

ABOLITION LABOR

The Fight to End Prison Slavery

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Introduction

In February 2016, President Obama signed a bill that banned goods made by certain prisoners and other workers who toil under conditions of forced labor. Oregon senator Ron Wyden, who helped push the bill through Congress, triumphantly declared that “this law slams shut an unconscionable and archaic loophole that forced America to accept products made by children or slave labor.”¹ To what immoral loophole was he referring? Not the most well-known one—the notorious Punishment Clause in the 13th Amendment that abolished slavery and involuntary servitude in the U.S. “except as a punishment for crime.” That constitutional loophole is the legal basis for imposing forced labor in America’s prisons, which hold more than 20 percent of the world’s incarcerated population. These facilities annually produce goods and services worth tens of billions of dollars from the labor of largely unpaid prisoners.²

The bill signed by Obama turned a blind eye to this domestic injustice and the trade it upholds. Instead, it was aimed solely at shutting down the import of prison-made products *from other countries*. And the loophole in question was a legacy from an earlier embargo, the 1930 protectionist Smoot-Hawley Tariff Act, which banned most but permitted some goods if there was high domestic demand for them.³ In closing this loophole by banning *all* imports, the U.S. government was able to dust off its standing as a humanitarian champion of the fight against global slavery. Yet this step forward only exposed a widening moral gap between

the zero tolerance shown toward prison labor overseas and the longstanding acceptance of the same conditions at home, where the majority of the 1.2 million Americans incarcerated in state and federal prisons work under duress, for nothing or for penny wages.⁴ It is repugnant that goods made by foreign prisoners are forbidden while those produced by our own are freely purchased by government agencies. In many states, these goods are available on the open market, not to mention overseas, since there is no corresponding ban on exports from the U.S.

Later that year on September 9, as if in response, the biggest prison strike ever broke out, in large part as a protest against domestic “prison slavery.”⁵ Masterminded by the Free Alabama Movement, it was observed in twenty-four states—including Texas, Mississippi, Oregon, Illinois, Virginia, California, Georgia, Washington, South Carolina, Michigan, and Florida, in addition to Alabama—and an estimated 57,000 prisoners participated in as many as 46 facilities.⁶ The strike was not an isolated action; it was preceded and followed by several others. And it resonated far beyond the prison walls as initiatives got underway, all across the country, to eliminate the 13th Amendment’s prison slavery exception from state constitutions and to pave the way for fair pay for incarcerated workers. A nationwide network, the Abolish Slavery National Network, sprang up to coordinate these efforts. By the fall of 2023, majorities in seven states had voted on amendments to end prison slavery (joining Rhode Island, that had done so in 1843), and many other bills were being prepared for consideration, including on Capitol Hill itself.

These efforts, on the inside and the outside, occupy a significant place in the new abolition movement. They are closely chronicled in this book, and we, the authors, support and participate in them. The campaign to end penal servitude speaks directly and explicitly to the unfinished business of Emancipation. By all norms of international law, constitutional slavery is a crime against humanity,

and should be annulled. No one should be compelled to work or be punished for refusing to do so. Unpaid, or penny-wage, labor is a stark violation of human and labor rights. No less oppressive are the unregulated and often demeaning conditions under which incarcerated people work in the U.S. The legacy of hard labor, imposed as part of a “debt to society,” is no more acceptable than capital punishment or a life sentence without parole.

Despite the moral clarity of these tenets, at this point in time, the outcome of efforts to “end the exception” is by no means straightforward. In some states where constitutional amendments have passed, daily life behind the walls is unaltered; forced labor continues as before, and wages have not budged.⁷ Men and women still face punishment, including beatings, lockdowns, sexual assault, loss of family visitation rights, elimination of good time credit, and solitary confinement for refusing to work. Removing the threat of coercion from a work assignment will take much more than a change in the letter of the law, and establishing the right to fair pay and labor protections is an even harder road. In Colorado (the first state to pass an anti-slavery amendment in 2018) the effort to implement the changes has involved closely fought litigation in the courts. In New York, the 13th Forward coalition (in which we are active members) is exploring a range of legislative approaches. In addition to pushing an amendment to end slavery, the coalition is attempting to pass a statutory bill on fair pay, standard labor protections, and the right to organize. It remains to be seen whether litigation or legislation will be more effective, or whether the impact of such new laws and rights can penetrate the thick culture of custodial rules and rituals through which guards and officials have run facilities with impunity for generations. Penal history shows us that prison reformers have come and gone, but the customary, violent praxis of the jailhouse “screw” has proven as deeply resistant to change as that of the rank-and-file in police departments.

The amendments and acts may fall short unless these correctional officers face immediate consequences for violating the new laws, or unless prisoners have a pathway to pursue legal action against them.

Some abolitionists have questioned the focus on ending the exception and winning worker rights. The energy is misdirected, they say, if it simply results in the recapture of wages by the state to pay for room and board in addition to restitution, court fines, family support, and other facility costs.⁸ States already deduct up to 80 percent of the paltry wages on offer, and any pay hike might further feed, or subsidize, the system. So, too, it has been argued that the legal status of prisoners as akin to “slaves of the state” cannot be redeemed by adopting the identity of “workers” with its associated rights. The American carceral system is too tethered to the violent legacy of slavery and white supremacy for the dignity and value of work to be fulfilled under conditions of captivity.⁹

We respect these arguments, based, as they are, on sound speculation. In response, we believe that the anti-slavery logic deployed by the movement to end the exception is a *necessary*, though not *sufficient*, approach to eliminating forced work. It also speaks to the very real afterlives of slavery that permeate many aspects of the criminal justice system and which are unduly felt by African Americans held captive within it.¹⁰ Based on our interviews and our own experience, we also believe that, for those on the inside, the provision of meaningful jobs on a voluntary basis and the establishment of fair wages would have a transformative impact. For one thing, these measures, if properly implemented and protected against garnishing by the state, would alter the balance of power significantly within carceral facilities. Taking away the discretionary power of staff to discipline and punish around work assignments is no small thing in a system governed, at all times, by the threat of institutional violence. Such advances are also likely to open the door to other prisoner rights that are not directly tied to labor: the

right to vote, to litigate, or to access skill-building educational programs in systems that proclaim their commitment to rehabilitation.

So, too, many of the formerly incarcerated people we interviewed for this book spoke frankly about the difference it would have made in their lives to earn surplus income that is not swallowed up by the purchase of marked-up items from the commissary store: of being able to relieve their debt-burdened families from having to support them; of saving enough money to reenter society on a stable footing; of contributing toward earning future benefits such as Medicare, Social Security or unemployment insurance; and of freeing themselves from the need to participate in the risky—and predatory—trade in contraband goods that is a direct by-product of ultra-low pay that has been stagnant for decades, while the price of goods has risen considerably.¹¹

As for the long-term abolitionist goal of decarceration, we believe that criminal justice officials would almost certainly be pressured to shrink their prison populations if faced with considerably higher wage bills. The greatly increased cost of keeping open facilities in which imprisoned men and women do all the work of maintenance—cooking, cleaning, repairing, and laundry, among other housekeeping tasks—would make it difficult—politically and economically—to sustain mass incarceration’s vast archipelago. Of course, paying fair wages is not the only route to decarceration. There are many other ways for abolitionists to do that work. Like Angela Davis, we believe, ultimately, in “creating the kind of society where prisons are no longer necessary.” But prison slavery abolition is a *necessary* step on the pathway to justice, even though the road beyond still needs to be built.

Living Off the Land

Scholars in the field of prison studies increasingly reject the view that prisons are “total institutions” (as Erving Goffman defined

them), quarantined off from the free world. Prisons are now seen as porous and heavily entangled with society beyond the walls: they shape this society and are shaped by it. Journalists and analysts have exposed the profiteering character of the prison-building boom of the late twentieth and early twenty-first century, and they have charted the many ways in which private firms continue to extract revenue from the \$80 billion price-gouging prison industry.¹² As Ruth Wilson Gilmore has argued, the U.S. prison boom was never really about crime control: the rise of the carceral archipelago was shaped by economic crises of the 1970s and 1980s, creating streams of profit from the “idle time” of those placed behind bars. As she puts it, “prisons enable money to move because of the enforced inactivity of people locked in them. It means people extracted from communities—and people returned to these communities but not entitled to be of them—enable the circulation of money on rapid cycles. What’s extracted from the extracted is the resource of life: time.”¹³

Others have focused on the direct impact of mass incarceration on the outside economy. Bruce Western and Katherine Beckett have demonstrated that official unemployment figures were artificially depressed (by as much as 2 percent) as a result of mass incarceration, and are further affected by the barriers to employment that most prisoners face on release.¹⁴ Scholars like Noah Zatz and Erin Hatton have described how penitentiary punishment and carceral labor extend far beyond the prison walls; not only in the requirements set by parole, probation, work-release, workfare, immigrant confinement, and pre-trial detention, but also in a variety of low wage or precarious work sectors.¹⁵ Tasseli McKay has estimated the colossal costs, to black women in particular, of maintaining communications with and economic care for incarcerated spouses or children.¹⁶ Our own research has shown how the cost to family members of supporting their loved ones behind bars takes a huge toll on their household budgets and their ability to earn a livelihood.¹⁷

Proponents of the influential “warehousing” thesis, like Loïc Wacquant, argue that mass incarceration offered a way to absorb and store away large fractions of the working class who were displaced by deindustrialization and social-welfare retrenchment.¹⁸ In this book, we present another view. The interviews we conducted with incarcerated persons suggest that the prison economy closely conforms to the “lousy wage and a hustle on the side” formula that holds sway in the free-world neoliberal economy. Far from a human depository, the prison exists in more of a continuum with the outside, just as its techniques of discipline have become quite common far beyond the walls—in carcerality at large. Unlike most studies of prison labor, which tend to focus exclusively on formal work assignments or jobs in the “correctional industries,” we have tried to document the labor that goes into the informal economy’s many industrious schemes for generating additional income.¹⁹ These hustles, infinite in variety, are often what keep prisoners alive. In some states, like Alabama where correctional oversight is threadbare, they keep the prisons afloat, intersecting with and supplementing the role of maintenance labor. In most cases, they are extractive exchanges, because they drain resources from one prisoner to benefit another, and they are routinely shadowed by force or the threat of violence. Rarely are they disconnected from the outside world.

Paying fair wages would go a long way toward diminishing these forms of extraction, ranging from formal wage theft to the unpaid labor of self-care, the high cost of addiction, and the exploitation of families and friends who support loved ones inside. Yet little has been written about the potential economic impact of fair pay for incarcerated workers. At the height of mass incarceration, more than two million people had effectively been pulled out of the labor market and incapacitated, while most of them were doing work that would generate a great deal of income if performed by free-world workers.²⁰ In any other context, this

would be classified as wage theft on a grand scale. According to one national estimate, the disparity between the local minimum wage and the penny-wages paid in prison amounts to \$14 billion annually.²¹ So, too, the abiding experience of being paid a pittance or nothing at all habituates imprisoned people to accept sub-standard, underpaid employment on release, while the threat of carceral poverty is an effective form of discipline for those on the outside who might otherwise chafe at such precarious conditions. In many ways, the incarcerated population is close to an ideal capitalist workforce behind bars, while also serving as what Marx called the “reserve army of labor” on reentry.²²

Exiting prison with little more than a bus ticket and \$40 or less in “gate money” leaves many people with few alternatives. They go right back to the “street,” with harmful consequences for their own safety and for the general public. As one of the women we interviewed for this book reported, “I know so many women who get to the Port Authority [New York City’s central bus station], and never even make it out of there. They end up right back in jail, because ‘how am I even going to survive?’” While lawmakers may balk at the cost of paying fair wages for prison labor, a full accounting of the savings is arguably greater, beginning with—but not limited to—the reduction in social services for housing, healthcare, and unemployment, as well as a decrease in public safety and correctional expenditures. In 2023, Worth Rises commissioned an economist consultancy to estimate the impacts of paying a minimum, or prevailing, wage for formal job assignments in prison. The fiscal costs would range from \$8.5 billion to \$14.5 billion per year, but they would be far outweighed by the tangible benefits to incarcerated workers, to their families and children, to crime victims, and to society at large. The report estimated that they are between \$26.8 billion and \$34.7 billion per year, or a net benefit of \$18.3 billion and \$20.3 billion per year.²³

The arguments we put forth in these pages are not the result of armchair speculation. One of us is formerly incarcerated, and the other two teach regularly in a prison education program. As members of the NYU Prison Research Lab, we conducted interviews with men and women who have served time. For this book, we did almost a hundred in-depth interviews—primarily in New York, Alabama, Texas, and Georgia—with system-impacted people and with advocates who are active in the movement. In addition to testimony about formal work assignments, we gathered a wealth of detail about the informal economy in which most people are forced to find a hustle to stay alive in prison. Due to the dismal state of institutional food, undernourishment is guaranteed and the threat of starvation is real. We also investigated the continuity of prison work-life with pre-carceral and post-carceral experiences. The low-road jobs that are available outside of prison do not pay enough to support a working-class household, and so almost everyone has a hustle, on the side, to make ends meet. If a breadwinner becomes incarcerated, the illegal activities that may have led to their arrest and detention continue on the inside. The art of living off the proceeds of the “street” carries over, often quite seamlessly, inside prison, where it is referred to as “living off the land.” And given the stigma or “mark” that prevents so many ex-felons from finding sustainable employment on release, it is no surprise to find people picking up the hustle where they left off, rendering them permanent outsiders in the labor market.²⁴ Up to 70 million Americans have some kind of criminal record that hampers their formal employment prospects.²⁵ Under these circumstances, many have to eke out an off-the-books livelihood, putting them at some considerable risk of being reincarcerated.

What we drew from our research was a holistic picture of the roles occupied by prison labor in the daily lives of those who perform it. We were able to document a wide range of experiences,

from state to state and from prison to prison. How a job is interpreted can even vary from cell block to cell block, depending on the character or whims of the guard in charge. *Captive Labor*, the ACLU's comprehensive national survey (2022) records the vast diversity of jobs performed by men and women behind the wall:

They work as cooks, dishwashers, janitors, groundskeepers, barbers, painters, or plumbers; in laundries, kitchens, factories, and hospitals. They provide vital public services such as repairing roads, fighting wildfires, or clearing debris after hurricanes. They washed hospital laundry and worked in mortuary services at the height of the pandemic. They manufacture products like office furniture, mattresses, license plates, dentures, glasses, traffic signs, garbage cans, athletic equipment, and uniforms. They cultivate and harvest crops, work as welders and carpenters, and work in meat and poultry processing plants.²⁶

“In most instances,” the authors note, “the jobs these people in prison have look similar to those of millions of people working on the outside.” Yet those who perform them are toiling at minimal cost (from 13 cents to 52 cents an hour on average). They are under the complete, captive control of their “employers,” and with no protections against exploitation or abuse.²⁷ No one would hesitate to denounce these conditions if they existed on the outside. Nor would most people tolerate these abuses if more was known about them. In our minds, racial and class prejudice are the primary reasons why there is not more public curiosity about what people who are “civilly dead” are forced to do behind the walls.

During the COVID pandemic, prisoners' labor received a spurt of uncommon attention because, in almost every state, they were forced to manufacture hand sanitizers, face masks,

and personal protective equipment while being denied the use of these products for themselves. They dug mass graves and built coffins, and they performed laundry and mortuary services for hospitals at grave risk to their own safety.²⁸ In other words, they became “essential workers” in the public eye, even though none were accorded the status of “heroes” bestowed upon frontline employees and delivery workers at that time. For more than a century, prisoners have labored on public works programs, maintaining roads, parks, cemeteries, landfills, and forests. But this socially accepted profile of providing a public benefit was troubled by the exposure of the morbid and unsafe nature of their labor during the pandemic. Awareness of their involuntary servitude was further heightened by the media generated by the passage of anti-slavery amendments. The next battle, over wages and worker rights, will bring even more attention.

Michel Foucault once described prison life as an “economy of suspended rights,” sequestered off from the outside world.²⁹ These include the rights accorded to free-world workers. It would be naïve to imagine that we can end this state of segregation any time soon. But the movement to do so is not simply a matter of basic human rights. It is also a necessary part of the fight against poverty, which is the number one factor driving incarceration.³⁰ Putting poor people in cages and taking away their rights has provided a more dirt-cheap labor opportunity for the state and for corporations than would be available on the outside.

Field and Factory

Much of the testimony we gathered included accounts of extreme cruelty and barbarism. Texas is one of seven states—along with Arkansas, Alabama, Florida, Georgia, Mississippi, and South Carolina—where zero compensation is offered for the vast majority of prison labor.³¹ It is also one of the Southern prison systems which

maintains large agricultural operations on land previously occupied by slave plantations. Donna Fairchild, a native Texan who worked as a manager in a manufacturing plant before she was incarcerated, described to us what it meant to be assigned to work in the fields:

I went in when I was 30 years old, and they said, “you look young and healthy enough, we’re gonna put you on the hoe squad.” They call you out at 6:00 am, and it’s very much like an old prison movie scene where you might have seen armed guards on horseback watching us. We were doing identical work to the plantation. We might have a big hoe or even a sledgehammer because we also broke rocks. It was like a chain gang but we weren’t chained together. We worked year round, during the coldest and the hottest. There was one time we were harvesting cabbage in February and some rows were even flooded and it was 31 degrees. Texas policy is that inmates don’t work outside if it’s below freezing, and they aren’t provided with things to keep them warm . . . Everyone was miserable, shivering, trying to get it done fast, because the lieutenant told us if we got all the cabbage picked, we would go back in. I don’t know if you’ve ever picked cabbage; you have to like, twist it, so it breaks off, and it has a bottom plant. If you pull up the whole plant, you’re gonna get a disciplinary ticket, because they can’t grow another head of cabbage. So you have to hold down the bottom of the plant with your knees and twist. Everyone was wet from the knees down, and I remember thinking that they don’t really care what happens to me. I felt like I could have died and they would not have cared.

Texas summer temperatures can be brutal. There is no air-conditioning in most of the prisons, and a dozen or more

fatalities were attributed to the heatwaves of 2023 which saw prolonged periods of triple-digit temperatures.³² Outside in the fields under direct sunlight, the conditions can be much worse:

We were out there in 104 degrees weather. We weren't issued sunscreen, and medical said only white people needed it, so any person of color was not getting free sunscreen from the prison. We were made to pull weeds down a row, and the ground would be hard and dry from the sun. And we would have to stand up and bend over at the waist to pick weeds, because you weren't allowed to squat. If we were picking corn, and you've missed an ear of corn, or stand up for too long, that's a disciplinary case too—it's a refusal to work. You get an incomplete work assignment, and you go to disciplinary court inside of prison. Punishments for one infraction can range from no phone calls home for 30 days or no outside rec. For three refusals to work, I lost my contact visits for four months, 45 days of no commissary purchases or rec.

Donna went on to describe the dreaded “strip shack” where everyone had to be searched for contraband each time they came in and out for lunch and at the end of their shift:

If we're on our menstrual cycle, we have to remove our tampon or a pad and strip down. Everybody's hot and sweaty, so some of the officers would comment on how bad we stunk. And if we had blood on us, they would tell us that we were disgusting. You don't have an opportunity to use the bathroom very easily out in the field. They have a tractor driver that brings around a trailer with some porta potties on it, but only once in the morning and once in the afternoon. If I was on my cycle

I would hold up my tampon and wave it like, please choose me. But they're only going to choose four or five people to go—everybody doesn't get the opportunity to go. So I've changed my tampon in the field, and that's why it was such an issue when we get to the strip shack. It was so common for people to have made a mess, because we weren't able to take care of our hygiene that way at work.

Federal regulations governing workplace safety and health standards do not apply to prison labor, and so we heard many different versions of Donna's misery—and lack of dignity on the job—from others.³³ But what about the backbreaking demands with respect to her productivity in the fields? Outside of agriculture, this kind of pressure would be most familiar to prisoners across the country who work in the factory facilities that are part of industrial programs. The vast majority of these are state or federal industry enterprises, located in public prisons: private prisons control less than 8 percent of the beds nationally, and are mostly concentrated in a handful of Southern prisons. Local, state, or federal governments, in other words, are the primary beneficiaries of these “correctional industries.” Despite the public misperception that corporations are exploiting prison labor en masse, only 1 percent of incarcerated people are employed in facilities on private contracts with firms, where they are required to be paid a local minimum wage that is subject to deductions of up to 80 percent (for room and board, and other costs, such as restitution fines, family support payments, court fees, and discharge money).³⁴

In states where prisoners are actually paid as a rule, the industry jobs command the highest wage rates, and sometimes include bonuses for meeting productivity quotas. In New York, for example, where hourly pay ranges from 10 cents to 65 cents, workers for Corcraft—the state-owned enterprise—earn double pay if they

hit the quota. The topmost compensation is for work that requires a higher level of skill. This includes making office furniture, license plates, street signs, garbage cans, eyeglasses, and other products for purchase by state entities. Emilio Delgado, a Brooklynite who worked in Corcraft shops in several facilities, explained what the difference in pay meant: “It’s more like you being a middle-class prisoner than being a lower-class one because with that little money you are able to buy more commissary. The most you can get paid per hour was 65 cents and so you could get a 100 percent bonus and get paid 65 cents more. That would be 1.30 an hour.” Even so, he added, “the lowest a person would get paid on the outside for this was probably maybe \$25 an hour.”

For many of Delgado’s peers, the sharp disparity between \$1.30 and \$25 an hour marked these jobs out as especially exploitative. Since working in industry was mostly optional, they refused to pursue what they labelled as “plantation” or “slave jobs.” Maintenance jobs in cleaning or laundry or cooking, which make up the vast majority of prison jobs, were less labor-intensive and were not producing for the market. In effect they were “housework,” normally gendered as “women’s” labor. Yet these jobs also offered a variety of perks in the form of opportunities to make money in the informal economy. Porters, for example, received the lowest pay, but their ability to move around the prison and facilitate the black market trade could bring substantial rewards. But there were some, like Delgado, who sought out the industry positions because they could not rely on outside support or lacked the inclination to hustle, and so the higher wage, even though it was still paltry, went a long way.

In the absence of any workplace protections, the extra pay usually came at the cost of a compromise in safety. Delgado confessed: “Thank God I don’t have any long lasting effects. But I’ve seen guys lose fingers rolling out sheet metal. I’ve seen them lose fingers trying to go ahead and stop the press and putting

their hand in between there because they put in a wrong piece of metal and the license plate was going to be upside down and they were going to be yelled at.” In another shop, where he made chairs, he recalled that the “adhesive was dangerous, and for the first five years, we had no masks, we had no glue room. We only had a handkerchief that we would put around our face when the glue got too strong. I didn’t know what that was going to do to me long term.”

In rare cases, the skills learned in those industry workplaces translated to jobs on the outside, if employment in the trade could be found, but the majority of our interviewees saw no correlation between their prison work experience and what they were able to secure on reentry. To add insult to injury, they found that listing prison jobs on a resume—even skilled ones—invited disqualification from consideration. By contrast, prison educational programs—from GED to college-level—produced all kinds of benefits in skills and self-development. James Tyler, who grew up in a Hudson River Valley city, and earned his B.A. in a college prison program, reported that “one of the biggest benefits is it gave me the ability to write and speak about my world. It gave me the tools to talk about my experience, and subsequently, to reshape my experience, because if you know the things that you’re suffering from, if you know the problems that are in your life, you can find solutions. Education gives you those tools, right? So now I know the mechanism of oppression. And now I know how not to succumb to those mechanisms.”

Tyler was one of the many interviewees who offered opinions on the widespread experience of idleness, long regarded by administrators as “the devil’s workshop.” Referencing the long-standing belief that idle time promotes trouble, he observed that “the structure itself is fearful of it, but the officers would rather have you doing nothing, because it makes their job easier. According to a capitalistic idea of life, you want to keep people busy by

making them work, but every officer I've ever encountered, they rather have people sitting down and watching TV because they're easier to watch over." Ultimately, Tyler thought "the biggest fear" of administrators "is not idle time, but time spent in a shared space with multiple people. Anything that allows people to come together, in their mind, they think they're gonna get Attica because of that." We heard other, more opportunistic interpretations of the use that officers made of idleness. "They want violence to occur," observed Marshall DuBose, a Bronx native who had done twenty years in a variety of facilities, "because now they can scream 'we need more officers, yo, we need more protection.'" In many cases, the officers themselves "create the violent atmosphere and then say, we need help." "When I was in Green Haven," he recalled, "a group of COs used to just go around and beat people up for no reason. Like you could be on the phone, they'd just beat you up, and it gets written up an assault against an officer. Now the records and the statistics show more cases of assaults on officers have been occurring, and so therefore, we need more guards." As we learned from others, officers could also claim Worker's Comp time off on account of the emotional distress sustained from the beating they themselves had administered.

Whatever the uses to be made of it, there was no shortage of idle time in the prisons we surveyed. Even in prisons that are under capacity, there are not enough jobs to go around—up to 35 percent prisoners nationally are not assigned a job. Of those who are assigned, more than 80 percent, according to the Bureau of Justice Statistics, are given maintenance jobs—janitorial or cleaning duties, food preparation, laundry, grounds and building maintenance.³⁵ Yet many of these jobs typically require only an hour or two of work per shift, while many other assigned tasks are simply "make work." This is in sharp contrast with earlier periods of penal history when productive labor was placed at the center of prison life. The days when officials insisted on

rebuilding prisoners' character by instilling a Protestant work ethic are long over. Marking time has been the main experience of the era of prison warehousing, especially in systems where educational and vocational training programs, redolent of the reform era, have been stripped to the bone.³⁶ That said, idle time is not the opposite of labor time, nor is it free or down time. On the contrary, we found it can be a very busy field of activity, bustling with many forms of off-the-books work.

Hustle and Refuse

As a result of movies that depict prison breaks, most of us are familiar with the ingenuity that goes into schemes to escape from high-security facilities. Yet this same creativity applies to almost every aspect of the underground prison economy, where participants—through force of circumstance—have to barter all manner of goods and services and hustle to make money on the side. Moments that could be utilized for business opportunities or for self-care (work on the body and mind) are seldom wasted in prison, and so unoccupied time is few and far between. These entrepreneurial activities range from small-scale, local transactions to large operations coordinated with street organizations on the outside. Some of them, involving drug sales for example, might require work skills acquired before incarceration. Others are angles learned on the inside and are a by-product of the peculiar institutional market where many things have an elevated value that they would not command on the outside. Almost everything has a price.

In any event, it is difficult to draw a line between inside and outside because of the constant flow of money and resources in and out of a prison. For example, we heard of people running outside businesses from their cells, including day-trading and ambitious gambling enterprises. Credit enters the prison in

numerous ways, for example, through transferring the value on Green Dot reloadable prepaid cards.³⁷ Activities that are more restricted as far as their impact on the inside tend to be less profitable. Most others are channeled or filtered through a keenly observed prison hierarchy that reflects some wealth or social affiliations on the outside. Without access to one or the other, and short of resorting to extortion or theft, it is not easy to attain the status of “jail-rich.” This underground economy is glorified by the business press as a “hothouse of entrepreneurial finesse,” but much of it is highly predatory turf, governed by threats of violence that echo the official protocols of penal servitude.³⁸

Trading in drugs and other high-priced contraband is by far the most lucrative hustle, and often depends on a “dirty” CO who is profiting royally from bringing in the goods. In Alabama’s chronically understaffed and overcrowded prisons, we were told that many guards would not have signed up for such an unsafe job unless they had the opportunity to earn lucre from smuggling contraband at huge markups—cell phones, weapons, and drugs for up to twenty times the retail price. Some of these COs were gang-affiliated and operated as key links in the organization’s supply chain. But the mark-ups can also apply to goods that only circulate inside. The personal stores that many prisoners run, according to the “juggle” system, operate on a high-interest credit system. They are stocked with commissary goods that are given out to someone who must pay back with two of the items. Foodstuff pilfered from the mess hall can be profitably sold or traded, and this food is routinely used as currency, especially pouches of fish or ramen packs. The same principles applied to a whole array of custom services, such as sex, cell-cleaning, meal preparation, sewing, gambling, personal laundry, hairstyling, and letter-writing, etc.

These transactional activities demand resourceful work, as distinct from the more mundane “hard labor” of the formal work assignments. Arguably, the most creative involve home-grown

skills in arts and hobby crafts, such as making clothing and jewelry, cakes, sketches, birthday cards, hooch, tattoos, soap sculptures, hair dye and the like from everyday items found or procured in the prison (a practice called “mushfake”). Curtis James, a Bronx native who seemed to have tried his hand at almost every hustle, told us about one of these:

I used to make porn magazines out of different pictures and sell them. Once I started making them, people asked for requests, like, ‘I want only this person in my book.’ So I had to go through many books and just cut that person out, and then put them all in one. Some people like girl-on-girl, you know. Some people just want that person by themselves. So it was a variation of things. I was making non-pornographic magazines as well, like model magazines. So I would see a picture in *Cosmopolitan*, I might take that out, and make it a cover for one of my books. For a custom-made book, I’d charge five packs of cigarettes, and for a non-custom, two or three. In a week, I would make ten packs easy. And with ten packs of cigarettes in a prison, you the man.

For someone who gave the impression he had seen everything, James said the most ingenious of all was “the person who cooked on his bed frame. He sprayed the paint off, cleaned it, set a fire underneath the bed, and used it like a surface to fry stuff, like pancakes. That was amazing to me.” At another prison, his next-door neighbor upped the ante, by “cooking in the toilet bowl.” “He actually used the bowl as a fire,” James explained, “because it’s porcelain. He would layer it with like tissues and then use some type of oil, or Vaseline, to separate the fire and the water and reduce any smoke. And then he would cook over this stove

on metal trays and stuff.” “Prisoners,” he reminded us, “are real crafty.”

No less creative is the devotion to self-care and personal development that occupies a lot of the idle time not spent in pursuit of financial gain. This includes body-building, reading, writing poetry and fiction, making art, religious devotion, and working on your legal case—or the legal cases of others—in the law library. This kind of labor is essential for the mental and physical health of people inside. It is not an understatement to say that such efforts at building dignity and well-being are vital to anyone’s survival behind bars. Of all the forms of work we have mentioned, these are arguably among the most important, and also the most challenging, especially in men’s prisons. This level of care is more accessible in women’s prisons where most people belong to “pseudo-families,” with mothers and aunts to look over them. As Mavis Billings, a Long Islander who had served more than twenty years, explained: “I’m not with my own children, and so I get some children. I never really had a relationship with my own. And some women who never have mother figures or anybody who cared, when they leave prison, they’re leaving the only family they ever had. And they will absolutely do something to come back.” Those who lack this “fictive kin” network and who are unable to take care of themselves (the grievous lack of mental health services in most facilities places this burden on individuals themselves) easily spiral into addiction, ill-health, nihilism, and worse. In the most degraded and dangerous facilities, like those we have reported on in Alabama, the end result, for many, is a premature death.

In some respects, this outcome is the logical upshot of a social order that only offers intolerable options to poor people, and to racialized minorities in particular. All that a neoliberal economy has to offer are demeaning dead-end jobs, predatory loans, meager services, and overpolicing. To refuse these

wretched choices is a justified response, as philosopher Tommie Shelby has argued.

The ghetto poor have not received many of the benefits they have been “promised”—e.g., equality of opportunity and the equal protection of the law. We can, therefore, view their refusal to work in an unjust social scheme as the moral equivalent of a rent strike against a slumlord: they refuse to pay their civic debt until the government makes good on its promise to treat all citizens fairly. There has not been a breach of civic contract but a governmental failure to perform so fundamental that the aggrieved citizens, the ghetto poor, can rightfully refuse to comply with their “agreement” to work.³⁹

In prison, where the options are much worse, the moral grounds of this refusal to perform unjust labor are even stronger.

It is fitting then that the crux of the movement to end the 13th Amendment exception lies in the freedom to *refuse* unsafe and ill-paid work imposed by the state on citizens it has failed to protect. The right to refuse is the key element, and it also empowers people to reject other aspects of their incarceration. But the obverse of this freedom from coercion is the right to have access to meaningful jobs, with adequate compensation, transferrable skills, and a career ladder to begin climbing. This should be an attainable goal, on both sides of the wall, but especially in prison systems that pay lip service to rehabilitation.

Burying the Confederacy

Our base for research and advocacy is in New York, where progressive penal reform was born in the 1870s, and where it ran its course for almost a century. It is also the state that sowed the

seeds of mass incarceration in the 1970s through the mandatory sentencing provisions of the Rockefeller Drug Laws. New York incubated the “punitive turn” through its high-level backlash to the 1971 Attica uprising at the same time as it allowed custodial union power to thrive as a powerful political force pushing for expansion of the correctional workforce.⁴⁰ But the litmus test for abolition, as always, lies in the South. That is why we devoted a good part of our research for this book to Alabama, and, to a lesser extent, to Georgia and Texas. It is apt that Alabama, the final battleground of the civil rights movement in the 1960s, emerged as the crucible of a new prisoner rights movement in the 2010s. With prisons that host some of the most barbarous conditions in the nation, the strikes that began there and spread across the country emerged from a historical backdrop of racial repression that included the longest, and most highly concentrated, period of convict leasing of any state. That history also includes a thirteen-year period, from the mid-1970s, when the federal government took control of the state’s prison system in order to remedy conditions of “cruel and unusual punishment” under the Eighth Amendment. By the time the strike wave got underway in 2014-2016, Department of Justice agents were once again paying regular visits to Alabama, and it is highly likely that the system will once again fall under federal oversight in the immediate future.

The Free Alabama Movement (FAM) favored work stoppages over hunger strikes and other forms of protest because of the direct harm inflicted on the prison economy. The reality of the system’s dependence on prison labor was exposed when guards and administrators had to step in to prepare and serve food and to perform basic maintenance work. But the refusal to show up for work “on the plantation” (a spirit captured in the title of a FAM manifesto, “Let the Crops Rot in the Fields”)⁴¹ was driven by an urgent need to exit a system that was highly dangerous to be in and very difficult to get out of. Decarceration, in other words,

was a key objective of the organizers. In state after state, the strikes offered a platform for more specific demands. In addition to the abolition of involuntary servitude, these included the payment of prevailing wages, full voting rights, caps on the overall incarcerated population, secure access to education, rehabilitation and re-entry preparedness programs, restoration of the right to litigate, and a ban on incarcerating mentally ill persons.

Measures like these, if implemented, would help to move prisons away from functioning as vehicles of profit and punishment, would reinstate constitutional rights that are currently denied, and would plant the seeds of restorative justice. But the underlying harms and injustices are not exclusive to prison life. Tens of millions of those who leave prison have great difficulty accessing education, healthcare, sustainable employment, and their full democratic rights. Nor are these social goods guaranteed to the general population in our neoliberal order, and least of all to households struggling to stay afloat. That is why the movement to abolish prison slavery and its effects touches all of us. The first lesson of living in a carceral state is that what starts in prison does not end there.