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## **One Nation under God, with Liberty and Justice for All**



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**United Church of Christ  
Justice and Witness Ministries**

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The cover illustration is from a painting by Ndume Olatushani, a.k.a. Erskine Johnson, who resided on death row at the River Bend Maximum Security Prison in Tennessee from 1985 to 2004.

Ndume was convicted of a 1983 murder in Memphis, Tennessee, although ten witnesses placed him in St. Louis, Missouri at the time of the crime. He had never been in Memphis until his arrest and trial.

At trial, the prosecution withheld substantial exculpatory evidence from the defense.

His conviction was based on the testimony of two people who were not charged for their involvement in a robbery/homicide in exchange for testimony, and a third person whose criminal record was erased as a result of her testimony.

Ndume was convicted by an all-white jury in a county mostly populated by African Americans; prosecutors removed all potential African American jurors with peremptory strikes.

In 2004, Ndume's sentence was commuted and he was removed from the execution section to maximum security, where he lives today.

- ✧ The Sentencing Project, 918 F Street NW, Suite 501, Washington, DC 20004, [www.sentencingproject.org](http://www.sentencingproject.org)
- ✧ United Nations, Universal Declaration of Human Rights. Available at [www.un.org/Overview/rights.html](http://www.un.org/Overview/rights.html)
- ✧ The Urban Institute, [urban.org/content/PolicyCenters/Justice/Projects/PrisonerReentry/](http://urban.org/content/PolicyCenters/Justice/Projects/PrisonerReentry/)
- ✧ U.S. Department of Justice, Bureau of Justice Statistics, [www.ojp.usdoj.gov/bjs](http://www.ojp.usdoj.gov/bjs).
- ✧ Western Prison Project, Justice Matters, Winter 2003
- ✧ [www.civilwarhome.com/blackcodes.htm](http://www.civilwarhome.com/blackcodes.htm).
- ✧ Website on the proposed National Justice System Act of 2009, for comprehensive review of the U.S. justice system (Sen. Jim Webb): <http://webb.senate.gov/email/criminaljusticereform.html>
- ✧ The Youth Promise Act is legislation proposed by Rep. Bobby Scott to reduce incarceration by providing opportunities for youth through mentoring, support, and education. It proposes evidence-based research and practice for these activities. Detailed information is available at [www.bobbyscott.house.gov](http://www.bobbyscott.house.gov)

## **One Nation under God, With Liberty and Justice for All**

This booklet forms a curriculum for faith communities to enlarge their understanding of the U.S. system of justice and its effect on American people.

American people commit crimes and are victimized by crimes. They affect us emotionally and financially, and they have a visceral effect on our communities. We are troubled by inconsistencies and injustices in the system of justice. We are enraged by cruelty, and deadened by bureaucratic systems.

In the face of advancing crime waves, we feel powerless to do anything about crimes or about the system that addresses them.

This is an opportunity to build our strength through understanding and action, so that we are powerless no more.

We draw from I Corinthians 12:12-13 and 24-26 as the foundation for our theology of understanding, faith, and action:

*The body is a unit, though it is made up of many parts,  
and though all its parts are many, they form one body.*

*So it is with Christ.*

*For we were all baptized by one Spirit into one body —  
whether Jews or Greeks, slave or free —  
and we were all given the one Spirit to drink.*

*God has combined the members . . .  
so that there should be no division in the body,  
but that its parts should have equal concern for each other.*

*If one part suffers, every part suffers with it.  
If one part is honored, every part rejoices with it.*

## Resources

### ***Eleventh General Synod, 1977***

*“Drawing from Hebrews 13:3, we are called to  
‘remember those who are in prison,  
as though you were in prison with them;  
those who are being tortured,  
as though you yourself were being tortured.’”*

#### **Learning Assignment**

- ✎ Identify all the incarceration facilities in your area.
- ✎ Identify key people in the justice system who can help you with information about each facility.
- ✎ What are the rules about visiting these facilities?
- ✎ What level security is each facility?
- ✎ Who is housed in these facilities?

- ✎ American Civil Liberties Union Foundation, Capital Punishment Project. 1333 H Street, NW, 10<sup>th</sup> Floor, Washington, D.C. 20005 [www.aclu.org](http://www.aclu.org)
- ✎ Amnesty International, 5 Penn Plaza, 14<sup>th</sup> Floor, New York, NY 10001. [www.amnesty.org](http://www.amnesty.org) or [www.amnestyusa.org](http://www.amnestyusa.org)
- ✎ Aos et al, 2001, Washington State Institute for Public Policy
- ✎ Bill of Rights Defense Committee, [www.bordc.org](http://www.bordc.org)
- ✎ Center for Constitutional Rights, [www.ccr-ny.org](http://www.ccr-ny.org)
- ✎ Culhane et al, Center on Juvenile and Criminal Justice, 2000, [www.cjcj.org](http://www.cjcj.org)
- ✎ Ginger, Ann Fagan, ed. (2005). Challenging U.S. Human Rights Violations Since 9/11. Prometheus Books.
- ✎ Handbook of Texas Online: Black Codes. [www.tsha.utexas.edu/handbook/online/articles/](http://www.tsha.utexas.edu/handbook/online/articles/)
- ✎ Human Rights Watch, 350 Fifth Avenue, 34<sup>th</sup> Floor, New York, NY 10118-3299. [www.hrw.org](http://www.hrw.org)
- ✎ Justice Expenditure and Employment Extracts, 1992-2001, U.S. Department of Justice
- ✎ Ludovic Blain, AlterNet, April 16, 2004, [www.alternet.org](http://www.alternet.org)
- ✎ National Institute for Literacy, “State Correctional Education Programs,” March 2002
- ✎ National Institute of Justice, Sentencing and Corrections 9, November 2000
- ✎ One in 100: Behind Bars in America 2008. The Pew Center on the States, February 2008.
- ✎ Ostreicher, J, “When Prisoners Come Home,” Gotham Gazette, January 1, 2003

## How Can We Do It? Notes on Restorative Justice

Restorative Justice is a victim-centered response to crime that provides opportunities for people who are most directly affected by crime to be closely involved in addressing the harm caused by crime. It includes offenders, victims, victims' families, neighborhoods, and the wider community. Usually, volunteer mediators or facilitators from the community work with the court system to identify cases that might be appropriate for the restorative justice process. The mediator will contact an offender, discuss the process, and ask if the offender would be willing to meet with the victim or members of the community. The mediator will separately contact and meet with the victim to learn if she/he is willing to meet with the offender. If both are willing to go forward, following much preparation and preliminary separate contact and discussion, they will meet with the mediator.

At the mediation meeting, the victim will speak directly to the offender about the experience of the crime and the impact it has had. The offender will also be given an opportunity to speak directly to the victim about the experience of the crime and the impact on the offender. Victim and offender will then be given an opportunity to draw up a specific plan to address the harm that was done as a result of the crime. It may be financial restitution, community service, or any of a number of options the victim or offender can imagine that would address the deeper harm of the crime. Once each party has reviewed the plan to determine that it is fair, victim, offender, and mediator sign the document, which becomes an action plan for restitution. The mediator submits the plan to the court, which may use it in lieu of or in addition to a sentence.

Restorative justice is an evidence-based practice that has been reviewed and researched for many years. It is shown to have a beneficial effect on recidivism, community feelings of safety, and satisfactory result for victims, their families, and offenders.

To learn more about the process, access the Center for Restorative Justice and Peacemaking at [www.rjp.umn.edu](http://www.rjp.umn.edu).

## 1. The U.S. Justice System

In 2008, United States correctional facilities held more than 2.3 million people in state and federal facilities and local jails. According to the Pew Center on the States, this represents 1 in every 99 Americans. The wider system includes an additional 5 million people who are on probation or parole, bringing the total number of people under justice system control to 7.3 million, or 1 in every 32 adults. This equals the combined populations of New Hampshire, Maine, Connecticut, and Delaware.

The American justice system incarcerates a greater proportion of its citizens than any other country on earth, outpacing Russia, China, Iran, and South Africa. In the United States, 750 people out of every 100,000 are in prison. In contrast, in Germany, 93 people are in prison for every 100,000 adults. Americans incarcerate people at five times the world's average rate.

Although the U.S. has 5% of the world's population, we incarcerate 25% of the world's prisoners.

Not only have prison populations increased, but the rate of imprisonment has risen steadily. In 1980, about 500,000 people were in prison or jail. More than 5 times that many are incarcerated today. Harsh drug laws were enacted in the 1980s, and since that time, incarceration for drug offenses alone have increased by 1,200%.

Four times as many people with mental illness are in prisons than are in mental health facilities.

### Discussion Questions

*Why do you think our nation imprisons so many of its citizens?*

*Why do you think the share of prisoners in the U.S. is disproportionate to other countries in the world—especially developed countries?*

*How engaged is your faith community with people who are or have been involved with the corrections system?*

*How many people in your faith community have been in prison or jail?  
How many of your members have an incarcerated loved one?*

*Do you think people in your faith community would readily admit to involvement in the criminal justice system? Why or why not?*

## What Can We Do?

### ***Seventh General Synod, 1969***

*“If our nation is to be true to its heritage,  
the demand for law and order must be combined with  
a demand for justice, which is the object of law,  
and for freedom, which is the purpose of order.  
Law and order with justice and freedom must be applied  
to all people equally.”*

#### **Learning Assignment**

- ✚ Find out what resources are available for victims of crime in your area. Make a resource directory that is available through your organization.
- ✚ Find out whether and how victims of crimes are notified when perpetrators are arrested, convicted, paroled, or released.

The Corporation for Supportive Housing in New York demonstrated that when people with mental illness and past criminal records had affordable housing, the use of state prisons and city jails dropped by 74% and 40%, respectively.

- ✚ We can develop housing for former prisoners. If we can't provide housing, we can support organizations that do.

60-70% of inmates used drugs regularly before prison, and an estimated 84% of offenses involved drugs or alcohol. Only about a third of inmates participate in treatment programs in the year before release. In Washington State, community-based substance abuse treatment programs and case management have saved substantial money and decreased recidivism.

- ✚ We can investigate and support community-based programs to treat substance abuse.

Over a third of jail inmates have a physical or mental disability, and a fourth have been treated at some time for mental problems.

- ✚ We can push for the provision of mental health services for people who are incarcerated.

The Safer Foundation assists ex-inmates with a full range of employment services and other support to prepare for work, with housing, treatment, and education. Since 1972, they have placed more than 40,000 people in jobs. Their participants are more likely to remain employed and crime free one year after release.

- ✚ We can identify work opportunities, and work with employers in our churches and communities to create an environment in which former prisoners can be considered for re-entry jobs.

Participating in educational programs in prison reduces reincarceration by 29%. The Federal Bureau of Prisons estimates a 33% drop in recidivism among prisoners who receive vocational training.

- ✚ We can support vocational and educational programs. We can volunteer for educational programs in prisons and juvenile detention facilities, and tutor children of prisoners and re-entering women and men.

## 10. Human Rights and the Politics of Fear

Within the United States, the environment for intelligence-gathering, travel, detention, and legal protection has changed dramatically since 9/11. With passage of the Patriot Act in October 2001, passed with an overwhelming majority by Congress, the politics of fear became overt. This act was intended to deter and punish terrorist acts and to enhance law enforcement investigatory capabilities, and to establish an online database that quickly grew to encompass data on thousands of organizations and individuals. Today, we must deal with the aftermath of that legislation.

This is not the first time we as a country have responded to fear by clamping down on individual liberties. We imprisoned dissidents in World War I for speaking out against war, and we incarcerated Japanese Americans in World War II. In the 1960s, law enforcement journals and police departments openly spoke of “counterinsurgency.” The 1970s brought SWAT teams and military weapons to local police departments. In 1975, Senate investigations exposed the FBI’s COINTELPRO (COunterINTELigence PROgram), organized explicitly to disrupt and destroy the Black Liberation Movement and many other progressive organizations of that era. COINTELPRO resulted in the unjust harassment of citizens. Some were driven underground, some unjustly imprisoned, and some murdered. Some remain in prison today, after more than three decades of incarceration.

### Discussion Questions

*Discuss how you can identify laws and governmental practices that reduce freedoms. How do you balance control and freedom?*

*Are laws to protect us from terrorism and violence equally applied?*

### Learning Assignment

- ✎ Review the U.N. Declaration of Human Rights, available online or in booklet form from Rev. Nolan Gonzales, JWM, UCC National Office, nolans@ucc.org
- ✎ Set up a research group in your organization to examine laws and practices to address terrorism, and to educate others in your group about them.

## 2. Victims of Crime

The National Crime Victimization Survey collects data on nonfatal crimes every year using a random sample of U.S. residents over age 12. Because it is not tied to police documents, it includes many unreported crimes. Violent crimes measured are sexual assault, robbery, and aggravated and simple assault; also measured are household burglary, theft, personal theft, and motor vehicle theft

The survey indicates that violent crimes have declined since their peak 1994 and have since declined, and property crimes have declined steadily since 1975. Between 1998 and 2007, the rate of violent crime fell by 43%, and the rate of property crime fell by 33%.

These decreases have been attributed to aging out, since people aged 15 to 24 tend to commit the most crimes and their number is decreasing. It has also been attributed to a slowed crack market.

Teenagers and young adults experience the highest rates of violent crime, by far. Men are more likely than women to be victims of violent crime overall, and of robbery and assault. Women are more likely to be victims of rape or sexual assault. People of color also experience higher rates of violent victimization, although the gap in victimization rates by race is closing.

Rates for property crimes are higher in lower income households.

The National Crime Victimization Survey reports that rates for every major violent and property crime measured by the NCVS were at or near the lowest levels recorded since 1973, the first year for which such data were available.

### Discussion Questions

*Sooner or later, everyone is victimized. Consider one of your own experiences of being a victim. What did you feel? In the immediate aftermath, did you turn to anyone for help?*

*Have there been any long-term effects?*

*What happened to the person(s) who hurt you?*

*Without disclosing any information you want to keep private, discuss these feelings, the short-term and long-term effects of the event, and who you considered turning to for help, and why.*

### 3. Race and Ethnicity

Racial, ethnic and socioeconomic biases permeate the justice system. Incarcerated women, men and youth are disproportionately comprised of people of color and the poor.

According to the Pew Center on the States, drawing from Department of Justice statistics, among White men ages 18 or older in 2008, 1 in 106 were in prison. Among Hispanic men, the rate was 1 in 36, and among Black men, the rate was 1 in 15. Among younger Black men aged 20-34, the rate was 1 in every 9 in prison.

To put these figures into international context, the incarceration rate for all adult men in South Africa under Apartheid in 1993 was 851 per 100,000. Fifteen years later, the rate for all Black men in the U.S. was 6,667 per 100,000 -- eight times the rate in South Africa under Apartheid.

Similar disparities hold true for women and for juveniles, although their sheer numbers in prison are smaller than the number of men.

In capital cases, racial bias is especially evident in interracial crimes. According to U.S. Department of Justice statistics, offenses by African American against White victims are punished far more harshly than crimes committed by White offenders against African Americans.

People of color are also more often victims of violent crimes. The National Crime Victimization Survey indicates that Blacks are 13% more likely to be victims of violence than Whites, but American Indians are 300% more likely than Whites to be victimized this way.

While most offenses tend to be within-race for Whites and Blacks, most American Indian and Asian victims are interracially victimized.

People who have committed nonviolent crimes, especially drug crimes, account for more than three-fourths of the increase in prisoners since 1980, even though a substantial proportion of people convicted of drug offenses have no history of violence or high-level drug activity. This trend has affected the communities of people of color in the extreme. For example, African Americans are 12% of the U.S. population, and represent about 14% of monthly drug users. However, African Americans represent 37% of those arrested on drug charges, 59% of those convicted on drug charges, and 74% of drug offenders who are sentenced to prison.

**Voting.** Only two states impose a life-long ban denial of any citizen with a felony record to vote: Kentucky and Virginia. However, other states have laws that effectively disenfranchise former felons of their right to vote through rules that make a petition to restore voting rights almost insurmountable. In Wyoming, for example, eligible ex-felons who have completely discharged their sentences must wait for five years before they are allowed to petition to vote. Nationally, nearly 4 million ex-felons (2% of all adults, 4% of men) are denied voting rights.

Voting disenfranchisement is racially skewed. 1.3 million African American men (13%) have lost the right to vote through this mechanism. Sixteen states disenfranchise more than 10% of their Black populations. In Florida in 2000, laws like these were used to keep more than 650,000 citizens from voting – more than 1,000 times the margin of victory in the presidential election. Collateral punishments after prison are reminders of the Black Codes and of Jim Crow laws that historically have kept Black people from voting or otherwise exercising their legal rights.

In New York, prisoners are counted as residents of rural areas where their prisons are located. The count determines legislative districts. It increases a community's representation with fewer people who are free to participate in elections. Legislative redistricting based on prison populations further dilutes the votes of people of color and people from urban centers.

#### Discussion Questions


*What you would do if you were released from prison today, under the circumstances outlined above?*

*Who would you contact? Where would you sleep? How would you eat? How would you dress yourself?*

*How would you spend your time?*

*How would you deal with your children?*

#### Learning Assignment

-  Talk to a parole officer about the barriers experienced by women and men reentering the community after incarceration.



## 9. Re-Entry

Drug laws and mandatory minimum sentences of the 1980s are running their course. As prisoners finish serving their time, they return to their homes. At least 95% of prisoners will be released from incarceration at some point.

The burgeoning prison populations of recent years have become burgeoning populations of former prisoners in the community at large. More than 700,000 people are released from prisons every year, and an additional 750,000 are in the community on parole.

People who are released from prison face abject poverty. They leave prison without jobs and housing, and with very little money. They can expect difficulty finding employment and housing in unwelcoming communities. The National Institute of Justice has found that 60% of former inmates are not employed 1 year after release.

**Benefits and Support.** Federal welfare reform laws impose a lifetime ban on TANF (Temporary Assistance for Needy Families) and Food Stamps for people with felony drug convictions, regardless of circumstances, unless states pass legislation specifically opting out of the ban. Without sufficient income for acceptable housing, those who have lost custody of their children while in prison cannot regain it.

**Wage Garnishment.** Ex-offenders who are responsible for child support must re-start payments. Wages can be garnished for this purpose. In some states, 100% of wages can be garnished until back payments from time that was spent in prison can be paid.

**Housing.** Research demonstrates that 15% to 27% of prisoners expect to go to homeless shelters upon their release from prison.

**Transportation.** In 1992, Congress passed a law requiring states to revoke drivers' licenses of those convicted of felony drug offenses, or lose 10% of federal funds for highways.

**Debt.** Washington State allows ex-felons to petition to vote, but only after they pay back all legal financial obligations including restitution, court fees, fines, and the cost of imprisonment. Debt is assessed at sentencing, and subject to 12% interest during and after incarceration.

According to Human Rights Watch, African Americans constitute more than 75% of the total drug prisoners in one third of all states.

In the 19<sup>th</sup> century, many states passed laws that restricted the movement, labor and activities of Black people. These Black Codes are most often associated with southern states, but they also were enacted in the North. Jim Crow laws became prominent following Reconstruction, and forced segregation and limited the civil rights and freedoms of Black Americans. Although laws have changed, many have said that the way in which today's laws are applied have similar effects on the mobility, civil rights and freedoms of people of color.

### Discussion Questions




Where does racial unfairness in the justice system begin?

Consider the consequences of racism in the context of one family's life. What are the effects on children? Parents? Extended families? Communities?

How do vast racial and ethnic disparities in imprisonment affect understanding between people?

Discuss laws enacted after the Civil War that restricted the rights of Black Americans. How do they differ from the kinds of arrests and convictions that are made today? Are the effects different?

### Learning Assignment

-  What is the racial and ethnic makeup of your community, based on the U.S. Census?
-  What is the racial and ethnic makeup of detention facilities in your area?
-  Visit your local jail. Visit courtrooms. Look at news photographs of arrests. What do you see?

## 4. The Prison Industrial Complex

The U.S. government invests heavily in maintaining prison populations. Combining annual expenditures for city, county, state and federal governments, the unduplicated costs of managing justice activities in 2006 was about \$215 billion.

Prisons require large staffs that are highly trained. Prison populations tend to be sicker and more troubled than those in the general community, and their populations must be clothed, fed, and supervised. The Pew Center reports that a reasonable approximate cost is about \$65,000 per bed per year for a medium security facility. Costs have risen steadily over the years, and have taken larger and larger proportions of available state, federal and local dollars. In 1987, for every dollar spent on higher education, 32 cents were spent on education. In 2007, for every education dollar, 60 cents were spent on corrections.

Partly in response to these costs, there is a growing trend to privatize prison management and even prison ownership. Every year, more prisoners are housed in for-profit facilities.

The Wackenhut Corporation has been increasingly engaged in ownership and management of prisons. In the 1950s, Wackenhut assembled the largest private file on subversives in U.S. history. In the 1960s, it conducted strike-breaking projects. In 1986, Wackenhut won its first private prison contract. By 1999, it held 38,000 prisoners in the U.S. and had turned a profit in excess of \$1 billion on its private prisons.

Private prisons were generally abolished by 1900 in the U.S., but were allowed to gain footing again in the 1980s. In 2006, 7.2% of all state and federal inmates were held in privately-owned prisons.

For-profit entities have tended to reduce programs to save costs, and in recent years, their personnel have been repeatedly accused of raping prisoners in Florida, Texas, and Arkansas, and of brutal beatings in juvenile facilities in southern states. One of the key issues in privatization is that public access, scrutiny and accountability are diminished when state and federal prisons are under private control.

Overall, prisons have become big business. In poor, rural areas of the country, prisons are a growth industry. Rural counties, with 20% of the national population, account for 60% of new prison construction.

Despite evidence of impairment and despite widespread identification of the practice as a standard form of torture, solitary confinement is often used because it leaves those who are isolated without outward physical marks, making it more difficult to prove that they were tortured.

Torture is defined as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a male or female person ... when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” (United Nations Convention Against Torture, 1984) Torture has been clearly stated as a violation of human rights through the U.N. Universal Declaration of Human Rights of 1948, the Third and Fourth Geneva Conventions, and the 1987 Inter-American Convention to Prevent and Punish Torture, ratified by 17 nations of the Americas. The 8<sup>th</sup> Amendment of the U.S. Constitution prohibits the use of cruel and unusual punishment.

### Discussion Questions



Research, describe and discuss the impact of long-term isolation.

How would you differentiate torture and life imprisonment in a maximum security facility?

What is the appropriateness of solitary confinement for institutional infractions?

Is this the kind of society in which you want to live?

### Learning Assignment

-  Find, read, consider and distribute copies of the Universal Declaration of Human Rights, available through the website of the United Nations.
-  Read and review international definitions of torture, and compare them to judicial measures in common use in our country.

## 8. Solitary Confinement

Now, nearly a decade after the first international prisoners began arriving, Guantanamo Bay has become a quagmire. The remaining inmates have been incarcerated for years without representation or contact with their families, and it is yet to be determined how or when they will be tried, or where they will go. Our country still suffers, inside and out, from the shame associated with U.S. torture practices over the past decade. These conditions remain at the center of enormous international attention, in large part because of the extreme isolation of the prisoners.

Yet there is a deafening silence about conditions experienced by women, men and children incarcerated every day in U.S. facilities.

The use of solitary confinement has become commonplace in our prisons. It is often used as short-term punishment for institutional rule-breaking. Countless prisoners have experienced short-term isolation, but by 2005, more than 40 states and the federal government operated prisons specifically designed for solitary confinement and housing more than 25,000 people in isolation for the duration of their terms. According to the U.S. Justice Department, some states maintain more than 20% of their prison populations in solitary confinement.

Prolonged isolation is named worldwide as a form of psychological torture with enduring effects. In the U.S., it takes place in a small cell, often windowless, for 23 hours per day, 7 days per week. Prisoners are generally given a 1 hour exercise period confined to a small, caged area with no human contact. Prisoners are under constant surveillance, sometimes under artificial lighting for 24 hours each day (also psychological torture, and associated with sleep deprivation). In our prisons, solitary confinement has been documented as associated with rape, sensory deprivation, forced idleness, hog-tying, beatings while in restraint, and forced confessions.

Prolonged periods of isolation, even for a week, are known to be associated with severe depression and anxiety, and suicide. EEG studies going back to the nineteen-sixties have shown that brain waves of prisoners diffuse after a week or more of solitary confinement; brain abnormalities persist, even after short periods of isolation, sometimes for life.

The American Correctional Association holds an annual trade show to promote businesses that support the prison industry, which it estimates is worth about \$50 billion. Spillover trade includes fencing and razor wire, uniforms and dyes, surveillance equipment, food services, janitorial services, vending, locks, and control rooms.

Prisoners also supply significant cheap labor for private industry, including airlines, catalogue sales, and major department stores. Other companies employ prison labor through UNICOR, a U.S. government agency also known as Federal Prison Industries.

### Discussion Questions

What are the economic conditions of rural areas of your state?

How do economic issues drive what people will do to earn a living?

When prisons are operated for a profit, what values are they most likely to express?

### Learning Assignment

- ✎ Who owns and operates the criminal justice facilities in your state? Be sure to include local and county jails, state and federal prisons, and juvenile facilities.
- ✎ How many beds are in these facilities?
- ✎ Make a list of all the businesses that these facilities depend on in order to function.

### ***Eighth General Synod, 1971***

*“We affirm our commitment  
to improving the criminal justice systems  
of state and federal governments,  
citing our belief that prisons should be primarily institutions  
for the training and rehabilitation of the inmates.”*

## 5. Men, Women and Children

Who are the people in prison?

They are largely people of color. About 32% are Hispanic, and about 44% are non-White (both Hispanic and non-Hispanic).

They are young, in what should be the prime of their lives. The largest age group for men in prison is 25-29. Women tend to be slightly older on average, with the largest number aged 30-34.

About 9 out of 10 prisoners are men, but the number of adult females in prison and jail is increasing at a faster rate. In 1980, 12,331 women were in state or federal prisons. By 1990, their number had grown to 44,000, and by 2008, they had increased nearly 940%, to 115,779. Drug laws fuel the exponential increase in women's incarceration.

Many prisoners are mentally ill. Four times the number of people with diagnosed mental illness are in prison than are housed in institutions for mental health care. Many do not receive mental health care while in prison; of those who do, the most common treatment is medication.

Typically, women in prison are young, unmarried women of color with children. The vast majority report having been raped or sexually abused before their incarceration; many have also been homeless.

Just under 100,000 youths are in some form of residential detention. In addition, about 4,000 juveniles are being held in state and private correctional facilities for adults. About a third are adjudicated for violent offenses; another 28% are held for property crimes, about 9% for drug offenses, and about 10% for public order charges. The rest serve for technical and status offenses (truancy, running away).

Juveniles can be tried as adults in all 50 states. They are vulnerable to adult punishments, and can be remanded to adult prisons. The U.N. Convention on the Rights of the Child states that crimes committed by a juvenile should not result in execution or life in prison without parole. In 2005, the U.S. Supreme Court ruled that it is unconstitutional to execute people for crimes they committed as children. As a consequence, a number of young people were released from death row into the general prison population. Five other countries execute people for juvenile offenses: Iran, Yemen, Nigeria, Saudi Arabia, and Pakistan.

Another form of punishment that is less often observed has to do with collateral penalties that are assessed once people have completed their sentences. They include bans from receiving government support, revocation of driving licenses, disenfranchisement from voting, the inability to be considered for certain jobs, and the loss of child custody. Some of these penalties continue for years after people have finished "serving their time" – and some of them are in effect for life.

### Discussion Questions



What are the most common crimes for which prisoners in your area are incarcerated? What are typical sentences?

What do you think are the effects of extreme punishment on the psychological state of people in prison?

What diversion programs exist in your area? What are alternatives to prison?

Describe the differences between retribution and reformation.

### Learning Assignment

-  Investigate international limitations on prisoner treatment, including laws regarding prisoners of war. How are they like or unlike what is in common practice in our domestic prison facilities?
-  Describe retributive justice in as much detail as possible. Then identify and describe other approaches, such as Alternatives to Violence, Restorative Justice programs, and neighborhood courts. What are the differences?

### *Twenty-Second General Synod, 1999*

*"We call for a moratorium on the death penalty."*

## 7. Harsh Punishment

In considering extreme punishment, most people think immediately of execution. Between 2008 and 1976, when capital punishment was reinstated, 1,136 women and men were executed. The number of executions each year has been decreasing. In 2008, 37 people were put to death. In contrast, a total of 3,220 people resided on death row that year, most of them housed there for decades.

The focus on death sentences is due, in part, to some publicized cases involving DNA evidence. Indeed, improved investigative methods resulted in the commutation of 260 death sentences between 1976 and 2003, when 170 sentences were commuted.

In 2000, researchers at Columbia University found that 68% of over 5,000 death sentences imposed since 1976 had been overturned for serious errors -- specifically for incompetent counsel, police misconduct, prosecutorial misconduct, or judicial error.

Many of those whose death sentences have been commuted continue to reside in maximum security facilities, with life sentences. The death penalty should be understood in the context of an entire system of arrest, conviction, and punishment.

In addition to death sentences and life without parole, mandatory minimums and incarceration in Supermax facilities should be considered in a review of harsh retribution for crime.

Mandatory minimums are used for selected crimes, most involving drugs. Judges must impose specific sentences and cannot use discretion to apply punishment appropriate to the crime. As a result, thousands of nonviolent first offenders have been sentenced to what former Chief Justice Rehnquist called "unconscionably long prison terms." All twelve federal circuits have urged repeal of these laws because they are unfair and ineffective.

Supermax facilities are high-tech prisons built for the most serious offenders, but many facilities house those who are mentally ill, or disruptive but not dangerous. Prisoners are confined to cells for 23 hours each day, with one hour alone in an outside cage. Human rights groups document the trauma, isolation and extreme sensory deprivation these prisoners experience, and their vulnerability to abuse. Over 20,000 inmates live in Supermax prisons.

## Discussion Questions

Think about what you were doing at the age of 15. At 21. At 25. How well formed was your character at these ages?

How do you think prison would shape your thinking? Your social relationships? Your emotions?

Consider motherhood and prison. What are the short-term and long-term implications of mother-child separation?

What do you think happens when women give birth while in prison?

### Learning Assignment

- ✧ What are the demographic characteristics of prison populations in your area? How do they compare to the characteristics of your community in age, gender, race and ethnicity?
- ✧ What education and counseling do people receive who are incarcerated in facilities in your area?
- ✧ What are the daily routines of prisoners, especially youth? How do they compare to routines in the community at large?
- ✧ Find out the institutional policies for women who are incarcerated while they are pregnant.

### ***Twenty-Third General Synod, 2001***

*"We affirm the right of juveniles  
to an equitable system of justice  
that respects the life and promise of our youth."*

## 6. Families

Most prisoners are parents. The U.S. Bureau of Justice Statistics reports that about 810,000 state and federal prisoners at midyear 2007 were parents of minor children. They represent 63% of federal inmates and 52% of state inmates, and they are parents to 1,706,600 children under age 18. Since 1991, the number of children of incarcerated parents has increased by 80%.

Of the 74 million children in the U.S., 2.3% have a parent in prison. Among Black children, one in every 15 (6.7%) has a parent in prison, compared to Hispanic (2.4%, or 1 in 40) and White children (2.4%, or 1 in every 110).

About one fourth of these children are under five years old. Their number is growing with the number of prisoners.

Most mothers (64.2%) and about half of fathers (47.9%) lived with their minor children just prior to their incarceration. In state prisons for which data are available, the likelihood of being a parent was most likely among married inmates (71%), compared to those who were separated, divorced, never married, or widowed.

At the same time, more than 4 in 10 mothers in state prison who had minor children were heading single-parent households before their incarceration. The children of women prisoners were most likely to go to a grandparent (44.9%), the other parent (37.0%), another relative (22.8%) or a friend (7.8%) for care during their incarceration. The remaining children (10.9%) went to foster care.

The children of men in prison were most likely be in the care of the other parent (88.4%) or another relative, with only 2.2% moving into foster care.

The ramifications to families having a primary caregiver in prison are severe for the children and the parents. The Bureau of Prisons offers evidence that inmates connected to their children and families are more likely to avoid negative incidents and reduce their sentences. It is important that the ties among family members be sustained.

When parents are in prison, the punishment extends to their children, and the punishment to parents and children extend after incarceration

is over. Coming out of prison, it is difficult for people to find jobs and housing, and they often need to rely on others for assistance. If their ties to family and friends have been severed, they have limited options. Women who lose custody during their incarceration must be able to show that they can provide adequate food, shelter, and stability in order to be reunited with them.

Although prisoners are released after serving their sentences, there are continuing barriers to reintegration. Laws differ by states, but people with drug offenses have had difficulty receiving governmental assistance. The Adoption and Safe Families Act of 1997 speeds up termination of parental rights if children are in foster care for 15 out of the last 22 months, placing prisoners at risk of losing children due to the length of their sentences.

### Discussion Questions

What contacts are available between prisoners and their family members? What barriers exist?

When children visit parents in prison, how do you think they are affected? How do you think they may be affected by not visiting?

How might incarceration change your way of thinking about family structure?

If you were incarcerated, what would be the effect on the people you are closest to? On those who depend on you?

### Learning Assignment

- ✎ Many times, people are incarcerated far distances from their home communities and family ties. What are the home communities of the people in the correctional facilities in your area?
- ✎ What are the transportation options for visitors? What is the cost of transportation?
- ✎ Contact a parole officer to see how your group could be helpful in supporting parent-child connections.