THE ECONOMICS OF CAPTIVITY: STATE-RUN PRISON INDUSTRIES AND THE CASE FOR ABOLITION

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ABSTRACT

Across the United States, carceral economies exploit the labor and resources of incarcerated people—disproportionately Black—for state and corporate profit. Enabled by the Thirteenth Amendment's Punishment Exception Clause, which permits slavery as punishment for a crime, and reinforced by state economic policies that reach far beyond prison walls, these systems siphon wealth from Black communities into government budgets and private industries. They reflect racial capitalism: an economic system in which racism and capitalism operate in tandem to sustain structures of profit and exploitation. Laws and policies at every level entrench this system, ensuring that Black overincarceration continues to fuel a profitable carceral economy.

This Article centers state-run prison industries as a core, yet underexamined, engine of carceral capitalism. Using Maryland—which has the nation's highest percentage of Black people in its prison population relative to the state's general population—as a case study, it examines how the state has deliberately designed a prison labor economy. At its center is Maryland Correctional Enterprises (MCE), a state-run program that pays incarcerated workers exploitatively low wages to produce goods and services for state agencies. Maryland law requires state agencies to make purchases from MCE, guaranteeing a market. To sustain this labor force, the state pays low wages and charges inflated prices for necessities, extracting wealth from incarcerated people and perpetuating the very conditions that drive incarceration.

Although scholars have long critiqued exploitative prison labor and called for reforms such as repealing the Punishment Exception Clause, raising wages, and extending labor protections to incarcerated workers, this Article argues that such efforts are necessary but insufficient to dismantle the deliberately designed carceral economy that makes exploitative labor possible. It argues that doing so also requires dismantling both the economic logic that hides the true costs of incarceration and the legal architecture that allows exploitation to persist. Building on existing scholarship and drawing insights from Maryland's carceral economy, this Article contends that abolishing state-run prison industries and the economic policies that sustain them is

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essential to ending exploitive prison labor and advancing the broader abolitionist goal of dismantling the carceral economy. Accordingly, it calls for additional measures: repealing procurement mandates, eliminating authorizing statutes, and advancing abolitionist advocacy that exposes the true costs of incarceration. Together, these strategies confront the legal and economic structures that link incarceration to profit and enable exploitative prison labor and carceral economies to thrive.

INTRODUCTION

Capitalism requires inequality, and racism enshrines it.[1]

—Ruth Wilson Gilmore, "Geographies of Racial Capitalism with Ruth Wilson Gilmore"

Elijah King, a fifty-eight-year-old Black man, has spent forty years incarcerated in Maryland for a crime he committed at age eighteen. His fourth parole hearing is next month and, for the first time, he has a lawyer to help him present his story of

1. ANTIPODEONLINE, *Geographies of Racial Capitalism with Ruth Wilson Gilmore*, at 1:36 (YouTube, June 1, 2020), https://www.youtube.com/watch?v=2CS627aKrJI [https://perma.cc/S2PD-7U4P] (on file with the American Criminal Law Review).

rehabilitation. Elijah[2] has spent decades preparing for this moment, completing educational programming, maintaining a clean disciplinary record, and working every day of his incarceration. While Elijah King's story is a composite drawn from the experiences of several men incarcerated in Maryland, it reflects the shared realities of those whose labor sustains the state's prison system.[3]

For the last twenty years, Elijah has worked for Maryland Correctional Enterprises (MCE), the state's prison labor program.[4] He started his MCE position making around $3.50 per day and currently makes $6 per day building furniture, one of the highest-paid positions in the system.[5] Before MCE, he spent twenty years in other prison jobs earning between one and four dollars per day.[6] In total, Elijah earned about $37,400 for forty years of labor—only slightly more than a minimum wage worker would make in one year.[7]

But it also costs Elijah to live. One fifteen-minute phone call costs $0.48.[8] Over the years, he has used his earnings and relied on his family to buy food, hygiene products, paper, clothing, and other necessities. During the COVID-19 pandemic, Elijah spent more money than ever on soap that was not provided in sufficient quantities. Because COVID-19 required increased sanitizing through more

2. Throughout this Article, I refer to Mr. King as "Elijah" to center his humanity and resist the depersonalizing tendencies of carceral and legal systems, which so often reduce people to last names, case numbers, or charges. This choice is not meant to be overly casual or disrespectful, but a deliberate effort to foreground the lived experiences of those most impacted by incarceration.

3. To protect confidentiality, Elijah King's story is comprised of details and experiences of multiple individuals whom I have represented and advocated for over the years, as well as people whose stories have been shared publicly through advocacy campaigns, lawsuits, and other efforts to challenge incarceration and prison labor practices.

4. *About MCE*, MD. CORR. ENTERS. [hereinafter *About MCE*], https://www.mce.md.gov/About-MCE [https://perma.cc/4NN6-J57M] (last visited Oct. 23, 2025).

5. *See* MD. CORR. ENTERS., 2024 ANNUAL REPORT 14 (Oct. 15, 2024) [hereinafter 2024 ANNUAL REPORT], https://www.mce.md.gov/Portals/0/PDF2020/MCE%20Annual%20Report%202024%20PRINT%20READY.pdf?ver=rX2OytQpeJPzcbVbqKkZAw%3d%3d [https://perma.cc/3X3Y-Q3DH] (stating that "MCE provides the highest compensation rates within the Division of Corrections" and that MCE base daily stipends range from $3.60 to $6.40 for a five-day workweek).

6. Wendy Sawyer, *How Much Do Incarcerated People Earn in Each State?*, PRISON POL'Y INITIATIVE (Apr. 10, 2017), https://www.prisonpolicy.org/blog/2017/04/10/wages/ [https://perma.cc/3YNC-FABD] (reporting that in 2017, incarcerated workers in Maryland earned $0.15 to $0.46 per hour for non-industry prison jobs). The estimation that Elijah earned between one and four dollars per day is derived from these hourly rates multiplied by an eight-hour workday, yielding a precise range of $1.20 to $3.68 per day. Because this data reflects 2017 rates, actual earnings during the earlier years of Elijah's incarceration were likely lower, making this a conservative estimate.

7. This estimate assumes that Elijah worked five days per week, eight hours per day, for forty years. For the first twenty years, he earned between $1.20 and $3.68 per day (averaging $2.44), and for the last twenty years, between $3.50 and $6 per day (averaging $4.75), resulting in total lifetime prison earnings of approximately $37,400. This is a generous estimate, as it assumes continuous full-time work at or near the highest available daily rates. *See* 2024 ANNUAL REPORT, *supra* note 5, at 1, 14. By comparison, a Maryland worker earning the state's current minimum wage of $15 per hour would make about $31,200 per year (assuming forty hours per week, fifty-two weeks per year). *See Maryland Minimum Wage and Overtime Law – Employment Standards Service (ESS)*, MD. DEP'T OF LAB., https://www.labor.maryland.gov/labor/wages/wagehrfacts.shtml [https://perma.cc/W8YH-E6H5] (last visited Feb. 1, 2026).

8. *See* PETER WAGNER & WANDA BERTRAM, PRISON POL'Y INITIATIVE, STATE OF PHONE JUSTICE 2022, app. tbl. 1 (Dec. 2022) [hereinafter STATE OF PHONE JUSTICE], https://www.prisonpolicy.org/phones/state_of_phone_justice_2022.html [https://perma.cc/W2YY-CYXT].

frequent handwashing and washing of clothes, the limited soap provided for free by the prison did not go far enough. His son, only six months old when Elijah entered prison, spent thousands to support him and stay connected. If released on parole, Elijah will leave prison with $2,000 in savings and no state-provided job, housing, or financial support. His family will house him until he can support himself. Meanwhile, the labor of Elijah and others like him—overwhelmingly Black people—has generated over $68 million in annual revenue for MCE.[9]

Elijah's story is not unique. It illustrates a broader carceral architecture that is deliberately designed to extract wealth from Black communities and convert it into state profit. This system exemplifies what Cedric Robinson calls racial capitalism: an economic order in which racism and capitalism act in concert to create and maintain systems of economic exploitation.[10]

The Thirteenth Amendment to the United States Constitution legalized this form of modern-day indentured servitude by permitting slavery as punishment for a crime.[11] Today, the United States incarcerates over 1.2 million people in state and federal prisons, and two-thirds—approximately 791,500 individuals—work for little or no pay.[12] The average hourly wage for incarcerated workers ranges from $0.13 to $0.52 for non-industry jobs,[13] and from $0.30 to $1.30 for higher-paying prison industry jobs,[14] such as the one Elijah has with MCE. Incarcerated workers produce over $2 billion in goods annually through state prison industry programs, and over $9 billion in services to maintain the prisons that confine them.[15] Yet states spend less than 1% of their near $50 billion annual corrections budgets on wages for their labor.[16] As of 2021, a fifteen-minute phone call in a state prison could cost up to two dollars, which means staying connected often consumes most or all of an incarcerated person's weekly earnings.[17]

The economic harms of incarceration extend beyond prison walls. Families across the United States spend an average of $2.9 billion per year supporting incarcerated loved ones, paying for phone calls, and funding commissary accounts.[18]

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9. *See* 2024 ANNUAL REPORT, *supra* note 5, at 17.

10. *See* CEDRIC J. ROBINSON, BLACK MARXISM: THE MAKING OF THE BLACK RADICAL TRADITION 1–2 (2d ed. 2000) (coining "racial capitalism" to describe how "[t]he development, organization, and expansion of capitalist society pursued essentially racial directions" and produced enduring structures of racial domination).

11. *See* U.S. CONST. amend. XIII, § 1 ("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.").

12. AM. C.L. UNION & U. CHI. L. SCH. GLOB. HUM. RTS. CLINIC, CAPTIVE LABOR: EXPLOITATION OF INCARCERATED WORKERS 5–6 (2022) [hereinafter CAPTIVE LABOR], https://www.aclu.org/report/captive-labor-exploitation-incarcerated-workers [https://perma.cc/966E-V7AK].

13. *Id.* at 58.

14. *Id.*

15. *Id.* at 6.

16. *Id.* at 18.

17. STATE OF PHONE JUSTICE, *supra* note 8.

18. CAPTIVE LABOR, *supra* note 12, at 72; PETER WAGNER & BERNADETTE RABUY, PRISON POL'Y INITIATIVE, FOLLOWING THE MONEY OF MASS INCARCERATION 2 (2017), https://www.prisonpolicy.org/reports/money.html [https://perma.cc/GWE6-3AHT].

More than half of these families go into debt to cover these costs.[19] Many incarcerated people, upon release, leave prison with no savings and, in some cases, even debt, which results in significant barriers to housing, employment, and other basic needs.[20]

Black communities disproportionately bear the economic burdens of incarceration.[21] Every state in the nation imprisons Black residents at higher rates than white residents.[22] Maryland is one of the most egregious offenders, with a prison population that is nearly 73% Black,[23] even though Black people comprise only 31.6% of the state's general population.[24] Incarcerated workers assigned to institutional jobs[25] in Maryland prisons earn as little as $1.08 to $3.30 per day, depending on skill level of the position.[26] Assuming a six-hour workday, this amounts to approximately $0.18 to $0.55 per hour, far below minimum wage.[27] Some institutional jobs pay nothing at all.[28] While Maryland provides meals and basic toiletries, these

19. CAPTIVE LABOR, *supra* note 12, at 72.

20. *See, e.g.*, RACHEL L. MCLEAN & MICHAEL D. THOMPSON, BUREAU OF JUST. ASSISTANCE, REPAYING DEBTS 7 (2007), https://csgjusticecenter.org/wp-content/uploads/2020/02/repaying_debts_full_report-2.pdf [https://perma.cc/HJZ4-QLMP] (explaining that most people released from prison have few financial resources and often carry significant debt, including supervision fees, court costs, restitution, and child support); Annie Harper, Callie Ginapp, Tommaso Bardelli, Alyssa Grimshaw, Marissa Justen, Alaa Mohamedali, Isaiah Thomas & Lisa Puglisi, *Debt, Incarceration, and Re-entry: A Scoping Review*, 46 AM. J. CRIM. JUST. 250, 251–53 (2021) (reviewing empirical studies showing that incarceration intensifies financial hardship and debt, which impede successful reentry).

21. *See generally* MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS (2010) (arguing that mass incarceration functions as a system of racialized economic and social control); Elizabeth Hinton & DeAnza Cook, *The Mass Criminalization of Black Americans: A Historical Overview*, 26 ANN. REV. CRIMINOLOGY 261, 273 (2021) (reviewing the historical roots of mass incarceration and its disproportionate economic and social costs for Black communities).

22. Leah Wang, *Updated Data and Charts: Incarceration Stats by Race, Ethnicity, and Gender for All 50 States and D.C.*, PRISON POL'Y INITIATIVE (Sept. 27, 2023), https://www.prisonpolicy.org/blog/2023/09/27/updated_race_data/ [https://perma.cc/SC5B-WTMP] (finding that every state incarcerates Black people at least twice the rate of white people and, on average, at six times the rate of white people).

23. *See* MD. DEP'T OF PUB. SAFETY & CORR. SERVS., JULY 2025 INMATE CHARACTERISTICS REPORT 1 [hereinafter JULY 2025 INMATE CHARACTERISTICS], https://www.dpscs.state.md.us/publicinfo/publications/pdfs/Inmate%20Characteristics%20Report%20FY%202025%20Q4.pdf [https://perma.cc/8SEN-6FP7] (reporting that 72.7 percent of Maryland's incarcerated population is Black).

24. *QuickFacts: Maryland*, U.S. CENSUS BUREAU (2024), https://www.census.gov/quickfacts/fact/table/MD/PST045224 [https://perma.cc/C27U-K62Z].

25. Institutional jobs are work assignments that support prison operations, including food service, custodial work, laundry, and other positions. MD. DIV. OF CORRS., ANNUAL REPORT FY2023 8 (2023) [hereinafter ANNUAL REPORT FY2023], https://dlslibrary.state.md.us/publications/Exec/DPSCS/DOC/COR3-207%28d%29_2023.pdf [https://perma.cc/DKU6-GGS3].

26. *Id.* at 7.

27. MD. CODE ANN., LAB. & EMPL. § 3-413(c)(1) (LexisNexis 2025) (setting the minimum wage at $15.00 per hour for individuals aged 18 and older).

28. For example, "Labor Pool" positions are uncompensated work assignments. *See* ANNUAL REPORT FY2023, *supra* note 25, at 7. These are flexible work assignments given as needed to support institutional operations, and individuals in these roles may earn diminution credits—time off their sentence for satisfactory participation in work—but receive no pay. *See* MD. DIV. OF CORR., ANNUAL REPORT FY2022 34 (2022), https://dlslibrary.state.md.us/publications/Exec/DPSCS/DOC/COR3-207(d)_2022.pdf [https://perma.cc/W3TZ-WBWK]; MD. CODE ANN., CORR. SERVS. § 3-705 (LexisNexis 2025) (authorizing five days' credit per month for satisfactory performance of assigned work tasks).

provisions are often inadequate, forcing incarcerated people to stretch their already meager funds to purchase supplemental necessities.[29] The commissary prices for many items often match or exceed retail prices outside of the prison walls.[30] Phone calls add another layer of financial pressure, making the cost to stay in touch with family unbearably high for many incarcerated people. At $0.48 per fifteen minutes, an hour-long phone call could cost an entire day's wages, or more, for those in the lowest paid institutional jobs.[31] In 2023, incarcerated Marylanders and their families, overwhelmingly Black, spent almost $10 million on phone calls alone.[32] Maryland not only profits from the cheap labor of incarcerated people but also extracts money from their families, draining wealth from Black communities to sustain this cycle of exploitation.[33]

At the center of Maryland's carceral economy is Maryland Correctional Enterprises (MCE), a state-run prison labor program that supplies state agencies and private companies with a range of goods and services, including furniture, signage, office supplies, laundry services, and more.[34] MCE workers generate tens of millions of dollars for the state each year—$68 million in 2024 alone.[35] MCE jobs are among the most coveted in Maryland's prisons, offering an average pay of $220 per month, higher than institutional jobs.[36] To ensure MCE's continued profitability, Maryland law requires state agencies to purchase goods from MCE when offered at or below market rate.[37]

Supporters of MCE, including the Maryland Department of Public Safety and Correctional Services, claim that the program equips incarcerated people with skills they can use after release.[38] In reality, these claims merely legitimize the exploitation of incarcerated workers. MCE lacks a formalized reentry structure to

29. *See* Brief of ACLU et al. as Amici Curiae Supporting Appellant at 25–28, Scott v. Baltimore County, No. 23-1731 (4th Cir. Sept. 27, 2023) (explaining that incarcerated people must purchase food, hygiene items, and other essentials because prison-provided supplies are grossly inadequate).

30. *See id.* at 27.

31. *See* STATE OF PHONE JUSTICE, *supra* note 8.

32. DEP'T OF LEGIS. SERVS., FISCAL & POL'Y NOTE FOR SB 948 3 (2024) [hereinafter FISCAL & POL'Y NOTE FOR SB 948], https://mgaleg.maryland.gov/2024RS/fnotes/bil_0008/sb0948.pdf [https://perma.cc/GAX8-DH9S].

33. *See generally* BRIAN ELDERBROOM, PETER MAYER & FELICITY ROSE, WE CAN'T AFFORD IT: MASS INCARCERATION AND THE FAMILY TAX (2025), https://www.wecantaffordit.us/pdf/We%20Can't%20Afford%20It%20Report%20-%20FWD.us.pdf [https://perma.cc/PNZ6-UCU5] (describing the financial strain incarceration places on families, including housing and food insecurity).

34. *See generally* MD. CORR. ENTERS., FY22 PRODUCT CATALOG (2022), https://procurement.maryland.gov/wp-content/uploads/sites/12/2021/12/MCE-FY22-Catalog_FINAL_Interactive.pdf [https://perma.cc/YKA4-N9K9] (cataloging the products produced by Maryland Correctional Enterprises).

35. *See* 2024 ANNUAL REPORT, *supra* note 5.

36. *Id.* at 14.

37. MD. CODE ANN., CORR. SERVS. § 3-515 (LexisNexis 2025) ("A unit of State government shall purchase from Maryland Correctional Enterprises any goods or services that are available from Maryland Correctional Enterprises and that Maryland Correctional Enterprises can provide at a price not exceeding the prevailing average market price as determined by the Pricing and Selection Committee for Preferred Providers . . . .").

38. *About MCE*, *supra* note 4; *see also MCE Mission Statement*, MD. CORR. ENTERS. [hereinafter MCE Mission Statement], https://www.mce.md.gov/About-MCE/MCE-Overview [https://perma.cc/7BJW-QQBC]

assist former workers in securing jobs and navigating barriers to employment post-release, and the high cost of living in prison often forces workers to spend their earnings on necessities rather than saving for the future.[39] Without a system or resources in place to ensure that formerly incarcerated MCE workers can actually secure opportunities to use their skills, the fact that they acquired them is meaningless. For example, a person who has spent decades sewing uniforms or upholstery for MCE is no better off if employers in those industries refuse to hire people with felony convictions or if that person cannot even locate positions that align with the work they performed inside. Skills alone do not create opportunities. MCE is an exploitative program that the state masks as rehabilitation to defend its use of prison labor as reform rather than what it truly is: economic extraction.

This Article uses MCE and Maryland's broader carceral economy as a case study to expose how racialized prison labor systems are intentionally created and sustained throughout the United States. Drawing from the concept of racial capitalism, it argues that Maryland, like many other states, has deliberately designed a carceral economy that profits from the free or cheap labor of predominantly Black people. Through its laws, policies, and practices, the state systematically strips wealth from incarcerated people and their families, reproducing the very conditions that funnel Black communities into prison, sustaining a cheap workforce, and ensuring the continued profitability of the carceral economy.[40] The Article treats the abolition of state-run prison industries not as an endpoint, but as a necessary step toward dismantling the exploitative prison labor system and the broader carceral economy that depends on it.

Although MCE workers make up less than 15% of Maryland's incarcerated workforce—approximately 1,600 individuals, compared to 8,800 institutional jobs in fiscal year 2024—its massive profitability and deep legal entrenchment make it a critical lens into the operation of racialized carceral economies.[41] MCE's success

(last visited Mar. 23, 2026) (describing MCE's mission as "improving interpersonal skills and employability upon release").

39. *See* Emeline Smith, *Maryland Lawmakers Take Steps Toward Improving Resources for Returning Citizens*, MD. VOLUNTEER LAW. SERV. (Apr. 29, 2024), https://mvlslaw.org/maryland-lawmakers-take-steps-for-returning-citizens/ [https://perma.cc/JD2B-JBWM] (noting that Senate Bill 1017, which would have required Maryland Correctional Enterprises to develop individual employment plans for program participants, did not pass the 2024 legislative session).

40. *See* Bernadette Rabuy & Daniel Kopf, *Prisons of Poverty: Uncovering the Pre-Incarceration Incomes of the Imprisoned*, PRISON POL'Y INITIATIVE (July 9, 2015), https://www.prisonpolicy.org/reports/income.html [https://perma.cc/B7RP-M3XH] (finding that incarcerated people had significantly lower pre-incarceration incomes than their non-incarcerated peers and arguing that poverty and lack of opportunity contribute to incarceration).

41. *See* MD. DIV. OF CORR., 2024 ANNUAL REPORT 8 (2024), https://dlslibrary.state.md.us/publications/Exec/DPSCS/DOC/COR3-207(d)_2024.pdf [https://perma.cc/YU9P-S23N] (reporting 8,814 incarcerated individuals in institutional work assignments in 2024); *see also* MD. CORR. ENTERS., ANNUAL REPORT FY2024 7 (2024), https://dlslibrary.state.md.us/publications/Exec/DPSCS/DOC/COR3-509_2024.pdf [https://perma.cc/ZDW6-CZU5] (reporting 1,683 participants in Maryland Correctional Enterprises programs).

is not incidental; it reflects how state laws and policies actively sustain these systems, embedding prison labor into broad economic structures.

Scholars have long examined the racial and economic harms of mass incarceration broadly, with some employing racial capitalism as a theoretical lens to analyze systems of profit and exploitation.[42] Ruth Wilson Gilmore has been foundational in explaining how carceral systems exploit racialized populations for economic and political gain.[43] Tiffany Yang has deepened this analysis by exploring how governments profit from coerced prison labor through "carceral public works," a modern reincarnation of post-Emancipation exploitation that courts have shielded from employment protections.[44] Yet scholarship has largely overlooked how state-run prison industries—sustained by procurement mandates, exploitatively low wages, and inflated costs for necessities—serve as a core economic engine of carceral economies. This article fills that gap by centering the state-run prison industry as both a site of exploitation and a strategic target for abolition. It examines how Maryland's laws and policies are deliberately designed to extract wealth from incarcerated Black people and their families. These structures reproduce the very conditions—poverty, instability, and marginalization—that funnel Black communities into prison, ensuring a steady supply of cheap labor and sustaining a profitable system of captivity. Given that deliberate design, this article argues for the abolition of state-run prison industries as critical to the broader goals of ending exploitative prison labor and disrupting the carceral economy.

Using racial capitalism as a theoretical framework,[45] this article argues that reforms such as repealing the Thirteenth Amendment's Punishment Exception Clause or providing higher wages and labor protections to incarcerated workers cannot end exploitative prison labor because it is embedded in the profit-driven structure of the carceral system. While those strategies are critical, they are insufficient without parallel efforts to

42. *See generally* ALEXANDER, *supra* note 21 (discussing the entrenchment of prisons in America's economic and political system); LOÏC WACQUANT, PUNISHING THE POOR: THE NEOLIBERAL GOVERNMENT OF SOCIAL INSECURITY (2009) (discussing the disproportionality of the criminal justice system); Dorothy E. Roberts, *The Social and Moral Cost of Mass Incarceration in African American Communities*, 56 STAN. L. REV. 1271 (2004) (exploring African-American mass incarceration and racial discrimination within the criminal justice system); ANTIPODEONLINE, *supra* note 1 (documenting the story of Elijah King).

43. *See generally* ANTIPODEONLINE, *supra* note 1 (using Elijah's story working for Maryland Correctional Enterprises to illustrate racial disparity in the prison system).

44. *See* Tiffany Yang, *Public Profiteering of Prison Labor*, 101 N.C. L. REV. 313, 313 (2023) (exploring the exploitation of incarcerated people to perform public works and government services).

45. "Racial capitalism" refers to a system in which capitalism is fundamentally structured by and dependent on racial hierarchies, rather than merely distorted by them; the term originated with South African scholars analyzing apartheid-era labor conditions, where capital accumulation relied on the hyper-exploitation of Black labor through a racialized and spatially segregated workforce; American scholar Cedric Robinson expanded the concept, arguing that all capitalist systems have been racialized and that white supremacy is not external to capitalism but embedded within its logic and development; racial capitalism, then, is not a deviation but a foundational feature of capitalist economies, which systematically extract wealth through the underpayment, dispossession, and exploitation of racialized groups, rationalized through constructs of race, gender, and other social hierarchies, and sustained by devaluing the humanity of the oppressed and their relationship to land and nature. Carmen G. Gonzalez & Athena D. Mutua, *Mapping Racial Capitalism: Implications for Law*, 2 J.L. & POL. ECON. 127, 129 (2022).

dismantle both the economic logic that conceals the true costs of incarceration and the legal architecture, such as procurement mandates and authorizing statues, that enables its continuation. Together, these measures are essential to ending exploitative prison labor and advancing the broader abolitionist goal of dismantling the carceral economy.

This article proceeds in three parts. Part I traces the history of carceral labor, focusing on slavery, the Thirteenth Amendment's Punishment Exception Clause, and the rise of modern systems of carceral wealth extraction, concentrating on state-run prison industries. It also introduces racial capitalism as a conceptual framework for understanding these dynamics. Part II considers Maryland as a case study, analyzing the operations, workforce, and profitability of the state-run prison industry, along with the economic policies that extract wealth from its workers and allow the industry to thrive. It amplifies the racialized nature of carceral wealth extraction, particularly because Black people make up about 73% of Maryland's prison population as of July 2025, despite comprising only 31.6% of the state's general population as of July 2024—the most recent Census estimate available by race.[46] Finally, Part III offers abolition-minded strategies for dismantling state-run prison industries and the broader carceral economies they sustain. It acknowledges that while repealing the Thirteenth Amendment's Punishment Exception Clause and providing higher wages and labor protections are critical, they are not sufficient to end the exploitation of incarcerated people. It underscores the importance of repealing state-level procurement mandates, statutes authorizing prison industries, and exposing the true costs of incarceration as essential steps toward ending exploitative prison labor and advancing the broader abolitionist goal of dismantling the carceral economy.

I. RACIAL CAPITALISM AND THE EVOLUTION OF BLACK LABOR

To understand a system in which someone like Elijah King could spend decades working for the state, earning less than a dollar an hour while helping to generate millions in revenue, we must confront the violent truth: the system was built to exploit Black labor.

This truth is not new. It is rooted in a long history of racialized wealth extraction, starting with chattel slavery and evolving into modern prison labor practices. Racial capitalism, the process by which racial inequality is used to justify exploitation and fuel economic gain, offers a powerful framework for understanding this evolution.[47] Slavery, in the form it had existed for centuries, was formally abolished in 1865.[48] But the Thirteenth Amendment included a legalized mechanism that allowed the country to continue profiting from Black labor through involuntary servitude "as a

46. *See* JULY 2025 INMATE CHARACTERISTICS, *supra* note 23 (reporting that 72.7 percent of Maryland's incarcerated population is Black); *see also* U.S. CENSUS BUREAU, ANNUAL ESTIMATES OF THE RESIDENT POPULATION BY SEX, RACE, AND HISPANIC ORIGIN FOR MARYLAND: APRIL 1, 2020 TO JULY 1, 2024 (2025), https://www.census.gov/data/tables/time-series/demo/popest/2020s-state-detail.html [https://perma.cc/TMH3-M3RV] (showing that Black or African American residents constitute 31.6 percent of the state's population).

47. *See* Gonzalez & Mutua, *supra* note 45, at 129.

48. U.S. CONST. amend. XIII, § 1.

punishment for crime."[49] This constitutional loophole, coupled with the criminalization of Blackness, gave rise to convict-leasing and prison labor as modernized forms of exploitation for profit.[50] These systems became central to the economic prosperity of states around the country. Incarceration became the new Black.[51]

By the twentieth century, slavery had been reconfigured into exploitative prison economies disproportionately fueled by the labor of captive Black workers. Fast-forward to the twenty-first century, and this history serves as the foundation of the profit-driven nature of modern prison labor systems.

This part traces the evolution of how Black labor has been systematically exploited for government economic gain through the framework of racial capitalism. First, it examines how governments profited massively through the forced labor of enslaved Black people, while simultaneously stripping Black communities of intergenerational wealth. Second, it explores the transformation of chattel slavery into convict leasing through the enactment of Black Codes, which provided new legal mechanisms for extracting economic value from Black bodies. Finally, it surveys modern-day prison labor as a continued form of racialized exploitation and wealth extraction. While prison labor generates profit through several distinct forms, this article centers state-prison industries, arguing that they not only extract wealth from incarcerated people, who are disproportionately Black, but also actively produce and sustain the very conditions that lead to incarceration, ensuring a continuous supply of exploitable labor.

A. Slavery and the Foundations of Racialized Wealth Extraction

The economic prosperity generated by American chattel slavery[52] over its near 250-year existence is undeniable.[53] As Michele Goodwin has observed, "[s]lavery was integral to the American economy[,] . . . so profitable to the growth of American capital that economists and sociologists have yet to thoroughly unpack 'the capital

49. *Id.*

50. *See Convict Leasing*, EQUAL JUST. INITIATIVE (Nov. 1, 2013), https://eji.org/news/history-racial-injustice-convict-leasing/ [https://perma.cc/9FGN-85FG] ("In response [to the Thirteenth Amendment], Southern state legislatures quickly passed 'Black Codes' – new laws that explicitly applied only to Black people and subjected them to criminal prosecution for 'offenses' such as loitering, breaking curfew, vagrancy, having weapons, and not carrying proof of employment.").

51. *See* Taja-Nia Y. Henderson, *Property, Penality, and (Racial) Profiling*, 12 STAN. J. C.R. & C.L. 177, 182 (2016) (explaining that in the eighteenth and nineteenth centuries, Southern lawenforcement practices systematically entwined race and criminality such that Blackness itself was treated as presumptive evidence of criminality—a legacy that continued to shape penal practices after slavery).

52. *See* Michele Goodwin, *The Thirteenth Amendment: Modern Slavery, Capitalism, and Mass Incarceration*, 104 CORN. L. REV. 899, 920 (2019).

53. NIKOLE HANNAH-JONES, THE 1619 PROJECT: A NEW ORIGIN STORY 35 (Nikole Hannah-Jones, Caitlin Roper, Ilena Silverman & Jake Silverstein eds., 2021)

> As a woman in my forties, I am part of the first generation of Black Americans in the history of the United States to be born into a society in which Black people had full rights of citizenship. Black people suffered under slavery for 250 years; we have been legally 'free' for just fifty.

stored in slaves.'"[54] Demographic historian J. David Hacker estimates that approximately 10 million enslaved Black people lived in the United States throughout its history, contributing over 400 billion hours in labor between 1619 and 1865.[55] Enslaved labor brought in enormous profits for the U.S. economy every year. In 1836 alone, Edward E. Baptist estimates, "more than $600 million, or almost half of the economic activity of the United States . . . derived directly or indirectly from cotton produced by [slave labor]."[56] Cotton generated a significant portion of revenue, with profits fueling nearly every aspect of the U.S. economy, including investments in land, railroads, banks, and insurance companies.

Given slavery's massive economic benefit, it is easy to wonder how the movement for abolition gained any traction at all. What incentive would states have to voluntarily dismantle an institution that made them billions and supplied the nation's most profitable exports? This underlying tension became a driving force behind the eventual outbreak of the Civil War.[57] Southern elites saw no benefit to ending this economic gold mine and were determined to preserve it at all costs.[58] The North, while not uniformly abolitionist, sought to block slavery's expansion into new territories, a position that threatened the South's political and economic dominance.[59] But why, if the entire country was benefiting from Black labor, did the North embrace emancipation at all?

Undoubtedly, some opposed the immorality of slavery.[60] But morality alone was never enough to dismantle an institution so deeply embedded in the nation's economic and political fabric.[61] As President Abraham Lincoln famously wrote in a letter to New York Tribune editor Horace Greeley, "[i]f I could save the Union without freeing any slave I would do it, and if I could save it by freeing all the

54. Goodwin, *supra* note 52, at 920 (quoting SVEN BECKERT & SETH ROCKMAN, SLAVERY'S CAPITALISM: A NEW HISTORY OF AMERICAN ECONOMIC DEVELOPMENT 1 (2016)).

55. *See* J. David Hacker, *From '20. and Odd' to 10 Million: The Growth of the Slave Population in the United States*, 41 SLAVERY & ABOLITION 840, 842 (2020).

56. *See* EDWARD E. BAPTIST, THE HALF HAS NEVER BEEN TOLD: SLAVERY AND THE MAKING OF AMERICAN CAPITALISM 322 (2014) (estimating that cotton produced by enslaved people accounted for more than $600 million—nearly half of the nation's economic activity in 1836). *But cf.* Paul W. Rhode, *What Fraction of Antebellum US National Product Did the Enslaved Produce?*, 91 EXPLS. IN ECON. HIST. 1, 7–8 (2024) (finding, based on national income data, that enslaved workers produced about 12.6 percent of U.S. gross national product in 1860 and rejecting earlier claims—like Baptist's—that enslaved labor generated nearly half of U.S. output).

57. *See* W.E.B. DU BOIS, BLACK RECONSTRUCTION IN AMERICA: AN ESSAY TOWARD A HISTORY OF THE PART WHICH BLACK FOLK PLAYED IN THE ATTEMPT TO RECONSTRUCT DEMOCRACY IN AMERICA, 1860–1880 15 (1935) (explaining that "the black worker, as founding stone of a new economic system in the nineteenth century and for the modern world, . . . brought civil war in America. He was its underlying cause, in spite of every effort to base the strife upon union and national power.").

58. *Id.* at 41–42 (describing how the "political power [of the planter] was based on slavery" and how, as the planter's "economic power . . . waned, his political power became more and more indispensable to the maintenance of his income and profits," leading the South to seek expansion of slavery into new territories and ultimately secession).

59. *Id.* at 55–56.

60. *See id.* at 22 (noting that abolitionists "stressed the moral wrong of slavery").

61. *See id.* at 55–56 (arguing that emancipation was not the North's goal in the Civil War and that preserving the Union—not ending slavery—drove Northern action).

slaves I would do it; and if I could save it by freeing some and leaving others alone I would also do that."[62] Lincoln's focus was on preserving the Union, not ending an immoral practice. Even that limited goal became possible only because enslaved people forced it. As Union armies moved South, enslaved people fled plantations, enlisted in the military, and sabotaged operations until the system collapsed. Nearly 200,000 Black men fought for the Union.[63] Their resistance did not inspire moral awakening. It forced a response.[64]

The real engine for the end of chattel slavery was the desire to preserve the Union after Southern secession, which was itself a response to fears that Northern political power would limit slavery's expansion.[65] The Southern economy thrived on the labor of enslaved Black people.[66] Cotton plantations generated massive wealth for Southern elites and supplied raw materials that dominated global markets.[67] And Southern plantation owners wanted to expand slavery in the West, further building a slave-driven economic empire.[68] As the South's economic prowess grew, so did its political power,[69] which Southern radicals, backed by political oligarchy and economic dictatorship, ultimately used to precipitate secession.[70] The end of slavery threatened not just the South's economy but its political power and social order.

By the early 1800s, the North's reliance on slavery was shifting. Northern banks, textile mills, and shipping industries had profited considerably from Southern slavery, especially through the cotton industry, but the North had also begun to diversify its industrial economy.[71] Railroads, factories, and the exploitation of immigrant workers offered new paths to wealth outside of slave labor.[72] For many in the North, opposing slavery's expansion into new territories posed less of an

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62. Letter from Abraham Lincoln to Horace Greeley (Aug. 22, 1862) (on file with Libr. Of Cong., Abraham Lincoln papers: Series 2. General Correspondence. 1858–1864).

63. DU BOIS, *supra* note 57, at 106.

64. *See id.* at 55–83.

65. *See id.* at 55–56.

66. CHANDRA CHILDERS, THE EVOLUTION OF THE SOUTHERN ECONOMIC DEVELOPMENT STRATEGY, ECON. POL'Y INST. (2024) ("Their enslavement ensured a consistent source for Southern businesses and landowners labor needs, while minimizing the costs of that labor.").

67. *Id.* ("The cotton that was produced in the South was processed in Northern factories and financed by Northern banks, creating wealth for everyone except those whose labor produced the wealth.").

68. PAUL STARR, ENTRENCHMENT: WEALTH, POWER, AND THE CONSTITUTION OF DEMOCRATIC SOCIETIES 57 (Yale Univ. Press 2019) ("The law gave slaveholders more absolute power over their slaves than European landlords had over their tenants, and rather than shrinking, slavery had expanded into America's western territories since the nation's founding.").

69. DU BOIS, *supra* note 57, at 33–34 (explaining that Southern planters held "political power equivalent to one or two million freemen in the North" through their control of slave-based representation); *id.* at 47 (noting the South "elected to make its fight through the political power which it possessed because of slavery," having dominated eleven of sixteen presidencies and seventeen of twenty-eight Supreme Court appointments).

70. *Id.* at 55 ("Southern radicals, backed by political oligarchy and economic dictatorship[,] . . . precipitated secession").

71. *See, e.g.*, Hasan Kwame Jeffries & Christy Clark-Pujara, *Slavery and the Northern Economy*, S. POVERTY L. CTR. (July 8, 2019), https://www.splcenter.org/resources/stories/slavery-and-the-northern-economy/ [https://perma.cc/3YTK-84R4].

72. *Id.*

economic threat than it did for the South and, in fact, aligned with its larger goal of curbing Southern economic and political dominance.[73] Even the Emancipation Proclamation, issued in 1863, was as much a military strategy to weaken the Confederacy as it was a moral stance. At the same time, the collapse of slavery opened new possibilities for profit and exploitation for the North: millions of newly freed people could be criminalized, coerced, or absorbed into low-wage labor markets, fueling Northern industries in ways not yet imagined. Northern opposition to slavery's expansion was not simply moral but deeply tied to reshaping the system of exploitation to better serve Northern interests while neutralizing the South's economic supremacy.[74]

This backdrop is essential to understanding the significance of the Thirteenth Amendment — not as the end of slavery, but as its transformation. While routinely regarded as the constitutional abolition of human bondage, the Amendment contained a critical loophole that allowed slavery to persist under another name. Its text reads:

> 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.[75]

This language marked the reconfiguration of slavery. It shifted from forced labor justified explicitly by race to forced labor justified by carceral status—still deeply racialized but no longer written in overtly racial terms.[76] After the ratification of the Thirteenth Amendment, instead of prospering in freedom, Black people were subjugated through new mechanisms, including Black Codes and convict leasing.[77] Having been denied compensation for centuries of forced labor and systematically excluded from land ownership and other wealth-building opportunities, Black people entered "freedom" with virtually no wealth.[78] And the United States was ready to continue profiting from this new labor pool by maintaining that economic deprivation.

Courts were instrumental in legitimizing the Thirteenth Amendment's Punishment Exception Clause as a license for coerced prison labor. In *Ruffin v. Commonwealth* (1871), the Virginia Supreme Court notoriously declared that an incarcerated person "has, as a consequence of his crime, not only forfeited his liberty, but all his

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73. STARR, *supra* note 68, at 87 ("[B]y opposing the addition of any further slave states, political antislavery threatened to alter forever the sectional balance, enabling the North to control the nation's destiny.").

74. *Id.*; *see also* DU BOIS, *supra* note 57, at 61 (quoting Frederick Douglass's observation that both North and South fought the Civil War "despising the Negro, both insulting the Negro").

75. U.S. CONST. amend. XIII, § 1.

76. Scholars continue to debate whether the Punishment Exception Clause of the Thirteenth Amendment was included for racially neutral reasons or to preserve racial subjugation. Goodwin discusses this debate and ultimately concludes that "whether the Thirteenth Amendment's Punishment Clause preserved penal labor as a longstanding criminal justice norm or not, it has functionally preserved slavery as a means of persistent racial subjugation." Goodwin, *supra* note 52, at 933.

77. *Convict Leasing*, *supra* note 50.

78. Ellora Derenoncourt, Chi H. Kim, Moritz Kuhn & Moritz Schularick, *Wealth of Two Nations: The U.S. Racial Wealth Gap, 1860–2020*, 139 Q. J. ECON. 693, 697 (2024).

personal rights . . . . He is for the time being the slave of the State."[79] This sweeping pronouncement condemned prisoners to civil death and stripped them of constitutional protections, effectively collapsing the distinction between slavery and penal servitude.[80] While the opinion did not explicitly reference race, contemporaneous reports confirm that Ruffin was an African-American man.[81] The case, decided just five years after the Civil War, illustrates how courts carried the racial legacy of slavery into the prison system, legitimizing the re-enslavement of Black people under a new legal guise.[82]

Ruffin was not an isolated decision but rather illustrative of a broader legal consensus. Well before the Civil War, compulsory hard labor was viewed as both moral discipline and rehabilitation.[83] Prisons were conceived as "laboratories of virtue," where idleness was equated with moral decay and work was seen as the antidote.[84] By the 1830s, nearly every state mandated hard labor for convicted persons, with incarcerated people working eight to ten hours a day to instill "habits of diligence" and offset the costs of incarceration.[85]

The Thirteenth Amendment's Punishment Exception Clause fits neatly within these prevailing norms and laid the foundation for a century of jurisprudence upholding the constitutionality of coerced prison labor. In *United States v. Reynolds* (1914), the Supreme Court declared that "there can be no doubt that the state has authority to impose involuntary servitude as a punishment for crime."[86] Two years later in *Butler v. Perry* (1916) the Court upheld a Florida law mandating roadwork, finding that the Thirteenth Amendment "was not intended to interdict enforcement of those duties which individuals owe to the state."[87] Federal appellate courts have since reaffirmed this framework, routinely rejecting challenges by incarcerated workers.[88] As the Seventh Circuit bluntly declared in *Vanskike v. Peters* (1992), "the Thirteenth Amendment excludes convicted criminals from the prohibition of involuntary servitude," and any compensation for their labor is "by grace of the state."[89]

79. Ruffin v. Commonwealth, 62 Va. (21 Gratt.) 790, 796 (1871).

80. *See* Andrea C. Armstrong, *Slavery Revisited in Penal Plantation Labor*, 35 SEATTLE U. L. REV. 869, 877 (2012) (explaining *Ruffin*'s "slave of the State" language).

81. *Id.* at 877–78.

82. *Id.* at 878.

83. *See* Ryanne Bamieh, *The New Abolition: The Legal Consequences of Ending All Slavery and Involuntary* Servitude, 59 HARV. C.R.-C.L. L. REV. 245, 251–52 (2024).

84. *Id.* at 252.

85. *Id.* (citing David J. Rothman, *Perfecting the Prison: United States, 1789–1865*, *in* THE OXFORD HISTORY OF THE PRISON: THE PRACTICE OF PUNISHMENT IN WESTERN SOCIETY 100, 101 (Norval Morris & David J. Rothman eds., 1998)).

86. United States v. Reynolds, 235 U.S. 133, 149 (1914).

87. Butler v. Perry, 240 U.S. 328, 333 (1916).

88. *See, e.g.*, Rochon v. La. State Penitentiary Inmate Acct., 880 F.2d 845 (5th Cir. 1989) (holding that prisoners have no constitutional right to be paid for work performed in prison).

89. Vanskike v. Peters, 974 F.2d 806, 809 (7th Cir. 1992); *see also* Pollock v. Williams, 322 U.S. 4, 17 (1944) ("Forced labor has been sustained as a means of punishing crime."); Omasta v. Wainwright, 696 F.2d 1304, 1305 (11th Cir. 1983) (holding "that where a prisoner is incarcerated pursuant to a presumptively valid judgment and commitment order issued by a court of competent jurisdiction and is forced to work pursuant to prison regulations or state statutes, the Thirteenth Amendment's prohibition against involuntary servitude is not

The practical effect of these rulings was to provide a constitutional veneer for the rapid expansion of racialized penal labor in the postbellum South. Following ratification of the Thirteenth Amendment, Southern legislatures passed vagrancy laws and "Black Codes" that criminalized unemployment and other everyday conduct, funneling thousands of newly freed Black people into prison camps and convict leasing systems.[90] Leased incarcerated people were forced to toil under brutal and often deadly conditions, while states profited handsomely.[91] Courts did little to curtail these practices, choosing instead to reaffirm the state's authority to impose penal servitude.[92] In doing so, the judiciary helped transform the Thirteenth Amendment from a shield against slavery into a sword enabling its continuation in another form—through chain gangs, penal plantations, and eventually modern correctional industries, all animated by the same racialized exploitation that underpinned chattel slavery.

B. Convict Leasing and the Birth of the Carceral Economy

The Thirteenth Amendment freed nearly four million enslaved Black people who had long been the backbone of various economies, particularly in the South.[93] In response, state and local governments quickly began passing laws and adopting practices to continue extracting value from Black bodies. Governments, especially those that had relied heavily on enslaved labor, moved swiftly to ensure a continued supply of free or low-wage labor. In the state of Alabama, for instance, almost half of the population had been enslaved Black people who provided "no-wage labor."[94] Rebuilding its economy after the Civil War required filling that labor gap as cheaply as possible. To that end, Alabama enacted Black codes in December of 1865, the very same month the Thirteenth Amendment was ratified.[95]

Alabama was not alone. Black codes quickly emerged throughout both the North and South, aiming to recapture free Black labor.[96] These laws criminalized Blackness itself, making it nearly impossible for Black people to exist without

implicated"); Draper v. Rhay, 315 F.2d 193, 197 (9th Cir. 1963) ("Prison rules may require appellant to work but this is not the sort of involuntary servitude which violates Thirteenth Amendment rights . . . where a person is duly tried, convicted, sentenced and imprisoned for crime in accordance with law, no issue of peonage or involuntary servitude arises.").

90. Laura I. Appleman, *Bloody Lucre: Carceral Labor and Prison Profit*, 22 WIS. L. REV. 619, 631 (2022).

91. *Id.* at 631–33.

92. United States v. Reynolds, 235 U.S. 133, 149 (1914).

93. *See* Jamal Greene & Jennifer Mason McAward, *The Thirteenth Amendment: Common Interpretation*, NAT'L CONST. CTR., https://constitutioncenter.org/the-constitution/amendments/amendment-xiii/interpretations/137 [https://perma.cc/8336-WVTU] (last visited Oct. 29, 2025).

94. Goodwin, *supra* note 52, at 935–36.

95. *Id.* at 936–37; *Thirteenth Amendment to the U.S. Constitution: Abolition of Slavery (1865)*, NAT'L ARCHIVES, https://www.archives.gov/milestone-documents/13th-amendment [https://perma.cc/Q9BY-P4MY] (last updated May 10, 2022).

96. Yang, *supra* note 44, at 330 (noting that "[t]he desire to recapture formerly-enslaved workers was transparent" and that Black Codes aimed to create "a new system of subjugating Black communities").

violating the "law." W.E.B. Du Bois described the Black Codes as "deliberately designed to take advantage of every misfortune of the Negro."[97] Lacking permanent housing or employment could be labeled "vagrancy."[98] Quitting a job, no matter the reason, could be a contract violation.[99] Black codes also outlawed traveling without fulfilling certain conditions,[100] operating a business without a license,[101] being in public after certain hours without a written pass or permit from one's employer,[102] failure to show proof of residency or employment,[103] and possession of firearms and other weapons, even when used in self-defense.[104] In this so-called post-emancipation era, acts as innocuous as speaking loudly in the presence of a white woman, eavesdropping, and obstructing pedestrian traffic on sidewalks were now criminal acts subject to punishment.[105]

Violations of these Black Codes often carried steep fines, and failure to pay typically resulted in confinement.[106] Once incarcerated, Black individuals were forced to work for the state or leased to private companies under what became known as the convict leasing system.[107] This emerging form of human bondage was deeply racialized. In Louisiana, for example, convict leasing existed long before the Civil War, but the practice expanded significantly afterward.[108] The state's prison population shifted drastically, with Black prisoners outnumbering white prisoners by more than two to one.[109] The system also became noticeably more brutal, as white prisoners were often granted lighter duties and better conditions than their Black

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97. DU BOIS, *supra* note 57, at 167.

98. *See id.*; *see also* Yang, *supra* note 44, at 330 (noting that most Southern states criminalized "vagrancy"—a vaguely defined offense used to arrest formerly enslaved people who lacked the protection or employment of a white landowner).

99. *See* DU BOIS, *supra* note 57, at 174 (noting that under Florida's Black Code, Black laborers who failed to complete a work contract—including for "disobedience," "impudence," or quitting—could be arrested and punished as vagrants); *see also* Yang, *supra* note 44, at 330 (explaining that Black codes barred Black workers from quitting, changing employers without permission, or refusing to renew contracts—effectively locking them into forced labor arrangements).

100. DU BOIS, *supra* note 57, at 167–68 (noting that South Carolina required newly arrived Black people to post a $1,000 bond with two white guarantors within twenty days of arrival, effectively criminalizing migration without prior approval and financial backing).

101. *Id.* at 168 (explaining that in South Carolina, Black people were required to obtain special licenses to work in most occupations other than farming or domestic service, effectively barring independent business ownership without state approval and imposing harsh penalties for violations).

102. *Id.* at 177 (quoting the Opelousas, Louisiana ordinance providing that "[e]very Negro freedman who shall be found on the streets of Opelousas after ten o'clock at night without a written pass or permit from his employer, shall be imprisoned and compelled to work five days on the public streets, or pay a fine of five dollars").

103. *Id.* at 168 (noting Mississippi required every freedman to "have a lawful home or employment" and carry "written evidence thereof").

104. *Id.* at 170–72.

105. Yang, *supra* note 44, at 330 (citing DOUGLAS A. BLACKMON, SLAVERY BY ANOTHER NAME: THE RE-ENSLAVEMENT OF BLACK AMERICANS FROM THE CIVIL WAR TO WORLD WAR II 7 (2008)).

106. *See id.* at 331.

107. *See id.* at 331–32.

108. *See* Armstrong, *supra* note 80, at 901.

109. *See id.* at 902.

counterparts.[110] These racial disparities were no accident and were replicated across the United States. Although convict leasing formally ended in the late nineteenth to early twentieth centuries,[111] governments continued to profit from Black labor under the guise of punishment.[112] This history is essential to understanding the modern prison labor system as it exists today.

C. State-Run Prison Industries and the Design of Modern Extraction

While the convict leasing system formally ended by the late nineteenth century, its model of exploiting incarcerated labor for profit has persisted in new forms. Today, nearly two million individuals are confined in state and federal prisons, local jails, and other correctional facilities across the United States.[113] Federal and state governments, along with private companies, continue to profit from no-wage or low-wage labor of incarcerated people.[114] These workers are disproportionately Black, Indigenous, and other people of color.[115] They clean public highways, fight wildfires, process meat, build furniture, and perform other essential tasks that generate revenue and reduce public costs, while receiving little to no compensation in return.[116] This labor is extracted through three primary avenues: prison industries (both state-run and private), prison maintenance, and carceral public-works programs.[117] Each relies on two mechanisms to sustain profitability: low wages and the absence of basic labor protections. This Section focuses on state-run prison industries, self-sustaining entities within correctional systems that generate profit to keep prisons running. These industries operate in concert with the broader carceral economy to produce the conditions of poverty that lead to incarceration, ensuring a continuous supply of exploitable labor.

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110. *See id.*

111. *Id.* at 903.

112. *Id.* at 904 ("Although the state constitution supposedly abolished the convict-lease system, the state would nevertheless continue to lease its predominantly African-American inmates to private employees for another fifteen years.").

113. Nina Mast, *Forced Prison Labor in the "Land of the Free"*, ECON. POL'Y INST. (Jan. 16, 2025), https://www.epi.org/publication/rooted-racism-prison-labor/ [https://perma.cc/3A37-P74P] ("Nationwide, nearly two million people are confined in state and federal prisons, county jails, juvenile and immigrant detention centers, and other confinement facilities.").

114. *See id.* Figure C.

115. *See id.* Figure B.

116. *Id.*

117. I utilize Tiffany Yang's framework for analyzing prison labor, which adapts and expands prior categories in the literature. Yang draws on the traditional distinction between "prison industries," which involve the production of goods and services for sale to state agencies or the private sector, and "prison maintenance," referring to labor that supports daily prison operations (e.g., cooking and cleaning). She then introduces "carceral public works" as a broader analytic category, which involves labor used to fulfill government services or generate public benefit. *See* Yang, *supra* note 44, at 337–44. For other categories, see Noah D. Zatz, *Working at the Boundaries of Markets: Prison Labor and the Economic Dimension of Employment Relationships*, 61 VAND. L. REV. 857, 868–70 (2008) (distinguishing between "prison industries" and "prison housework"); Andrea C. Armstrong, *Beyond the 13th Amendment—Captive Labor*, 82 OHIO ST. L.J. 1039, 1040–42 (2021) (identifying five categories of prison labor based on their function within and beyond prison walls); Appleman, *supra* note 90, at 658–71 (describing types of incarcerated labor, including state-run correctional industries and disaster-response work).

1. The Profit Structure

Every state except Alaska has a state-run prison industry where incarcerated individuals produce goods and services.[118] These include office furniture, clothing, cleaning products, textiles, printing, metal manufacturing, bedding, food service supplies, traffic signs, eyeglasses, and agriculture goods, among other items.[119] These industries are created by statute and sustained through procurement laws that require state agencies to purchase goods and services when available.[120] They are highly profitable, often generating tens of millions of dollars annually in revenue.[121] For example in fiscal year 2023, Texas Correctional Industries generated nearly $62 million, accounting for approximately 21% of the Texas Department of Criminal Justice's operating budget.[122] In 2021, Arizona Correctional Industries brought in just over $54 million in sales, nearly $20 million more than the previous year.[123] According to the ACLU, incarcerated workers in state prison industries collectively produced over $2 billion worth of goods and services that same year.[124] States use the revenue to support their larger corrections systems and "reduce" the costs of incarceration.[125] These business models are not only highly lucrative, they are deliberately structured to ensure sustained profitability.

Two key indicators of the intentional design of these prison industries are: (1) procurement mandates that guarantee a captive market, and (2) exploitatively low wages that maximize profit. Many states with a prison industry program have a corresponding procurement statute that ensures its continued profitability.[126] While divestment movements are gaining traction,[127] many people do not

118. Appleman, *supra* note 90, at 669.

119. *See, e.g.*, *Products*, ALA. CORR. INDUS., https://www.aci-al.org/collections/all [https://perma.cc/7546-PG4A] (last visited Mar. 25, 2026); COLO. CORR. INDUS., https://coloradoci.com [https://perma.cc/GBL8-SE7J] (last visited Mar. 25, 2026); *Products & Services*, GA. CORR. INDUS., https://products.gci-ga.com [https://perma.cc/G3QA-J5FS] (last visited Mar. 25, 2026); *Industries: Illinois Correctional Industries*, ILL. DEP'T OF CORRS., https://idoc.illinois.gov/aboutus/correctionalindustries.html [https://perma.cc/7T5Q-7BS9] (last visited Mar. 25, 2026).

120. Appleman, *supra* note 90, at 669.

121. *See, e.g.*, *id.* at 669–70 (noting that New York's prison industry, Corcraft, averages $50 million in annual sales, and Oregon Correctional Enterprises earned $28.5 million in revenue in 2019).

122. SUNSET ADVISORY COMM'N, SUNSET STAFF REPORT 2024–25 9 (2024), https://www.sunset.texas.gov/public/uploads/2025-07/~Final%20Results%20of%20Sunset%20Reviews%202024-25.pdf [https://perma.cc/Y5K3-2DJH].

123. ARIZ. CORR. INDUS., 2022 ANNUAL REPORT 3 (2022), https://aci.az.gov/sites/default/files/2022%20Annual%20Report.pdf [https://perma.cc/T5K6-WHHV].

124. CAPTIVE LABOR, *supra* note 12, at 17.

125. States often justify prison industries on the grounds that they reduce the financial burden of incarceration. But this claim assumes incarceration itself is fixed and necessary. In truth, states could meaningfully reduce costs through decarceration and investments in alternatives to imprisonment.

126. *See, e.g.*, MD. CODE ANN., STATE FIN. & PROC. § 14-103 (West 2025).

127. *See, e.g.*, *Prison Labor*, TUFTS UNIV. PRISON DIVESTMENT, https://sites.tufts.edu/prisondivestment/prison-labor/ [https://perma.cc/7GJJ-SJ7X] (last visited Oct. 30, 2025); *see also Contemporary Divestment Campaigns*, TUFTS UNIV. PRISON DIVESTMENT, https://sites.tufts.edu/prisondivestment/contemporary-divestment-campaigns/ [https://perma.cc/BWT4-YTRE] (last visited Apr. 25, 2026) (documenting how Columbia University divested $8 million in private prison stock in 2015, the University of California system divested $30 million, and Georgetown University adopted a policy against direct investment in private prisons, reflecting a growing national movement).

realize[128] just how many everyday products and services—used in schools, government buildings, and even public universities—are produced by prison labor. By requiring state agencies to purchase goods and services from prison industries, procurement mandates ensure a steady revenue stream.

That revenue is substantial because incarcerated workers are paid pennies for their labor. On average, state-prison industries pay between $0.30 to $1.30 an hour, a small fraction of what civilian workers would earn for the same labor.[129] Nevada tops the scale highest at $4.50 an hour, followed by Kansas at $3. In Colorado, Delaware, Illinois, Maine, Minnesota, New Jersey, and South Carolina, the maximum hourly wage ranges from $2 and $2.80. Connecticut, Maryland, Mississippi, Montana, Nebraska, New Hampshire, New Mexico, North Dakota, Ohio, Utah, and Vermont cap wages between $1 and $1.79.[130] In Florida, Indiana, Iowa, Missouri, New York, Oklahoma, and Virginia, incarcerated workers cannot make more than $0.95 an hour. In Louisiana, North Carolina, Oregon, Rhode Island, and South Dakota, workers do not make more than $0.50. Some States pay even less: in South Carolina, entry-level wages can start at $0, and in Texas incarcerated workers make nothing at all, regardless of experience level.[131]

Lack of worker protection is a defining feature of the state-prison industry business model. Incarcerated workers have no job security, no sick days, no unions, no right to refuse dangerous work, and no meaningful legal recourse if injured.[132] They are denied even the baseline protections afforded to civilian workers under labor and employment law. Still, prison-industry jobs are often the highest-paying positions inside and are highly coveted.[133] This is not accidental. It is foundational. The wage structure is carefully designed to extract maximum labor at minimum cost. When a Louisiana sheriff opposed new sentencing and parole laws in 2017, he made the system's underlying logic explicit. Incarcerated workers, he explained, are a "necessary evil to keep the [prison] doors open."[134] Why? Because "we use [them] every day to wash cars, change oil in our cars, to cook in the kitchen, to do all that where we save money." His fear was losing the good ones, the most productive workers, to early release.[135] This calculus

128. WORTH RISES, THE PRISON INDUSTRY: MAPPING PRIVATE SECTOR PLAYERS 16 (2020), https://static1.squarespace.com/static/58e127cb1b10e31ed45b20f4/t/5eb26cb17cc82c67c6254da6/1588751538880/The+Prison+Industry+-+2020.pdf [https://perma.cc/8PSK-LWFF] ("Unfortunately, state revenue data, which would capture corporations that consume products created using prison labor, is not readily accessible.").

129. CAPTIVE LABOR, *supra* note 12, at 11.

130. *Id.* at 102.

131. *Id.*

132. *Id.* at 11–14, 19, 50, 65.

133. *See, e.g.*, *Correctional Industries: How Governments Exploit Prison Labor to Subsidize Their Budgets*, WORTH RISES (Jan. 8, 2024), https://worthrises.org/blogpost/2024/1/7/correctional-industries-how-governments-exploit-prison-labor-to-subsidize-their-budgets [https://perma.cc/R2QP-4T9S] ("Though incarcerated firefighters have died on the job, it remains highly coveted because the pay is significantly higher than for other prison jobs.").

134. CAPTIVE LABOR, *supra* note 12, at 18 (quoting Sheriff Steven Prator of Caddo Parish, Louisiana).

135. *Id.*

shapes the entire system.[136] By maintaining a captive and precarious workforce while making these positions marginally more desirable than others, the state maximizes productivity while minimizing costs and accountability. The lack of protection makes these workers disposable. They can be reassigned, punished, or replaced without process or notice. The slightly higher pay is a strategy that reinforces the state's power over them. It suppresses resistance, demands for safety or dignity, and prevents the kind of job stability or income needed to build savings. The result is a compliant labor force, conditioned to remain productive and entirely dependent on the state.

This profit structure gives states little incentive to implement criminal legal reforms that might disrupt the carceral economy. Why reduce incarceration or invest in community-based alternatives when the current system generates so much profit? Why raise wages or extend labor protections when low wages and job volatility are central to the profit model? As long as prison labor remains entangled with state profit, exploitation of incarcerated labor will persist.

2. Institutional Labor and the Price of Survival

In addition to procurement mandates and low wages, state prison industries, and broader state carceral economies in which they operate, are sustained by other economic practices and policies. These include paying even lower wages for institutional prison jobs, as well as charging inflated prices for phone calls and basic necessities. Together, these practices extract wealth from incarcerated people and their families, ensuring a steady labor supply to keep prison industries profitable and the broader carceral economy thriving.

Most incarcerated workers do not work for state-run prison industries, which account for about 6.5% of the incarcerated workforce.[137] The overwhelming majority work in institutional jobs that keep prisons running.[138] They clean facilities, do laundry, prepare food, and maintain prison grounds. These roles typically pay between \$0.13 to \$0.52 per hour.[139] And, in many places, those low wages have remained the same for decades. In New York, for example, incarcerated workers have not received a pay increase in over thirty years.[140] Several states, including

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136. *Id.* at 6, 10, 17–18 (documenting that while incarcerated workers nationally produce over \$11 billion annually in goods and services, they earn on average between 13 and 52 cents per hour, with less than 1% of correctional budgets going to wages; and noting that California Attorney General's office argued in 2014 that expanding parole eligibility would "severely impact fire camp participation," revealing similar concerns about losing incarcerated labor).

137. CAPTIVE LABOR, *supra* note 12, at 8.

138. Mast, *supra* note 113 ("Incarcerated workers keep the prisons that confine them running, maintain local infrastructure, respond to state emergencies and natural disasters, and produce goods and services used by state institutions.").

139. *Id.*

140. Matthew Saleh, Timothy McNutt & Alex Herazy, *Subminimum Wages in New York State Prisons*, ILR CAROW (May 14, 2024), https://www.ilr.cornell.edu/carow/carow-policy/subminimum-wages-new-york-state-prisons [https://perma.cc/Z9EB-VCFW] ("These wages have also stagnated for decades, with the last significant pay increases happening in 1993.").

Alabama, Arkansas, Florida, Georgia, Mississippi, South Carolina, and Texas, pay nothing at all for most work assignments.[141]

Even though incarcerated workers earn little to nothing for their labor, the state still finds ways to take what little they have. Incarcerated individuals can spend nearly $10,000 per year toward the cost of their own confinement.[142] Whether through phone calls to loved ones, commissary purchases for food, medicine, and toiletries, medical co-pays, or charges for room and board, living while confined comes at a steep price.[143] Many of these expenses are not optional luxuries, but necessities. For example, prisons often fail to provide adequate amounts of food or provide food lacking proper nutritional value.[144] Incarcerated people frequently report being hungry because they are served too little food or food that is spoiled, contaminated, or inedible.[145] For many, the only way to meet their basic needs is to buy food from the commissary.[146] Prisons take advantage of this desperation by contracting with private companies[147] that charge inflated prices for essential items.[148] For the majority of incarcerated workers, wages are simply not enough to cover the basic costs of living behind bars.[149] As a result, families are often forced to step in to support their loved ones.[150] For some, already in dire economic situations, this means going into debt just to afford phone calls, food, and medicine.[151] Collectively, families with an incarcerated loved one spend at least $2.9 billion each year to support them.[152]

3. Racial Capitalism in Action

The racialized nature of this exploitation is undeniable. Black people make up just 13% of the U.S. population, yet they account for 37% of those incarcerated.[153] Every state imprisons Black people at a higher rate than white people.[154] In twelve

141. CAPTIVE LABOR, *supra* note 12, at 10.

142. *Id.* at 72.

143. *Id.* at 11, 72–73.

144. *Id.* at 73.

145. *Id.* (documenting reports from incarcerated individuals of constant hunger, nutritionally inadequate meals, and unsanitary food conditions that often force them to rely on overpriced commissary food).

146. *Id.* at 74 (detailing the costs of selected commissary items in federal prisons in Table 6).

147. *Id.* (explaining how "privatization of prison goods and services has warped the system's priorities").

148. *Id.* at 72–74.

149. *Id.* at 72 (reporting that nearly 70 percent of incarcerated individuals surveyed could not afford basic necessities with their prison labor wages).

150. *Id.*

151. *Id.* (estimating that families of incarcerated people spend $2.9 billion annually on commissary and phone calls, with over half going into debt to cover these costs).

152. *Id.*

153. *See Racial and Ethnic Disparities*, PRISON POL'Y INITIATIVE (Jan. 14, 2026), https://www.prisonpolicy.org/research/racial_and_ethnic_disparities/ [https://perma.cc/ET8J-N5NS].

154. NAZGOL GHANDNOOSH, CELESTE BARRY & LUKE TRINKA, THE SENT'G PROJECT, ONE IN FIVE: RACIAL DISPARITY IN IMPRISONMENT—CAUSES AND REMEDIES 3 (Dec. 7, 2023), https://www.sentencingproject.org/reports/one-in-five-racial-disparity-in-imprisonment-causes-and-remedies/ [https://perma.cc/RU9Q-RJQT].

states, Black people make up more than half of the prison population.[155] These staggering disparities are the product of deliberate design.[156] As Cedric Robinson has argued, capitalism in the U.S. has always relied on racial subjugation to extract labor and generate profit.[157] This system of racial capitalism, in which race is used to justify economic exploitation, was foundational to slavery, convict leasing, and persists through mass incarceration. Today's prison industries operate under the exact same logic. They rely disproportionately, and often predominantly, on the labor of Black incarcerated workers to generate state revenue, while broader economic policies, such as inflated fees and low wages, keep Black communities marginalized. In essence, the modern carceral economy, with state-prison industries playing a central role, sustains the very conditions of poverty and instability that ensure a steady supply of exploitable labor and continuous profit.

II. MARYLAND: A CASE STUDY IN CARCERAL WEALTH EXTRACTION

While carceral wealth extraction through state-run prison industries is a national pattern, Maryland offers a particularly striking example of how these dynamics operate at the state level. Despite Black residents making up only 31.6% of Maryland's general population, they represent 73% of the prison population—the highest racial disparity of that sort in the nation.[158] Maryland has quite literally built a carceral economy that thrives on the exploitative labor of Black people, reflecting what racial capitalism scholars describe as the system's reliance on racialized economic exploitation. At the core of this system is Maryland Correctional Enterprises (MCE), the state-run prison labor program that generates over $50 million annually in revenue.[159] MCE's massive profitability depends on the cheap labor of incarcerated workers.[160] Beyond MCE, Maryland's carceral economy involves nearly every aspect of prison life: from little to no wages for institutional jobs to inflated costs for phone calls, hygiene

155. ASHLEY NELLIS, THE SENT'G PROJECT, THE COLOR OF JUSTICE: RACIAL AND ETHNIC DISPARITY IN STATE PRISONS, 5 (Oct. 2021), https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf [https://perma.cc/A3K3-NME7].

156. *Id.* at 4 ("It is clear that the outcome of mass incarceration today has not occurred by happenstance but has been designed through policies created by a dominant white culture that insists on suppression of others.").

157. *See* ROBINSON, *supra* note 10 (arguing that "[t]he development, organization, and expansion of capitalist society pursued essentially racial directions," such that "racialism would inevitably permeate the social structures emergent from capitalism"); Gonzalez & Mutua, *supra* note 45, at 132.

158. *See* July 2025 Inmate Characteristics, *supra* note 23; *see also* U.S. Census Bureau, *supra* note 24 (showing that Black or African American residents constitute 31.6 percent of the state's population as of July 2024, the most recent Census estimate available by race); *Maryland Targets Highest-in-Nation Racial Incarceration Gap*, PRISON LEGAL NEWS (May 1, 2025), https://www.prisonlegalnews.org/news/2025/may/1/maryland-targets-highest-nation-racial-incarceration-gap/ [https://perma.cc/UL2N-W8SY] (identifying Maryland as having the highest racial incarceration gap in the nation, noting that Black Marylanders comprised 71 percent of the prison population despite making up only 30 percent of the state's general population at the time of reporting).

159. *About MCE*, *supra* note 4.

160. *Id.*

products, food, and other necessities.[161] These practices extract wealth disproportionately from Black communities,[162] helping to preserve the economic deprivation that helps fuel incarceration and sustain a steady workforce for Maryland's carceral economy.

This part begins by examining MCE and its reliance on procurement mandates to ensure profitability. It then considers other forms of wealth extraction, including low and unpaid institutional prison jobs and inflated costs for necessities, before analyzing how these racial-capitalist practices perpetuate Black economic disadvantage and sustain incarceration.

A. *Profiting from Captive Labor: Maryland's Prison Industry*

Maryland Correctional Enterprises (MCE) is a state-run prison industry that operates twenty-six business units in ten prison facilities across the state of Maryland.[163] Originally created in the early twentieth century as "State Use Industries," MCE took its name and structure through a series of legislative changes, solidified in 2005.[164] Maryland law currently enables its operations under the Correctional Services Article, §§ 3-501 to 3-528.[165] The enterprise is entirely self-sustaining, with profits reinvested into the program or funneled into the state's general fund.[166] MCE generates more than $50 million in revenue annually, reaching nearly $70 million in FY 2024.[167] MCE's 182 permanent civilian staff positions oversee more than 1,150 incarcerated workers, maintaining a ratio of one civilian employee for every twenty participants.[168] The Chief Executive Officer earns a six-figure salary of $129,000 per year,[169] and the majority of the labor force, comprised of mostly Black people, is incarcerated.[170] These workers produce a wide range of goods and services, including meat processing and distribution, furniture construction and upholstery, mailing and distribution, textiles, graphics printing (e.g., business cards and envelopes), license plates, and uniforms for both incarcerated individuals and Department of Public Safety and Correction Services (DPSCS) officers.[171]

161. MD. CTR. ON ECON. POL'Y, COSTLY PRISON PHONE CALL FEES BLOCK FAMILIES FROM CONNECTING TO INCARCERATED LOVED ONES (Mar. 5, 2024), https://mgaleg.maryland.gov/cmte_testimony/2024/hgo/1mNPnXT5bLLYtDXp5wUStNhfjJA1MgJJR.pdf [https://perma.cc/6SZB-6AJ8]; CAPTIVE LABOR, *supra* note 12, at 72.

162. ELDERBROOM et al., *supra* note 33, at 7.

163. 2024 ANNUAL REPORT, *supra* note 5, at Overview.

164. Dep't of Pub. Safety & Corr. Servs., *Functions*, MD. STATE ARCHIVES, https://msa.maryland.gov/msa/mdmanual/22dpscs/html/22agen.html [https://perma.cc/YH5B-EA4U] (last visited May 4, 2025).

165. 2024 ANNUAL REPORT, *supra* note 5, at Overview.

166. *Id.*

167. *Id.* at 3.

168. *Id.* at 13, 16.

169. Stephen Sanders, *Maryland State Employees*, OPEN THE BOOKS, https://www.openthebooks.com/maryland-state-employees/?F_Name_S=sanders%20stephen&Year_S=2024 [https://perma.cc/SKR5-SSJQ] (last visited Apr. 12, 2026) (listing annual salary of $129,000 for Stephen Sanders, Maryland Department of Public Safety and Correctional Services); *see* 2024 ANNUAL REPORT, *supra* note 5.

170. *Id.* at 7.

171. *Id.* at 3.

Central to MCE's profitability is Maryland State Finance and Procurement Code § 14-103, which mandates that state agencies purchase goods and services from Maryland Correctional Enterprises whenever they are available and offered at a reasonable price.[172] Section 14-103(a) provides, in pertinent part:

> A State or State aided or controlled entity shall buy supplies and services from: (1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle 5 of the Correctional Services Article, if Maryland Correctional Enterprises provides the supplies or services.[173]

As a result, state agencies—from schools and administrative buildings to social service offices and police departments—are filled with furniture and other products made by low-paid incarcerated workers.[174] For example, between 2021 and 2024, the University of Maryland alone purchased $8.6 million in products from MCE.[175] The irony is stark: in 2024, only 13% of undergraduate students at UMD identified as Black,[176] while 100% of MCE warehouse team members were Black, and 68% of all MCE-designated team members were Black.[177] Although there have been growing efforts to divest from MCE,[178] those efforts have largely failed in the face of this procurement law. This statute guarantees a continuous demand for MCE products and, as a result, a continuous need for incarcerated labor to meet that demand.

Despite its function as a profit-driven enterprise, MCE brands itself much differently. It disguises its profit-driven motives in the language of rehabilitation. MCE presents itself as a rehabilitative program with the following mission and vision:[179]

> Mission Statement
>
> Maryland Correctional Enterprises provides structured programming for participants by improving interpersonal skills and employability upon release, enhancing safety and security by reducing prison idleness, and producing quality goods and services while remaining a financially self-supporting State agency.

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172. MD. CODE ANN., CORR. SERVS. § 3-515 (LexisNexis 2025); MD. CODE ANN., STATE FIN. & PROC. § 14-103 (West 2025).

173. MD. CODE ANN., STATE FIN. & PROC. § 14-103 (West 2025).

174. *See, e.g.*, *Maryland Correctional Enterprises (MCE)*, UNIV. OF MD., https://purchase.umd.edu/vendors/maryland-correctional-enterprises-mce [https://perma.cc/KH8P-A6RP] (last visited Oct. 29, 2025).

175. Natalie Weger, *UMD Community Urges University to Reconsider Ties with Maryland Prison Labor System*, THE DIAMONDBACK (Apr. 2, 2024), https://dbknews.com/2024/04/02/umd-prison-labor-ties/ [https://perma.cc/KQV6-77NB].

176. UNIV. OF MD., OFF. OF INST. RSCH., PLAN. & ASSESSMENT, UMD UNDERGRADUATE STUDENT PROFILE (2025), https://irpa.umd.edu/CampusCounts/Enrollments/stuprofile_allug.pdf [https://perma.cc/N38T-2QQX].

177. 2024 ANNUAL REPORT, *supra* note 5, at 7 (showing 100 percent of warehouse team members and approximately 68 percent of all MCE team members are Black).

178. Letter from Md. Corr. Enters. Opposing H.B. 1151 (Feb. 20, 2024), https://mgaleg.maryland.gov/cmte_testimony/2024/hgo/1vpFlEhXheDl4hkq32TD_LXjIy3XzgEN8.pdf [https://perma.cc/8RCT-XP3J] (opposing the loss of preferred provider status under HB 1151).

179. *MCE Mission Statement*, MD. CORR. ENTERS., https://mce.md.gov/About-MCE/MCE-Overview [https://perma.cc/2S79-6G29] (last visited July 15, 2025).

> Vision Statement
>
> Transforming lives through mentoring, providing marketable skills, and instilling positive work ethics to contribute to a safer community.

Yet in practice, MCE is anything but rehabilitative. Its design actively undermines the primary goals of rehabilitation: to prepare incarcerated individuals for successful reentry into society and to reduce recidivism. It operates as a profit-driven system by incarcerated labor, exhibiting little regard for workers' economic security, physical safety, job security, or future prospects. This disregard is not an incidental byproduct of MCE's pursuit of profit, but is fundamental to its profitability.

Perhaps the clearest evidence of MCE's deliberate design is its wage structure. MCE pays incarcerated workers a base stipend between $3.60 and $7.20 per day.[180] In 2024, the enterprise spent just $2.5 million in compensation for its workers,[181] a tiny fraction of its nearly $70 million in revenue.[182] Despite these alarmingly low wages, MCE accurately markets itself as offering the highest compensation rates in the Division of Corrections, making these positions highly coveted.[183] But these wages do more than maximize profit by minimizing labor costs—they ensure that MCE's workforce remains economically desperate. They deepen the financial burden of incarceration on their families, which drains wealth from their communities. Upon release, these former MCE workers remain economically insecure,[184] perpetuating cycles of poverty and incarceration that guarantee MCE a steady supply of predominantly Black labor for its exploitation.

Beyond their exploitatively low wages, MCE positions offer no workplace protections or job security. Under federal law, MCE workers are excluded from critical labor protections, including the Occupational Safety and Health Act (OSHA), which requires employers to provide safe working conditions, and the National Labor Relations Act (NLRA), which gives employees the right to organize and collectively bargain.[185] In theory, Maryland law provides a narrow form of protection under Maryland Correctional Services Code Ann. § 10-304, allowing workers to receive benefits if they sustain a permanent partial or total disability "as a result of a personal injury arising out of and in the course of" paid work "that incapacitated the individual or materially reduced the individual's earning power in that type of work."[186] In reality, however, administrative barriers make benefits extremely difficult to secure. And there is no coverage for temporary injuries, no sick leave, no workers' compensation, and no guarantee of reassignment to a similar paying position. Still, MCE positions remain among the most sought after by incarcerated

180. 2024 ANNUAL REPORT, *supra* note 5, at 14.
181. *Id.*
182. *Id.* at 17.
183. *Id.* at 1.
184. Derenoncourt et al., *supra* note 78.
185. CAPTIVE LABOR, *supra* note 12, at 12.
186. MD. CODE ANN., CORR. SERVS. § 10-304 (LexisNexis 2025).

workers.[187] Those fortunate enough to secure an MCE assignment spend their days worrying about getting sick, injuring themselves, or angering their supervisor, knowing they can be removed from their placement at any time and for any reason. As courts have consistently held, incarcerated workers have no right to a particular job assignment, leaving MCE workers with the constant threat of losing what little economic independence they have without any recourse.[188]

Michael Baylor's story illustrates the volatility of MCE jobs in practice. In 2018, Baylor, an incarcerated MCE worker assigned to a furniture shop earning \$5.40 per day, or about \$21.60 per week, suffered a devasting injury on the job.[189] While using a saw he alleged lacked proper safety guards, Baylor lost parts of three fingers.[190] After his injury, he was reassigned to an institutional job in the dietary division of the Division of Correction, earning \$5.70 per week, a reduction of over \$60 per month.[191] Baylor attempted to seek benefits under § 10-304, but his claim was ultimately denied when the Board determined there was insufficient evidence that he was permanently partially disabled or that his injury materially reduced his earning power.[192] For almost two years, Baylor went back and forth with the Board before receiving his denial and without ever being granted a hearing.[193]

Wayne Jordan, another incarcerated MCE worker, shares a similar story. In 2019, Jordan was assaulted and left blind in one eye.[194] Although the assault occurred outside of his employment at MCE, he was terminated six days after the injury.[195] Prison officials later told him that he could return to MCE once he was medically cleared.[196] But even after receiving medical clearance, Jordan was never reinstated. Instead, prison staff told him he was on the "waiting list" to return.[197] Jordan's experience shows the disposability of MCE workers and the complete absence of job security. A system structured this way cannot be rehabilitative. It does nothing to ensure that individuals like Jordan are set up for success after release. What happened to both Baylor and Jordan reveals a system designed to commodify Black labor for its own benefit and discard workers when they are no longer useful.[198]

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187. Nicole Copeland, *Preparing Returning Citizens for Reentry*, DEP'T OF PUB. SAFETY & CORR. SERVS. (Sept. 18, 2020), https://mce.md.gov/MCE-Blog/Post/1583 [https://perma.cc/PTL9-EPCC].

188. AM. C.L. UNION, CAPTIVE LABOR: EXPLOITATION OF INCARCERATED WORKERS 51 (2022), https://www.aclu.org/report/captive-labor-exploitation-incarcerated-workers [https://perma.cc/K3UT-5DAJ] ("Federal courts have generally ruled that incarcerated people do not have a right to a particular job assignment" and "[i]ncarcerated workers can suddenly find themselves punitively stripped of a job or demoted to significantly lower-paying jobs without any recourse.").

189. *See* Baylor v. Sundry Claims Bd., No. 2052, 2025 WL 426276, at *3–4 (Md. App. Ct. Feb. 5, 2025).

190. *Id.* at *4, *6.

191. *Id.* at *5.

192. *Id.* at *7–10.

193. *Id.* at *2–8.

194. *See* Jordan v. Seltzer, No. GLR-21-3048, 2023 WL 6125928, at *2 (D. Md. Sept. 18, 2023).

195. *Id.*

196. *Id.*

197. *Id.* at *3.

198. In fiscal year 2024, MCE reported that nearly 68 percent of its incarcerated workers, designated as "team member[s]," were Black, and 100 percent of those designated as "warehouse team member[s]" and "warehouse

Proponents of MCE often highlight Continuing Allocation of Reentry Services (C.A.R.E.S.), a six-month program that provides participants with cognitive behavioral programming, career readiness training, and financial literacy education.[199] The program's stated purpose is to equip participants with the tools and resources necessary for successful reintegration into society.[200] Outside of C.A.R.E.S., MCE also promotes a range of additional training courses, such as reentry preparation, life skills, and employment readiness, among others.[201] These programs appear promising in theory. However, a closer look reveals that only a small fraction of MCE workers ever gain access to them. In 2024, MCE had 1,683 workers, yet only twenty-five received training certificates in reentry preparation and life skills, and just fifty five completed the employment readiness workshop.[202]

Although MCE asserts that "reentry preparation is a process that should begin the first day of commitment to an institution," eligibility for the C.A.R.E.S. program is limited.[203] To qualify, participants must be within two years of their release, have worked for MCE for at least one year, and obtain a letter of recommendation from an MCE supervisor based on "exceptional work performance."[204] In other words, access to reintegration services, even for those who meet the formal criteria, is contingent on the value of their labor to MCE and how supervisors evaluate their performance. If rehabilitation were truly the priority, MCE would offer meaningful training opportunities to all workers, pay wages that allow for financial security during and after incarceration, and provide labor protections that promote long-term stability. In practice, MCE's selective programming works to disguise the exploitative nature of its profit-driven enterprise.

B. Extracting Wealth from Captive Lives

Maryland's prison industry does not operate in isolation. It is propped up by other economic policies and practices that extract wealth from incarcerated people and their families, reproducing the poverty and marginalization that fuel incarceration. As racial capitalism demands, the state has designed a system that not only exploits racial disparities in incarceration but actively produces and preserves them for its own

team leader[s]" were Black, reflecting the disproportionate racial makeup of Maryland's prison population. *See* 2024 ANNUAL REPORT, *supra* note 5, at 7.

199. *See Reentry Resources*, MD. CORR. ENTERS., https://mce.md.gov/Reentry [https://perma.cc/G6JA-BXWF] (last visited Jan. 27, 2026); *CARES-Reentry Program & Services*, MD. CORR. ENTERS. (2024), https://mce.md.gov/Portals/0/Containers/MCE/images/page/MCE%20CARES_Layout1.pdf [https://perma.cc/SLV3-SPX9] (describing the "six month CARES program" as providing cognitive behavioral programming through the Thinking for a Change curriculum, career readiness training through an Employment Readiness Workshop, and financial literacy education through Prosperity Partners).

200. *See* 2024 ANNUAL REPORT, *supra* note 5, at 10.

201. *Id.* at 12.

202. *Id.* at 8, 12.

203. Copeland, *supra* note 187.

204. *Why MCE Cares*, MD. CORR. ENTERS., https://mce.md.gov/Portals/0/Containers/MCE/images/page/MCE%20CARES_Layout1.pdf [https://perma.cc/J2H3-FU59] (last visited Jan 27, 2026).

economic gain. Two economic practices in particular work to deepen poverty and extend the reach of racial capitalism: exploitatively low wages for institutional jobs and the inflated costs of incarceration, including phone calls and other necessities.

While jobs with Maryland's state-run prison industry pay meager wages, institutional jobs pay even less. Incarcerated individuals who clean the prison, prepare food, do laundry, and maintain the grounds earn, on average, between $0.14 and $0.43 per hour.[205] As low as these wages are, the cost of living behind bars makes them even more exploitative. One fifteen-minute phone call costs $0.48.[206] In 2023 alone, incarcerated Marylanders and their families spent nearly $10 million on phone calls.[207] And maintaining contact with loved ones is essential to both survival while inside and the transition back into the community upon release. It's not just phone calls. Every basic need, including food, toiletries, and medical care, costs. Institutional jobs cannot cover the entire cost of living while incarcerated. Instead, families must make up the difference, resulting in the extraction of wealth from entire communities.

C. Poverty is the Plan

The economic despair of entire communities is not merely an unfortunate consequence of the state's pursuit of profit through prison labor. It is a central feature of the business model. It is the plan. The link between poverty and incarceration is well-established.[208] Law enforcement disproportionately targets poorer, Blacker, communities. Poverty is criminalized through excessive fines and fees for minor infractions, pushing people into desperation as they struggle to survive.[209] Many of those who ultimately end up in prison have long histories of experiencing poverty,

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205. CAPTIVE LABOR, *supra* note 12, at 102.

206. *See* STATE OF PHONE JUSTICE, *supra* note 8.

207. FISCAL & POL'Y NOTE FOR SB 948, *supra* note 32, at 3.

208. *See* NAZGOL GHANDNOOSH, THE SENT'G PROJECT, ONE IN FIVE: DISPARITIES IN CRIME AND POLICING (2023), https://www.sentencingproject.org/reports/one-in-five-disparities-in-crime-and-policing/ [https://perma.cc/UYT2-RAHA] (documenting how racially disparate drug-law enforcement, traffic stops, pedestrian stops, and school policing disproportionately harm Black and Latinx communities despite similar rates of misconduct, with studies showing that people of color are more likely to be stopped, searched, arrested, or subjected to force—even when less likely to possess contraband—revealing systemic racial bias in proactive and investigatory policing practices); Elise C. Boddie, *Racially Territorial Policing in Black Neighborhoods*, 89 U. CHI. L. REV. 477, 480–86 (2022) (arguing that policing in Black neighborhoods functions as a form of spatial control rooted in racialized assumptions about crime and belonging, and conceptualizing this dynamic as "racially territorial policing" that marks Black spaces as sites of heightened surveillance and diminished rights).

209. *See, e.g.*, Peter Edelman, *The Criminalization of Poverty and the People Who Fight Back*, 26 GEO. J. ON POVERTY L. & POL'Y 213, 213–14 (2019) (describing how the rise of anti-tax policies during the Reagan era spurred states and municipalities to impose exorbitant fines and fees—often unrelated to any criminal violation—as a revenue source, disproportionately impacting people of color and giving rise to what is now known as the "criminalization of poverty"); Lisa Foster, *The Price of Justice: Fines, Fees and the Criminalization of Poverty in the United States*, 11 U. MIAMI RACE & SOC. JUST. L. REV. 1, 3–5 (2020) (explaining how municipalities have turned to fines and fees as revenue sources, disproportionately burdening poor communities and people of color, and contributing to the systemic criminalization of poverty); Kaaryn Gustafson, *The Criminalization of Poverty*, 99 J. CRIM. L. & CRIMINOLOGY 643, 643–648 (2009) (examining how welfare and criminal justice systems have become deeply intertwined, with welfare recipients increasingly treated as potential criminals and subject to heightened surveillance, diminished constitutional protections, and punitive enforcement mechanisms).

and once in the system, they face even greater challenges, struggling disproportionately with unemployment and being unhoused.[210] The consequences are not unknown or unforeseeable. A system that not only prevents incarcerated people and their families from gaining economic stability but actively deepens their economic despair increases the likelihood of future incarceration—and with it, continued profit. This structure relies not on rehabilitation, but on the repetition of behaviors and conditions that lead people back into the system. And because this is the plan, any meaningful path forward must confront and dismantle the economic policies and practices that sustain this profit-driven model of incarceration.

III. TOWARD ABOLISHING STATE-RUN PRISON INDUSTRIES

State-run prison industries are only one facet of a broader carceral economy that harms disproportionally Black individuals and communities. The only path forward is abolition. Abolishing state-run prison industries is not an end in itself, but a necessary step toward abolishing exploitative prison labor and the larger carceral economy that fuels it. But what does it look like to pursue an abolitionist agenda while still caring and advocating on behalf of the millions of people currently imprisoned? And how do we ensure that those advocacy efforts do not reinforce the system we seek to dismantle?

Abolitionist scholars recognize this central tension: efforts to improve prison conditions can unintentionally entrench the very system they seek to dismantle. As Angela Davis observed in *Are Prisons Obsolete*?, "[a] major challenge of this movement [to abolish prisons] is to do the work that will create more humane, habitable environments for people in prison without bolstering the permanence of the prison system."[211]

This tension is especially visible in the fight over prison labor. Reforms like the repeal of the Punishment Exception Clause, providing higher wages, and labor protections to incarcerated people are often framed as necessary steps toward change. And in many ways, they are. But even the best-intentioned reforms risk legitimizing a system that survives by extracting labor from the people it cages.[212]

Elijah King's story illustrates this tension in practice. What if, instead of working forty years for one dollar an hour or less, Elijah King had been paid minimum wage?[213] In that reality, his earnings over the years would have easily soared into

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210. *See* NAZGOL GHANDNOOSH, LUKE TRINKA & CELESTE BARRY, THE SENT'G PROJECT, ONE IN FIVE: HOW MASS INCARCERATION DEEPENS INEQUALITY AND HARMS PUBLIC SAFETY (2024), https://www.sentencingproject.org/reports/one-in-five-how-mass-incarceration-deepens-inequality-and-harms-public-safety/ [https://perma.cc/K9GK-XKD5].

211. ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? 103 (Greg Ruggiero ed., 2003).

212. *See, e.g.*, Jamelia Morgan, *Responding to Abolition Anxieties: A Roadmap for Legal Analysis*, 120 MICH. L. REV. 1199, 1209–10 (2022) (drawing on Mariame Kaba's critique of substituting life without parole for the death penalty to illustrate how reformist advocacy can entrench, rather than dismantle, carcerality).

213. *History of Federal Minimum Wage Rates Under the Fair Labor Standards Act, 1938–2009*, U.S. DEP'T OF LAB., https://www.dol.gov/agencies/whd/minimum-wage/history/chart [https://perma.cc/4HQX-S8F4] (last visited Apr. 4, 2026) (showing federal minimum wage ranged from $3.35 per hour in the 1980s to $7.25 per hour in 2009).

hundreds of thousands of dollars.[214] Elijah would have been able to purchase commissary items, maintain regular contact with his family, and perhaps even send money home to help support them. Upon his release, he might have left prison with meaningful savings, setting him up for greater success and lessening the economic burden on his loved ones. Of course, this is the best-case scenario and assumes that Elijah does not have court-ordered restitution,[215] child support,[216] medical bills,[217] or other expenses.

But even in this imagined scenario, Elijah still would have spent decades laboring to sustain an ecosystem that kept him caged. His earnings inside, however improved, would still pale in comparison to the earnings he could have made had he remained free, with access to opportunities to pursue promotions, trade certifications, and higher education.[218] At fifty-eight years old, Elijah would likely struggle to transfer the skills he honed at MCE into employment in the free world. And given the profit-driven nature of this system, any meaningful increase in wages would almost certainly trigger higher costs of incarceration to preserve the enterprise's profitability.

Yet even if we assume, for argument's sake, that abolitionist goals are too ambitious and raising wages might benefit Elijah more in the long run, the current carceral economy still would not allow it. MCE's low labor costs are its largest driver of profit, and there is no reason to believe the agency would willingly abandon that advantage. Indeed, the Maryland Department of Public Safety and Corrections imposes room and board charges and other fees on incarcerated workers

214. Assuming Elijah had been paid the federal minimum wage throughout his incarceration beginning in 1986, his total earnings over forty years—working full-time—would have been approximately $476,228. This figure applies the actual federal minimum wage rate in effect during each period of his incarceration: $3.35 per hour from 1986 to 1989, $3.80 from 1990, $4.25 from 1991, $4.75 from 1996, $5.15 from 1997, $5.85 from 2007, $6.55 from 2008, and $7.25 from 2009 to the present. *See id.*

215. Incarcerated individuals are often subject to restitution orders. Although many are unable to pay while in prison, these obligations remain and must be satisfied upon release. *See* Lula A. Hagos, *Debunking Criminal Restitution*, 123 MICH. L. REV. 469, 500 n.201 (2024) (noting that while incarcerated individuals may contribute to restitution orders, their wages are so meager that even full contributions rarely make a meaningful dent in the total amount).

216. *See* Ann Cammett, *The Shadow Law of Child Support*, 102 B.U. L. REV. 2237, 2244–45 (2022) (reporting a scoping review's finding that anywhere from 66 percent to 92% percent of formerly incarcerated people have child support debt and noting that National Institute of Justice researchers found incarcerated parents owe an average of $20,000–$36,000—two to three times more than other low-income parents). Incarcerated Black people are disproportionately burdened by child support and other types of debt. *Id.* at 2244.

217. *See* Wendy Sawyer, *The Steep Cost of Medical Co-pays in Prison Puts Health at Risk*, PRISON POL'Y INITIATIVE (Apr. 19, 2017), https://www.prisonpolicy.org/blog/2017/04/19/copays/ [https://perma.cc/N2KV-ASP9] (explaining that most states charge incarcerated people medical co-pays, which are disproportionately burdensome given prison wages, and deter people from seeking needed care).

218. The Urban Institute analyzed lifetime earnings of U.S. workers aged 58–62 as of 2022 and found that Black men without a bachelor's degree earned approximately $1,351,442 over their careers, while those with a bachelor's degree earned about $3,701,722. *See* Madeline Brown, Signe-Mary McKernan, Thea Garon, Oriya Cohen, Catherine Harvey, C. Eugene Steuerle & Ofronama Biu, *Nine Charts about Wealth Inequality in America*, URB. INST., https://apps.urban.org/features/wealth-inequality-charts [https://perma.cc/LB7G-RTH5] (interactive chart) (last visited May 4, 2026).

participating in work-release programs who earn above minimum wage—costs that are not currently assessed on those earning far less in institutional and MCE jobs inside the prison.[219] Most other states similarly charge incarcerated individuals for the cost of their confinement.[220] As long as prison labor remains central to the carceral economy, efforts to humanize it will be limited, co-opted, or used to justify its continued existence. An abolitionist approach demands that we acknowledge two truths simultaneously: incarcerated workers deserve fair compensation for their labor and labor protections, and the ultimate goal must be to dismantle the carceral economy that extracts labor from people in captivity. By "abolition," I mean pursuing a broader political vision that dismantles carceral institutions, not simply closing all prisons.[221]

This part argues that abolishing the carceral economy requires targeting the economic policies and practices that enable state-run prison industries and other facets of the carceral economy to thrive, and exposing the true costs of incarceration that prison labor seeks to hide. It proceeds in three stages. First, it debunks the common justifications for prison labor—that it rehabilitates, redeems, or promotes order and discipline—revealing how each masks the deliberate exploitative nature of the system. Second, it argues that reform efforts must go beyond eliminating the Punishment Exception Clause and securing minimum wage or workplace protections for incarcerated workers. Abolition requires dismantling the legal and economic structures that sustain prison labor, including procurement mandates and prison industries embedded in state budgets. Finally, it shows how prison labor conceals the true costs of incarceration and argues that exposing those hidden costs is necessary to debunk the illusion that incarceration is economically or socially sustainable.

A. Debunking Rationales for Prison Labor

The first step to dismantling the carceral economy is confronting the myths that have been used to justify prison labor. These rationales typically fall into three broad categories, often argued individually or in combination: (1) prison labor fosters rehabilitation, (2) prison labor is redemptive, and (3) prison labor promotes order and discipline, making prisons safer. This section examines and critiques each of these claims in turn.

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219. *See* MD. CODE ANN., CORR. SERVS. § 3-804(b)(1)(i) (West 2025) (authorizing the Department of Public Safety and Correctional Services to deduct "food, lodging, and clothing" costs from the wages of incarcerated individuals in work-release programs); 2024 ANNUAL REPORT, *supra* note 5, at 14 (noting that, with the exception of work-release and Prison Industry Enhancement Certification Program (PIECP) participants who earn hourly stipends above Maryland's minimum wage, no deductions for room and board or taxes are taken from compensation for MCE positions within the prison).

220. *See* Gabriela Kirk-Werner, April D. Fernandes & Brittany Friedman, *Pay-to-Stay as Stategraft*, 2024 WIS. L. REV. FORWARD 1, 2 (2024) (finding statutes in at least 43 states authorizing room-and-board and other per diem "pay-to-stay" charges).

221. *See generally* MARIAME KABA, WE DO THIS 'TIL WE FREE US: ABOLITIONIST ORGANIZING AND TRANSFORMING JUSTICE (Tamara K. Nopper ed., 2021) (defining abolition as a long-term political project to dismantle carceral systems and build alternative forms of safety and justice).

1. Rationale: Prison Labor as a Means of Rehabilitation

Supporters of prison labor often argue that allowing incarcerated individuals to work serves rehabilitative goals.[222] They claim that work provides a sense of purpose, prevents idleness, and instills values associated with productive citizenship.[223] Additionally, proponents insist that incarcerated workers develop valuable skills on the job—both soft skills, such as reliability and teamwork, and hard skills related to trades that can translate into employment opportunities after release.[224] The underlying premise is that prison labor fosters personal transformation and facilitates successful reintegration into society.

There are several issues with this rationale, but let us focus on just a few. First, prison labor does not actually achieve rehabilitation. Rehabilitation, in the criminal context, is generally understood as restoring an individual who has offended to a productive and self-sufficient place in society. It involves expanding their skills, resources, and opportunities for success in the community and fostering some kind of moral growth that promotes better judgement, autonomy, and self-determination.[225] While prison work can instill valuable skills, this is true primarily in contexts where it is voluntary and fairly compensated. Few would dispute that meaningful employment teaches responsibility, reliability, and transferable skills. But involuntary labor for pennies does not promote these values. Instead, it reinforces the defining features of the carceral system: coercion, exploitation, and dehumanization. There is nothing rehabilitative about forcing people to work for substandard wages. It is, at its core, slavery. Although some dismiss this as hyperbole given that prison work is voluntary, the reality is that refusing to work can make prison life substantially more difficult, and for many, even unbearable. Incarcerated people often face threats of disciplinary action, loss of privileges, or solitary confinement if they refuse to work.[226] They typically have no choice over their assignments, and their jobs lack the protections afforded by free-world employment.[227] This lack of autonomy and agency fundamentally undermines the rehabilitative values such work claims to promote. Rehabilitation

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222. *See* Lan Cao, *Made in the USA: Race, Trade, and Prison Labor*, 43 N.Y.U. REV. L. & SOC. CHANGE 1, 29 (2019) (noting that "mass incarceration has been exploited for profit on the rationale that prison labor is rehabilitative" and prepares incarcerated individuals for gainful employment upon release).

223. *See, e.g.*, 2024 ANNUAL REPORT, *supra* note 5, at Overview (describing MCE's mission to provide incarcerated individuals with vocational training and work opportunities to improve employability, reduce prison idleness, and promote successful reentry); Cao, *supra* note 222, at 4–5 (noting that prison labor is defended as providing moral, psychological, and economic benefits).

224. *See, e.g.*, 2024 ANNUAL REPORT, *supra* note 5, at 1.

225. *See* Lisa Forsberg & Thomas Douglas, *What Is Criminal Rehabilitation?*, 16 CRIM. L. & PHIL. 103, 110–17 (2022) (identifying five conceptions of criminal rehabilitation—anti-recidivism, harm-reduction, therapy, moral improvement, and restoration—each aimed at restoring or enhancing an offender's capacities for lawful and autonomous participation in society).

226. CAPTIVE LABOR, *supra* note 12, at 48.

227. *See* Armstrong, *supra* note 117, at 1048 (explaining that courts have held incarcerated people have no constitutional right to specific job assignments under the Due Process Clause of the Fifth and Fourteenth Amendments, and are not entitled to protections under Title VII or the ADEA because they are not considered "employees").

requires that individuals be active participants in their own growth—invested in what the system promises, able to take advantage of available resources and opportunities, and motivated to persist despite obstacles.[228] The coercive and exploitative nature of prison labor provides no reason for incarcerated people to invest in or trust the legitimacy of the system's claimed rehabilitative purpose. When work is coerced and grossly underpaid, it breeds resentment and resistance. It fosters compliance and obedience and not rehabilitation.

Second, rehabilitation is not even the true goal of prison labor. Although proponents of it, including corrections agencies, argue this, their practices demonstrate otherwise. If rehabilitation were genuinely the goal, prisons would prioritize interventions that have been empirically proven to reduce recidivism, such as educational programs, vocational training for marketable skills, and comprehensive reentry support to assist with licensing, benefits applications, and job searches.[229] Instead, prisons make educational opportunities scarce while ensuring an abundance of low-wage prison labor.[230] This reality reveals the system's true goal: profit, with rehabilitation serving as a cover for systemic exploitation.

Finally, the underlying assumption that incarcerated people need personal transformation to become productive citizens is itself deeply flawed. Time and time again, research demonstrates that crime is largely fueled not by individual moral failings, but by structural inequities such as poverty, housing instability, and systemic discrimination.[231] Much like people on the outside, many incarcerated individuals already possess the qualities to thrive if given proper support. What they often lack are structural resources to overcome the barriers they will face post-release. Yet prison labor is often justified by the idea that incarcerated people need to learn the value of hard work and earn their way to better assignments through discipline and persistence. This narrative draws on longstanding racialized tropes that portray Black people as

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228. *See* Kyle Jordan Bares, Thomas J. Mowen, Richard Stansfield, Nathan W. Link & John H. Boman IV, *Willingness to Change and Coming Home from Prison*, 95 J. CRIM. JUST. 1, 2, 4 (2024) (identifying willingness to change as a key internal, individual-level factor that initiates desistance and shapes whether rehabilitative and reentry interventions can succeed).

229. *See, e.g.*, BENJAMIN CABRERA, AURONI HASHIM & MARCIA HAWKINS-DAY, CONTROLLING RECIDIVISM AMONG RELEASED INMATES: HOW CAN EDUCATION PROGRAMS BE BETTER USED TO REDUCE THEIR RATES? 2, 4 (2021) (quantitative study comparing prison education programs in California and Delaware and finding that access to higher education in prison significantly reduces recidivism, with simulations showing up to a 200-fold decrease over 10 years; supporting research showing prison education lowers reoffending and saves states money); STEPHEN J. STEURER & LINDA G. SMITH, CORR. EDUC. ASS'N & MGMT. & TRAINING CORP., EDUCATION REDUCES CRIME: THREE-STATE RECIDIVISM STUDY 1, 17 (2001), https://www.mttamcollege.edu/wp-content/uploads/2020/08/Steurer.pdf [https://perma.cc/SLM6-WLG8] (finding that incarcerated individuals who participated in education programs while in prison were significantly less likely to recidivate than those who did not, based on a large-scale study across Maryland, Minnesota, and Ohio; concluding that correctional education not only improves individual outcomes post-release but also produces substantial public safety benefits and long-term cost savings).

230. Leah Wang, *The State Prison Experience: Too Much Drudgery, Not Enough Opportunity*, PRISON POL'Y INITIATIVE (Sept. 2, 2022), https://www.prisonpolicy.org/blog/2022/09/02/prison_opportunities/ [https://perma.cc/B4HN-UUM2].

231. *See* GHANDNOOSH, *supra* note 208.

inherently lazy and in need of control.[232] Prison jobs, which often involve low-skill tasks rather than marketable trades, do little to prepare individuals for meaningful employment in the free world. Even worse, the fact that prisons often charge incarcerated people for their own confinement further undermines their chances of achieving financial stability after release.

2. Rationale: Prison Labor as a Means of Redemption

Another common justification for prison labor is that it allows incarcerated workers to "repay their debt to society." The act of working is often framed as redemptive, regardless of working conditions or whether incarcerated workers are paid fairly.[233] In this view, it is only moral that they labor, and whatever hardship accompanies their work is seen as deserved.

This rationale reduces a human being's capacity for redemption to their utility. It suggests that the path to redemption requires accepting less than one's worth and submitting to servitude. Moreover, the very premise that incarcerated people require redemption shifts blame away from the structural forces that produce mass incarceration—racial, economic, and social inequities—and places it solely on individual moral failings. It ignores the reality that those same inequities funnel some into prison while sparing others entirely.

But even setting aside the dehumanization inherent in reducing a person's redemption to their usefulness, we must ask: what does redemption require? True redemption demands acknowledgement of wrongdoing, understanding of the harm caused, and sincere remorse.[234] It also requires agency and choice. Redemption is meaningful only when it stems from a person's own decision to confront their actions and seek change. An individual cannot be forced to engage in redemption because it is an internal and voluntary process of moral reflection and change. The notion that forcing a person to work for subpar wages fosters acknowledgement, understanding, or remorse is illogical. Coercion and threats are the opposite of redemption, yet coercion is the very nature of prison labor. It follows that prison labor is not redemptive. It may produce utility, but it cannot produce transformation. This gap exists because redemption has never been the goal; it is the excuse to legitimize economic exploitation.

232. *See, e.g.*, Armstrong, *supra* note 117, at 1049 (noting that prison officials often justify work assignments by arguing that incarcerated individuals must learn the value of work by starting at the bottom and earning more responsibility). These justifications mirror post-Civil War narratives about Black laziness that were used to support Black Codes and the criminalization of newly freed people.

233. Cao, *supra* note 222, at 5.

234. *See* Darrell A.H. Miller, *A Meditation on the Thirteenth Amendment and Constitutional Redemption*, 83 MD. L. REV. 331, 337–38 (2023) (arguing that redemption requires confession, which presupposes knowledge and understanding of one's wrongdoing, and contrition, which likewise depends on recognizing what one is sorry for).

3. Rationale: Prison Labor as a Means of Discipline and Order

The third common justification for prison labor is that it promotes discipline and order within prisons. Keeping incarcerated individuals busy working is said to reduce the occurrence of violence, behavioral issues, and allow corrections staff to better control the people and the environment within prison. Courts have long echoed this rationale, treating prison labor as a legitimate tool for maintaining institutional control rather than as work entitled to labor protections.[235] In *Hale v. Arizona (Hale II)*,[236] the Ninth Circuit upheld the exclusion of incarcerated workers from the Fair Labor Standards Act, reasoning that prison labor "occup[ies] idle prisoners, reduce[s] disciplinary problems, nurture[s] a sense of responsibility, and provide[s] valuable skills and job training."[237] Courts are not alone in framing prison labor as a means of institutional control. Maryland Correctional Enterprises, for example, explicitly describes the reduction of "idleness" as one of their goals, linking labor to order, discipline, and safety in prisons.[238]

To begin, the general idea that people who have something productive to occupy their time with are less likely to engage in mischief or violence vastly oversimplifies the relationship between idleness and deviance.[239] Moreover, the logic is circular. Why might incarcerated people be "idle" in the first place? Prisons manufacture idleness by design. They isolate people from meaningful education, creative expression, and community life, and then use that idleness as justification for coercive labor. Incarcerated individuals are confined to rigid and monotonous routines, so work becomes one of the few sanctioned outlets for movement or purpose. Even more problematic, the idea that coerced labor should be used to produce order and discipline closely mirrors the logic used to justify slavery—the belief that enslaved people needed to be controlled through forced work. This justification is not only disturbing but also exposes the absurdity of framing prison labor as beneficial to incarcerated people or to the safety of the prison environment. The truth is that prison labor does produce "order" and "discipline," but only in the most inhumane and slavery-like way—not through personal growth or moral reform, as its supporters suggest, but through coercion, surveillance, and subjugation. What is celebrated as discipline is in fact submission, and what is described as order is merely control.

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235. *See, e.g.*, Danneskjold v. Hausrath, 82 F.3d 37, 43 (2d Cir. 1996) ("Such work occupies prisoners' time that might otherwise be filled by mischief; it trains prisoners in the discipline and skills of work; and it is a method of seeing that prisoners bear a cost of their incarceration."); Hale v. Arizona, 993 F.2d 1387, 1398 (9th Cir. 1993) (en banc) (holding inmates were not employees of the prison entitled to minimum wage).

236. 993 F.2d at 1387.

237. *Id.* at 1398.

238. *See* 2024 ANNUAL REPORT, *supra* note 5, at Overview (describing part of MCE's mission to provide incarcerated individuals with vocational training and work opportunities to reduce prison idleness).

239. *See* D. Wayne Osgood, Janet K. Wilson, Patrick M. O'Malley, Jerald G. Bachman & Lloyd D. Johnston, *Routine Activities and Individual Deviant Behavior*, 61 AM. SOCIO. REV. 635, 636–37 (1996) (explaining that while the notion that busy individuals lack time for deviance is "widely shared," empirical research shows weak support for this simple relationship, and that "delinquent behavior simply is not sufficiently time consuming to support the logic underlying the bond of involvement").

B. Dismantling the Legal Infrastructure of Exploitation

Accepting that prison labor systems are anchored in racialized exploitation and profit, abolition demands more than chipping away at its edges—it requires dismantling the legal and economic architecture that sustains this system. Repealing the Thirteenth Amendment's Punishment Exception Clause, raising wages, and extending labor protections may be foundational bricks; but pulling a few bricks from a wall does not tear the wall down. To truly collapse the structure, these efforts must be combined with targeted strategies that disrupt the economic engine of carceral capitalism: procurement mandates, profit-driven prison industries, and budgetary policies that prioritize profit over people.

In 1842, Rhode Island was the first state to enact a ban against slavery or involuntary servitude, including as punishment for a crime, and it would take more than 150 years for Colorado to follow in 2018.[240] Since then, five other states have done the same.[241] Alongside these constitutional amendments is a growing movement to ensure that incarcerated workers who choose to work receive at least minimum wage and traditional labor protections. In some states, incarcerated workers on assignments outside prison walls can earn wages comparable to free-world employees, but nowhere in the United States can an incarcerated person working inside prison walls earn minimum wage.[242]

These reforms, while critical, have not altered the underlying economic logic of incarceration. Even in states that have banned involuntary servitude, forced prison labor persists. Incarcerated people still face the loss of privileges or disciplinary action for refusing to work. This lasting coercion reflects a deeper truth: the idea that incarcerated people exist to generate value for the state[243] has not been challenged. As long as prison labor continues to function as an economic resource that sustains state operations, neither incarcerated people nor their families will experience the full benefit of these incremental changes.

Consider Colorado. Although the state formally banned involuntary servitude, its prison industries continue to thrive. Colorado Correctional Industries (CCI) operates sixteen businesses across eight prisons and reported over $48 million in revenue in fiscal year 2018–2019.[244] This is because Colorado, like many states, requires that its

240. *See* R.I. CONST. art. I, § 4; Michael L. Smith, *State Constitutional Prohibitions of Slavery and Involuntary Servitude*, 99 WASH. L. REV. 523, 535–36 (2024) (noting that Rhode Island's 1842 constitution was the first in the United States to explicitly prohibit slavery, and that Colorado was the next to do so in 2018).

241. *See* ALA. CONST. art. I, § 32; COLO. CONST. art. II, § 26; NEB. CONST. art. I, § 2; OR. CONST. art. I, § 34; VT. CONST. ch. I, art. 1. Sixteen states still have exception clauses in their constitutions, and the movement to abolish them continues to grow. Smith, *supra* note 240, at 535.

242. Sawyer, *supra* note 6 (reporting that incarcerated workers earn an average of $0.14 to $0.63 per hour for non-industry prison jobs and $0.33 to $1.41 per hour for correctional industry jobs).

243. *See* CAPTIVE LABOR, *supra* note 12, at 17.

244. COLO. CORR. INDUS., 2019 ANNUAL REPORT 5 (2019), https://spl.cde.state.co.us/artemis/crserials/cr410internet/cr4102019internet.pdf [https://perma.cc/45QA-H7R8]; *see also* Colo. Corr. Indus., *About CCI*, https://coloradoci.com/ [https://perma.cc/SWC5-2C44] (last visited Apr. 4, 2026).

agencies purchase certain goods and services, including office furniture and printing services, from CCI, ensuring that the demand for cheap prison labor remains high.[245]

This dynamic is not unique to Colorado. As discussed in Part II, in Maryland, prison labor persists despite the absence of an exception clause, supported by statutes enabling the state-run prison industry and procurement mandates. Indeed, in every state that has either abolished or never adopted an exception clause, prison industries and procurement mandates remain firmly intact.[246] As long as procurement mandates create captive markets for prison industries, the demand for cheap, coerced labor will remain high, and exploitation of incarcerated workers will persist.

Some argue that incremental reforms, such as higher wages and improved working conditions, can meaningfully improve the lives of incarcerated workers.[247] And undoubtedly, many incarcerated people want to work. But failing to pursue abolitionist measures that attack the economic structure of prisons risks transforming exploitation rather than ending it. Once incarcerated workers earn minimum wage, the system could, and likely would, impose higher costs for room and board, commissary, and family communications to maintain profitability. These dynamics are the product of a racialized system designed to extract labor from Black communities.

Abolitionist efforts must include repealing procurement mandates that sustain prison industries, abolishing statutes that enable prisons to operate as profit centers and forcing states to confront the true costs of incarceration. If taxpayers had to bear those full costs directly, without hidden cost-saving from incarcerated labor, the cost and inefficacy of incarceration would be exposed and public demand for decarceration would rise. Only by uprooting these policies can we end the extraction of wealth from incarcerated people and their communities.

C. Exposing the True Costs of Incarceration

Having debunked some of the moral and penological justifications for prison labor and exposed the laws and economic structures that sustain carceral economies, the final step is to expose how prison labor hides the true costs of incarceration. By framing prison labor as a cost-saving measure, states deflect citizens from recognizing just how expensive incarceration truly is—both financially and socially. This framing strengthens arguments for maintaining unpaid and underpaid prison labor while weakening efforts to eliminate it.

The prevailing narrative is that "prison labor saves taxpayers money" by offsetting the costs of maintaining prisons. Incarcerated workers are paid a fraction of what

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245. *See* COLO. REV. STAT. § 17-24-111(1) (West 2026) (requiring state agencies to purchase office furniture, office systems, and printing services from CCI unless the agency operates its own print shop); CAPTIVE LABOR, *supra* note 12, at 41.

246. *See, e.g.*, ALA. CODE § 14-7-13(a) (2026); GA. CODE ANN. § 50-5-73 (West 2026); COLO. REV. STAT. § 17-24-111(1) (West 2026); 730 ILL. COMP. STAT. 5/3-12-7 (2026); 30 ILL. COMP. STAT. 500/45-30 (2026); ALA. CORR. INDUS., *supra* note 119; COLO. CORR. INDUS., *supra* note 119; GA. CORR. INDUS., *supra* note 119; ILL. DEP'T OF CORR., *supra* note 119.

247. CAPTIVE LABOR, *supra* note 12, at 19–20.

civilian employees would earn for jobs such as cooking, dishwashing, janitorial services, and more.[248] In addition, state prison industries generate millions by using low-wage incarcerated workers to produce goods and services to state agencies, at far lower costs than paying free-world, minimum-wage workers.[249] These revenues are then reinvested into prison operations, reducing the amount taxpayers must provide directly.[250]

To be clear, proponents of the fiscal benefits of prison labor are not entirely wrong. Prison labor does save taxpayers money. But this is only part of the story. The more fundamental question is why we continue pouring vast public resources into a system that costs so much in the first place. Operating the U.S. corrections system—including jails and prisons—costs approximately $80 billion annually, and that figure excludes the broader social costs of incarceration.[251] When factoring in the collateral costs for families, communities, and government budgets, the total economic burden of incarceration exceeds $500 billion each year.[252]

Does incarceration reduce crime? The answer is no.[253] Despite these enormous costs, incarceration has done little to enhance public safety and, in many cases, increases crime.[254] Thus, the argument that cheap prison labor "saves" taxpayers money is profoundly misleading. It distracts from the real question: why do we spend so much money on a system that delivers so little for the public good? The answer lies in who incarceration exploits—disproportionately low-income, Black and brown people and their families—and who it benefits: governments and businesses. Taxpayers pour billions into the prison system only for those funds to be redistributed. Governments use this money to stimulate local economies through prison jobs and state-run industries,[255] while businesses profit from lucrative contracts[256]

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248. *See id.* at 12, 38.

249. *Id.* at 17, 57–58; *Minimum Wage*, U.S. DEP'T OF LAB., https://www.dol.gov/general/topic/wages/minimumwage [https://perma.cc/K9FU-FK8N] (last visited Feb. 11, 2025).

250. The cost-savings of unpaid and grossly underpaid prison maintenance labor and the revenues from commodities and services generated by imprisoned laborers prevent policy makers and the public from reckoning with the true fiscal costs of mass incarceration. CAPTIVE LABOR, *supra* note 12, at 18.

251. *How to Save Billions of Dollars in Unnecessary Government Spending*, EQUAL JUST. INITIATIVE, (Jan. 22, 2018), https://eji.org/news/how-to-save-billions-in-unnecessary-government-spending/ [https://perma.cc/97KT-VQGQ] (arguing that reducing incarceration rates would save billions in government spending annually).

252. MICHAEL MCLAUGHLIN, CARRIE PETTUS-DAVIS, DEREK BROWN, CHRIS VEEH & TANYA RENN, INST. FOR JUST. RSCH. & DEV., THE ECONOMIC BURDEN OF INCARCERATION IN THE UNITED STATES 2, 15 (2016), https://ijrd.csw.fsu.edu/sites/g/files/upcbnu1766/files/2020-02/Economic_Burden_of_Incarceration_IJRD072016.pdf [https://perma.cc/4FDG-JL5G] (estimating that for every dollar spent on corrections, incarceration generates ten dollars in social costs—more than half borne by families and communities—and finding that even when excluding jails, the aggregate cost of prison incarceration exceeds $500 billion annually).

253. DON STEMEN, VERA INST. OF JUST., THE PRISON PARADOX: MORE INCARCERATION WILL NOT MAKE US SAFER 1 (2017), https://vera-institute.files.svdcdn.com/production/downloads/publications/for-the-record-prison-paradox_02.pdf [https://perma.cc/N4XM-265G] (arguing that increased incarceration has little effect on crime reduction and imposes significant financial and social costs).

254. *Id.* at 2.

255. CAPTIVE LABOR, *supra* note 12, at 39–46.

256. *Id.* at 17.

and a captive labor force. Exposing these true costs of incarceration is critical to advancing the abolitionist agenda, to eliminating prison industries and prison labor, and to disrupting the broader carceral economy.

CONCLUSION

Elijah's story represents those of countless people across the country. Every day, incarcerated people engage in difficult, taxing, and productive work. Like workers in the free world, they show up for themselves, their families, and their communities. Many take pride in their labor and the skills they develop behind prison walls. There are stories of resilience—where prison work programs offered a sense of purpose, where wages, however meager, provided critical support, and where lessons learned about discipline and perseverance shaped lives after release. These successes are real and should not be dismissed. But they do not tell the whole story. The benefits of prison labor, as real as they are, must not blind us to the deeper truth: these gains emerge despite the system, not because of it. And they could just as easily come from programs rooted in care and community—not from a system designed to profit from captivity. In reality, many who long for education are denied access to programming. Others who wish to learn different skills are forced into trades they did not choose. And for too many, a single illness or injury can plunge them into economic ruin.

None of this is accidental. It is an intentionally designed carceral economy—one that profits from captive labor while draining wealth from predominantly Black communities to ensure a continual supply of incarcerated workers. Reforms such as higher wages and workplace protections are critical to alleviating immediate suffering, and we must not ignore the calls of incarcerated people demanding them. But reform efforts alone cannot transform a system that prioritizes profit over people. Abolition efforts, particularly those aimed at dismantling state-run prison industries by repealing economic policies that sustain them and by exposing the true costs of incarceration, must remain steadfast. As Daniel Harawa reminds us, both abolition and reform efforts hold value when viewed through the lens of human suffering.[257] It is through abolition efforts that we can ensure calls for reforms are not devoured by the very machinery they seek to disrupt.

257. Daniel S. Harawa, *In the Shadows of Suffering*, 101 WASH. U. L. REV. 1847, 1854 (2024) (arguing that "when centering human suffering, all three projects—reform, abolition, and minimalism—have an important role to play when thinking about the real-life consequences of penal administration").