

The Criminalization of Communities of Color in the US

There is an increase in mass incarceration in the US that disproportionately impacts people of color, due to institutionalized racism; racial profiling; and mandatory sentencing. Now, US 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 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, 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 3 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 US, as 5% of the world’s population, incarcerates 25% 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 copy-cat legislation is being enacted state to state. In effect, these policies render whole communities of color – citizen and migrant -- as guilty until proven innocent. African American, Arab and Muslim, Haitian and Latino communities in the US are among those groups particularly targeted.² In a time of shrinking resources, like the famine in Pharaoh’s day,

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

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

40 political leaders are able to stir up fear in efforts to “protect what’s ours” by erecting symbolic
41 and real barriers that divide people. This approach is based on a theology and world view of
42 scarcity. In contrast, the United Methodist Church affirms, “God’s vision of abundant living is a
43 world where we live out a theology of “enough” for all.³

44 We also see efforts to create borders regarding human rights. Rather than universal rights, those
45 with felony convictions in the US become secondary citizens, and migrants are increasingly
46 unable to demand basic rights. A push in the US to end birthright citizenship, enshrined in the
47 14th Amendment to the Bill of Rights in the aftermath of the Civil War, is part of the current effort
48 to create a hierarchy of rights. This debate over who is and is not a full citizen is not new in the
49 United States. It is centuries old. The exclusion of indigenous peoples and slaves was written into
50 the Constitution at the nation’s founding.

51 **The Merger of Criminal Justice and Migration Enforcement Systems**

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

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

63 These trends have devastating effect on both citizen and non-citizen communities of color.
64 Round-ups targeting specific communities of color, such as Immigration & Customs Enforcement
65 (ICE) raids or drift-net arrests⁷, sweep up large numbers of people without probable cause –
66 almost none of whom has committed any violent crime. We are seeing mass incarceration
67 through mandatory sentencing policies for nonviolent offenses (e.g., drug abuse, property crimes)
68 and immigration status violations in both communities. Both citizen prisoners and migrant
69 detainees are frequently detained/ imprisoned far from families and legal counsel, placing further
70 burdens on families. Families are divided, with years spent away from children and potential loss
71 of child custody. The focus on “documents” impacts both ex-offenders who have lost many
72 citizenship rights, and migrants in irregular status. In both cases documents are used to restrict
73 access to privileges, rights and resources of government, often dividing people along racial lines.

74 75 **Common Challenges of the Criminal Justice and Migration Enforcement System**

³ See *The United Methodist Book of Resolutions, 2008*, #4056 Greed

⁴ See *The United Methodist Book of Resolutions, 2008*, #6028 Global Migration & the Quest for Justice

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

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

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

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

95

96 **Additional Impact on Women and Families**

97 Women in prison and detention face sexual harassment, sexual abuse, and struggle to keep
98 families together. The number of women in US prisons, a third of whom are incarcerated for
99 mostly nonviolent drug offenses, is increasing at nearly double the rate for men. Most women
100 who are incarcerated, including mothers behind bars, were first survivors of sexual and physical
101 abuse and violence that often began during girlhood. African American and Latina women make
102 up the fastest growing population in US prisons and jails. Criminalizing mothers for trauma and
103 addiction is a recent phenomena, brought on by the introduction of mandatory sentencing to
104 federal drug laws in the mid-1980s, which resulted in a 400% increase in the number of women in
105 US prison.¹⁰ Women who have suffered physical and sexual abuse now face further abuse in
106 prison and detention where they fear speaking out and cannot flee violence and abuse. There are
107 documented cases of sexual abuse of women in US prisons and detention centers; requests by
108 officials for sexual favors in exchange for papers or privileges; and the loss of child custody.
109 Both imprisoned and detained women have been chained and shackled during child birth. Many
110 migrant women must wear electronic ankle bracelets under house arrest. Women become heads
111 of households when spouses are arrested, detained or deported, and most incarcerated mothers
112 have minor children for whom they were the primary caretakers.

8 www.detentionwatchnetwork.org, downloaded 2-3-11.

9 See *The United Methodist Book of Resolutions, 2004*, #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 *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*, October 2010. The Rebecca Project for Human Rights and the National Women's Law Center.

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

126 **The United Methodist Church's Response**

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

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

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

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142 **United Methodist Call to Advocate**

143 In keeping with these principles and in light of the destructive impact criminalization has on
144 citizen communities of color and migrants, The United Methodist Church seeks to mobilize
145 members and its agencies, notably the General Board of Church and Society, the General
146 Commission on Religion and Race, and the General Board of Global Ministries and United
147 Methodist Women, to advocate with national and local governments to:

- 148 1. Make the enforcement and protection of international human rights law central to criminal
149 justice and immigration policy.
- 150 2. Stop profiling, raids, and wrongful imprisonment.
 - 151 a. Prohibit all forms of racial, ethnic/nationality and religious profiling by law
152 enforcement at local, state and national levels, including police sweeps in targeted
153 communities; improve police-community relations; end "zero tolerance" policies that

11 <http://www.campaignforyouthjustice.org/national-statistics.html>

12 <http://www.endjlwop.org/the-issue/>

13 <http://www.campaignforyouthjustice.org/national-statistics.html>

¹⁴ *The United Methodist Book of Discipline, 2008*, paragraph 164 (H) Criminal and Restorative Justice

- 154 criminalize students in schools; and challenge and reverse racial disparities in police
155 stops, arrests, sentencing and incarceration.
- 156 b. Suspend all raids, detention and deportation of migrants, instead shifting resources to
157 services for underserved communities. End local police involvement in immigration
158 enforcement through such ICE ACCESS initiatives as 287(g), Secure Communities
159 and the Criminal Alien Program.¹⁵
- 160 3. End mandatory sentencing – especially for nonviolent offenses
- 161 a. End mandatory sentencing in the context of the US “war on drugs” such as “three
162 strikes and you’re out” laws. Several states have already adopted such measures (see
163 www.sentencingproject.org)
- 164 b. End mandatory detention policies in immigration law and support the Child Citizen
165 Protection Act, which gives judges discretion in deportation rulings to consider the
166 needs of children; end the practice of jailing people only because of their immigration
167 status; end incarceration of asylum-seekers while their cases are reviewed, and grant
168 asylum to larger numbers of those seeking refuge.
- 169 4. Investigate and end abuses in public and private corporate prisons, detention centers and jails;
170 stop expansion of detention centers and work to reduce the number of current facilities.
- 171 5. Stop the militarization of poor communities of color by police, including drift-net arrest
172 policies. End militarization of borders; take legal responsibility for the deaths of migrants in
173 transit due to current border policies, and provide redress to families who have lost loved
174 ones; end “prevention through deterrence” border policies that lead to deaths.
- 175 6. Enable people to work.
- 176 a. Remove the barriers to employment for formerly incarcerated persons and invest in
177 education and job creation that will lead to good livelihoods for poor communities of
178 color. End suspension of citizen rights due to felony convictions, and support re-
179 entry programs to hire former prisoners. End felony disenfranchisement for all when
180 they are released from prison.
- 181 b. Repeal employer sanctions which criminalize undocumented migrants seeking to
182 work and end the E-verify program. End the use of Social Security “no-match”
183 letters and the prosecution of so-called “ID theft.”
- 184 7. Institute legalization programs for migrants that restore and protect civil and labor rights,
185 keep families together and strengthen communities; institute programs that place *all* migrants
186 on a path to citizenship, not a select few.

187
188 **The United Methodist Church call to action:**

- 189 1) The United Methodist Task Force on Immigration, representing the Council of Bishops,
190 Agencies and racial/ethnic caucuses:
- 191 a) Utilize a framework which examines links between criminal justice and immigrant
192 enforcement policies as they impact communities of color,
- 193 b) Work to challenge the criminalization of migrants in the US and globally by engaging
194 annual and central conferences in advocacy at the local, state/provincial, national and
195 regional level. Build alliances with ecumenical and secular groups to challenge
196 criminalization of migrants and rights violations.

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

- 197 2) General Board of Church & Society, General Commission on Religion and Race, and the
198 General Board of Global Ministries and United Methodist Women:
- 199 a) Work with national and international civil rights, human rights and migrant rights
200 organizations to develop resources and advocacy materials for use in local congregations
201 regarding unjust criminal justice and immigrant enforcement policies. Work with Central
202 Conferences to deepen research, analysis and action on migration enforcement policies
203 globally, and how these may connect to policies and selective enforcement towards
204 citizens of color/ marginalized citizens within nations.
- 205 b) Mobilize congregations to challenge private prisons and detention centers; call on states
206 and the federal government to halt prison and detention center construction; release
207 prisoners held for nonviolent offenses as well as those who pose little threat to society;
208 and use funds for needed social expenditures in current economic crisis.
- 209 c) Work to educate and advocate for the rights of women and their children who face
210 specific vulnerabilities and challenges as a result of the criminal justice and immigration
211 enforcement systems.
- 212 d) Build alliances between citizen communities of color and new migrant communities,
213 particularly around police racial profiling, working with the Black Alliance for Just
214 Immigration ; councils of churches, clergy coalitions and civil rights groups.
- 215 3) Annual Conferences and local congregations:
- 216 a) Challenge police engagement in immigration enforcement, including through ICE
217 ACCESS programs such as Secure Communities and 287(g) agreements and state
218 legislation that would legalize local immigration enforcement and racial profiling. (See
219 also Resolution #3378 Racial Profiling in the U.S.)
- 220 b) Call United Methodists to discernment on these issues through use of the Wesleyan
221 Quadrilateral; the values of human rights, racial justice and restorative justice; and a
222 critical lens regarding mass media [See Resolution #8011, Proper Use of Information
223 Communication Technologies].
- 224 c) Local congregations provide ministries of compassion and solidarity with communities
225 subjected to police sweeps; high incarceration rates; racial profiling; immigration raids,
226 detention and deportation. This may include direct service; detention visitation; safe
227 space for dialogue and organizing; and offering sanctuary, among other responses.
228
- 229 This resolution will be submitted by United Methodist Women to the United Methodist
230 General Conference [Tampa, April 2012]. It was approved for submission by United
231 Methodist Women and General Board of Global Ministries boards in April, 2011.