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In 1823, U.S. Chief Justice John Marshall wrote an opinion in Johnson v. M'Intosh regarding the legality of American possession of land stolen from Indians. "However extravagant the pretension of converting the discovery of an inhabited country into conquest may appear; if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it, it becomes the law of the land and cannot be questioned." To paraphrase: if a country is based on conquest (in this case the genocide of hundreds of indigenous nations), that conquest cannot be questioned. Marshall himself summed up the sentiment rather aptly: "Conquest gives a title which the Courts of the conqueror cannot deny."

People working to confront what they see as the ills of our society would do well to consider the implications of Marshall's assertion. If conquest is the founding principle of America, then the systems created to govern its "property" and "community" cannot correct the wrongs that manifest from the country's recurring conquests.

An easy defense is that the unfortunate demise of the Indians happened so long ago, and look at all the good that has come from our society, which is surely no longer bent on conquest (an overused hypothetical analogy, had it survived at least one hundred of its projected thousand years, would have brought up the modern highway system, intercontinental rockets, Volkswagens, and doubtlessly plenty of advancements in the medical and hygienic sciences, in its defense).

Of course, the liberals' sympathy for America's indigenous inhabitants goes only so far as they are allowed to pretend that all the Indians are dead and the issue is one of the past, just as all of America's conquests, from white supremacy to imperialism, must be phrased in the past tense. Even America's ongoing conquest in Iraq, where it is questioned at all, is criticized primarily on the basis of the several hundred Americans who have died or might die, rather than on the behalf of the tens of thousands of Iraqis who have been killed since the invasion and occupation began last year (to even call our benevolent military babysitting of that country an "occupation" is to invite charges of un-Americanism).

Consider, then, this more recent example of the ongoing conquest which fathered our country. On January 18, 2001, the National Security Council instructed the U.S. delegation to the UN conference finalizing the Declaration of the Rights of Indigenous Peoples to block any language guaranteeing indigenous peoples (including, within the borders of the U.S., scores of indigenous nations still existing as such) self-determination, or the "right to independence or permanent sovereignty over natural resources." The NSC deemed that continuing the colonized status of American Indians is in the interests of national security, or to put it in an earlier parlance, is "the law of the land and cannot be questioned." As much as the initial conquest is absent — hidden — from our daily experience, those in power are still very much aware of those whom they have displaced.

What exactly is the National Security Council, and why does a secretive, unelected body hold so much power in such a democratic country as the US of A? The NSC, which advises the President, was created with the passage of the National Security Act on July 26, 1947. In 1950, the Council released NSC 68, a secret study recommending the conversion of the U.S. into a "National Security State." The plan, adopted by the Truman administration, emphasizes the need to curtail public expression, indoctrinate the public into accepting government priorities — at the time the main priority was instilling a fear of the "danger of communist subversion and aggression" — and keep the country in a state of fulltime preparedness for war, thus subsidizing the economy by funneling the majority of the budget into military production, in what President Eisenhower would call "the military-industrial complex." This is not a conspiratorial theory, but undisputed fact confirmed even by mainstream histories. The only controversy that arises from invoking these facts is a conflict with the general unspoken agreement to never discuss them, just as it is frowned upon to recall the also uncontroversial fact that this country was founded on conquest and genocide. (I can hear the critics now: Why do you hate America so much?)

So what is wrong with National Security? The first thing that we need to realize is that when media-inculcated paranoia runs high enough that we can accept "security" as a first priority, there is no butchery we will not commit, and in good faith, too. Iraq *might* have some chemical weapons, and ten years down the road they *might* develop the means to deliver those weapons, so let's bomb the hell out of them now, just to be safe. Or, on the domestic front, that black man is reaching for his pockets, and it *might* be a gun he's getting, so let's shoot him forty-one times. If we let this person out of jail, he *might* commit another crime, so let's lock him up for life. Under this kind of fear-based control psychosis we politely call National Security, "might" makes right.

Leaving aside the millions of victims of our National Security throughout the rest of the world (3.2 million in Vietnam, Laos and Cambodia, according to former Defense Secretary McNamara, one million in Indonesia, 100,000 in Guatemala, 1.5 million during the sanctions regime in Iraq — former Secretary of State Albright said "We think the price is worth it"), National Security is dangerous to Americans. It was in the interests of National Security that we had to develop a massive nuclear arsenal. Some groups of Navajo miners, from whose treaty-guaranteed land the vast majority of the nation's uranium came, contracted lung cancer at rates approaching one hundred percent, while the Western Shoshone, whose lands were used for 1,000 nuclear test detonations, won the distinction of "most bombed nation on earth." Meanwhile the rest of America, busy ignoring the conquests of today and yesterday, were dying from radiation-induced cancer in the tens of thousands (a conservative government study put the fatalities at a minimum of 10,000) from the 4,000 pounds of plutonium released, accidentally and intentionally, by the government and its corporate contractors (just one pound of plutonium, divided up and administered to every human on the planet, would eradicate the human species. How do we know? In the 1950s the military tested the effects of ingesting pure radioactive elements on unknowing Inuit in Alaska). It was under the banner of National Security that the CIA trained the mujahadeen in Afghanistan, and it was National Security that failed to protect the country from the blowback of that little project.

Just as a nation based on conquest will continue to conquer, a National Security state manufactures a perpetual need for enemies. After the end of the Cold War, during which the U.S. faced off against the second largest military power the world has ever seen, did the military budget decrease, in proportion to a decreasing threat? Quite the contrary, it increased. For a decade, the Clinton Administration made feeble attempts to find a new enemy on which to base our nation's fears, pur-

and claim ignorance, having never heard of these brutalities, because they "cannot be questioned."

Insofar as prison exists to punish crime (an assertion not consistently supported by the ways in which the prison system actually functions and the results it produces), it is only to punish those extraneous crimes which are not necessary to the functioning of our society. And those of us who are not officially prisoners must ignore the crimes from which "the property of the great mass of the community originates" if we are to continue to believe in the myth of our own freedom.

Most of us in America reap privileges from our conquests at home and abroad, presently and in the past. But privileges resulting from exploitation and domination always come with the fear that the dispossessed will take back their share. "The price of freedom," a freedom defined by our Founding Fathers as comfort and wealth squeezed from the labor of immigrants and slaves on land stolen from indigenous people, "is eternal vigilance." In effect, we are prisoners of our version of freedom, which leaves us free to prosper or despair so long as we do not pose "a clear and present danger" to the founding conquests and current imprisonments that provide a basis for our supposed security. Knowing this, what are we to do?

suing a War on Drugs in Colombia and a Humanitarian War in Kosovo, where the U.S. bombing killed more civilians than Milosevic did during the same time period. (Bush, with his fantastic "Axis of Evil" has certainly bested Clinton in this respect).

Clinton carried out the internal search for enemies with more success. During his tenure, America's prison population increased by one million people, an accomplishment that the current president may be trying to surpass. We now have over two million people in prison or jail. One in every four prisoners in the entire world is imprisoned in the United States. Sensationalist news coverage raises white, middle-class fears of skyrocketing, drug-induced crimes, even as crime is statistically decreasing, so everyone applauds when budget money goes to private contractors to build more prisons.

About half of all prisoners are black, and about a fifth are latino, even though those two demographics each comprise roughly one tenth of the total U.S. population. The states that tabulate the incarceration statistics of Indians find an even greater disproportion. One statistic in which white people and people of color are equal is drug use, yet the vast majority of people imprisoned for drugs are people of color. Decent white folks who don't understand that a system founded on conquest cannot question its conquest scratch their heads in confusion. In an illustration of this principle that was remarkably reminiscent of Chief Justice John Marshall's ruling that "conquest… cannot be questioned," the Supreme Court ruled in 1987 in McClesky v. Kemp that statistical evidence showing racism in judicial sentencing and the application of the death penalty could not be considered in court, because that evidence "taken to its logical conclusion, throws into serious question the principles that underlie our entire criminal justice system."

My friend Ace, sent to prison for an entire decade for a victimless crime, told me that the U.S. economy would collapse if drugs were legalized. I was skeptical at first, thinking he re-

ferred to some shadow economy, until he brought to my attention the hundreds of thousands of detectives, cops, jail guards, prosecutors, defense attorneys, judges, bailiffs and court reporters whose livelihood depend in significant part on people being locked away for drugs. Also consider that a substantial portion of production in the U.S. is carried out by prisoners, who are forced to work and are virtually unpaid (for my work in prison I earned the generous wage of twelve cents an hour, not enough to cover phone calls to friends and relatives). After all, slavery is still legal in the U.S., so long as the slave is a convict, according to the language of the 13th Amendment. Just as an economy dependent on war will keep manufacturing enemies, an economy dependent on prisons will keep manufacturing criminals.

But our first priority is security, so any suggestion to let these people go will be met with the long-conditioned fear that they would rampage and destroy us all. Leaving aside the statistic that over 90% of wardens surveyed admitted that half of their prisoners would present no menace to society if released, I want to impress upon you that the people I met during my relatively meager six months in prison were some of the best people I've ever met. In county jail there was my cellie Earl, who kept me from being beaten up by another inmate, instigated directly by a guard who was angry at me for disobeying a demeaning order. And in federal prison there was Mike, who always made sure I was doing okay, and kept me smiling when times were rough.

I could keep going, but such anecdotes don't count as evidence in a society with so much contempt for its victims that no one blinks an eye at the easily accessible fact that conditions imposed by the American prison system violate numerous articles of the Universal Declaration of Human Rights (On December 10, 1990, an international tribunal convened in New York under authority of the UN's ECOSOC, the International Court of Justice, and the Charter of the Nuremburg Tribunal,

found that U.S. treatment of its prisoners also violates articles of the Geneva Convention and the Declaration on Protection from Torture). Domestic courts have come to similar conclusions. In 1988 the 5th Circuit Court of Appeals found that conditions in a federal prison within its jurisdiction were "ghastly, sordid, horrible, and depressing in the extreme," yet not a violation of prisoners' constitutional rights because such conditions were deemed necessary for "security" reasons. Our peace of mind, insofar as we have any, is dependent on people being warehoused in dehumanizing institutions, even put in solitary confinement, for years on end, if such a deprivation is deemed to be in the interests of security.

And security, in another sense, is an integral part of the function of prison. People who move beyond polite dissent and seek actual liberation find that freedom is criminalized. The most commonly known, but seldom understood, limitation to the First Amendment is the principle of "clear and present danger." The analogy used by the Supreme Court is that you don't have the right to yell "fire" in a crowded theater, but the actual case was a political one. After a dissident was arrested and imprisoned for distributing pamphlets against the draft in World War I, Supreme Court Justice Oliver Wendell Holmes explained that it was lawful for the government to imprison its critics because the condemned words of protest were "of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent." The previously mentioned ECOSOC tribunal, by the way, also found that U.S. government treatment of internal liberation movements violated the 1949 Geneva Conventions. So members of the liberation movement in the U.S. colony of Puerto Rico, of the American Indian Movement and the Black Panthers, are falsely imprisoned and assassinated (over a two year period, the cops killed twenty-eight Panthers, at least two of them while sleeping), and the rest of us can roll our eyes