

## **Perspectives on Prison Labour in Canada and Beyond: An Introduction**

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Prison labour has been lauded as a key component of rehabilitation by its supporters, while decried as slavery and exploitation by prisoners, prison abolitionists, and those otherwise critical of incarceration practices. While the notorious systems of prison labour in countries such as China and North Korea are widely known and denounced (Amnesty International, 2021; UN, 2021), the extensive utilization of prison labour in liberal democracies has only rarely received similar scrutiny. In recent years, several major American corporations have faced controversy due to their sourcing of prison-made products (for example, see Shemkus, 2015); however, these controversies have, thus far, failed to meaningfully alter prison work schemes in the United States. Meanwhile, issues related to prison labour have been increasingly central to prison protests and strikes in Canada, the United States, and other jurisdictions (ACCA, 2019; ACLU, 2022; House, 2018; Losier, 2021; Nowak, 2016; Wijnen, 2018). There has recently been renewed interest in American prison labour from a variety of disciplinary angles, (Cao, 2019; Crittenden et al., 2018; DelSesto, 2021; Feldman, 2019; Fink, 2016; Hatton, 2020; Hatton, 2021; Khater, 2021; VanderPyl, 2021) – which can at least be partially attributed to dramatic national prison labour strikes in 2016 and 2018 in the United States. Such scholarship builds on earlier literature that considered the linkages between the modern prison industrial complex and American racialized chattel slavery – and its afterlives (Davis, 2003; Lichtenstein, 1996). The following article and two interviews<sup>1</sup> that make up this special section of the *Journal of Prisoners on Prisons* seek to contribute to this renewed interest in prison labour by examining some of the key dynamics of contemporary prison labour in Canada. While this special section focuses largely on Canada, many similar problems and dynamics are also evident in the US and other countries. Around the world, prison labour is coercive and renders prisoners vulnerable to exploitation and injury through legal exclusions. Far from being simply one form of rehabilitative programming among others, prison labour is foundational to the basic functioning of prisons.

Foundationally, prison labour is coercive. Most notoriously, the American Civil Liberties Union (ACLU, 2022) observes that because of the 13<sup>th</sup> amendment to the US constitution, once inside prison, individuals “lose the right to refuse work” (p. 5) as confinement due to criminal conviction remains an exception to involuntary servitude and slavery. Prison labour can be explicitly required (ACLU, 2022) or coerced through increased punishment, often meted out in more restrictive housing conditions, such as solitary confinement, longer terms of incarceration through the denial of the ability to shorten their sentences, access early release, increased social isolation through the cancellation of visits, and the inability to earn wages to pay for basic hygiene items, such as soap (ACLU, 2022; Struthers Montford, 2020). The often subtle – but also sometimes outright – coercion that federal prisoners in Canada face is one of the themes that runs through the article and two interviews that make up this special section.

While nominally covered by international laws, such as United Nations Standard Minimum Rules for the Treatment of Prisoners (commonly known as the “Nelson Mandela Rules”), minimum standards for working prisoners are commonly violated even in liberal democratic countries such as Canada and the United States (ACLU, 2022; House and Rashid, 2022). In the US and Canada, prisoners are generally excluded from standard labour protections including workplace safety, largely prohibited from unionizing, and are not covered by minimum wage nor overtime standards. In most cases, wages from prison labour do not count towards social security, disability, or unemployment benefits (ACLU, 2022; House and Rashid, 2022). In addition, most jurisdictions exclude prison labourers from accessing normal compensation in the event they are injured or die during the course of their work, and extant internal grievance systems are continually shown to be both ineffective in protecting prisoners’ rights while at the same time being met with retribution from staff, and courts are often hesitant to interfere in matters of prison operation (ACLU, 2022; Patrick, 2006). These exclusions combine to exacerbate prisoners’ vulnerability to dangerous working conditions – vulnerabilities compounded by the lack of oversight, which means prisons can often avoid the provision of sufficient training and personal protective equipment that is otherwise standard in the same jobs performed outside of the prison (ACLU, 2022; House and Rashid, 2022).

It is common for prisoners to experience repetitive strain injuries, lacerations and crushing injuries, as well as amputation (ACLU, 2022; House and Rashid, 2022). For example, a female prisoner working in Arizona in a commercial egg factory “was forced to rip off her own finger rather than lose her whole hand to a piece of machinery she had never been trained on” (ACLU, 2022, p. 13). Others have lost fingers in woodworking shops performing work for which they were not trained nor provided protective gear, and others who expressed concerns were not taken seriously. In Alabama, a prisoner assigned tree removal labour communicated to prison staff that he was not trained to use a chainsaw, and that the tree he was meant to clear was dangerously positioned. Staff insisted he proceed, with the tree falling onto his back and rendering him a paraplegic (ACLU, 2022). A male prisoner in Arizona, working in a chicken slaughterhouse died when he was caught and sucked inside a machine. An investigation revealed the possibility that other staff were not trained on the proper means to turn off the equipment that killed him (ACLU, 2022). There are remarkably similar stories from Canadian prisons (House and Rashid, 2022). It is well documented that prison work includes exposure to dangerous toxins such as mercury and asbestos, and that this happens at worst, without any protective gear, and at minimum, with gear that is inadequate (ACLU, 2022; Ross, 2016; White and Graham, 2015). The COVID-19 pandemic has exacerbated what were already often harmful, exploitative, and dangerous working conditions in prisons. Lacking alternative domestic manufacturing capacities, many jurisdictions turned to prison industries to produce much needed personal protective equipment and cleaning supplies (Bates, 2020; House and Rashid, 2020). Those who have contracted COVID-19 because of their work assignment and/or have COVID-19 have been coerced into returning to work while symptomatic, with their concerns about their safety and that of others being punished by revoking of time earned, thus resulting in longer sentences (Sherry, 2022).

Prison labour makes incarceration possible in the first place, and, in places like California and Louisiana, has become integral to community economic functioning and emergency preparedness, to the degree that this has influenced length of sentencing. This role of prison labour as sustaining incarceration has been explicitly recognized as of late. For example, in 2017, a Louisiana Sheriff stated his objection to sentencing and parole reform as it would negatively impact prison labour, and thus

the prison itself, explaining that this workforce was a “necessary evil to keep the [prison] doors open” (as cited in ACLU, 2022, p. 18). Prison maintenance work includes laundering, cooking, cleaning, construction, and building, often the cells in which they will be caged. Officials for Arizona’s state prison system – which contracts out prison labour to state and private entities – stated that “some communities would ‘collapse’ if the cheap labour were to go away” (Editorial Board, 2022). Goods and services from prison labour are also sold to other state entities (ACLU, 2022), thereby propping up the settler state. Prisoners also maintain public spaces, school grounds, parks, forests, perform road work, do janitorial services in government offices, work in landfills and sewage treatment facilities, for example (ACLU, 2022). As the effects of climate change have become more pronounced, prisoners have been tasked with preparing for and responding to natural disasters. This reality is codified in at least 30 states list prisoners as a labour pool in their official emergency planning documents. Types of labour include “sandbagging, supporting evacuations, clearing debris, and assisting with recovery and reconstruction after hurricanes, tornadoes, mudslides, or floods” (ACLU, 2022, p. 9). In response to a proposal to increase earned sentence reduction for minimum custody prisoners in California, in which they could have obtained 2-for-1 credits to be released earlier, then Deputy Attorney General Patrick McKinney stated that this “would severely impact fire camp participation – a dangerous outcome while California is in the middle of a difficult fire season and severe drought” (as cited in ACLU, 2022, p. 18). It is not hard to imagine that as climate crises intensify, other jurisdictions will turn to prison labour as a mitigation strategy. This is an ironic cruelty given that the *institution of the prison* is a direct contributor to climate change, in its consumption of resources required for its operation, pollution, and consistent violation of air and water regulations, and default of providing animal-based diets (Struthers Montford, 2020).

Twinned narratives of rehabilitation and labour market needs remain foils for exploitation and racial and gender discrimination. The Correctional Service of Canada’s justification for reopening prison farms is counter to the evidence showing animal agriculture and slaughterhouse work to be precarious, dangerous, and having spillover violent effects into families and communities (Fitzgerald et al., 2009). Furthermore,

the dairying aspect of CSC's penitentiary agribusiness is currently not a labour force demand, and further demand is projected to decrease in the future (Fitzgerald et al., 2021). Federally sentenced women continue to be streamed into labour 'training' such as sewing and laundering that has little resonance with the market in the global north (OCI, 2017). In the US, race influences who will be assigned to which forms of work, and whether there will be remuneration. Black male prisoners are more likely to be assigned to lower status and/or unpaid jobs – agriculture, facilities services, or maintenance – than are their white counterparts. Instead, white men are placed in higher-paying and higher status assignments, usually in prison industry jobs (Crittenden et al., 2018). Similar dynamics exist in Canadian prisons, although precise calculations are difficult (House and Rashid, 2022). The lack of adequate race-based data on prison labour assignments in Canada constitutes a form of invisibilization El Jones has called the “violence of paperwork” (Jones, 2022).

While there is no definitive history of Canadian prison labour, the history of prison labour in Canada has been fruitfully analyzed. Drawing on important contributions from international historians and theorists such as Dario Melossi and Massimo Pavarini (1981) and Michel Foucault (1995), historians focused on Canada have linked the emergence of the penitentiary system – and the model of the “industrial prison” – to the social ruptures caused by the spread of industrial capitalism and the need to produce a compliant and disciplined working class (Baehre, 1994; Berkovits, 1994; Oliver, 1994; Palmer, 1980; Willis, 2022). Others have highlighted the ways that the penitentiary system and prison labour related to the particular needs of the Canadian colonial project – as well as the structures of racial and gender inequalities in Canada (Hannah-Moffat, 2001; McCoy, 2012; McNeill, 2022). This historical research is largely concerned with the period between the establishment of Kingston Penitentiary in 1835 and the release of the Royal Commission to Investigate the Penal System of Canada (better known as the “Archambault Report”) in 1939. With a few notable exceptions (Clarkson and Munn, 2021; Crete, 2017; House, 2018; House and Rashid, 2022; Struthers Montford, 2019; Vance, 2021), contemporary prison labour schemes have not received much scholarly attention. Prisoners, of course, have long been vocal about the issues that they face in relation to their work, including low pay and rising costs of living (A Concerned Citizen, 2013), poor quality training

and lack of opportunities upon release (Moody, 2020), violations of employment law and correctional policy (Jackson et al., this volume), and the looming threats of privatization (Neufeld and Shannon, this volume). All these themes, as well as others of critical importance, are taken up in the article and interviews that follow.

In “*Guérin v. Canada: Exposing the Indentureship of Prison Labour*”, Kim Jackson, Johanne Wendy Bariteau, and Billie Cates discuss the slashing of federal prisoners’ wages under the government of Stephen Harper – and the main legal challenge to those cuts – within the broader context of an analysis of indentured servitude. Jackson, Bariteau, and Cates contend that prison labour, rather than simply being categorically “unfree”, is best understood as existing on a spectrum of unfreedom, and that even so-called “free” labour is subject to coercive economic imperatives. Prisons and prison labour serve as a cudgel to produce and maintain the dominant system of wage labour. Meanwhile, the discourse of “rehabilitation” obscures the “expropriative” nature of prison labour – and justifies legal exclusions. After providing a brief historical overview of prison labour in Canada, the authors examine the case of *Guérin v. Canada*, which ultimately rejected prisoners’ claims that cuts to their pay would undermine their ability to be successfully “rehabilitated”. The authors argue that this decision reveals much about the nature of prison labour in Canada. Despite official rhetoric, prison labour appears to be akin to indentured servitude. Prisoners work to pay off a debt to society. Rehabilitation is a secondary concern – if it is a concern at all. In “An Insider’s Perspective on Canadian Prison Labour”, Jordan House interviews Gregory McMaster, a long-term prisoner who has been incarcerated in both the United States and Canada. McMaster shares his views on the similarities and differences between work in prison in those countries and speaks at length about the dynamics of prison labour in the Canadian federal system. Like Jackson, Bariteau, and Cates, McMaster emphasizes the ways work programs give the appearance of rehabilitative programming but fail to meet the needs of prisoners. Cuts to prisoners’ pay have only worsened this situation. Meanwhile, the threat of privatization looms large.

This threat of privatized prison industries is the focus of “Prison Farm (R)evolution: A Conversation Between Prison Farm Activists”. In this interview, Calvin Neufeld and Shaun Shannon discuss the history of Canadian prison farms and the activism that has sprung up in response to the Correctional Service of Canada’s move to re-open prison farms with a

shifted focus to production for private export markets. While CSC's exact plans appear to be intentionally opaque, such a development demands renewed scrutiny of the farms – and many of the basic assumptions about the role of animal agriculture in federal prisons and beyond.

Together, these three pieces offer critical insights into the ways that the grand rhetoric around the rehabilitative potential of prison labour falls far short in actual practice. Not only does Canadian prison labour fail to meet the real needs of prisoners, the drudgery, low pay, health risks, and legal exclusions associated with prison work undermines the ability of prisoners to meet their basic needs and maintain community relationships – which, as prisoners themselves have pointed out, are a precondition for any potential “rehabilitation” to occur. But the issues of prison labour should not only be a concern of prisoners. The fact that *workers* in Canada, regardless of their contact with the criminal justice system, face such conditions with the full support of the federal government, should seriously undermine claims that this country is a society based on fairness, equality, and the rule of law. As Kim Jackson, Johanne Wendy Bariteau, and Billie Cates note (this volume), the contradictions between these claims and the reality of the deprivations that prisoners face all but ensures “further resistance against the carceral state”.

## ENDNOTES

- <sup>1</sup> Both interviews were originally intended to be part of an academic conference, Labour and the Canadian Carceral State, which was scheduled to be held at Brock University in March 2020. Unfortunately, the conference had to be indefinitely postponed due to the onset of the COVID-19 pandemic.

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