

EPPN Criminal Justice Series Introduction: 13th Amendment

January 21, 2020

Office of Government Relations

The Episcopal Church's Office of Government Relations invites members of the Episcopal Public Policy Network to learn and engage in conversation with us for the next five weeks to learn more about criminal justice reform. Through five educational posts, this series will provide an opportunity to learn more about The Episcopal Church's policy positions, our longstanding engagement, and how you as an advocate can make a difference.

The U.S. criminal justice system is a highly decentralized patchwork of federal, state, and municipal jails and prisons, regulated and overseen by federal, state, and local laws, courts, and correctional bureaucracies. Because the system is so vast, advocates pursue different strategies and focus on different aspects of the system in their work for justice. Some advocates and organizations primarily focus on sentencing reform as a way to end mass incarceration— seeking to reduce mandatory minimum or discriminatory sentences. Groups like the Episcopal Peace Fellowship lead the way on advocating to end the death penalty. Partners such as the National Religious Campaign Against Torture focus on prison conditions and seek to end solitary confinement. Other advocates focus on working to ensure access to opportunities in prison that allow incarcerated people to have a better chance at reintegrating once they are released, or training and re-entry programs that reduce the rate of recidivism by helping individuals, families, and communities adjust. Finally, advocates with strong ties to the local community may focus on local and state laws, prison conditions, and support for re-entry, whereas entities like the Office of Government Relations prioritize engagement at the federal level.

We hope to explore many of the diverse issues in the U.S. criminal justice system throughout this series, but to start, we will highlight one of the most fundamental issues that many advocates see as a key component of criminal justice reform: amending the U.S. constitution.

Following the issuance of the Emancipation Proclamation in 1863, Congress considered a Constitutional amendment to prohibit slavery in 1864, but it was rejected by the House

of Representatives. In 1865, Congress passed the 13th Amendment, and it was sent to the states for ratification. By the end of the year, President Lincoln had been assassinated, the Union was restored, and the 13th Amendment was ratified.

While the 13th Amendment is understood to have ended the institution of slavery, the language of the amendment itself does not categorically abolish slavery. The text says: “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.” It did not take long after ratification for the exception clause to result in slavery-like conditions and for prisoners to work without compensation, in some instances in ways that are reminiscent of slavery. Black people were arrested on false or minimal charges, such as vagrancy, so that they could be convicted and leased by the state to plantations and companies.

This loophole that still allows for involuntary servitude is viewed by many as contributing to the excesses of the criminal justice system in the U.S. and fueling the for-profit, private prison system. The legacy has evolved over decades but is still at the core of many prison systems that use prison labor and lease incarcerated people out to corporations; as recently as 2018, people in this system went on strike to object to work and pay conditions.

In 2018, General Convention passed a resolution on the issue of slavery in U.S. prisons by affirming the dignity of every human being created in the image of God, stating its opposition to all human slavery at any time, in any form, under any circumstance, and supporting efforts for changing the Constitution’s language to end slavery “without exception.”

At the most recent Executive Council meeting in Montgomery, Alabama, death row attorney and author Bryan Stevenson spoke to Council, sharing in his remarks how he has seen firsthand the connection between the history of slavery and Jim Crow and modern systemic racism and mass incarceration.

Our advocacy on criminal justice reform seeks to address the incremental as well as the transformational change. Not only have we continued to support legislation like the First Step Act, which passed Congress at the end of 2017 and made some minor but important changes, we are also, at the same time, advocating for a change to the

Constitution so that the core document of our nation affirms that slavery is a moral wrong in all circumstances.

Additional Resources:

OGR Investigation of Prison Conditions Report for Resolution 2015-D062

Organization for Procedural Justice (OPJ) Roundtable on the 13th Amendment Punishment Clause and Mass Incarceration (Commissioned by The Bishop of the Diocese of Southern Ohio and The Dean of Christ Church Cathedral, Cincinnati)

Starter Kit for Teaching and Learning on Mass Incarceration (National Council of Churches)