

JAILHOUSE Lawyers

PRISONERS DEFENDING
PRISONERS V. THE U.S.A.

Mumia Abu-Jamal

Foreword by Angela Y. Davis



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My wish is only to tell a story that has never been told before, enriching our understanding of the world's Prison-house of Nations—the USA.

With an estimated three million men, women, and juveniles in American prisons, there are three million stories to be told.

This is but one that I have the high honor of telling.

Mumia Abu-Jamal
Death Row, USA
January 2009

City
Lights

FOREWORD

By Angela Y. Davis

One of the most important public intellectuals of our time, Mumia Abu-Jamal has spent more than twenty-five years behind bars, the majority of that time on death row. He is supported by millions all over the planet, not only because of the egregious repression he has suffered at the hands of the state of Pennsylvania, but because he has used his abundant talents as a thinker and writer to expand our knowledge of the hidden world of jails, prisons, and death houses in which he has spent the last decades of his life. As a transformative thinker, he has always taken care to emphasize the connections between incarcerated lives and lives that unfold in the putative arenas of freedom.

As Mumia has repeatedly pointed out, those of us who live in the “free world” are not unaffected by the system of state violence that relies on imprisonment and capital punishment as pivotal strategies for ordering society. While those behind bars suffer the most direct effects of this system, its raced, gendered, and sexualized modes of violence bolster the institutions and ideologies that inform our lives on the outside. In all of his previous books, Mumia has urged us to reflect on this dialectic of freedom and unfreedom. He has asked us to think deeply about the racial and class disproportions in the application of capital punishment, rarely taking advantage of the opportunity to call upon people to save his own life, but rather using his writing to speak for the more than three thousand people who inhabit the state and federal death rows. Over the years, I

have been especially impressed by the way his ideas have helped to link critiques of the death penalty with broader challenges to the expanding prison-industrial-complex. He has been particularly helpful to those of us—activists and scholars alike—who seek to associate death penalty abolitionism with prison abolitionism.

In this book, *Jailhouse Lawyers: Prisoners Defending Prisoners v. the U.S.A.*, Mumia Abu-Jamal introduces us to the valuable but exceedingly underappreciated contributions of prisoners who have learned how to use the law in defense of human rights. Jailhouse lawyers have challenged inhumane prison conditions, and even when they themselves have been unaware of this connection, they have implicitly followed the standards of such human rights instruments as the Standard Minimum Rules for the Treatment of Prisoners (1955), the International Covenant on Civil and Political Rights (1966), and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984). Mumia argues that the passage of the Prison Litigation Reform Act (PLRA) is a violation of the Convention against Torture, for in ruling out psychological or mental injury as a basis through which to recover damages, such sexual coercion as that represented in the Abu Ghraib photographs, if perpetrated inside a U.S. prison, would not have constituted evidence for a lawsuit. If jailhouse lawyers are concerned with broader human rights issues, they also defend their fellow prisoners who face the wrath of the federal and state governments and the administrative apparatus of the prison. Mumia Abu-Jamal's reach in this remarkable book is broadly historical and analytical on the one hand and intimate and specific on the other.

We are fortunate to be offered this history of jailhouse

lawyers and this analysis of their legacies by one who can count himself among their ranks. Mumia's words in the opening section of the book about the general conditions that create trajectories leading prisoners to jailhouse law are compelling. He writes of a "deep, abiding disenchantment with lawyers that forces some people to become their own, and also to assist others. In every penitentiary, in every state of the U.S., there are men and women who have learned, through study and experience, and trial and error, the principles of the law."

Many of the jailhouse lawyers evoked in the pages of this book—including the author himself—were well educated before they entered prison. Studying the law was more a question of focusing their intellectual skills on a different object than of familiarizing themselves and becoming comfortable with the discipline of learning. But there are also those jailhouse lawyers who literally had to teach themselves to read and write before they set about learning the law. Mumia points to what was for me a startling revelation: jailhouse lawyers comprise the group most likely to be punished by the prison administration—more so than political prisoners, Black people, gang members, and gay prisoners. Whereas jailhouse lawyers are now punished by what Mumia calls "cover charges," historically they could be charged with internal violations for no other reason than that they used the law to challenge prison guards, prison regimes, and prison conditions.

The passage of the Prison Litigation Reform Act (PLRA)—understood by many to have saved the court from frivolous lawsuits by prisoners—was a pointed attack on the jailhouse lawyers Mumia sets out to defend in these pages. He successfully argues that many significant

reforms in the prison system resulted directly from the intervention of jailhouse lawyers. Some readers may remember the scandals surrounding conditions in the Texas prison system. But they will not have known that the first decisive challenges to those conditions came from jailhouse lawyers. Mumia refers, for example, to David Ruiz, whose 1971 handwritten civil rights complaint against Texas prison conditions was initially thrown away by the prison administrator charged with having it notarized. As we learn, Ruiz rewrote the complaint and bypassed the prison administration by giving it to a lawyer, who handed it over to a federal judge. This case, *Ruiz v. Estelle*, was eventually merged with seven other cases originating with prisoners. They challenged double- and triple-celling and work regimes that incorporated the violence of plantation slavery.

Moreover, Texas, along with other southern prison systems, relied on what were known as “building tenders,” i.e., armed prisoners acting as assistants to guards, for the governance of the institution. The largely white guards and building tenders poised against the majority Mexican- and African-American prisoners led to “abuse, corruption and officially sanctioned injustice.” For those who assume that charitable legal organizations in the “free world” were always responsible for the prison lawsuits that led to significant change, Mumia reminds us that what is now known as “prison law” was pioneered by prisoners themselves. These lawyers behind bars practiced at the risk of punishment and even death. Ruiz himself was placed in the hole after filing this lawsuit against the warden. But, as Mumia points out, the state of Texas was eventually compelled to disestablish the building tender system and to curtail its overcrowding and the overt violence of its regimes. Such

contemporary suits as the recent one brought in part by the Prison Law Office against the state of California, which focuses on overcrowded conditions and the lack of health care in California prisons, have been precisely enabled by the work of jailhouse lawyers—those who risked violence and even death in order to make their voices heard.

In light of the major transformations that have historically resulted from the work of jailhouse lawyers, it is not surprising that Mumia argues strenuously against the Prison Litigation Reform Act, whose proponents largely relied on the notion that litigation by prisoners needed to be curtailed because of their proclivity to submit frivolous lawsuits. One of the cases most often evoked as justification for the passage of the PLRA was mischaracterized as claiming cruel and unusual punishment because the prisoners received creamy instead of chunky peanut butter. This was not the entire story, which Mumia offers us as a powerful refutation of the underlying logic of the PLRA. Popular representations of prisoners as intrinsically litigious were linked, he points out, to representations of poor people as more eager to receive welfare payments than they were to work. Thus he connects the 1996 passage of the PLRA under the Clinton administration to the disestablishment of the welfare system, locating both of these developments within the context of rising neoliberalism.

Mumia Abu-Jamal's *Jailhouse Lawyers* is a persuasive refutation of the ideological underpinnings of the Prison Litigation Reform Act. The way he situates the PLRA historically—as an inheritance of the Black Codes, which were themselves descended from the slave codes—allows us to recognize the extent to which historical memories of slavery and racism are inscribed in the very structures of

the prison system and have helped to produce the prison-industrial-complex. If slavery denied African and African-descended people the right to full legal personality and the practices of racialized second-tier citizenship institutionalized the inheritance of slavery, so in the twentieth and twenty-first centuries, prisoners find that the curtailment of their capacity to seek redress through the legal system preserves and reaffirms that inheritance.

Mumia's profiles include both men and women, both people of color and white people, with disparate motivations and often very different ways of identifying or not identifying themselves as jailhouse lawyers. Prisoners have challenged the law on its own terms in ways that recapitulate the grassroots organizing by ordinary people in the South that led eventually to the overturning of laws authorizing racial inferiority.

As Mumia points out, if there is increasing respect for the religious rights and practices of people behind bars, then it is largely due to the work of jailhouse lawyers. In the state of Pennsylvania, where Mumia himself is imprisoned, one extremely active jailhouse lawyer profiled in the book is Richard Mayberry, who initiated many important lawsuits, including the case known as *I.C.U. (Imprisoned Citizens' Union) v. Shapp*, which broadly addressed health, overcrowding, and other conditions of confinement in Pennsylvania prisons.

The I.C.U. case ended in a settlement, which required an agreement by all parties. Mayberry served as class representative and signed on behalf of thousands of state prisoners, and a court-agreed settlement went into force, creating new rules that covered the

entire state system. The I.C.U. provisions became the foundation for every subsequent regulation that governed the entire state, and they lasted for decades, until the passage of the Prison Litigation Reform Act. (161)

Mumia not only offers accounts of cases and profiles of prison litigators who have had a lasting impact on the prison system in the United States, he also reveals the extent to which jailhouse lawyers provide legal assistance to their peers, both with respect to their cases and with respect to institution violations. In relation to the latter, outside lawyers are often actually prohibited from representing prisoners, whereas jailhouse lawyers are permitted to assist prisoners in their defense of institutional charges.

Whether the lawsuits generated by jailhouse lawyers are expansive in their reach, potentially affecting the lives of large numbers of prisoners, or whether they are specifically focused on the case of a single individual, they have indeed made an enormous difference. Mumia Abu-Jamal has once more enlightened us, he has once more offered us new ways of thinking about law, democracy, and power. He allows us to reflect upon the fact that transformational possibilities often emerge where we least expect them.

Free Mumia!

Lights

PREFACE

I mean, c'mon—seriously! What in the hell *is* a “jailhouse lawyer”?

Depending on your station in life, the term is apt to evoke a variety of responses. Disbelief. Laughter. For some, perhaps confusion.

Jailhouse lawyer? The term implies a dissonance, a kind of contradiction in terms.

Yet, even if some shun the title, there are tens of thousands of men and women who actually are such a thing, and like most people, they are heir to all the winds of whim, good and bad, competent and incompetent, large-hearted and petty.

Years ago, before I entered the House of Death, I interviewed a man in Philadelphia's Holmesburg Prison who was quite opinionated on the subject. His name was Delbert Africa, a well-known member of the revolutionary MOVE organization, who soon would face a *de facto* life sentence in Pennsylvania's dungeons for being among nine people who had the temerity to survive a deadly police assault on their home and headquarters on August 8, 1978.¹

Delbert Africa was an eloquent interviewee who spoke with a distinctive country accent, his conversation peppered with passion, reason, and commitment. He spoke disparagingly of jailhouse lawyers, and when I asked him why he felt this way, he responded, “Them dudes get in there, read alla them law books, and before you know it, they be crazy as hell!”

“What do you mean, *crazy*?” I asked.

“Well, they may not be crazy when they *get* here, but after a while, after a few months of reading that shit, they go down to City Hall, and when they see that them folks down there in City Hall, in the System, don’t really *go* by that so-called law, well!—it plumb drives them dudes crazy!”

“Yeah, man, but why it drives ’em dudes crazy?”

“Cuz they cain’t believe that the System don’t follow they own laws!”

“But why?” I continued.

“It drives they ass crazy ’cuz they cain’t handle the fact that the System just make and break laws as it see fit! How many treaties they done signed with the Indians? Ain’t a one of ’em they done kept! Some of ’em broke ’em befo’ the ink was dry on ’em old treaties! Them the same folks who run this System today! If they couldn’t keep a treaty with Indians when they first got here, what make you think they gonna keep they so-called law today, especially when it come to me and you, man?”

“Bro—I get that; I understand that. But what’s up with them *crazy jailhouse lawyers*—I don’t get that.”

“They go crazy becuz, Mu, they really believe in the System, and this System always betray those that believe in it! *That’s* what drive them out they minds, man. They cain’t handle that. It literally drives them out they mind. I see ’em around here, walkin’ ’round here dazed, crazy as a bedbug!”

It took me a while, but I got him. When he told me

those words, I was a *free* man—as free as a Black man can be in America—and working as a reporter and producer for a Philadelphia public radio station. When Delbert Africa broke it down for me, I had no idea that, years later, his words would take on such significance.

His words flew back to me like a pigeon to its coop when I was in the prison law library speaking with a younger man named Qadir who was on death row with me. Qadir was a prodigious legal researcher. He read criminal cases constantly and researched his own case to the nth degree. He knew the relevant case law, the pertinent statutes, and had tightly studied precedents that reflected on the issues in his case.

As he discussed the matter with me and showed me the case citations and excerpts from those cases to support his argument, he asked my opinion. I had been on death row longer than he had, so I ventured that he may have been correct in what the state court opinion said, but that alone wouldn't determine the outcome of his case. He was especially focused on the fact that his capital jury had surreptitiously broken sequestration—the court's order that the jury be separated from the public for fear of tampering—and was certain that because they crept out of their hotel rooms and partied with other hotel guests until dawn, a new trial would be granted.

Qadir was adamant.

“Look, Mu—here it is, right here, in black and white! A jury can't break their sequestration—it's a direct violation of a judge's order!”

“I hear you, Qadir—but, just 'cuz somethin' is written there in those books, don't mean the Supremes [short-

hand for the Pennsylvania Supreme Court] gonna grant you relief.”

“Yes, it do, Mu! It do! Here it is in black and white, man! They *gotta* grant me relief!”

“Qadir—”

“They *gotta*—it’s right here!”

“Qadir—”

“Can’t you see that, man? It’s hornbook² law—they *gotta* give it up!”

“Qadir—Qadir! They do what they wanna do, man! Just ‘cuz it says something in one case, they don’t have to go by that case, man. I agree with you, that you got a damn good argument—and you should prevail—but I don’t go for that ‘gotta’ rap.”

“You wrong, Mu! You wrong! Here it is right here! They *gotta* give it to me! No ifs, ands, or buts! It’s in black and white!”

Qadir would not, indeed, could not relent. Nothing I said could get through.

It would be months, perhaps a year, after our law library debate, that the Pennsylvania Supreme Court finally delivered its lengthy opinion. It affirmed both the convictions and the sentence of death. In dry, distanced legalese, the judges explained away the wayward jury. The defendant could not prove any prejudice derived from the jury’s escape from the hotel during its sequestration.

Within days, Qadir was heard muttering and blathering stuff from his cell about “the Mothership” coming to pick him up, to fly him away from death row. It took days, perhaps weeks, for men around him to talk him down, to bring him around.

His mind, unable to accept the court's decision, had snapped. He was right on the legal precedents, but what did it matter?



While I was being held at Huntingdon Prison in central Pennsylvania, a volunteer lawyer visited who wanted to assist me in a civil action, and we discussed the law.

He was giving me the drill, telling me his opinion on what the law was on First Amendment³ issues, and I replied, "Man, the law ain't nothing but whatta judge *say* the law is."

The lawyer abruptly stopped his discourse and stared.

"What's wrong, man?"

"Uh—nothing . . . but why did you say that?"

"Cuz that's what I see, man. You could have an issue, and it be on all fours with a issue in a case. You be right, and you know you right! The judge shoot you down. Now, what's the law? What's written in that law book, what's written in that case, or what the judge say?"

"In my first year of law school, that's exactly what my law school professor used to teach! I'm just surprised to hear you say almost the same things."

"Damn! And I didn't have to go to law school to learn that, huh?"

All across America, there are many men and women in county jails and state and federal prisons who are active,

working jailhouse lawyers, but most of whom have never spent an hour in a law school class. They have learned, in their own way, what the “law” is, hard-won knowledge earned through years of experience in the fight.

This is the story of law learned not in the ivory towers of multibillion-dollar-endowed universities, surrounded by neatly kept lawns and served by the poor, who clean, sweep, and wash their cares away. It is law learned in the bowels of the slave ship, in the hidden, dank dungeons of America—the Prisonhouse of Nations.

It is law learned in a stew of bitterness, under the constant threat of violence, in places where millions of people live, but millions of others wish to ignore or forget.

It is law written with stubs of pencils or with four-inch-long, rubberized flex-pens, with grit, glimmerings of brilliance, and with clear knowledge that retaliation is right outside the cell door.

It is a different perspective on the law, written from the bottom, with a faint hope that a right may be wronged, an injustice redressed.

It is Hard Law. These are the stories from that voyage.

Mumia Abu-Jamal
Death Row, USA
January 2009

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THE SOCIAL ROLE OF JAILHOUSE LAWYERS

There is an old African-American saying: “It doesn’t matter what you call me; it matters what name I answer to.” For many jailhouse lawyers, it matters not if they are called writ writers, jailhouse lawyers, or another name altogether, what matters is the social role these men and women answer to—the role they fulfill that bridges a void in the prison system.

Jailhouse lawyers serve best when they can help a fellow prisoner right a wrong or obtain redress for a particular grievance against the state. They fulfill their role when they are able to save a life or open the latch on the cage. They also help when they are able to redress broad, institution-wide, or sometimes statewide grievances. The role of jailhouse lawyers serves to ameliorate a problem that may have broad impact within the prison system, and thus pushes back a particularly repressive act or set of actions contemplated by prison administrators and their political bosses.

In *Brooks v. Andolina*, for example, the U.S. Court of Appeals held that under violation of the First Amendment to the Constitution, prisoners could not be punished for writing a letter that complained about the behavior of a guard.¹ Based on the 1974 Supreme Court case *Procunier v.*

Martinez, the case forbade the state from censoring outgoing correspondence because of complaints against prison staffers.²

What, one wonders, could be the downside of such a thing? Cases such as these reinforce the role of the law as an arbiter in social relations and further the image of a fair dealer between litigants on both sides.

Yet it is important to note that cases such as these are civil cases, and as such operate under a different set of rules from those that apply to the majority of criminal legal proceedings. What seems fairly straightforward in the civil context becomes something else entirely when it comes to the life, liberty, and protections of a litigant who seeks standing in the realm of criminal law.

There is an ancient Latin saying that has come to us through England, and before that from Rome: *Rex no potest peccare*—“The King can do no wrong.” It is an odd concept in a nation that claims its origin in a statement proclaiming, quite boldly, that the King of England had wronged the people of the American colonies—I speak here, of course, of the Declaration of Independence. Yet the modern legal system is replete with principles that hearken back to that hoary period. Of course, there are no references to the King, but substitute “the state” for “the King” and it fits perfectly.

That doctrine survives in the idea of sovereign immunity, which protects states and officials of states, such as judges, district attorneys, and occasionally prison officials, from some of the most atrocious acts imaginable. Additionally, the Prison Litigation Reform Act has worked to make it considerably harder to break through the legislative brick walls surrounding the courthouse.

If we were to translate *Rex no potest peccare* into modern terms, the phrase would say “The state can do no wrong.”

Isn’t such an idea absurd? Yet, such ancient ideas and principles still hold sway in U.S. courts. It is at this junction that jailhouse lawyers often unwittingly serve the interests of the state by propagating the illusion of “justice” and “equity” in a system devoted to neither.

The prison system is erected upon an unjust, imbalanced, and unfair structure. It maintains and indeed heightens such injustices by its daily existence. Jailhouse lawyers, at times, project to the larger public consciousness the essential fairness of the judicial structures of the state. Thus jailhouse lawyers support the propaganda interests of the state, that it is a fair and equitable arbiter of social and class conflict.

Jailhouse lawyers also serve to release pressure from the pressure cooker that is prison; they present the illusions of legal options as pathways to both individual and collective liberation. As former political prisoner and jailhouse lawyer Ed Mead explains, “courts have defined what’s actionable in increasingly narrow terms, and the procedural hurdles . . . have increased so much that . . . it’s difficult to make any progress. . . . But in terms of prisoners organizing, in terms of building a movement, in terms of moving things forward, litigation is not the answer. . . . The real need is for political organizing on the inside. It used to be against the law for workers to combine, to organize, to unionize, and workers just went ahead and did it. And that’s how they won their rights. And that’s the same with prisoners.”³

If the so-called Rehnquist court and its successor have shown us anything, it has been its naked antagonism to the interests and legal options of prisoners, showing the limits

of the law as a liberating vehicle for the millions of imprisoned within the United States—the Prisonhouse of Nations.⁴ It is one thing to be an adversary of the State, a role that some jailhouse lawyers relish, but it is something quite different to be an unwitting and unwilling instrument of it.

It can be argued that by their very existence jailhouse lawyers serve the system, especially in the sense that the system denies the rights of the imprisoned to real, meaningful “legal access to the courts” and consents to accept, as a kind of substandard fall-back measure, the assistance of jailhouse lawyers, some of whom are as venal as proverbial ambulance chasers are among street lawyers. If folks have constitutional rights to “access to the courts,” why is there no concomitant access to real lawyers to challenge their convictions or their conditions of confinement? In many states, post-conviction counsel is nonexistent. There is no “right to counsel” in a civil context. The burden, therefore, falls on jailhouse lawyers.

Thus, the paradox of being a jailhouse lawyer—to be at once both *subversive to* and a *subject of* the law. Many jailhouse lawyers may not recognize themselves in such a portrait, but, as in the hidden painting of Dorian Gray, a true likeness is reflected.

Nonetheless, as true as this may be, we cannot forget the simple fact that for every case that wins, perhaps a hundred are lost. That is partly due to the sheer vagaries and caprice of American law, to divergent abilities among a wide range of people, or to situations such as Sam Rutherford has eloquently opined, “I have seen prisoners win cases based on briefs that were barely legible simply because the judge wanted to rule in the prisoner’s favor.”

If Rutherford is right, then the legal system is simply

a “lottery.” How can one speak reasonably about the “fairness” of such a system? In such a case, what is to be done? What is the socially conscious, politically aware jailhouse lawyer to do?

Perhaps an old African-American proverb, drawn from centuries of social, political, and cultural struggle can provide an answer: “Speak truth to power.” That means, if it does not hurt one’s clients, to speak truths about power, the law, and history in the context of one’s briefs and legal pleadings.

There is, thankfully, yet another option. Jailhouse lawyers aren’t simply, or even mainly, jailhouse lawyers. They are sons, daughters, uncles, nieces, parents, sometimes teachers, grandparents, and occasionally writers. In short, they are part of a wider, broader, deeper social fabric. There are literally thousands, if not tens of thousands of journals, community papers, newsletters, Web sites, and other media that may be explored as outlets to reach people and spread these truths for a wider social discussion and reflection.

It is important to utilize these insights, to “speak truth to power”—and more important, in a radical and revolutionary context, to the people.

The Centrality of Movements

The struggle for Black rights, in a nation predicated upon white supremacy, opened the door for various other social, cultural, gender, and ethnic movements to grow, coalesce, and flower. With the emergence of the Black freedom movement, the reigning ideology on Black rights, which

extended to keep other social segments under its hegemony and domination, began to be chipped away. This historical footnote is added not to claim primacy over other movements, but to illustrate how interconnected seemingly disparate movements are, and how one movement can move other segments of society.

History, Marx teaches, is not an impassive, unconscious social phenomenon, but rather people in action against others. "History does nothing, it possesses no immense wealth, fights no battles. It is rather man, real living man, who does everything, who possesses and fights."⁵

Social movements give rise to other social movements, and open up social spaces for people who historically have been oppressed.

The Black Liberation Movement, most specifically the Black Panther Party, gave space in its national journal, *The Black Panther* newsweekly, to prison activists. It also covered and supported various prisoners' movements, such as those of New York's Martin Sostre, that of the Soledad Brothers, the international Angela Davis case, and that of the Party's most famous member, George L. Jackson. Indeed, Jackson was installed as a field marshal in the Black Panther Party's Central Committee, the only such prisoner so honored, which served to make him a larger target for the white nation.

The best impetus for successful jailhouse lawyering is a successful social movement to move the law and society beyond the barriers of the past. No movement can effectively exist in a vacuum; we are interconnected. Jailhouse lawyers must look beyond the state's imprisoning bars, brick, and cement to build relationships with others in the so-called "free" world to further and support social movements that spread liberating and progressive space within society.

AFTERWORD

Why, one wonders, would this book be written today?

It is written, we musn't forget, in the Prisonhouse of Nations—the United States of America. Here, there are more than 2.3 million men, women, and juveniles under lock and key. As the *New York Times* has recently reported, the U.S. has just under 5 percent of the world's population, yet it has a quarter of the world's prison population.¹ In the realm of imprisonment, the United States truly is Number one.

In such a milieu, it is not surprising that there are men and women who are called “jailhouse lawyers.” With literally millions of persons so encaged, many of whom are illiterate, poor, and starkly isolated, why should we be surprised at the rise of jailhouse lawyers? The question should be, “Why are there not more?”

Much can be said of the fact that for many, many youth, the nation's educational system has failed dramatically. There are, of course, reasons for this. Nearly half a century after the landmark 1954 case *Brown v. Board of Education* theoretically outlawed school segregation, millions of children are still being miseducated in race- and class-segregated schools, where resources to provide a meaningful education are few and far between.² Such deficits in education almost guarantee that good jobs will bypass many who seek to climb their way out of America's burgeoning ghettos. It should be added, parenthetically, that no federal constitutional right exists guaranteeing a citizen's right to education.

Indeed, for far too many people prison has become the educational system of last resort, for it is here that many people have learned not only to read and to reason, but also a smattering of history, politics, and law. The figure of Black revolutionary Malcolm X is instructive, for it was in the dim night-light under a cell door that his studies transformed him from criminal to committed social activist and revolutionary.³

Many jailhouse lawyers have spent many dreadful months and years in the hole reading nothing but law books (as much other reading material is severely restricted). Indeed, this was my own experience, which also featured long extended discussions with dudes like Steve Evans, “Chief Justice,” and others. I am indebted to them for their insights.

Given these isolating conditions, usually under severe repression, jailhouse lawyers have climbed the redwoods of institutional grievances all the way to court filings, admittedly with mixed results.

Inasmuch as traditional career lawyers are rarely allowed to intervene in institutional hearings (states like Arizona are exceptional), prisoners are left to the winds of chance, as to which jailhouse lawyer they can find to render assistance.

Unless there is drastic social transformation of the sort that several commentators have suggested, in either bar membership or real confidentiality rules, the number of jailhouse lawyers (albeit of dubious quality) can only increase. For jailhouse lawyers are seeded by the weeds of systemic social injustice.

One may look long and exceedingly hard to find an-

other book about jailhouse lawyers, for to the author's knowledge no other such work exists.

It has thus been an honor to engage in this act of underground reportage of a phenomenon that, while not new, has rarely received the kind of attention and detail that *Jailhouse Lawyers* aims to provide.

Men and women, often self-taught, have developed a tradition of selfless service and in some cases excellence, to serve the needs of society's dispossessed.

To be one of that number has been a challenge and an honor to this writer, who offers this reportage to illustrate what transpires in the depths of America, the Prisonhouse of Nations.

Mumia Abu-Jamal
Death Row
January 2009

City
Lights

ENDNOTES

In the summer of 2005, the author conducted a research survey that was circulated to jailhouse lawyers throughout the United States. The responses have been incorporated into this work and are referenced as “communication with author.”

List of author’s prison correspondence with dates:

Frank Atwood, August 28, 2005, Arizona State Prison, Eyman.

Amber Bray, August 21, 2005, Central California Women’s Facility, Chowchilla, California.

George Rahsaan Brooks-Bey August 26, 2005, SCI Fayette, Pennsylvania.

Dejah Brown, July 19, 2005, Central California Women’s Facility, Chowchilla, California.

Roger Buehl, July 7, 2005, SCI Albion, Albion, Pennsylvania.

Matthew Clarke, October 1, 2005, Ramsey One, Texas Department of Corrections, Rosharon, Texas.

Shaka Cinque aka Albert Woodfox, July 7, 2005, Angola State Penitentiary, Angola, Louisiana.

Anonymous, August 23, 2005, San Quentin, California.

Margeret “Midge” Deluca, July 29, 2005, Edna Mahan Correctional Facility for Women, Clinton, New Jersey; supplemental interview, March 7, 2007.

Jane Dorotik, July 18, 2005, April 2, 2007, CIW Corona, California.

Barry “Running Bear” Gibbs, September 24, 2005, Graterford, Pennsylvania.

Antoine Graham, August 8, 2005, New Jersey State Prison, Trenton, New Jersey.

Richard Mayberry, June 29, 2005, SCI Fayette, Pennsylvania.

Ed Mead, former prisoner, F.C.I. Marion, Illinois & Monroe Correctional Complex, Washington State, April 11, 2006.

Anonymous, September 9, 2005, Edna Mahan Correctional Facility for Women, Clinton, New Jersey.

David M. Reutter, August 31, 2005 Tomoka Correctional Institution, Daytona Beach, Florida.

Samuel C. Rutherford III, September 9, 2005, McNeil Island Correctional Center, Steilacoom, Washington.

Teresa Torricellas, August 2005, Central California Women's Facility, Chowchilla, California.

Iron Thunderhorse, August 22, 2005, Polunsky Unit, Livingston, Texas.

Charles "Dutchman" Van Dorsten, September 15, 2005, Muskegon Correctional Facility, Muskegon, Michigan.

Herman Joshua Wallace, July 5, 2008, Angola State Penitentiary, Angola, Louisiana.

Robert Williams, December 5, 2008, Fremont Correctional Facility, Colorado.

Ronald "Chief Justice Fat Burger" Williams, July 4, 2005, SCI Greene, Waynesburg, Pennsylvania.

Foreword from the U.K. Publisher

1. See: "USA: A life in the balance – the case of Mumia Abu-Jamal," <http://www.amnesty.org/en/library/info/AMR51/001/2000>
2. After a visit with Mumia in 2008, Archbishop Desmond Tutu wrote asking if handcuffs could be removed from prisoners during visits, and they were.
3. Legal Action for Women at the Crossroads Women's Centre (LAW). LAW has a sister organisation in San Francisco.
4. The implications are many. "The outpouring [of California's expenditure on prisons] has forced the state's governor . . . to slash other public services including schools with cuts that education leaders have warned could decimate the state's school system." ("U.S. prison population hits new high," *Guardian*, March 1, 2008.)

Preface

1. MOVE—which is not an acronym, but a term meaning to move, get active, resist, etc.—was a Philadelphia-based, multiracial, radical community known for its propensity for protest against various social forces and perceived injustices, from animal exploitation in zoos, to police brutality. As its protests grew, so too did the repression, and MOVE became increasingly blacker.

On August 8, 1978, the Philadelphia Police Department attacked the West Philadelphia home and headquarters of the MOVE Organization firing thousands of shots into an occupied residence. A Philadelphia cop, James Ramp, was shot by friendly fire, yet nine MOVE members, men and women, were convicted of his murder on May 8, 1980. Philadelphia Common Pleas Court Judge Edwin Malmed sentenced Janine, Debbie, Janet, Merle, Delbert, Mike, Eddie, Phil, and Chuck Africa to thirty to 100 years for the third-degree murder of officer James Ramp.

Several days later Judge Malmed was a guest on the Frank Ford talk show on WWDB-FM radio, when I called in and asked him, “Who shot James Ramp?” Malmed replied, “I haven’t the faintest idea.” He later told other reporters, “I tried them as a family, and I sentenced them as a family.” August 8, 2007, marked their thirtieth year in prison. Today they are eligible for parole, but police and corporate press are conspiring to block their releases. See: Mumia Abu-Jamal, *Live from Death Row*, pp. 188–189.

2. The term “hornbook” refers to a basic theory of law. *Black’s Law Dictionary* gives the following definition: “The phrase ‘horn-book law’ is a colloquial designation of the rudiments or general principles of law.” 5th ed., p. 664.
3. The First Amendment of the U.S. Constitution is the first of ten amendments referred to as the Bill of Rights. The First Amendment relates to freedoms of speech, religion, the press, and assembly.

1. Learning the Law

1. Warren Burger, then Chief Justice of the U.S. Supreme Court, quoted in *Time* magazine, June 27, 1977.
2. “Reports” and “reporters” are interchangeable; both refer to verbatim texts of opinions issued by courts.
3. *Santa Clara County v. Southern Pacific Railroad*, 118 U.S. 394, 6 S.Ct. 1132 30 L.Ed. 118 (1886). The case dealt with a county 5 percent tax on profits of Southern Pacific, which amounted to \$13,366.53 for fiscal year 1882. Based on an opinion authored by J. Harlan, the assessment was declared “a nullity.” Despite how the case has been used by later courts, it was decided based on California’s constitution—hardly precedent for other states, much less the entire United States (p. 410).
4. *Black’s Law Dictionary* defines headnotes as “a brief summary of a legal rule or significant facts in a case” (p. 48). In the case *U.S. v. Detroit Timber & Lumber Co.*, 200 U.S. 321, the court ruled that headnotes constitute no part of its opinion, and thus had no force of law. It is prepared by the Reporter of Decisions for the convenience of the reader. All U.S. Supreme Court opinions are published in at least three formats: the *Supreme Court Reporter*, a private publication of West Publishing Co.; *The United States Reports*, which is the official text of the Court itself; and *Lawyers Edition*, also published by a private company, which gives far more extensive coverage of such cases, as lawyers and law schools tend to require references to appellate briefing data and other facets of cases. These reports are notated as S.C., U.S., and L.Ed., respectively.
5. *Santa Clara County v. Southern Pacific Railroad*, op. cit.

6. Edward Lazarus, *Closed Chambers: The Rise, Fall and Future of the Modern Supreme Court* (New York: Penguin, 1999), p. 29.
7. Raoul V. Mowatt, "Inmate wins his own acquittal in stabbing death at Holmesburg," *The Philadelphia Inquirer*, October 29, 1991, p. 6–8.
8. General Equivalency Diploma—a diploma certifying that one has attained high school–level learning.
9. *Johnson v. Avery*, 393 U.S. 483 (1969).
10. *Ayers v. Ciccone*, 303 F.Supp. 637 (W.D. Mo. 1969).
11. Mark S. Hamm et al., "The Myth of Humane Imprisonment: A Critical Analysis of Severe Discipline in Maximum Security Prisons, 1945–1990," in Michael Braswell, Steven Dillingham, and Reid Montgomery Jr., eds., *Prison Violence in America*, 2nd ed. (Ohio: Anderson, 1994), p. 188.
12. Mumia Abu-Jamal, *All Things Censored* (New York: Seven Stories, 2000), p. 240 (in text, not table form).
13. *Ruiz v. Estelle*, 503F.Supp. 1265 (S.D. Tex. 1980), pp. 1299–1300. See Ch. 7 on the *Ruiz* case and its impact on Texas.

2. What "the Law" Is

1. Will Durant, *The Story of Philosophy* (New York: Simon & Schuster, 1961), p. 7.
2. Karl Marx and Frederick Engels, *The Communist Manifesto* (Chicago: Kerr Publishing Co., 1998), p. 36. Originally published in 1848.
3. Emphasis added. Herbert Aptheker, *American Negro Slave Revolts* (International Publishers: New York, 1943), pp. 61–62.
4. Howard Zinn, *Declarations of Independence: Cross-Examining American Ideology* (New York: Harper Perennial, 1990), p. 158; fr. F. L. Meek, ed., *Lectures on Jurisprudence: Adam Smith* (Oxford: Oxford University Press, 1978).
5. Angela Y. Davis, "From the Prison of Slavery to the Slavery of Prison," in Joy James, ed. *The Angela Y. Davis Reader* (Malden, Mass.: Blackwell Publishers Inc., 1998), p. 76.
6. Durant, op. cit., p. 7.
7. Alexis De Tocqueville, *Democracy in America* (Bantam Classic: New York, 2004), pp. 303–304. Original published in 1835.
8. *Hobbs et al. against Fogg*, 6 Watts (PA.) 553 (1837), p. 554.
9. *Ibid.*, 555–6.
10. *Ibid.*, 556.
11. *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857). The case was infamous for its finding that blacks "had no rights which the white men were bound to respect." It is generally regarded as a trigger for the U.S. Civil War.
12. *Hobbs v. Fogg*, 6 Watts (Pa.) p. 553 (1837).
13. John Africa, *The Judges Letter* (Philadelphia: n.p., ca. 1978).
14. *Fulwood v. Clemmer*, 206 F.Supp. 370 (D.D.C. 1962).

15. *Cruz v. Beto*, 405 U.S. 319 (1972).
16. *Africa v. Commonwealth of Pennsylvania*, 662 F.2d 1025 (3CA 1981).
17. E.g., *Colon v. Coughlin*, 58 F.3d 865, 872 (2nd Circ. 1995) (false charges claim); *Woods v. Smith*, 60 F.3d 1161 (5th Circ. 1995) (false charges claims); *Babcock v. White*, 102 F.3d 267 (7th Circ. 1996) (transfer); *Valandingham v. Bojorquez*, 866 F.2d 1135 (9th Circ. 1989) (“snitch” claim).
18. Zinn, *Declarations of Independence*, op. cit., p. 135.
19. *Ibid.*, p. 135.
20. *Ibid.*
21. Cited in Howard Zinn, foreword to Peter Irons, *A People’s History of the Supreme Court* (New York: Viking, 1999), p. vi.
22. Circuit Judge Newman’s article has been published in a number of journals, including *The Correctional Professional* (January 1996), *Prison Legal News* (April 1996), and *62 Brooklyn Law Review* (1996).
23. U.S. Constitution, Eighth Amendment: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”
24. *Prison Litigation Reform Act of 1996* (PLRA), Public Law 104–134, 110 Stat. 1321 (April 26, 1996).
25. Michael Meeropol, *Surrender: How the Clinton Administration Completed the Reagan Revolution* (Ann Arbor: University of Michigan Press, 1999). Cited in Gregory Albo, “Neo-Liberalism from Reagan to Clinton,” *Monthly Review* (April 2001), pp. 81–89. Meeropol was born Michael Rosenberg, one of two sons of Ethel and Julius Rosenberg, who were targeted, convicted, and executed on June 19, 1953, by the U.S. government, ostensibly for spying for the Soviets. The case of the Rosenbergs became an international issue, with a great many people protesting the conviction. Years later, files became public revealing government and judicial collusion to ensure their convictions and execution, furthering government efforts to whip up a Red scare. See: Howard Zinn, *A People’s History of the United States: 1492–Present* (New York: HarperCollins, 2005), p. 426; Mumia Abu-Jamal, *All Things Censored* (New York: Seven Stories, 2000), pp. 262–263. Indeed, a recent account in the *New York Times* (Sunday, September 14, 2008, p. 42) supports the claim that neither Rosenberg participated in atomic bomb secrets and that the prosecutors knew that Ethel Rosenberg was completely innocent, but thought by convicting her they would pressure Julius Rosenberg to confess to espionage.
26. Emphasis added. Michael Ratner and Ellen Ray, *Guantánamo: What the World Should Know* (White River Junction, Vt.: Chelsea Green, 2004), Appendix I, p. 110 (excerpt from Article I, “Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment,” available at www.unhcr.ch/html/menu3/b/h_cat_39.htm).
27. *Ngo v. Woodford*, 403 F.3d 620 (9 CA 2005) n. 1.

28. See F.1, in *Ngo*, *ibid.*
29. *Siggers-El v. Barlow*, 433 F.Supp. 2d 811 (E.D. Mich. 2006) (cited in 18 *Prison Legal News* 34 [January 2007]).
30. “PLRA’s Mental and Emotional Damage Award Ban Unconstitutional in \$219,000 First Amendment Claim,” 18 *Prison Legal News* 34.
31. *Ibid.*
32. 141 Congressional Record S14, 418 (daily ed. Sept. 27, 1995), Statement of Senator Hatch.

3. When Jailhouse Lawyers “Represent”

1. *Black’s Law Dictionary*, p. 230.
2. In the United States, trials are usually handled by trial lawyers. On appeal to higher state or federal courts, one may hire appellate counsel or be granted or appointed such counsel.
3. *Commonwealth v. Billa*, 555 A.2d 835 (Pa. 1989), p. 842.
4. *Mills v. Maryland*, 486 U.S. 367 (1988), outlawed the requirement of unanimity in the finding of mitigating circumstances in death cases.
5. Emphasis added. *Com. v. Billa*, *ibid.*, p. 181.
6. Civil rights actions have their impetus in the Civil Rights Acts, federal statutes enacted after the U.S. Civil War (1861–1865). They are known popularly as the Ku Klux Klan acts, for they were written in response to white terrorism against the newly freed captives in the South. Also called §1983 actions, under Tit. 42 U.S.C. §1983, which authorizes suits against state actors for violation of constitutional rights.
7. *Herron v. Harrison*, 203 F.3d 410 (6 CA [Tenn.] 2000), pp. 414–415.
8. *Thaddeus-X v. Blatter*, 175 F.3d 378 (6 CA 1999).
9. *Herron v. Harrison*, *op. cit.*, pp. 414–15.
10. On May 13, 1985, the Philadelphia Police Department used a helicopter to drop a bomb on a residential building in which MOVE members were living. The bomb’s blast resulted in the death of eleven people, including four children. Most of an entire city block burned down in the fire caused by the bomb.
11. Clark DeLeon, “MOVE: Blasting the media,” *Philadelphia Inquirer*, January 24, 1981, 2-B.
12. Kitty Caparella, (untitled sidebar) *Philadelphia Daily News*, July 14, 1981.
13. Kitty Caparella, “Reunion: MOVE Leader Greets Accuser,” *Philadelphia Daily News*, July 3, 1981.
14. A.W. Geiselman Jr., “Testimony of Witness Challenged,” *The Bulletin*, July 9, 1981, Philadelphia edition.
15. *Ibid.*
16. Tom Masland, “Defense in MOVE Case Tells of Group’s Power,” *Philadelphia Inquirer*, July 14, 1981.
17. *The Guidelines* are a collection of John Africa’s teachings, ideas, and outlook, many in typed, xeroxed, and handwritten form. From June 28

- to July 29, 1975, the *Philadelphia Tribune*, a local Black biweekly, published a column titled “On the MOVE: The Writings of John Africa.”
18. Trial transcript of *U.S. v. Africa*.
 19. *United States v. Vincent Leaphart a/k/a John Africa, et al.*, #77-380 (E.D. Pa. 1981), N.T. (July 16, 1981), pp. 10.86–10.87
 20. *Ibid.* Emphasis added.
 21. Trial transcript of *U.S. v. Africa*.
 22. Kitty Caparella, “Sobbing MOVE Chief Takes Case to Jury,” *Philadelphia Daily News*, July 17, 1981.
 23. Trial transcript of *U.S. v. Africa*.
 24. *Ibid.*
 25. *U.S. v. V. Leaphart*, op. cit., pp. 10.146–10.154.
 26. *Ibid.* at 10.154.
 27. Kitty Caparella, “No Hard Feelings, John Africa Says,” *Philadelphia Daily News*, July 23, 1981.
 28. *Ibid.*
 29. Not being reduced to M-1 means that the charges were not reduced from felony to misdemeanor.
 30. *Com. v. Janet Knighton*, M.C. 81-11-2088; *Com. v. Theresa Africa*, M.C. 81-11-2109; and *Com. v. Michael Jones, a/k/a Master Michael Africa*, M.C. 81-11-2206; 2207; 2208, Municipal Ct., City Hall, Philadelphia, Pa., March 15, 1982.
 31. *Com. v. Knighton; Africa; Jones*, *ibid.*
 32. *Faretta v. California*, 422 US 806 (1975).
 33. Pennsylvania Constitution, Art. I; Sect. 9.

4. What about Street Lawyers?

1. *World Almanac and Book of Facts, 2008*, “Employed Persons in the U.S. by Occupation and Sex, 2005, 2006” (New York: World Almanac Books, 2008), p. 97.
2. Clarence Darrow, *Attorney for the Damned: Clarence Darrow in His Own Words*, Arthur Weinberg, foreword William O. Douglas. Also see: Darrow, Clarence, *Crime and Criminals*, Address to the Prisoners in the Cook County Jail, Simon and Schuster 1957
3. Howard Zinn, *A People’s History of the United States, 1492–Present*, (New York: HarperCollins, 1980 [2003]) p. 367.
4. Clarence Darrow, *Crime and Criminals*, op. cit.
5. *Faretta v. California*, 886.
6. University of Chicago Web site: http://press-pubs.uchicago.edu/founders/print_documents/amendV-VI_criminal_processs2.html.
7. J.B. Bury, *History of the Later Roman Empire: From the Death of Theodosius to the Death of Justinian* [vol. I] (Mineola, N.Y.: Dover, 1958), p. 4.
8. Emphasis added. De Tocqueville, *Democracy in America*, op. cit., p. 323.
9. *Ibid.*, pp. 321–22.

10. Jerry Fresia, *Toward an American Revolution: Exposing the Constitution & Other Illusions* (Boston: South End Press, 1988), pp. 1–2.
11. *Ibid.*, p. 177.
12. *Ibid.*, p. 20.
13. *Ibid.*, p. 28.
14. 1 Pa. C.S.A. §1503 (a); (b). The Courts of Common Pleas, King's Bench and Exchequer were former superior and supreme courts of England prior to the Judicature Acts of the 1870s and '80s, which reorganized courts. The King's Bench, as the name suggests, was formerly a court presided over by the king (or queen) and dated from the reign of William the Conqueror, 1066 C.E.
15. 1 Pa. C.S. §1503 (a); (b).
16. Oliver C. Cox, *Caste Class & Race, A Study in Social Dynamics* (Monthly Review Press, New York 1948 [1970]), p. 318, fn.2; from J. G. Nicolay and John Hay, *Abraham Lincoln, Complete Works* Vol. 1 [1894], p. 105.
17. Zinn, *A People's History of the United States*, op. cit., pp. 260–61.
18. *Civil Rights Cases*, 109 U.S. 3 (1883), 25.
19. *Ibid.*, p. 32.
20. *Ibid.*, p. 62.
21. Irons, *A People's History of the Supreme Court*, op. cit., p. 214.
22. Howard Zinn, *Declarations of Independence: Cross-examining American Ideology* (New York: Harper Perennial, 1990), p. 156.
23. Mumia Abu-Jamal, "Defense Lawyer—For the Prosecution!" November 29, 2000 (commentary), citing the *New York Times*, November, 24, 2000.
24. *Ibid.*
25. *Strickland v. Washington*, 466 U.S. 668 (1984).
26. Roger Darloff, "Effective Assistance Ain't Much," *American Lawyer* (January–February 1993).
27. For the case in which the lawyer was high on heroin and cocaine during the trial, see Darloff, *ibid.*
28. *People v. Badia*, quoted by Roger Darloff, *Harper's magazine*, March 1993.
29. Darloff, *American Lawyer*, op. cit.
30. *Vines v. United States*, 28 F.3d 1123 (11CA [Fla.] 1994), p. 1129.
31. *Ibid.*, pp. 142–43.
32. *Johnson v. Norris*, 207 F.3d 515 (8CA 2000).
33. *Ibid.*
34. *The Concise Columbia Encyclopedia*, Third Edition (New York: Columbia University Press, 1983), p. 528.
35. *Rickman v. Bell*, 131 F.3d 1150, 1159 (6CA 1997).
36. *Rickman*, *ibid.*, 1157.
37. William M. Kunstler, *The Emerging Police State* (Melbourne/New York: Ocean Press, 2004), p. 41.
38. MOVE members like Ramona Africa (survivor of the May 13 Mas-

sacre) continue to organize. She has spoken at Harvard, on numerous television shows, and frequently before international audiences in France, Germany, and beyond.

39. *Fontroy et al. v. Beard et al.*, 485 F.Supp. 2d 592 (E.D. Pa. 2007).
40. *Ibid.*, pp. 597–598.
41. *Ibid.*, p. 598.
42. *Ibid.*
43. Jerome F. Kramer, “Scholarship and Skills,” *National Law Journal* (January 9, 1989), pp. 15–16.

5. The Jailhouse Lawyering of Mayberry

1. Literally, the Latin term means, “for himself,” or one who appears or files papers in court, without benefit of a lawyer. Black’s L Dict., 1099. In some jurisdictions, the term *pro per*—meaning “for himself”—or *in propria persona* is used to the same legal effect.
2. *Black’s Law Dictionary* defines the “Court of Quarter Sessions” thus: “Formerly, a court of criminal jurisdiction in the state of Pennsylvania, having power to try misdemeanors, and exercising certain functions of an administrative nature” (pp. 324–325; 5th ed., 1979). Indeed, the formal title of the court was Court of Quarter Sessions of the Peace. The Court was established by the Pennsylvania constitution of 1776, and abolished in the Pennsylvania constitution of 1968, Art. V (Schedule); Sect. 4. The Clerk of Quarter Sessions now functions as the clerk of the courts for the Court of Common Pleas of the City of Philadelphia. Tit. 42 Pa. C.S. §2751.(c).
3. *Mayberry v. Pennsylvania*, 400 U.S. 455, 91 S.Ct. 499, 27 L.Ed.2d 532 (1971).
4. *Ibid.*
5. *Ibid.* pp. 500–501.
6. *Ibid.*
7. Jay Sterling Silver, “Equality of Arms and the Adversarial Process: A New Constitutional Right,” 1990 *Wisconsin Law Review*, p. 1007.
8. *Ibid.*, n. 1; citing Blackstone, *Commentaries*, p. 340.
9. *Mayberry v. Pennsylvania*, *Ibid.*
10. *Mayberry v. Pennsylvania*, p. 502.
11. Emphasis added. *Mayberry v. Weinrott*, 255 F.Supp. 80 (E.D. Pa. 1966), pp. 81–82.
12. Emphasis added. *Com. v. Langnes*, 434 Pa. 478, 255 A.2d 131, 136 (1969).
13. *Mayberry v. Frame*, 383 F.Supp. 212, 214 (W.D. Pa. 1974).
14. *I.C.U. v. Shapp*, 451 F.Supp. 893 (E.D. Pa. 1978); Dkt. No.: C.A. #70-3054, consent decree (ordered May 22, 1978).
15. Consent decrees are agreements made by both sides to an action, and sealed by a court. In a sense, it is a civil contract to which both sides are bound.

16. *Mayberry v. Maroney*, 529 F.2d 332, 336 (3CA 1976); Conover case: 477 F. Supp. 893 477 F.2d 1073 (3CA 1 973).
17. *Mayberry v. Maroney*, *ibid.*, 336.
18. Communication with the author.
19. *Ibid.*
20. *Ibid.*

6. A Woman's Work in State Hell

1. Emphasis added. Angela Y. Davis, "Race and Criminalization: Black Americans in the Punishment Industry," *The Angela Y. Davis Reader*, ed. Joy James (Malden, Mass.: Blackwell Oxford, 1998), p. 66.
2. *Pro bono* is a Latin term meaning, literally, "for the good," and usually means the provision of legal services for free. *Black's Law Dictionary*, 1092. It is sometimes used in its fullest term: *pro bono publico*, L. "For the public good" (1083).
3. Communication with author.
4. *Ibid.*
5. A section of a state prison regulation that governs prison grievances that prisoners may file against staff, either individually or collectively.
6. A minute order is a brief excerpt of the court's order showing sentencing.
7. Communication with author.
8. Joy James, ed., *Shadow-Boxing: Representations of Black Feminist Politics* (New York: St. Martin's Press, 1999), pp. 28–29.
9. Ian F. Haney Lopez, *White By Law: The Legal Construction of Race* (New York: NYU Press, 1996), p. 44.
10. *U.S. v. Cruikshank*, 92 U.S. 542, 544–45 (1876).
11. *Fletcher v. Peck*, 6 Cranch 87. [10 U.S. 87, 3 L.Ed. 162 (1810)].
12. *Ibid.*
13. Richard Lawrence Miller, *Drug Warriors & Their Prey: From Police Power to Police State* (Westport, Conn.; Praeger, 1996).
14. Source: movementbuilding.org/prisonhealth/womens.html.
15. Communication with author.
16. Communication with author.
17. *Ibid.*
18. Sharon Schlegel, "Doing Doable Time," *Trenton Times*, October 5, 2004.
19. *Ibid.*
20. Communication with author.
21. *Ibid.*
22. *Ibid.*
23. *Ibid.*
24. Schlegel, "Doing Doable Time," *op. cit.*
25. Communication with the author.
26. The reference is to *Gilmore v. Lynch*, 319 F. Supp. 105 (N.D. Ca. 1970)

aff'd per curiam sub. nom. *Younger v. Gilmore*, 404 U.S. 15 (1971) which supports inmate assistance to file petitions and complaints to allow meaningful access to the courts.

27. Communication with author.
28. *Ibid.*

7. The Ruiz Effect: How One Jailhouse Lawyer Made Change in Texas

1. *Ruiz v. Estelle et al.*, 503 F.Supp. 1265 (S.D. Tex. 1989). W. J. Estelle, the first named defendant, was director, Texas Dept. of Corrections. Other source material for this chapter: Janet Elliot, "Inmate who fought for prison reform dies," *Houston Chronicle*, Nov. 15, 2005, pp. B1-B7.
2. *Ruiz v. Estelle*, *ibid.*, p. 1281.
3. *Ibid.*, p. 1295.
4. *Ibid.*, p. 1369-70.
5. *Ibid.*, pp. 1294-5.
6. *Ibid.*, p. 1370.
7. Janet Elliot, *op. cit.*
8. Communication with the author.

8. From "Social Prisoner" to Jailhouse Lawyer to Revolutionary: Ed Mead's Journey

1. Communication with the author.
2. *Ibid.*
3. *Ibid.*
4. *Ibid.*
5. The White Panther Party, believed originally to have been formed in Ann Arbor, Michigan, functioned briefly as a radical support group for the Black Panther Party. Although it overtly emulated the Black Panthers in its mode of dress and rhetoric, its members went to jail on relatively minor weapons and drug charges. They did not engage in the level or frequency of conflicts faced by the Black Panthers, although they did experience police repression.
6. Communication with the author.
7. *Quotations of Chairman Mao Tse-Tung*. (Peking [Beijing]:Foreign Language Press, 1972).
8. Communication with the author.
9. *Jones v. North Carolina Prisoners' Labor Union*, 433 U.S. 119 (1977).
10. Communication with the author.
11. *Ibid.*

9. Jailhouse Lawyers on Jailhouse Lawyers

1. *Gideon v. Wainwright*, 372 U.S.335 (1963).

2. See www.ocpd.state.ct.us/images/Gideon%20Petition.gif.
3. Communication with the author.
4. Communication with the author.
5. Communication with the author.
6. Communication with the author.
7. Communication with the author.
8. Communication with the author.
9. Communication with the author.
10. Communication with the author.
11. A legendary lifer and denizen of the hole, Ben Porta, responded to the advertiser by hitting him the next morning with a milk carton full of piping-hot, watery feces. Not simply because he was an irritating jailhouse lawyer, but because he was loud and irritating, and dared to mention Porta's name.

10. The Best of the Best

1. Mark S. Hamm et al., in *Prison Violence in America*, op. cit., p. 188.
2. *Brooks v. Andolina*, 826 F.2d 1266 (3CA 1987).
3. National Association for the Advancement of Colored People.
4. After initial appeal, trial "resumed" in district court and there was still friction at the county jail.
5. Communication with the author.
6. *Furman v. Georgia*, 408 U.S. 238 (1972).
7. *Sostre v. McGinnis*, 442 F.2d 176 (2CA 1971), p. 189.
8. Communication with the author.
9. Communication with the author.
10. M. T. Clarke, "Article 17.151, C.C.P., the Fast Track Out of Texas Jails," *The Paralegal Bench*. This journal was published by NCOP/ Academy for Paralegals, Inc., 2721 Merrick Way, Abingdon, Md. 21009-1162; (410) 569-9114. See appendix.
11. Communication with the author.
12. Communication with the author.
13. Communication with the author.
14. Communication with the author.
15. Communication with the author.

11. The Worst of the Worst

1. David Cole, "In Case of Emergency," *New York Review of Books*, July 13, 2006, p. 43.
2. Michael Ratner, "The Guantánamo Prisoners," in Rachel Meeropol, ed., *America's Disappeared: Detainees, Secret Imprisonment, and the "War on Terror"* (New York: Open Media/Seven Stories Press, 2005), p. 39. Newly elected President Barack Obama has issued an Executive Order

- closing Guantanamo's detention center and forbidding torture. David Jackson and Richard Wolf, "Obama revamps rules on detainees," *USA TODAY*, January 23, 2009, p. 1A. However, there should be no question that torture remains, for Obama, as a member of the Illinois state legislature, surely knew of the torture that occurred, for decades, in the precincts of the Chicago Police Dept., especially under the command of then Lt. Jon Burge, who tortured people with abandon and expertise, and by so doing sending men like Aaron Patterson, Cortez Brown, and many other to Death Row. Glenn Allen, "Cortez Brown should be free." *Socialist Worker*, January 2, 2009, p. 13.
3. *McNeal v. State*, 551 So.2d 151, 158 n.2 (Miss. 1989).
 4. *State [of Arizona] v. Melendez*, 172 Ariz. 68, 834 P.2d 154, 1992 Ariz. LEXUS 50 (1992).
 5. *Ibid.*, p. 71, where the court cited *Obsrin v. Coulter* [142 Ariz. 109, 111, 688 P.2d 1001, 1003 (1984)], for the following definition of due process denials: "[T]he denial of due process is a denial of 'fundamental fairness, shocking to the universal sense of justice.'"
 6. *Ibid.*, p. 72.
 7. Julie B. Nobel, "Ensuring Meaningful Jailhouse Legal Assistance: The Need for a Jailhouse Lawyer-Inmate Privilege," 18 *Cardozo Law Review* 1569 (1997); LEXC 18 *Cardozo Law Review* 1559, pp. 1585–1586. *Benedict v. State*, 11 N.E. 125 (Sup. Ct. Ohio, 1887).
 8. 661 P.2d 1073 (Ca. 1983). Also see: *Woods v. New Jersey Dept. of Education*, 858 F.Supp. 51 (D.N.J. 1993), extending the attorney-client privilege to a lay advocate and the client she represented before the New Jersey Office of Administrative Law.
 9. Julie B. Nobel, *op. cit.*
 10. John E. Dannenberg, "Fahrenheit 451 on Cell Block D: [Certified Jailhouse Lawyer Program Proposed]," *Prison Legal News* (Mar. 2007), p. 30, citing Evan R. Seamone, *Yale Law & Policy Review* vol. 24, no.1 (2006), pp. 91–147.
 11. David Kairys, "Legal Reasoning," in M.A. Foley, "Critical Legal Studies: New Wave Utopian Socialism," *Dickinson Legal Review* Vol. 91 (winter 1986), p. 473.
 12. Andrew Z. Galarneau & Craig Pittman, "Jailhouse 'Lawyer' Works as Snitch," *St. Petersburg Times*, August 14, 1995, p. 6.; David Kocieniewski *et al.*, "FBI Coerced Nosair's Jail Friends," *Newsday*, April 14, 1993, p. 8.
 13. *Dedeaux v. State*, 87 So. 605 (Miss. 1921) (citing *Wilson v. State*, 71 Miss. 880, 16 So. 304 1894).
 14. *Crawford v. U.S.*, 212 U.S. 183, 204, 29 S.Ct. 260, 53 L.Ed. 465 (1909).
 15. This war is eerily reminiscent of another so-called war, one just as dubious, and one that has left the social landscape strewn with destruction—the war on drugs.

12. The Social Role of Jailhouse Lawyers

1. *Brooks v. Andolina*, 826 F.2d 1266 (3CA 1987).
2. *Procunier v. Martinez*, 416 U.S. 396, 94 S.Ct. 1800 (1974).
3. Communication with the author.
4. As these words were written, Rehnquist the man was no more. Nonetheless, his judicial philosophy of antipathy towards the very notion of prisoners' rights is well known and continues to resonate within the court despite his passing.
5. From Karl Marx and Friedrich Engels, *Gesamtausgabe*, I, iii, 625; cited in E.H. Carr, *What is History?* (New York: Vintage, 1961), p. 60, n. 4.

Afterword

1. Adam Liptak, "Inmate Count in U.S. Dwarfs Other Nations," *New York Times*, April 23, 2008.
2. *Brown v. Board of Education*, 347 U.S. 483 (1954). In *Brown* the Court unanimously ruled that school segregation violated the Constitution's 14th Amendment under the equal protection clause. In doing so, it overruled a case precedent that had stood for over fifty years, *Plessy v. Ferguson*, 163 U.S. 537 (1896), which supported public segregation under the spurious, judge-created doctrine of "separate but equal." In fact, of course, African Americans suffered for over half a century under a system that was demonstrably "separate and quite unequal."
3. Alex Haley (coauthored with Malcolm X), *The Autobiography of Malcolm X* (New York: Ballantine Books, 1998), *passim*.

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