



Report to the UN Special Rapporteur on contemporary forms of slavery in state and private prisons in California, United States, and its impacts on currently and formerly incarcerated people.

Submitted on April 12, 2024

Dr. Tanisha Cannon, Legal Services for Prisoners with Children
Dylan O'Donoghue, Center for Urban Research and Education,
Rutgers University-Camden

I. Introduction to the issue of slavery in California Prisons

1. The United States has agreed to many regulations and conventions on the global and national level that prohibit the use of slavery and the violation of human rights,¹ However, despite these agreements, in public and private prisons in the state of California, a distressing reality persists: those who are incarcerated experience slavery. While being forced to work, incarcerated people experience inhumane treatment, receive extremely low pay, and work in dangerous conditions often in fields that are not dedicated to rehabilitation. The size of the incarcerated population in California is more than 95,000, and according to data from the California Department of Corrections and rehabilitation (CDCr),² African Americans accounted for 28% of the state's prison population, despite comprising only 6% of the overall population in California.³ These injustices perpetuate a cycle of exploitation and oppression that disproportionately affects marginalized communities, reinforcing the vestiges of deeply ingrained systems of racism and perpetuating the legacy of slavery.
2. We write to you today from Legal Services for Prisoners with Children, our mission is to advocate for incarcerated individuals and their families. Since 1978 we have been at the forefront of the fight for social justice within the criminal justice system from ending long-term solitary confinement to expanding access to housing, employment and voting rights to help create a more just and equitable society for all.⁴ We want to highlight the concerning reality that our state not only neglects the needs of incarcerated people, but actively perpetuates harm by allowing slavery in prisons to remain legal. While the U.S. abolished slavery under the 13th Amendment, many state constitutions have an exception to the clause which allows slavery during punishment for a crime.⁵ Several states have amended their state Constitutions to remove the exception to slavery clause,⁶ However, California has failed to pass a resolution to amend the constitution despite the fact that it has appeared in front of governing bodies several times.
3. Our organization has an inside membership base of 2k+ currently incarcerated people and 6k+ impacted members. In this report, we detail the human experiences of slavery in state

¹ For example, International Covenant on Civil and Political Rights, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Trafficking Victims Protection Act (TVPA) of 2000.

² We intentionally use a lower case “r” when referring to the “rehabilitation” aspects of the California Department of Corrections & rehabilitation to emphasize that they do not deliver in this aspect in their work.

³ *Weekly Report of Population*. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2022/10/Tpop4_d221012.pdf (last visited Apr 10, 2024).

⁴ Learn more: Legal Services for Prisoners with Children available at: <https://prisonerswithchildren.org/>

⁵ The California constitution currently states: “...Neither Slavery nor involuntary Servitude, unless for the punishment of crimes, shall ever be tolerated in this State.” CAL. CONST. of 1849 art. I § 6 (1974).

⁶ Voters in 4 states reject slavery, involuntary servitude as punishment for crime, *PUBLIC SERVICE BROADCASTING*, last visited Apr 10, 2024), <https://www.pbs.org/newshour/politics/voters-in-4-states-reject-slavery-involuntary-servitude-as-punishment-for-crime>

and private prisons and these institutions' failures to provide rehabilitative services. The inhumane treatment of incarcerated workers in California should be recognized as a global issue of systemic injustice and human rights violations. The profit-driven nature of prison labor is not merely a mirror of chattel slavery, it is the evolution of modern day slavery. Incarcerated individuals are often operating under substandard safety conditions, insufficient protections, inadequate supervision and little to no training often in hazardous work environments.

II. Forced labor in prison is a profit generator for prisons and their partners, not a rehabilitation tool for those who are incarcerated

While fighting those wildfires, we worked alongside firefighters who weren't incarcerated. I remember our crew working just as hard, if not harder than the hotshot crews. Yet, they were making more money in an hour than we made in a month.

- John Cannon, Retired slave⁷

4. Incarcerated workers make extremely low wages, often less than 50 cents per hour.⁸ Most of the little money that prisoners earn is used to make purchases at the commissary where they can buy toiletries and other basic necessities. Purchasing items for hygiene is not a luxury, it is a necessity; there have been cases where people face punishment for showing up to work in an “unpresentable” state. Purchases at the commissary ultimately are funds that circle back to the prisons. The wages people receive for labor are not enough for someone to save money for life after prison or support family members while they are incarcerated, demonstrating how lack of fair payment severely harms one’s ability to have a successful social and economic reintegration after prison.
5. California Department of Corrections & rehabilitation (CDCr) mandates work assignments regardless of age or physical ability. Incarcerated workers also have no choice in scheduling work around educational or therapeutic programs nor work that would develop transferable skills for the jobs they may be interested in after release. CDCr is the main beneficiary of profits from prison labor, many of the jobs that incarcerated people are assigned help keep the prison running, this includes maintenance labor; janitorial, electrical, food service, plumbing, and painting. The state of California directly profits from public works assignments such as agriculture and packaging products that benefit state agencies like the Department of Motor Vehicles and the Department of Health Care Services. Additionally, incarcerated individuals are forced to

⁷ John Cannon, *Unable to Refuse*, LEGAL SERVICES FOR PRISONERS WITH CHILDREN, (last visited Apr 10, 2024), <https://prisonerswithchildren.org/caslave/>

⁸ Anabel Sosa, *California prisoners could get higher wages under new plan — but still less than \$1 an hour*, LA TIMES, Nov. 26, 2024, (last visited Apr 10, 2024), <https://www.latimes.com/california/story/2023-11-26/california-prisons-double-wages-inmates-work-labor-involuntary-servitude>

work in various industries, including firefighting during California fires, manufacturing California university furniture, customer services, and agriculture—all to the benefit of state agencies and private corporations. In some instances, prisoners are compelled to manufacture military equipment, and other tools of warfare without the opportunity to refuse or voice objections based on their personal moral or ethical beliefs.⁹ This exploitative system perpetuates mass incarceration and fosters a cycle of exploitation and inequality, disproportionately impacting Black and Brown communities.

6. The inability for incarcerated people to have any choice in the type of work they do is another painful element of forced labor, and also demonstrates how prisons are not utilizing work placements as a part of rehabilitation. Incarcerated individuals cannot refuse a job assignment and will face disciplinary actions for failing to show up to work. Incarcerated people do not get vacation or sick days, even to recover from injuries sustained at work. If someone misses work for any reason, they are given a rules violation report known as a ‘115.’¹⁰ Such punishment can result in loss of visits, phone calls, placement in solitary confinement, and physical violence. A 115 can be held against them during parole hearings, pushing out their parole date and extending length of incarceration. The repercussions of getting a 115 are a clear example of how incarcerated people are coerced to work every day.
7. A successful plan for rehabilitation should include productive job training; however, in reality, many formerly incarcerated people are unable to pursue jobs that they worked in prison because of their criminal record.

III. The inappropriate, unsafe, and degrading realities of forced labor in prisons

8. The jobs that many people are forced to do are often inappropriate for a variety of reasons which can lead to extreme harm. Below we focus on issues related to disability/injury, lack of safety training/equipment, unique concerns for women, and lack of worker rights.
9. Disability is often not taken into consideration in prison labor job placements. Further, disability as the result of an injury at work, is not seen as a legitimate reason to miss work. One of our inside members cut off her finger at work in prison, and then was penalized for not returning to work the following week.

⁹ Ian Urbina, *Prison Labor Fuels American War Machine*, PRISON LEGAL NEWS. Jan, 15, 2004, (last visited April 12, 2024), <https://www.prisonlegalnews.org/news/2004/jan/15/prison-labor-fuels-american-war-machine/>

¹⁰ RULES VIOLATION REPORT. DEPARTMENT OF CORRECTIONS AND REHABILITATION, (last visited Apr 10, 2024), <https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2023/12/CDCCR-115-MH-A-Rules-Violation-Report-Mental-Health-Assessment-Adopt.pdf>

10. Incarcerated workers are not properly trained on basic safety and health precautions such as, Occupational Safety and Health Act (OSHA), which is otherwise federally required for people working in the same hazardous environments.¹¹ Moreover, protections such as sick leave, vacation days, or retirement benefits are not offered. For instance, if an incarcerated individual has a family member pass away, there are no measures that allow time for grievance. In this case, one may be expected to stay or return to operating heavy equipment, or hazardous material immediately after finding out about the loss of a loved one.
11. In addition to being untrained for certain roles, incarcerated people often lack appropriate tools to protect themselves during work. We are aware of cases inside prisons where people lack proper gear while working with dangerous cleaning chemicals. Chemical burns, heat exposure, dehydration, and exhaustion plague those forced to work in fields and engage in other labor-intensive tasks. Moreover, exposure to dangerous toxins, such as asbestos and mercury, during tasks like asbestos abatement and fluorescent bulb crushing poses additional health hazards. One of our members reported injuries to her hands while performing an assignment after she was given a corrosive chemical to clean with, afterwards, she sustained injuries and said, “I can't really pick things up or open anything.”¹² In subcontracted roles in firefighting, workers sleep outside on the ground in foil blankets where they are exposed to smoke and potential blow-over from existing fires. These types of exposures cause immediate and long-term health harms, which, in both cases, prisons provide little or no support for.
12. Incarcerated women face further degradation through invasive and humiliating practices, particularly after leaving their work assignments. Upon completion of their labor duties, women prisoners are subjected to mandatory strip searches and body checks, violating their privacy and dignity. These degrading procedures serve as another form of coercion and involuntary servitude.
13. Of course, compounding all of these issues is the issue that workers in prison lack any form of workers rights, so when confronted with unfair wages, unsuitable positions, injury/illness on the job, lack of training, or other issues that might be considered illegal outside of prison, there is no pathway to improve conditions.

¹¹ For more on prisoner exceptions to federally mandated labor training programs see: Megan Hauptman, *The Health and Safety of Incarcerated Workers: OSHA's Applicability in the Prison Context*, 37(1) *ABA JOURNAL OF LAB. & EMP'T LAW*, 71. (2023). https://www.americanbar.org/content/dam/aba/publications/aba_journal_of_labor_employment_law/v37/no-1/jlel-37-1-5.pdf

¹² Alissa Moore quoted in Natalia Gurevich, *California amendment aims to end forced labor in state prisons*, SAN FRANCISCO EXAMINER, Jul. 24, 2024, (last visited Apr 10, 2024), https://www.sfoxaminer.com/eedition/page-a1/page_1e4b92d8-631c-5628-bb24-fb8c0f90f88b.html

IV. State and private prison failures to promote successful economic and social reintegration

14. Despite their labor contributions as employees of the state, after dedicating years of their lives to labor within the prison industrial complex, formerly incarcerated individuals are left without financial security or stability upon release, further hindering their ability to reintegrate into society and rebuild their lives. In California prisons workers are used for disposable labor, exploited for economic gain without regard for their well-being or future livelihoods. Even after decades of service within the prison system, where individuals may have worked tirelessly under exploitative conditions for nominal or no pay, incarcerated individuals are systematically denied basic rights and benefits afforded to other workers, including retirement benefits and access to Social Security Income (SSI).

V. Policy recommendations

15. In conclusion, we recommend the following to eradicate slavery and improve the circumstances for incarcerated people in the state of California:
16. We request that you take urgent action to call upon the state to pass a proposed state constitutional amendment, ACA-8, which will move towards removing the exception to slavery clause in the state constitution.
17. Further, we strongly recommend that all policies regarding labor in prison should emphasize the importance of obtaining voluntary, intelligent, and informed consent from incarcerated individuals participating in any rehabilitative opportunity or work program. This consent must be freely given without the threat of punitive measures or adverse consequences for refusal. Furthermore, incarcerated individuals must retain the right to withdraw their consent at any time without facing repercussions such as loss of earned credits, credit-earning status, or delays in release or parole. This ensures that participation in work programs remains truly voluntary and respects the autonomy and dignity of individuals.
18. Moreover, while removing the exception to slavery clause from the constitution addresses the issue of forced and coerced labor, we recommend that a companion bill should be introduced to comprehensively address and eradicate all forms of labor exploitation within the prison labor system.

19. Additionally, we encourage passing policies like AB1516,¹³ which seek to increase worker wages in California for workers, including wages for incarcerated workers. We believe these should outline measures to ensure that incarcerated individuals receive fair wages for their labor and are granted basic workers' rights, including protections against unsafe working conditions, discrimination, and exploitation.
20. By prioritizing these policy recommendations, California can take significant steps towards ending the cycle of exploitation, and coercion in prison labor while promoting rehabilitation and dignity for incarcerated individuals.

For more information contact: tanisha@prisonerswithchildren.org

¹³ Chris Micheli, *AB 1516: Minimum Wage*, CALIFORNIA GLOBE, Mar. 24, 2024, (last visited Apr 10, 2024) <https://californiaglobe.com/fr/ab-1516-minimum-wage/>