

General Conference 2012
United Methodist Women

The Criminalization of Communities of Color in the United States

There is an increase in mass incarceration in the United States that disproportionately impacts people of color due to institutionalized racism, racial profiling, and mandatory sentencing. Now, U.S. immigration enforcement policies are replicating this model, increasing the mass detention of migrants¹ of color. The United Methodist Church needs to actively work to dismantle current policies that depict whole groups of people as criminals and that respond with profiling and mass incarceration.

Economic Crisis and Demonization of Communities

Globally and within nations there is a widening gap between rich and poor. In order to maintain this wealth and resource inequality, governments are increasingly following the policies of dividing workers and exploiting migrant labor as Pharaoh did in Exodus 1: “Come, let us deal shrewdly with them, or they will increase and, in the event of war, join our enemies and fight against us and escape from the land” (Exodus 1:10). In Genesis Chapter 47, Joseph and other migrants cooperated closely with Egyptians in a time of famine to share resources. However, prolonged famine also meant that many Egyptians lost their livestock and their land and became enslaved to Pharaoh just to survive. Today, citizens and migrants face similar exploitation by the powerful.

Pharaoh's fear was not the presence of migrant labor but that impoverished Egyptians and migrant workers would unite in demanding equal rights. In the name of national security, governments today, like in Pharaoh's day, use fear-based policies to divide and control populations that might challenge the growing concentration of wealth and resources in the hands of a few. Today this comes in the form of incarcerating the poorest and most marginalized citizens of a nation, building barricades to keep the poor from having equal rights when they move across borders and creating policies that criminalize both citizens and migrants of color. While this phenomenon of criminalization of communities of color is not new, it is being expanded in the context of economic crisis.

The concept of *criminalization* refers to the growing number of government policies and practices based on fear that apply punitive laws for largely nonviolent offenses in racially selective ways on whole communities. Over the past three decades, the “war on drugs” in the United States has generated a system of mass incarceration that has disproportionately affected impoverished African-American and other communities of color. The United States, as 5 percent of the world's population, incarcerates 25 percent of all prisoners in the world. Now, in the name of a so-called war on “illegal” immigration and war on terror, similar punitive policies are being imposed on migrant communities, and copycat legislation is being enacted state to state. In effect, these policies render whole communities of color—citizen and migrant—as guilty until proven innocent.

¹ The United Nations system refers to “migrants” to name people on the move within and across borders for multiple reasons. In the United States, “migrant” is more frequently used to refer to farmworkers who move to harvest crops, so “immigrant” is of more common usage to describe someone who migrates to the United States from another country. This is the U.S. government language. Here, we use “migrant” unless referring to U.S. government programs.

African-American, Arab, Muslim, Haitian, and Latino communities in the United States are among those groups particularly targeted.² In a time of shrinking resources, like the famine in Pharaoh's day, political leaders are able to stir up fear in efforts to "protect what's ours" by erecting symbolic and real barriers that divide people. This approach is based on a theology and worldview of scarcity. In contrast, The United Methodist Church affirms, "God's vision of abundant living is a world where we live out a theology of 'enough' for all."³

We also see efforts to create borders regarding human rights. Rather than universal rights, those with felony convictions in the United States become secondary citizens, and migrants are increasingly unable to demand basic rights. A push in the United States to end birthright citizenship, enshrined in the 14th Amendment to the Bill of Rights in the aftermath of the Civil War, is part of the current effort to create a hierarchy of rights. This debate over who is and is not a full citizen is not new in the United States. It is centuries old. The exclusion of indigenous peoples and slaves was written into the Constitution at the nation's founding.

The Merger of Criminal Justice and Migration Enforcement Systems

A growing merger of punitive and increasingly militarized criminal justice and immigration enforcement systems reflects the ongoing criminalization of citizen communities of color compounded by the newer criminalization of migrants. Public policies reflect a fear and demonization of "the other" and efforts to respond with punishment rather than with equal rights and restorative justice.⁴

Today, migrants are being racially profiled, criminalized, and imprisoned, often in an expanding network of private "detention centers" or prisons, in similar ways to the longstanding systemic selective enforcement and imprisonment targeting African Americans, Latinos, and Native peoples.⁵ The United Methodist Church has long condemned the practice of profiling by police due to race, language, religion, or national origin, which disproportionately channels communities of color into the criminal justice system.⁶

These trends have devastating effect on both citizen and noncitizen communities of color. Roundups targeting specific communities of color, such as Immigration and Customs Enforcement (ICE) raids or drift-net arrests,⁷ sweep up large numbers of people without probable cause, almost none of whom has committed any violent crime. We are seeing mass incarceration through mandatory sentencing policies for nonviolent offenses (e.g., drug abuse, property crimes) and immigration status violations in both

² See *The Book of Resolutions of The United Methodist Church*, 2008, Resolution 3128, "Prejudice Against Muslims and Arabs in the USA."

³ See *The Book of Resolutions of The United Methodist Church*, 2008, Resolution 4056, "Greed."

⁴ See *The Book of Resolutions of The United Methodist Church*, 2008, Resolution 6028, "Global Migration and the Quest for Justice."

⁵ See *The Book of Resolutions of The United Methodist Church*, 2008, Resolution 3042, "Alcohol and Other Drugs"; Resolution 3379, "White Privilege in the United States"; and Resolution 5033, "Justice with Young Persons."

⁶ See *The Book of Discipline of The United Methodist Church*, 2008, the Social Principles, ¶164(H), "Criminal and Restorative Justice"; *The Book of Resolutions of The United Methodist Church*, 2008, Resolution 3378, "Racial Profiling in the USA"; Resolution 3379 "White Privilege in the United States"; Resolution 5001 "Taking Liberties: On the Stifling of Dissent"; *The Book of Resolutions of The United Methodist Church*, 2004, Resolution 257, "Prison Industrial Complex."

⁷ "Drift-net" refers to police sweeps within a specific community and arrests without probable cause in order to sift out potential criminals.

communities. Both citizen prisoners and migrant detainees are frequently detained/imprisoned far from families and legal counsel, placing further burdens on families. Families are divided, with years spent away from children and potential loss of child custody. The focus on “documents” impacts both ex-offenders who have lost many citizenship rights and migrants in irregular status. In both cases documents are used to restrict access to privileges, rights, and resources of government, often dividing people along racial lines.

Common Challenges of the Criminal Justice and Migration Enforcement System

Private for-profit companies are often contracted by governments to incarcerate citizens as well as hold migrants in detention. In 2010, private companies in the United States operated over 250 correctional facilities, housing almost 99,000 prisoners. Detention and deportation have become multibillion dollar industries in the United States. These companies regularly lobby in Washington, DC, for more detention, even if it is not the most effective use of taxpayer dollars.⁸ When private prisons make money based on the number incarcerated and the longevity of sentences, they become a powerful lobby for maintaining and expanding the current system of mass incarceration. The Church has noted that this growing privatization of prisons creates a perverse incentive to expand prison populations, even when this is more costly to taxpayers than alternatives to mass incarceration.⁹

Policing based on racial or ethnic identity undermines community safety. For decades, the race-based and militarized enforcement of drug laws in poor communities of color has created a climate of fear. Increasingly, local police are being asked to enforce harsh immigration policies that demonize impoverished communities and thereby undermine community safety for all. When whole communities do not trust the police, they are unwilling to call the police when crimes occur or share information that helps prevent or solve crimes. This has made both migrant and citizen women of color more vulnerable to domestic abuse. These tactics are producing *insecure communities*.

Additional Impact on Women and Families

Women in prison and detention face sexual harassment and sexual abuse, and they struggle to keep families together. The number of women in U.S. prisons, a third of whom are incarcerated for mostly nonviolent drug offenses, is increasing at nearly double the rate for men. Most women who are incarcerated, including mothers behind bars, were first survivors of sexual and physical abuse and violence that often began during girlhood. African-American and Latina women make up the fastest growing population in U.S. prisons and jails. Criminalizing mothers for trauma and addiction is a recent phenomena, brought on by the introduction of mandatory sentencing to federal drug laws in the mid-1980s, which resulted in a 400 percent increase in the number of women in U.S. prisons.¹⁰ Women who have suffered physical and sexual abuse now

⁸ From www.detentionwatchnetwork.org, accessed February 3, 2011.

⁹ See *The Book of Resolutions of The United Methodist Church*, 2004, Resolution 257, “Prison Industrial Complex”: “Private prison companies typically are paid on a per-capita and per-diem basis. Therefore they have little incentive to rehabilitate prisoners or to prevent recidivism. Indeed, it is in their economic interest to have more crime, more incarceration, and more recidivism, all of which lead to more profits” (p. 653).

¹⁰ The Rebecca Project for Human Rights and National Women’s Law Center, *Mothers Behind Bars: A State-By-State Report Card and Analysis of Federal Policies on Conditions of Confinement for Pregnant and Parenting Women and the Effect on Their Children* (Washington, DC: National Women’s Law Center, 2010), available: www.nwlc.org/sites/default/files/pdfs/mothersbehindbars2010.pdf.

face further abuse in prison and detention where they fear speaking out and cannot flee violence and abuse. There are documented cases of sexual abuse of women in U.S. prisons and detention centers, requests by officials for sexual favors in exchange for papers or privileges, and the loss of child custody. Both imprisoned and detained women have been chained and shackled during child birth. Many migrant women must wear electronic ankle bracelets under house arrest. Women become heads of households when spouses are arrested, detained, or deported, and most incarcerated mothers have minor children for whom they were the primary caretakers.

Today's criminalization and mass incarceration policies divide and devastate families in communities of color. In addition, the criminalization of children of citizen communities of color further traumatizes and separates families. An estimated 200,000 youth are tried, sentenced, or incarcerated as adults every year across the United States. Most of the youth prosecuted in adult court are charged with nonviolent offenses.¹¹ The United States is the only country with more than 2,500 youth serving life sentences without parole, termed juvenile life without parole (JLWOP). These children, 60 percent of whom are first-time offenders, will die in prison.¹² The overuse of juvenile detention is particularly harsh on citizen youth of color. African-American and Latino/a youth are more likely to be sentenced to jail or prison, while white youth are more likely to be sentenced to probation. In 2003, African-American youth were detained at a rate 4.5 times higher than whites, and Latino/a youth were detained at twice the rate of whites.¹³ Today's criminalization and mass incarceration policies divide and devastate families in communities of color.

The United Methodist Church's Response

Just as the Hebrew midwives in Exodus 1 resisted government efforts to divide and destroy their community, the United Methodist Church affirms the inalienable human rights of all persons, regardless of race, class or national status. These political, social, and economic rights do not stop at borders of nations or boundaries of communities.

The Charter for Racial Justice, first adopted in the 1980 General Conference, calls us to challenge systems that institutionalize racism and cause unequal outcomes regardless of intent. We call on the church to actively work to dismantle these systems of white privilege and institutional racism.

In The United Methodist Church's Social Principles,¹⁴ United Methodists are called to practice restorative justice. United Methodists are called to seek alternatives to retribution when people commit crimes. In seeking to restore right relationships among all God's people, we commit to looking at global distribution of wealth, power, and racial privilege that lie beneath poverty, inequality, punitive criminal justice policies, and global migration.

United Methodist Call to Advocate

In keeping with these principles and in light of the destructive impact criminalization has on citizen communities of color and migrants, The United Methodist Church seeks to mobilize members and its agencies, notably the General Board of Church and Society,

¹¹ From www.campaignforyouthjustice.org/national-statistics.html.

¹² From www.endjlwop.org/the-issue.

¹³ From www.campaignforyouthjustice.org/national-statistics.html.

¹⁴ *The Book of Discipline of The United Methodist Church*, 2008, ¶164(H), "Criminal and Restorative Justice."

the General Commission on Religion and Race, and the General Board of Global Ministries and United Methodist Women, to advocate with national and local governments to:

- Make the enforcement and protection of international human rights law central to criminal justice and immigration policy.
- Stop profiling, raids, and wrongful imprisonment.
- Prohibit all forms of racial, ethnic/nationality and religious profiling by law enforcement at local, state, and national levels, including police sweeps in targeted communities; improve police–community relations; end “zero tolerance” policies that criminalize students in schools; and challenge and reverse racial disparities in police stops, arrests, sentencing, and incarceration.
- Suspend all raids, detention, and deportation of migrants, instead shifting resources to services for underserved communities. End local police involvement in immigration enforcement through such ICE ACCESS initiatives as 287(g), Secure Communities and the Criminal Alien Program.¹⁵
- End mandatory sentencing, especially for nonviolent offenses
- End mandatory sentencing in the context of the U.S. “war on drugs” such as “three strikes and you’re out” laws. Several states have already adopted such measures (see www.sentencingproject.org).
- End mandatory detention policies in immigration law and support the Child Citizen Protection Act, which gives judges discretion in deportation rulings to consider the needs of children; end the practice of jailing people only because of their immigration status; end incarceration of asylum-seekers while their cases are reviewed; and grant asylum to larger numbers of those seeking refuge.
- Investigate and end abuses in public and private corporate prisons, detention centers, and jails; stop expansion of detention centers; and work to reduce the number of current facilities.
- Stop the militarization of poor communities of color by police, including drift-net arrest policies; end militarization of borders; take legal responsibility for the deaths of migrants in transit due to current border policies, and provide redress to families who have lost loved ones; and end “prevention through deterrence” border policies that lead to deaths.
- Enable people to work.
- Remove the barriers to employment for formerly incarcerated persons and invest in education and job creation that will lead to good livelihoods for poor communities of color. End suspension of citizen rights due to felony convictions and support reentry programs to hire former prisoners. End felony disenfranchisement for all when they are released from prison.
- Repeal employer sanctions that criminalize undocumented migrants seeking to work and end the e-verify program. End the use of Social Security “no-match” letters and the prosecution of so-called “ID theft.”
- Institute legalization programs for migrants that restore and protect civil and labor rights, keep families together, and strengthen communities, and institute programs that place *all* migrants on a path to citizenship, not a select few.

¹⁵ “The use of local law enforcement as immigration agents should be stopped.” See *The Book of Resolutions of The United Methodist Church*, 2008, Resolution 3281, “Welcoming the Stranger to the US.”

The United Methodist Church Call to Action

The United Methodist Task Force on Immigration, representing the Council of Bishops, Agencies, and racial/ethnic caucuses:

- Utilize a framework that examines links between criminal justice and immigrant enforcement policies as they impact communities of color.
- Work to challenge the criminalization of migrants in the United States and globally by engaging annual and central conferences in advocacy at the local, state/provincial, national, and regional level. Build alliances with ecumenical and secular groups to challenge criminalization of migrants and rights violations.
- General Board of Church and Society, General Commission on Religion and Race, and the General Board of Global Ministries and United Methodist Women:
- Work with national and international civil rights, human rights and migrant rights organizations to develop resources and advocacy materials for use in local congregations regarding unjust criminal justice and immigrant enforcement policies. Work with Central Conferences to deepen research, analysis, and action on migration enforcement policies globally and how these may connect to policies and selective enforcement toward citizens of color/marginalized citizens within nations.
- Mobilize congregations to challenge private prisons and detention centers, call on states and the federal government to halt prison and detention center construction, release prisoners held for nonviolent offenses as well as those who pose little threat to society, and use funds for needed social expenditures in current economic crisis.
- Work to educate and advocate for the rights of women and their children who face specific vulnerabilities and challenges as a result of the criminal justice and immigration enforcement systems.
- Build alliances between citizen communities of color and new migrant communities, particularly around police racial profiling, working with the Black Alliance for Just Immigration, councils of churches, clergy coalitions, and civil rights groups.

Annual conferences and local congregations:

- Challenge police engagement in immigration enforcement, including through ICE ACCESS programs such as Secure Communities and 287(g) agreements and state legislation that would legalize local immigration enforcement and racial profiling. (See also Resolution 3378, "Racial Profiling in the US.")
- Call United Methodists to discernment on these issues through use of the Wesleyan Quadrilateral; the values of human rights, racial justice and restorative justice; and a critical lens regarding mass media (See Resolution 8011, "Proper Use of Information Communication Technologies.")
- Local congregations provide ministries of compassion and solidarity with communities subjected to police sweeps, high incarceration rates, racial profiling, immigration raids, detention, and deportation. This may include direct service, detention visitation, safe space for dialogue and organizing, and offering sanctuary, among other responses.