

ISSUES IN PERSPECTIVE

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The Church as an Advocate of Justice

That God is a God of justice is a given. One of my favorite Minor Prophets is Amos, who rails against the injustice of the Northern Kingdom of Israel. His rebukes are scathing, some of which could certainly apply to the North American church today. But the Bible makes clear that God's perfect justice is always balanced by His grace, mercy and compassion. That, of course, is why He sent Jesus: To die a substitutionary death and thereby satisfy the righteous, just demands of a perfect, holy and righteous God. The Bible also makes clear that we, who have received the free gift of salvation by grace through faith, are to exhibit justice, grace, mercy and compassion to the world. Put another way, the church of Jesus Christ is to manifest justice, grace, mercy and compassion to this broken world. For that reason, the Colson Center for Christian Worldview, The Ethics and Religious Liberty Commission, the National Association of Evangelicals and Prison Fellowship have launched a collaborative initiative culminating in a Justice Declaration which they are inviting Christian leaders to sign. I have signed this declaration.

In this longer than usual *Perspective*, I seek to summarize the salient features of the white paper that accompanies the Justice Declaration, which was written by Dr. C. Ben Mitchell, Provost, Vice President for Academic Affairs and Grave Professor of Moral Philosophy at Union University in Jackson, Tennessee. At the end of the summary is the actual Justice Declaration itself.

- America is facing a crisis of over-criminalization. By turning to the justice system to address conduct that should be regulated by civil or administrative means, and by imposing long prison sentences for many types of crime, the U.S. has become home to five percent of the world's population, but a quarter of the world's prison population. Our misguided response to crime, including over-reliance on incarceration, fails to make us safer and has pervasive, devastating, and long-lasting consequences for individuals and American society at large. The number of individuals incarcerated in prisons and jails in the United States is nearly 2.2 million. More than 728,000 individuals are held in local jails, more than 3.7 million are supervised by a probation system, and more than 870,000 people are on parole. The effects of over-criminalization extend beyond the prison gates. An estimated 65 million American citizens have a criminal record, hindering their ability to access higher education, employment, and other things necessary to lead a full and productive life.
- While crime and arrest rates are down, prosecutors now seek felony charges after an arrest much more frequently than they did even a decade ago. According to the Pew Charitable

Trust, from the year 1983 through 2013, all states became more punitive, imposing increasingly harsher sentences over time for the same types of crime. Although crime rates decreased significantly during this period, the rate at which we incarcerate those who commit crimes increased by 165%. Moreover, the average length of time served by an individual sentenced to federal prison increased from 17.9 to 37.5 months between 1988 and 2012, even in the face of research that suggests that longer sentences do not reduce recidivism. During this period, average sentence lengths increased by 39% to 320% for certain categories of crime.

- While at first glance it may appear that this increased reliance on incarceration and longer prison sentences fully explains the massive decrease in crime rates, criminologists and other experts who have carefully studied the best available evidence refute this premise. Of the contributing factors which could have reduced crime in recent decades, research suggests that only 25% of the decrease in violent crime and an even smaller percentage of the decrease in property crime can be attributed to increased incarceration. Other factors, such as a growing economy, changes in the drug market, the aging population, strategic policing, and community responses to crime have been found to be significant contributing factors to the decline in crime. Incarceration may even increase the likelihood of future criminal behavior, an unintended consequence termed “the criminogenic effect,” particularly among people who have been convicted of low-level crimes. Thus, beyond a certain threshold, harsher and more frequent prison sentences deliver diminishing returns for public safety, which should prompt us to think outside the bars in search of more evidence-based, restorative measures for correcting harmful behaviors.
- Over-criminalization is not only a matter of public safety, but also contributes to racial inequality. Data collected by state and federal agencies have increasingly made clear the disproportional impact that our justice system has on racial minorities. Communities of color are subject to higher-than-average rates of traffic stops and police searches. African Americans are significantly more likely to be arrested for a drug crime, even though rates of drug use and trafficking are roughly equal across all races. When convicted, they are often subjected to harsher-than-average sentences and less likely to receive any form of reduced sentence, charge, or plea agreement, when compared to similarly situated individuals of non-African American descent. Over-criminalization also has a significant impact on the rising generation of American young people. On a recent survey day, there were 50,821 youths held in residential placement facilities nationwide, with another 5,235 committed to adult jails and prisons. By 2013 the overall juvenile court delinquency caseload had grown to 2.6 times what it was in 1960, even though the number of crimes committed by youth remained consistent over this period. With the prevalence of zero-tolerance policies and the proliferation of new crimes on the books, a significant portion of America’s youth experience the juvenile justice system, impacting their ability to graduate high school, find meaningful employment, and have continued positive relationships with their families and communities. Increased time behind bars also makes it more likely that young people will commit more crimes in the future. One jurisdiction has found that for each additional year a juvenile is incarcerated, his or her probability of future arrests increases by 32.7%. The

impact of over-criminalization extends beyond the men, women, and youth in the justice system. Children and families suffer from disproportional sentencing, too. Approximately 2.7 million—or 1 in 28—American children have an incarcerated parent. Approximately one in 110 white children, one in 41 Hispanic children, and one in 15 black children have a parent who is incarcerated. Children of an incarcerated parent may experience fear, anxiety, anger, guilt, and embarrassment, often resulting in difficulties in school and behavioral problems. A criminal record makes it much harder for previously incarcerated parents to find gainful employment and hinders their economic mobility. This negatively impacts the well-being of their children and families for generations.

THE CAUSES AND SOLUTIONS

Identifying the crisis of over-criminalization in America doesn't mean we should be dismissive of crime. On the contrary, preventing and addressing crime, even while crime rates are low, is the foundation of a robust, systemic response to over-criminalization.

- **Failure of Moral Formation**

A Christian worldview informs our understanding of the causes of crime. Among the leading factors contributing to crime is a failure in moral formation. The social manifestations of this failure are everywhere, but nowhere more obvious than in the family. The family is the birthplace of self-governance, the cradle of citizenship. In the family, a child first learns, or fails to learn, the essential qualities necessary for governing the self: honesty, trust, loyalty, cooperation, self-restraint, civility, compassion, personal responsibility, and respect for others. Evidence suggests that by the time a child reaches 13, his or her worldview is basically established. Early training in the home is, therefore, pivotal in setting a child's moral compass.

Conversely, when the home fails to be a place of love, acceptance, and appropriate discipline, the consequences are glaringly obvious. Early abuse, neglect, and trauma often damage children's long-term psychological and emotional health, contributing to future criminal behavior and incarceration. Studies reveal that most men and women who are incarcerated previously faced some form of physical, sexual, or emotional abuse, and many of them were subject to such trauma as children.

Churches and houses of worship are also crucial to moral formation. Within those communities, individuals learn to be less self-centered, to love God with all their heart, soul, mind, and strength, and to love their neighbors as themselves. They learn respect for our leaders, for government, and for the rule of law. They also learn that all people, regardless of ethnicity, gender, and social status, are made in God's image, and they learn the importance of mutual accountability, cooperation, and faithfulness.

Strong local neighborhoods are another source of moral formation. Parents and families should invest themselves in cultivating civic virtues by strengthening the bonds of community, serving their neighbors, and investing in a community infrastructure that helps provide the formative experiences of children. Neighborhoods should be safe, nurturing,

and friendly environments for individuals and families, especially children. By the time children become adolescents, moral formation and self-control become more difficult. Studies have shown that until the early- to mid-twenties, insufficient mental development and maturity in young adults, particularly among males, leaves them less able to control impulses and emotions, less likely to consider moral reasoning or long-term consequences, and more prone to the effects of peer pressure and stress.

Failure of moral formation results in sinful patterns, which manifest in many forms of brokenness beyond criminal behavior. Societal factors, particularly poverty, increase the likelihood that brokenness will manifest as criminal activity.

- Misguided Criminal Justice Policy

We must also recognize the role misguided criminal justice policies have played in contributing to our nation's current crisis. Our Christian worldview emphasizes the importance of proportionality in punishment, the possibility of redemption and transformation, and the necessity of pursuing justice that restores.

What constitutes a crime in America has expanded significantly over time. Murder, rape, robbery, and other basic offenses are understood by virtually all Americans as crimes with grave moral and public safety implications. However, the number of crimes and regulations carrying criminal penalties has ballooned to include many offenses with no such implications; now, virtually all Americans are unaware of all the behaviors that are legally considered criminal. Our criminal laws and regulations should be evaluated and eliminated in cases where there is insufficient criminal intent.

Poverty often unjustly frustrates individuals' ability to navigate this complex justice system, resulting in disparate access to bail, quality defense, and other tools of justice. Thus, our prison population includes an unknown number of innocent people who were falsely accused and lacked the means to adequately defend themselves in court, or accepted a plea bargain out of fear of risking a much longer sentence if wrongly convicted.

Prosecutors are generally elected and paid for by counties and many prosecutors campaign on their ability to secure harsh convictions. However, the defendants they charge, if convicted of felonies, will serve their prison sentences at cost to the state, not the county. Thus, prosecutors can boost their record without financial checks and balances. While there are likely many reasons that contribute to the increased use of felony charges by prosecutors, we should be wary of this perverse incentive.

Sentencing for many types of crime, including drug-related offenses, is often disproportional to the harm caused to victims and to society. Another policy contributing to our excessive prison population is the use of disproportional mandatory minimum sentences, particularly for drug crimes, which limits judges' ability to do their jobs.

Along with these lengthier prison terms come rapidly escalating prison costs. In 2010, comparing total expenses for prisons across 40 state justice systems, it cost on average \$31,000 per year to incarcerate one adult. Adjusting for inflation, correctional spending in the United States has increased from \$17 billion in 1980 to over \$71 billion in 2013, an increase of 324% over this period.

If crime rates have been falling for a generation, why are so many behaviors being criminalized, and such disproportional and costly sentences being handed down? Such laws and policies are frequently fueled by the public's fear of crime, which is often much greater than the documented danger, and by political pandering. While fear of crime is a natural human response, we are not to be governed by fear, but rather by love and sound wisdom. We should embrace a restorative approach to punishment that addresses the underlying causes of crime and promotes effective accountability. By setting aside fear, we can critically evaluate criminal justice policies based on actual public safety outcomes.

Alternative sentencing options that lead to improved outcomes are often overlooked. In some cases, suspended sentences, probation, fines, restitution, community service, or other programs prove to be far more successful, less expensive, and better at reducing recidivism than prison sentences, while still providing an effective deterrent to crime. In the Old Testament, Israel's most common means of punishment was restitution. In our current context, appropriate, community-based alternative sentencing permits individuals to pay their debt to society while they hold paying jobs, go to school, support their families, and contribute meaningfully to society. The importance of maintaining individuals' connection to their communities, whenever possible and safe cannot be overstated. Among youth involved in the juvenile justice system, community programs involving the child's family have been shown to be increasingly effective, reducing recidivism by up to 70%.

Drug courts are an excellent example of an alternative sentencing scheme that allows people to be held accountable for harmful behaviors without resorting to expensive and unnecessary terms of incarceration. There are more than 3,000 drug courts across the country seeking to remedy substance abuse issues among those who have been charged with criminal offenses. Drug courts have been shown to reduce recidivism among participants by 13%, and average taxpayer savings are between \$5,680 and \$4,208 per drug-court participant.

People living with a mental illness can also benefit from alternative sentencing. As the availability of community-based mental health services has declined, jails and prisons have increasingly been called upon to act as mental health service providers—a task they are often poorly trained or resourced to perform. The prison experience itself may create or exacerbate mental health issues. More than half of state prisoners show current symptoms or have had a recent history of mental health problems. Nearly half of federal prisoners and nearly two-thirds of persons detained in local jail have mental health problems. Many of these people should receive mental health treatment rather than incarceration, or may be good candidates for mental health courts. In addition to seeking alternatives to

incarceration, in the last decade many states have removed or limited application of mandatory minimum sentences, reclassified felonies as misdemeanors, or passed other sentencing reforms designed to restore more proportional sentencing. The results have been very encouraging. State corrections and crime data show that states which have lowered their incarceration rates in recent years have also realized similar or larger decreases in crime when compared to the nation as a whole. While crime rates have decreased in almost every state across the country since 2010, the states with the 10 largest decreases in their imprisonment rates realized a 6% larger decrease in crime than the 10 states with the largest increases in imprisonment rates. For example, Texas has introduced a significant number of reforms in recent years that have reduced the state's imprisonment rate by 12.9%. Over the same five-year period, the state has realized a 23.3% decline in its crime rate. South Carolina, a state which adopted comprehensive criminal justice reform in 2010, has seen an approximately 16% decrease in both its imprisonment and crime rates since the legislation was enacted.

Although more than 600,000 people are released from prison or jail every year, many of them are not more prepared to live a productive and crime-free life than when they were first incarcerated, and some learned to be more violent while they were in custody. We should evaluate and reform policies that contribute to these devastating outcomes. Solitary confinement, or "restrictive housing," generally entails confining prisoners in their cells for 23 hours a day and severely limiting their social interaction with both the general prison population and their family and friends in the community. Many studies have documented the severe psychological impact such isolation can have on prisoners, particularly those with serious mental illness. In 2015, the Association of State Correctional Administrators undertook a nationwide study to document the number of incarcerated persons placed in restrictive housing and the conditions they face. The study revealed that 42 jurisdictions do not limit the duration of solitary confinement, and that some fail to record the length of time that an individual is held in restrictive housing. In some situations, the length of restrictive housing exceeded three years. New laws and regulations have brought about greater transparency regarding incidents of sexual assault in correctional facilities, and have bolstered prevention and response efforts. Still, a survey conducted during 2011 and 2012 revealed that about 4% of prisoners reported experiencing sexual victimization by another prisoner or a member of the prison staff. If we want incarcerated people to return as better neighbors, conditions of confinement must uphold human dignity and promote safety and pro-social values.

The laws must change to provide opportunities for second chances, but so must the culture. Gaining meaningful employment is one of the most significant predictors of how likely an individual is to be involved in criminal activity in the future, but 90% of those who have been incarcerated struggle to find employment in the first year after release. Only 40% percent of employers are willing to hire an applicant with a criminal record, and applicants with a criminal record are half as likely to receive a call back from a potential employer. Christians can lead the way in extending acceptance to people with criminal records who return to our businesses, churches, and communities.

- THE APPEAL TO THE CHURCH: THE JUSTICE DECLARATION

Therefore, we make an urgent appeal to all who follow the Lord Jesus Christ to:

1. Affirm that the God of the Bible is a just God: justice flows from God's very character, and the works of God's hands are faithful and just. God calls his people to act justly, love mercy, and walk humbly before Him.
2. Treat every human being as a person made in God's own image, with a life worthy of respect, protection, and care.
3. Foster just relationships between God, fellow human beings, and property, which will lead to human flourishing. The violation of just relationships leads to human trauma and suffering. Recognition of human dignity requires that churches seek to serve all of those who are impacted by crime, including the victim and the person responsible, working as ministers of biblical justice. This is, after all, the story of the good news of Jesus of Nazareth, who brings reconciliation between God and humanity, between one person and another, and to all of creation by making peace through His own sacrifice.
4. Redouble our efforts to prevent crime by cultivating the "seedbeds of virtue," including families, churches, neighborhoods, schools, and other sources of moral formation, seeking the peace and prosperity of the community through institutions of civil society. Supporting parents is particularly important, recognizing that it is in the nurture of the family that a child first experiences love, security, and trust, and learns the essential qualities necessary for governing oneself: honesty, loyalty, cooperation, self-restraint, civility, compassion, personal responsibility, and respect for others.
5. Care for the physical and emotional wounds of survivors of crime, ensure their safety, and support their meaningful participation in the justice system. We commit to "mourn with those who mourn" by walking alongside and listening to those who are harmed by crime. We can act as bridges between those who have suffered property loss and violent crime, those who have committed such acts, their communities who suffer, and a justice system that seeks to protect and serve its citizens.
6. Take up the cause of the poor and vulnerable, ensuring fair access to education, economic opportunity, the social safety net, and, for those accused of crimes, the instruments of justice. "Do not pervert justice; do not show partiality to the poor or favoritism to the great, but judge your neighbor fairly." We will "speak for those who cannot speak for themselves" and "defend the rights of the poor and needy," ensuring that all receive equal treatment under the law.
7. Advocate for proportional punishment, including alternatives to incarceration, that protects public safety, fosters accountability, and provides opportunities to make amends. Criminal justice policy has often been driven by a culture of fear, resulting in an overly punitive response that does not make communities safer. Although we acknowledge retribution as a biblical principle, a Christian view of justice also emphasizes redemption, reformation, restoration, and renewal.
8. Preach the good news of the gospel and proclaim that true freedom in Christ is available to all, including prisoners, recognizing that His atoning sacrifice covers all sin. We recommit ourselves to being gospel people and gospel communities who think more highly of others than we do ourselves. We ourselves have been reconciled to God and

received the grace of redemption, and now seek the shalom that Christ has inaugurated by making peace through His own cross and resurrection.

9. Invest in the discipleship of incarcerated men, women, and youth, protect their safety and human dignity, and minister to the needs of families and children with incarcerated loved ones. Christians are enjoined to “carry each other’s burdens, and in this way you will fulfill the law of Christ.” We should pursue fellowship with the members of the Body of Christ who live behind prison bars, offering encouragement and support.
10. Celebrate redemption in our congregations and communities by welcoming back those who have paid their debt to society, and by providing opportunities for all persons to reach their God-given potential. “Therefore, if anyone is in Christ, the new creation has come. The old has gone, the new is here!” As Christians, we have each received a second chance by the grace of God. We can extend the same spirit of acceptance to those who have paid their debt to society, enabling them to contribute to their families and our communities.

See C. Ben Mitchell, “Responding to Crime and Incarceration: A Call to the Church” and the actual “Justice Declaration” at www.justicedeclaration.org.