

Counting prisoners in the Census: A modern day 3/5 compromise

Written by Dr. Ron Daniels

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The Constitution mandates that every person living in the United States be counted every ten years. As mentioned in a previous article, the Census is more than counting heads. The data collected is critical to the allocation of some \$400 million annually in federal tax dollars to state and local governments for schools, housing, hospitals, transportation, roads and safety forces. Census data also determines the apportionment of political districts.

As former Congressman Walter Fauntroy often reminds us, there is a direct relationship between political representation/power and the distribution of goods and services to various constituencies in the American body politic. Therefore, given the critical condition of Black communities across the country, achieving a "fair count" to receive a "fair share" of resources and political representation is absolutely imperative.

Unfortunately, because of ineffective outreach methods, a lack of political will by the government and skepticism/suspicion of the government in the Black community, historically there has always been an undercount of people of African descent. These concerns were the focus of a major meeting of Black leaders with Gary Locke, Secretary of Commerce, recently convened by Marc Morial, President/CEO of the National Urban League. While expressing their commitment to work with the Director of the Census to assure an accurate count, the leaders also shared their concerns about a number of issues that might adversely affect the outcome. There was serious dissatisfaction with the budget and the system for distributing monies to Black media to get the message about Census 2010 to every sector of the Black community.

Second, it was strongly recommended that resources be found to fund community based organizations to be systematically engaged in informing Black people about the importance of the Census and working to ensure the return of the questionnaires to secure an accurate count. There was a good exchange of views on these issues, and Secretary Locke pledged to seriously consider the group's recommendations. In general, there is an impression that there is real commitment by the Obama administration to do a much better job than previous administrations to eliminate the undercount of Blacks in the 2010 Census.

However, one issue surfaced, that Secretary Locke seemed perplexed about how to resolve, the huge number of incarcerated Blacks in the prison-jail industrial complex who are counted in the communities in which they are confined rather than in the communities where they and their families live. On the surface, it would not appear to be a major problem. But in reality, if we recall that Census data is used for the distribution of resources to state and local communities and the apportionment of political representation, this anomaly has devastating consequences for Black communities across the country. According to information compiled by the Fair Count to Fair Share Initiative of the Praxis Project, there are at least 21 counties in the U.S. where incarcerated persons comprise 21% of the population. "In 173 counties, more than half of the Black residents reported in the Census are prisoners."

In New York, "most of the state's prisoners (66%) are New York City residents, but the vast majority of them (91%) are counted as residents of upstate prisons." Because of this fact, there are several state senatorial districts in New York which only meet the minimum population requirement because the incarcerated are included in their count. Indeed, there are probably congressional districts around the country that only meet the population requirement because of

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the incarcerated population.

Let me be clear, what this means is that all across this country, Black prisoners are being counted/used by communities as the basis for securing a share of the \$400 million in federal tax dollars distributed annually and political representation to advocate for their interests at the state and national levels. Meanwhile, Black communities from which the vast majority of the incarcerated come are denied the desperately needed resources to correct the deplorable conditions that have created a pipeline to prisons in the first place. This is tantamount to an unwritten, unspoken, de facto modern day 3/5 Compromise.

For those who do not recall, the 3/5 Compromise was a disgraceful arrangement "between Southern and Northern states reached during the Philadelphia Convention of 1787 in which three-fifths of the population of slaves would be counted for enumeration purposes regarding both the distribution of taxes and the apportionment of the members of the United States House of Representatives." In effect, enslaved Africans were enshrined in the Constitution of United States as 3/5 of a human being.

It is a cruel irony that a similar practice is at work today. Incarcerated people of African descent, the fodder for the prison-jail industrial complex, are being used to embellish the socio-economic resources and political power of distant communities, while the impoverished communities where they reside are under-resourced and under-represented. In effect the people in these communities are being rendered less human than those communities where residents benefit from Census data that includes the incarcerated in their count. If those who claim we are in a post-racial society don't know the meaning of institutional/structural racism, the manner in which the incarcerated are counted in the Census is a clear example. It has a "discriminatory effect" and "disparate impact" on Black communities, many of which are in a virtual state of emergency as it relates to poverty, unemployment, inferior education, affordable housing, health disparities and other "savage inequalities" which doom many of its sons and daughters to land in prison.

If the 2010 Census is to really achieve a fair count so that there can be a fair distribution of federal tax dollars and apportionment of political representation, then this modern day 3/5 Compromise must be abolished. The incarcerated must be counted in the communities of their last place of residence. This will assure that these communities have the resources and political representation they are justly due to address decades of benign and blatant neglect. Ten years from now is too long to wait for this ban to take effect. The Obama administration should issue an Executive Order immediately correcting this injustice. It is an utter contradiction to celebrate the election of the first Black President when Black communities in this nation are being rendered unequal by the manner in which the incarcerated are counted. The time to end this injustice is now!

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