

The Unethical Use of Captive Labor in U.S. Prisons

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An exploitative labor economy exists within the confines of this nation's prisons. This is a fundamental pillar of the criminal justice system, yet it is largely concealed from public view. In the United States, all state and federal prisons allow some form of involuntary labor as part of various correctional work programs. Even when prison labor is ostensibly voluntary, the combination of meager pay (often less than \$1/hour) and the presence of harsh alternatives creates an inherently exploitative system that depends on the labor of those behind bars and perpetuates a cycle of exploitation and marginalization. Prison labor amplifies deep-seated issues within the criminal justice system and casts a stark light on the intersection of labor rights, social justice, and the ethics of incarceration.

The Exploitative Prison Labor Economy

Incarcerated men and women toil in workshops, kitchens, and fields, producing goods and services that reach far beyond their confinement. From manufacturing furniture and processing food to fighting fires¹ and working in call centers², their labor fuels supply chains, corporate profits, and consumer markets. Yet these workers remain invisible, their contributions often overlooked or dismissed. The commodification of their labor perpetuates a cycle of vulnerability, where meager wages and limited rights prevail.

In the intricate tapestry of the prison industrial complex, we confront a profound challenge that transcends temporary reforms. The only holistic and ethical approach calls for a paradigm shift, a reimagining of justice itself. Within this context, we fiercely advocate for granting incarcerated individuals fundamental rights: the right to choose voluntary work and earn fair wages, and the freedom to join unions. These rights are not concessions; they are affirmations of human dignity and agency, and are necessary to improving the material conditions of incarcerated people.

Our vision reaches toward the dismantling of the current prison industrial complex. By its nature, prison labor perpetuates coercion and exploitation within a system that inherently denies the agency and rights of incarcerated individuals. Our vision acknowledges that the history of forced labor in prisons is deeply intertwined with racial injustice, economic inequality, and the broader carceral system's oppressive structures.³ As we advocate for a better future, we must confront this legacy and strive for resolutions that exist outside of the bounds of the current carceral system.

Historical Context: Convict Leasing

The roots of the U.S. carceral system can be found in the history of convict leasing. After the Civil War, as slavery officially ended, Southern states enacted laws that criminalized minor offenses, disproportionately targeting Black individuals. So-called “Black Codes” were created by white Southern lawmakers to undermine the Reconstruction Amendments (the 13th, 14th, and 15th amendments to the Constitution).⁴ They enabled local law enforcement to create a steady stream of labor for private industry in the South, including plantations, mines, and railroads. Black people accused of crimes were 'leased out' to private companies, effectively re-enslaving them under brutal conditions. Their labor built the infrastructure of the 'New South,' while their humanity was systematically denied. This dark chapter in American history casts a long shadow over today's prison labor practices. The commodification of inmate labor persists, echoing the exploitative patterns of the past.

Collective Action and Resistance

Throughout history, moments of collective action have illuminated the demand for fair treatment and humane conditions within prisons. The 1971 Attica Prison uprising stands as a powerful testament to this struggle.⁵ In that pivotal event, incarcerated individuals at New York's Attica Correctional Facility rebelled against oppressive conditions, demanding better wages, improved healthcare, and an end to dehumanizing practices. Tragically, the state's violent response resulted in numerous deaths and injuries, but it also brought national attention to the plight of incarcerated workers.

The 2018 nationwide prison strike echoed those calls for justice.⁶ Organized by incarcerated activists and supported by external allies, the strike aimed to highlight exploitative labor practices, inadequate pay, and the lack of basic rights for those behind bars. In prisons across the United States, incarcerated individuals engaged in work stoppages, hunger strikes, and protests, emphasizing their collective power and resilience. Their demands extended beyond immediate reforms; they challenged the very foundations of the prison industrial complex, advocating for a system that prioritizes rehabilitation and community-based alternatives.

Policy Failures and Institutional Neglect

On average, incarcerated laborers earn between 15 cents and 52 cents per hour nationwide, although seven states do not pay for the majority of prison work performed in their states.⁷ The 13th Amendment was designed to abolish slavery and other forms of involuntary servitude, but contains an exception allowing involuntary servitude as a punishment for a “crime whereof the party shall have been duly convicted.”⁸ Paltry wages, hazardous conditions, and the absence of collective bargaining rights persist. This system disproportionately affects Black Americans, who are imprisoned at nearly five times the rate of white Americans, and Latino Americans, who are imprisoned at 1.3 times the rate of white Americans, according to The Sentencing Project.⁹ Notably, nearly two-thirds of incarcerated individuals work behind bars, totaling approximately 800,000 workers. Declining to work can result in punishment for over three-quarters of those surveyed, and 64 percent of incarcerated workers expressed safety concerns while working.

Prison labor is utilized across the public and private sector. The U.S. Department of Defense engages with correctional facilities under initiatives like Federal Prison Industries (UNICOR)¹⁰, leveraging incarcerated

labor to manufacture military paraphernalia and make furniture for government offices.¹¹ Corporations including McDonald's and Costco use goods produced by incarcerated individuals, enabling these corporations to amass substantial profits through the remuneration of low wages.¹² This pervasive reliance perpetuates a cycle of exploitation, subordinating the rehabilitative intent of correctional systems to the exigencies of financial gains.

This exclusion is not an oversight. It is a deliberate choice embedded in the policy frameworks governing prisons and labor practices within them.

The lack of protections for incarcerated workers is a glaring issue rooted in systemic racism and maintained by policy failures and institutional neglect within the carceral system. The exclusion of incarcerated individuals from the protections of the Fair Labor Standards Act (FLSA) reflects a perspective that fails to recognize and respect the lives and dignity of those within the carceral system, reinforcing a pattern of exploitation and disregard that is justified on the premise that prison labor is a form of correctional activity rather than conventional employment.¹³

While non-incarcerated individuals can benefit from a range of labor laws and safety regulations, incarcerated workers face a stark reality devoid of such protections. This discrepancy extends beyond prison walls, affecting individuals with criminal records who encounter significant barriers to securing fair employment opportunities.¹⁴ Discriminatory hiring practices, limited job options, and the enduring stigma of a criminal record contribute to pushing them into exploitative labor conditions. Although the FLSA is vital for protecting incarcerated workers, addressing the systemic barriers that drive economic exploitation and inequality requires a multifaceted approach that goes beyond legislative measures.

Coercion and Power Dynamics

A consequence of such neglect is an underbelly of prison labor rife with abuse and coercion, enabled by a lack of regulatory oversight and accountability mechanisms. The lack of fundamental labor protections, coupled with the profit-driven incentives of corporations and prison authorities, create an environment where power dynamics heavily favor the latter. This imbalance allows for the exploitation of incarcerated individuals, who often have limited ability to challenge or negotiate their working conditions.

In this environment, coercion becomes a tool for maintaining control and productivity. Incarcerated individuals may be compelled to work under fear of punishment. For instance, labor exploitation forces inmates to perform arduous tasks with little to no compensation, and failure to comply can result in punitive measures such as solitary confinement or loss of privileges.¹⁵ Some prisons even incentivize compliance by offering small rewards like extra phone time or slightly improved living conditions.¹⁶ However, the underlying message remains clear: compliance is rewarded; resistance invites punishment.

This power dynamic strips incarcerated individuals of their agency, relegating them to roles dictated by the prison-industrial complex.

Coercion manifests in various forms within the prison labor system.¹⁷ Inmates may be compelled to work under threat of punishment such as loss of visitation rights or access to basic necessities like hygiene products, or even have their sentences extended through disciplinary measures. The fear of reprisal looms large, forcing many incarcerated individuals into exploitative labor arrangements against their will.

The absence of substantial pathways to education and vocational training intensifies this dynamic.¹⁸ With constrained avenues for acquiring new skills, knowledge, or alternative career prospects, incarcerated individuals frequently find themselves compelled to partake in labor under exploitative circumstances. The lack of autonomy further underscores how inmates are subject to external control within the prison-industrial complex. This system prioritizes utilitarian labor over sincere rehabilitation efforts, leaving little room for individual agency.¹⁹

Without the ability to negotiate fair wages, reasonable working hours, or safe working conditions, incarcerated workers are trapped in a cycle of economic exploitation that reinforces their marginalization. This dynamic not only undermines their dignity and rights but also perpetuates broader social inequalities by reinforcing structural barriers to upward mobility and economic stability.

Reimagining Prison Labor Practices

Prison labor in the United States reflects a deeply entrenched system of exploitation and marginalization. Incarcerated individuals often find themselves in situations where their labor is undervalued, their rights are disregarded, and their dignity is compromised. This reality underscores the urgent need for transformational changes in prison labor practices.

Far-reaching implementation of fair labor practices within correctional facilities is necessary. These following labor standards represent a fundamental re-evaluation of how we approach labor within correctional facilities.

- Incarcerated individuals must be paid fair wages that align with living wage standards. Compensation should reflect the value of the work performed and provide incarcerated individuals with a means to support themselves and their families both during their incarceration and upon release.
- All labor performed within correctional facilities must be voluntary, respecting the autonomy and rights of incarcerated individuals. This entails ensuring informed consent, a non-coercive environment, fair compensation, workplace safety, the right to withdraw consent without repercussions, oversight mechanisms, educational resources, and advocacy efforts.
- Practices that prevent formerly incarcerated individuals from accessing certain jobs or professions based solely on their criminal history must be eliminated. Measures must also be put in place to ensure that past convictions do not automatically disqualify individuals from employment or professional licensure.
- Incarcerated individuals must have the right to unionize and be covered under the National Labor Relations Act. This includes granting them the freedom to form and join unions; engage in collective bargaining; and advocate for fair wages, dignified working conditions, and essential labor protections.
- Incarcerated workers must be guaranteed basic labor protections, such as access to health care services and the right to refuse unsafe work. This includes addressing hazards in the workplace, providing appropriate training and protective gear, and ensuring timely access to medical care for work-related injuries or illnesses.

- The management and operation of prison labor programs must be transparent and include the establishment of oversight mechanisms, including independent monitoring and reporting. This will ensure compliance with fair labor standards and address any instances of exploitation or abuse. Accountability measures should be in place to hold institutions accountable for upholding the rights of incarcerated workers.
- Correctional facilities must implement comprehensive disability screening and accommodation processes. Many individuals in carceral settings have disabilities that would typically qualify for workplace accommodations in non-carceral settings. Ensuring that these accommodations are provided can improve the working conditions and well-being of incarcerated workers.

Moreover, addressing the disabling effects of incarceration itself is crucial. Prisons and jails often exacerbate existing disabilities or create new ones due to inadequate health care, harsh living conditions, and lack of accessibility.²⁰ A disability justice analysis must be incorporated into recommendations to highlight these issues and advocate for equitable treatment and support for incarcerated individuals with disabilities.

- Reparative justice is integral to addressing the historical and ongoing harms of mass incarceration. Recommending reparations for individuals and families impacted by mass incarceration, including compensation for stolen wages and labor under coercive work conditions in prisons, is a critical step. This acknowledges the exploitation and loss experienced by incarcerated workers and their families and advocates for accountability and restitution. Reparations may include financial compensation, access to education and vocational training, and support services for re-integration into communities post-release.

Within the deeply embedded context of historical injustice, systemic inequality, and power dynamics that perpetuate exploitation and marginalization within U.S. prisons, the abolition of prison labor stands as an indisputably critical component to dismantling the carceral system as we know it.

Endnotes

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