights based in Geneva, Switzerland.

This appeal is directed towards the United Nations High Commissioner for Human Rights and all other agencies of this international body concerned with the prevention and halting of institutional racism, racial discrimination and genocide. Two organizations which have played a leading role in opposition to the imposition of austerity, the racist denial of the right to vote and due process under the law in defense against the predatory actions of multi-national corporations and international financial institutions in the City of Detroit, the Michigan Emergency Committee Against War & Injustice (MECAWI), founded in 2002 and the Moratorium NOW! Coalition to Stop Foreclosures, Evictions and Utility Shut-offs, founded in 2008, are making this appeal to the United Nations due to the failure of the local, state and federal governmental structures to uphold the fundamental civil and human rights of the majority African American population of Detroit, but not limited to this predominant segment of the people, and encompassing all those who are impacted by the current policies enacted by a system of emergency management, forced bankruptcy and restructuring of the City of Detroit.

We are charging that deliberate actions by the State of Michigan through its Governor Rick Snyder and majority right-wing legislative bodies are calculated and well-planned to foster the disempowerment of the African American people. This program is specifically designed to destroy the political and social gains made by the African American people, but also severely impacts negatively the labor movement, social justice organizations and all other historically affected groups facing national discrimination and class oppression in the United

States.

The Nullification of the Elections of November 2012

These policies implemented by the State of Michigan are being carried out against the political will of the majority of people not only in the City of Detroit but throughout the state. In November 2012, an election was held on a proposal to change the Michigan state constitution specifically designed to take full control of municipalities such as Detroit with majority African American populations and impose emergency managers who are non-elected officials appointed by the Governor who work exclusively on behalf of the interests of banks and large corporations and results in their unjust further enrichment through the seizure of public properties, homes, school systems, municipal pension funds and healthcare programs.

The Michigan statewide election of November 2012 voted down decisively the emergency manager bill known as Public Act 4. Despite this overwhelming vote against emergency management that is tantamount to municipal and school systems dictatorship, the right-wing Governor and legislative body drafted a new law, Public Act 436, which essentially re-imposed the same legislative proposal rejected by the state electorate. The imposition of Public Act 436 was designed so that it would be referendum proof. Efforts to overturn Public Act 436 within the federal courts have been met with judicial stalling allowing the total eradication of fundamental civil and human rights within the City of Detroit and those impacted cities in the State of Michigan.

Since the implementation of Public Act 436 the erosion of the civil and human rights of the residents of the City of Detroit has been implemented with rapidity and without consideration of the popular will of the people of the City and the State. Governor Snyder in March 2013 appointed emergency manager Kevyn Orr, a bankruptcy lawyer, to manage all aspects of the affairs of the City of Detroit. Orr is a former partner of the Jones Day law firm which is currently administering the affairs of the City of Detroit in contravention to the wishes of the majority of the people within the municipality.

Later in July 2013, Orr filed for municipal bankruptcy when the emergency manager office was subjected to numerous legal challenges and broad public opposition to the imposition of this form of dictatorial rule. Later in December 2013, Federal Court Judge Steven Rhodes ruled that the bankruptcy filing done by Jones Day law firm was legitimate and deemed that the largest of such bankruptcies in U.S. municipal history could go forward.

The Denial of Due Process Purportedly Protected Under the 14th Amendment of the U.S. Constitution

In the aftermath of the U.S. Civil War during 1861-1865, there was the passage of the 13th Amendment which ostensibly granted freedom to nearly four million Africans from chattel slavery. Later in 1868, the 14th Amendment to the U.S. Constitution was passed by Congress to grant purported citizenship rights to the former enslaved Africans and other people of African descent recognizing the right to due process, i.e., the right to have access to public institutions, to serve on juries and to be treated equally under the fundamental constitutional law of the U.S.

These petitioners are claiming that the letter and spirit of the 14th Amendment guarantees are being denied to the majority African American population of Detroit and others who

reside inside the City. These attacks on the right to due process are manifested in the action being implemented through emergency management.

During the course of the federal court hearings on whether the City of Detroit was eligible for bankruptcy restructuring, hundreds of people had filed legal objections to this effort. Mass demonstrations were held opposing the bankruptcy filing outside the federal court between July and December of 2013 involving City of Detroit retirees, municipal workers, community activists, religious figures, etc. There were no demonstrations held in support of the bankruptcy or the continuation of emergency management.

Actions Implemented by the Emergency Management System Causing Great Bodily Harm and Mental Distress to the People of Detroit

Since the appointment of the emergency manager and the forced bankruptcy, a series of actions have been taken against the residents of Detroit, its employees and retirees. In March 2014, the healthcare coverage of the more than 30,000 municipal retirees and their families were abruptly cancelled even through these medical programs stemmed from contractual agreements that had been in force for several decades.

The cancellation of medical coverage for tens of thousands of retirees and their families has caused grave hardships on these former City employees. At present the federal court bankruptcy Judge Rhodes has allowed the cancellation of these healthcare programs despite the fact that a final “plan of adjustment” aimed at ostensibly “restructuring of the City of Detroit” has not been decided on by the court. A hearing on the plan of adjustment is not scheduled until mid-August of 2014.

Many former employees of the City of Detroit suffered injuries on the job which necessitates ongoing and specialized medical attention. Lifesaving medications which are essential for the survival of these retirees and their families are no longer being paid for by the City of Detroit despite previous contractual agreements. Other employees, many of whom are of advanced age, have been left with no medical coverage or forced to enroll in the federal government’s Affordable Care Act healthcare programs, which are not affordable.

Former employees are being required to pay insurance premiums to private firms anywhere ranging from \$600-\$3,000 per month in order to maintain coverage through the ACA, commonly known as Obamacare. Most retirees and their families are not able to pay such high premiums and are now facing the possibility of worsening healthcare crises and even death.

Other actions taken by the emergency manager at the aegis of the Governor include the massive shut-off of water services to thousands of households throughout Detroit in an effort to break-up and privatize a publically-owned water system which is one of the most advanced in the U.S. The United Nations has already spoken out against the inhumane character of the massive water shut-offs which are endangering the health and well-being not only of the households impacted but the overall population and environmental quality of all residents of the City of Detroit and its environs.

Efforts aimed at the privatization of the public water system in Detroit which provides fresh water to suburban and other regional communities has not been seriously questioned or halted by the federal bankruptcy court. These efforts related to the water system are being also carried out against other publically-owned assets of the City of Detroit.

Belle Isle, a large public park located between the city and Ontario, Canada, has been seized by the State of Michigan over and above the desire of the City Council and the people of Detroit. The Detroit Public Lighting (DPL) System is currently being privatized and may be taken over by the DTE Energy Corporation, one of the largest utility firms in the U.S. which has over \$20 billion in assets.

The Detroit Public Works (DPW) has been privatized as well. In addition, the world-renowned Detroit Institute of Arts (DIA) is being threatened with seizure by the emergency manager where the treasured art works worth billions of dollars could be sold on auction by the dictatorial imposed leadership from State in order to pay off questionable and illegal debts to the banks.

The Favoring of the Banks and Corporations in the Bankruptcy Process

It is the contention of the Moratorium NOW! Coalition and MECAWI, that the egregious policies of the banks and corporations are responsible for the underdevelopment and impoverishment in the City of Detroit. The targeting of Detroit and other majority African American municipalities in the U.S. by banks has been well-documented in numerous legal actions where financial institutions have agreed to pay billions of dollars in damages not necessarily to the victims of such actions but to the federal and state governments.

Resources which should be utilized to keep people in their homes who have been subjected to predatory lending, as well as the payment of restitution and reparations to communities negatively and disproportionately affected by the actions of unscrupulous banks, has not taken place. In the State of Michigan over \$500 million allocated through the so-called "hardest hit" program to assist distressed homeowners have not been utilized to prevent mortgage or tax foreclosures.

These same funds however now, are being utilized to identify homes to be torn down, many of these houses and small business were abandoned as a direct result of the predatory actions of the banks. A Detroit Land Bank Authority (DLBA) has been established and is currently seizing thousands of homes and vacant lots without any consultations with residents of the affected neighborhoods in Detroit.

A Detroit Blight Removal Task Force, which works in conjunction with the DLBA, has been established with open collaboration of the administration of President Barack Obama. A private meeting held involving Dan Gilbert, the owner of Quicken Loans, one of the many predatory loan firms operating in Detroit and around the country, along with other corporate heads, was convened at the White House in early 2014. With the endorsement of the White House, the wholesale seizure of monies supposedly designed to assist distressed homeowners are being utilized to obtain title and raze properties. These actions raise serious questions about the role of the Obama administration in the ongoing emergency management and forced bankruptcy of Detroit.

The Obama administration submitted a brief in the federal bankruptcy during 2013 saying that actions taken by the emergency manager in Detroit was constitutional. No consideration of the blatant violation of the 14th amendment protections of due process were taken into consideration.

The 15th Amendment of the U.S. Constitution passed by an act of Congress in 1870 was designed to grant the right to vote to the former enslaved Africans. Despite the nullification

of the statewide vote in December 2012 against emergency management, the U.S. Justice Department and the White House are apparently collaborating with State of Michigan officials by fostering the blatant violation of the 15th Amendment along with the Civil Rights Acts of 1957, 1964 and the Voting Rights Act of 1965.

An appeal to the U.S. Attorney General Eric Holder in 2013 by several elected political officials requesting the intervention of the federal government in reviewing the denial of the right to vote and due process as protected under the 14th and 15th Amendments to the Constitution, and other acts of Congress including Civil Rights and Voting Rights laws, has gone unanswered. In addition to the legal brief submitted to the federal bankruptcy court by the Obama administration in support of the emergency management and forced bankruptcy of Detroit, the administration has endorsed the privatization of the administration of federal grants that had been previously handled by the City of Detroit departments and employees. The expropriation of these federal grants from the City of Detroit and turning them over to private foundations located outside the City has resulted in the termination of employees and departments that previously administered such grants where employees paid into the pension systems that are now under attack by the emergency manager.

At present retirees are being threatened with the theft of their pensions. As early 2013, the emergency manager Kevyn Orr had warned that pensioners could suffer up to an 84 percent cut in their monthly checks. Public pensions are protected by the state constitution of Michigan yet federal bankruptcy Judge Rhodes ruled in conjunction with the eligibility for bankruptcy that the pensions of municipal retirees could be impaired.

Nonetheless, the banks and corporation which are responsible for the destruction of the city through the outsourcing of jobs, the closing of factories, schools and other businesses and the targeting of the City of Detroit through usurious municipal financial loans and bond issues have gone unpunished by the emergency manager, the State of Michigan, the federal government and the Jones Day law firm which is administering the municipality.

In a series of hearings on the status of an interest-rate swap deal in operation from 2005-2014 issued by Bank of America Merrill Lynch and the Union Bank of Switzerland (UBS) beginning in late 2013 and early 2014, it was exposed by Atty. Jerome Goldberg acting on behalf of City of Detroit retiree David Sole, that the predatory nature of such financial deals had and still does have a detrimental impact on the residents of the City. After rejecting two previous proposals to terminate the interest-rate swap deal drafted by Jones Day and the banks, federal Judge Rhodes agreed to turn over another \$85 million to these financial institutions despite the fact that the City of Detroit residents through their tax dollars had already paid over \$300 million to these banks which help to drag the City into financial distress.

Although Judge Rhodes appeared to have agreed with the arguments put forward by Atty. Goldberg acting on behalf of David Sole in his Jan. 16, 2014 ruling, this was reversed in a later ruling in March 2014 which allowed Jones Day law firm to turn over the additional \$85 million to the banks. In the earlier ruling Rhodes intimated that the City of Detroit, or Jones Day, which is acting illegally on behalf of the City of Detroit, would have solid legal grounds in pursuing actions against Bank of America Merrill Lynch and UBS for the predatory character of the interest-rate swaps, however, this was dropped in the later ruling.

The Moratorium NOW! Coalition has put forward the demand that the illegitimate debt purportedly owed to the banks should be cancelled. If such actions were carried out the City

of Detroit would have adequate resources to re-structure the municipality based upon the interests of the residents of the City, its employees and retirees.

Actions Requested by the United Nations to Address the Gross Human Rights Violations in Detroit

The Moratorium NOW! Coalition and MECAWI are requesting specific actions by the United Nations High Commissioner for Human Rights, other agencies concerned with the prevention of racism, racial discrimination and genocide, sympathetic governments and non-governmental organizations affiliated with the international body. We are requesting that sanctions be implemented against the U.S. government for its failure to protect the residents of the City of Detroit, in particular its majority African American population.

These sanctions could involve the denial of recognition of the U.S. within relevant United Nations agencies and activities. Sympathetic governments could refuse to trade and engage in investments in the United States and its interests outside the country.

A statement condemning the failure to protect the civil and human rights of the people of Detroit and the complicity of the Obama administration, the State of Michigan, the emergency manager Kevyn Orr in the deliberate denial of these rights, should be introduced and passed within the United Nations Human Rights Council, the United Nations Security Council and the General Assembly. These sanctions and resolutions of condemnation should be based on the violations of not only U.S. Constitutional law but those Conventions within the United Nations system designed to prevent racism, racial discrimination and genocide.

According to the United Nations International Convention on the Elimination of All Forms of Racial Discrimination drafted in 1965 and fully adopted in 1969, all relevant member-states of the United Nations in accordance with Article 2 requires that:

“1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

“(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

“(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

“(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

“2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the

purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved. “

Since the local, State and Federal governments of the U.S. including its courts have apparently conspired to deny the fundamental rights under domestic law to protect the rights of the residents of this majority African American municipality, it is necessary that the United Nations undertake immediate actions design to halt such gross violations of both civil and human rights laws and conventions. As was demonstrated during anti-colonial and anti-apartheid struggles during the period of the 1960s through the 1990s, the United Nations is well within its authority to enact sanctions against States which deliberately engage in racism, racial discrimination and acts of genocide against population groups.

Also we firmly believe that the calculated denial of such rights constitute a conspiracy to commit genocide against the majority African American population of Detroit, but not limited to this racial group, but all other nationalities residing in the City as well as former employees now residing outside the City. Passed in December 1948 and enforced by the United Nations as of January 1951, the Convention on the Prevention and Punishment of the Crime of Genocide is extremely relevant to the conditions being imposed on the people of the City of Detroit through the denial of basic civil and human rights.

The Convention defines genocide within Article II stating that “In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.”

Sections a, b and c are particularly relevant to the conditions being imposed on the people of Detroit and its majority African American population but not limited to this segment of the population and impacting all residents and retirees of the City of Detroit. The Convention also provides guidance on the acts committed which are punishable by the United Nations related to acts of genocide.

A section with the Convention notes that:

Article III: The following acts shall be punishable: (a) Genocide; (b) Conspiracy to commit genocide; (c) Direct and public incitement to commit genocide; (d) Attempt to commit genocide; (e) Complicity in genocide.

The contention of the Moratorium NOW! Coalition and MECAWI is that these actions enacted by the emergency manager, the State of Michigan, the multi-national corporations and banks with the complicity of the federal government and courts constitute deliberate acts designed to further oppress and repress City of Detroit residents through the denial of due process, the nullification of votes, the privatization of public assets, the theft of healthcare systems and pension funds from employees as well as the termination of thousands of household’s water services, is and will further result, in the causing of great bodily harm, mass deaths and the forced and systematic removal of the majority of the population

currently residing in the City.

Finally, we are requesting that the United Nations Human Rights agencies with deliberate speed convene an International Tribunal on the Crimes of Racism, Racial Discrimination and Genocide being perpetuated against the people of Detroit and the State of Michigan. This tribunal should be held in the City of Detroit and be open for testimony and observation by all residents of the City of Detroit as well as all other interested parties, governments, non-governmental organizations and other relevant United Nations agencies.

*Submitted on Monday June 30, 2014 by: Abayomi Azikiwe on Behalf of the Moratorium NOW! Coalition and the Michigan Emergency Committee Against War & Injustice (MECAWI)
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