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An inmate in the Prison Industries Authority Fabrics program works on an American flag at the Central California Women's Facility in Chowchilla, California, April 5, 2012.

By Heather Ann Thompson

THE PRISON INDUSTRIAL COMPLEX

A Growth Industry in a Shrinking Economy

AS TOUGH AS LIFE WAS FOR AMERICAN WORKERS AT THE CLOSE OF THE twentieth century, the dawn of the twenty-first century has proven even more challenging. Despite official claims of recovery, polls show that, for the great majority of Americans, the economy is broken.¹

By March of 2012, not only was the unemployment rate for American workers still 8.4 percent, but for some segments of the U.S. working class, namely young African-Americans, it was a catastrophic 40.5 percent.² The situation for organized labor was equally dire. The union membership rate in the United States had been 20.1 percent in 1983, with unions representing 17.7 million workers; by 2011, that rate had fallen to 11.8 percent and only 14.8 million were still in a union.³ Without a doubt the American labor movement is facing a serious crisis.

Yet there is another crisis fraying the economic and social fabric of America's poor and working-class communities—one that labor leaders have largely ignored. There is a

serious *carceral* crisis in the U.S.—one created by several decades of tough-on-crime policies that ultimately ensnared more than 7.1 million Americans in the nation's criminal justice system and led to the actual imprisonment of a staggering 2.3 million of them for record lengths of time.⁴ Importantly, this crisis, too, is responsible for record job losses, increased unemployment, and the impoverishment of several generations of children.

Indeed, the carceral crisis and the crisis facing today's labor movement are intimately connected. As much as anti-union laws, weak health and safety enforcement, and the exporting of jobs to low-wage countries have undercut the American labor movement over the last forty years, corporate success at growing

prisons and accessing their enormous captive labor force has also proven highly detrimental to poor and working-class Americans. It is time for the American labor movement to care about the carceral state.

PAVING THE WAY FOR PRISON LABOR

IN THE LATE-NINETEENTH AND early-twentieth centuries, American workers well understood that companies would do whatever they could to drive down the price of labor. Indeed, for decades after the Civil War, workers—from North to South—watched in dismay as business owners, time and again, succeeded in passing anti-union laws, breaking strikes, and, most alarmingly, in keeping labor costs low by bypassing free-world laborers altogether in favor of convict leasees.⁵ Their activism, however, eventually led to the passage of several powerful laws that made prisoner labor far less easy to access as well as less profitable to utilize.

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In the wake of New Deal legislation such as the Hawes-Cooper Act, the Ashurst-Sumners Act, and the Walsh-Healey Act—which prohibited the sale of prison labor goods to any entity other than state-owned institutions and outlawed the sale of such goods across state lines—and newly empowered by the Wagner Act, the American labor movement began to thrive. Thereafter, American workers and the unions that represented them lost interest in what was happening vis-à-vis the politics of crime

and punishment in this nation. Importantly, however, companies did not. Indeed, they had never abandoned their desire to access cheap labor and so, while the labor movement was paying little attention, companies eventually mobilized to re-access the cheapest labor supply of all: America's prisoners.

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By the 1960s, and as Lyndon Johnson was launching the country's "war on crime" with his Law Enforcement Assistance Administration (LEAA), politicians and businessmen began discussing how to link work and imprisonment in newly productive ways.⁶ What initially were conceived of as job training programs in the nation's ever-expanding penal system soon became experiments in "Free Venture"—new collaborations between the public and private sectors, and plans to "modernize prison industries by encouraging them to adopt free world business practices." The goal? Eventually to have the "proceeds from the sale of prison-made goods and services cover . . . the total cost of production" of anything made behind bars in America.⁷

Corporate attempts to re-access prison labor were, however, still hampered by New Deal-era laws. So, as prison populations began to soar, the business community stepped up pressure on legislators to reconsider such barriers. In 1979, with the passage of the Justice System Improvement Act, they were once again able to tap into a seemingly limitless supply of prison labor and the profits it promised.

This major corporate victory, like others during this period, depended on the fact that in 1973 the nation's most conservative businesses and tough-on-crime politicians had come together. They found a common voice in the American Legislative Exchange Council (ALEC), a powerful new political lobby committed to beating back unions, locking people up, and accessing cheap labor in ways that businesses had not been able to do for nearly a century.⁸

MAKING INMATE LABOR LUCRATIVE

BY THE 2000S, COMPANIES SEEKING to profit from the nation's post-1960s embrace of mass incarceration (such as Walmart, Hewlett-Packard, and McDonald's) had joined ALEC along with private prison corporations such as the Corrections Corporation of America (CCA), GEO Group, and Cornell Corrections who were "lobbying for and passing harsher sentencing for non-violent offenses including three-strike laws, mandatory sentencing, and truth-in-sentencing." They did so by spending a fortune in the political arena.⁹ In the first decade of the twenty-first century such corporations "spent over \$22 million lobbying Congress" with the CCA hiring "204 lobbyists in 32 states" and GEO hiring "79 lobbyists in 17 states."¹⁰ They also expended millions on political campaigns, including at least \$3.3 million at the federal level and, since 2001, "more than \$7.3 million to state candidates and political parties."¹¹

That investment paid off. By 1995, for example, corporations had managed to pass a law that allowed them to exploit a loophole in the 1979 Justice System Improvement Act's Prison Industry Enhancement Certification Program and, more specifically, to sidestep the burden of its rule that prisoners be paid the minimum wage. After the Prison Industries Act

became law, monies intended for inmate wages could also be diverted to constructing work facilities within penal institutions and toward other incentives making prisons far more lucrative places than free-world factories.¹²

By 2011, prisons had become appealing places for corporations to do business. As one study noted, "Companies are attracted to working with prisons because inmates represent a readily available and dependable source of entry-level labor that is a cost-effective alternative to work forces found in Mexico, the Caribbean Basin, Southeast Asia, and the Pacific Rim countries."¹³

THE ECONOMIC IMPACT OF PRISON LABOR

THE FACT THAT CORPORATIONS, states, and the federal government now have easy access to an enormous supply of workers who often command little more than pennies per hour means that, today, a full eighteen federal prisons are in the business of making furniture and none are paying prisoners the \$13.04 an hour that furniture factory workers on the outside can command. Similarly, twenty-two federal prisons are now in the business of making textiles because not a single prisoner they put to work can demand the \$10.95 per hour that textile workers in the free world earn. In short, the fact that federal prisoner wages range from \$0.12 to \$1.15 per hour makes it illogical for savvy businesspeople to imagine manufacturing goods in—or state agencies to imagine buying goods from—free-world factories.

At the state level, the contrast between prisoner and free wages is equally stark. The minimum wage in the United States is \$7.25 per hour, but state prisoner wages range from as low as \$0.13 for those unfortunate enough to work in one of Nevada's prison camps, to a meager \$0.32 even if they work for private

industries in states such as South Carolina because certain jobs do “not fall under Federal Minimum Wage requirements.”¹⁴ Notably, even in state prisons where prisoner workers can command the real-world minimum wage, the majority of that wage is kept by the state in ways that still benefit businesses over people.¹⁵

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Indeed, prison labor has taken real jobs from real people in manufacturing, farm work, and even in day labor. According to Vanderbilt University’s Noah Zatz, “well over six hundred thousand, and probably close to a million inmates are working full time in jails and prisons throughout the United States”¹⁶ which, of course, matters when scores of men and women living outside of prison walls live in daily fear of the pink slip.

Consider the case of Shaw Industries. When this major corporation decided to use prisoners to make its pricey Anderson Flooring brand, its profits rose while the families of those workers who used to make that flooring and the families of the prisoners who now make it grew poorer.¹⁷ Similarly, workers at Tennier Industries in Tennessee, who used to make flak jackets for military clothing, faced unemployment and poverty when this company lost its regular \$45 million contract to the Federal Prison Industries, and, again, their paychecks did not go to the scores of federal prisoners now forced to make those same jackets. Those prisoner workers also didn’t make enough money to ensure that their families ate and had a roof over their heads.

Not only has a return to prison labor led to concrete job losses for workers outside of prison, and the higher exploitation of workers

on the inside—the ability to force the incarcerated to work has directly helped state government attempts to bust unions. For example, anti-union governor Scott Walker’s intention to eradicate collective bargaining rights for public sector workers in Wisconsin via Act 10 was bolstered greatly by the fact that his state agencies could force inmates to “do landscaping, painting, and [other] basic maintenance around the county that was previously done by county workers.”¹⁸

Indeed, because prisoner laborers can now be used to work on virtually any state project if the prison that contains them is awarded that contract—and because in many states such as Virginia, Ohio, New Jersey, Florida, and Georgia “inmates are not paid for their work, but receive time off their sentences”—public sector unions have had an even harder fight for survival than they might otherwise have had.¹⁹ It is time for the American labor movement to wake up to the fact that not just those who run afoul of the law, but *all* American workers have paid a high price for the politics and policies of mass incarceration.²⁰

GROSS HEALTH AND SAFETY VIOLATIONS

BYOND THE LOSS OF SPECIFIC jobs, the use of prison workers has enabled corporations to side-step health and safety regulations in the penal workplace. A case in point here is the highly toxic computer and electronics recycling industry whose work is now done by state prisoners in places like South Carolina and by federal prisoners working in factories run by the Federal Prison Industries (UNICOR) “Recycling Business Group.”²¹ From federal prisons in Elkton, Ohio to Fort Dix, New Jersey, UNICOR is not simply offering the nation “competitively-priced electronics recycling” thanks to the rock-bottom wages it can pay its prisoners; it also enjoys the cost

savings to be had from running a workplace largely cut off from the probing eyes of safety and health inspectors. The result has been lower production costs, but there is a serious health and safety crisis for prisoners and guards alike.

So bad were the health and safety conditions in the computer recycling factory at Marianna, Florida's Federal Prison Camp that female prisoners—who were told to remove valuable processors and cathode ray tubes from computers by smashing them with hammers and other crude instruments—were engulfed in thick clouds of cadmium and lead dust that covered surfaces throughout the prison and coated the windshields of cars parked outside. Yet “none of the prisoners or staff were supplied with masks, gloves, coveralls, or other personal protective equipment,” and when they asked about possible risks to their health they were told not to worry about it: “Nobody wanted to hear us.”²² Eventually guards and prisoners began to show serious signs of exposure to toxic materials.

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According to a 2010 investigation by the Department of Justice, “Staff and inmates were repeatedly exposed to toxic metals—cadmium and lead, workers [were] not adequately protected from exposures, workers and inmates [were] not properly monitored for potential exposures, [there was a] failure to report inmate injuries, inmates were made to load shipping containers with e-waste, which were then exported; and UNICOR concealed actual

working conditions from inspectors by cleaning up production lines before they arrived.”²³

But scathing reports have not stopped corporations dealing in poisonous materials from using prison labor. In the wake of its catastrophic explosion in the Gulf of Mexico, BP Oil Corporation chose to hire prisoners for its clean-up operations because it could work those men an average of seventy-two hours a week and pay them little to nothing. It also could get away with providing only flimsy coveralls and gloves as protection from extensive exposure to crude oil and chemical dispersants—all of which “damage every system in the body, as well as cell structures and DNA.”²⁴ Prisoners had no choice but to accept these terrible working conditions. As the *Nation* pointed out in its recent expose of BP's use of prison labor, “work-release inmates who would rather protect their health than participate in the non-stop toxic cleanup run the risk of staying in prison longer.”²⁵

DOES PRISON LABOR PRODUCE ANY SOCIAL OR ECONOMIC BENEFITS?

NOTWITHSTANDING PRISON labor's many deadly pitfalls, Americans remain susceptible to the idea that a large penal system might offer society other economic benefits. Isn't it the case that putting prisoners to work increases their employment opportunities once they are released? Isn't it true that building more prisons means finally providing jobs to Americans who lost their jobs to deindustrialization? Isn't it possible that the rise of the carceral state has been good for unions that represent, say, guards? The answer to all of these questions is a categorical “No.”

Despite the many claims about the benefits of prison labor for the incarcerated, research by economists, criminologists, and sociologists alike shows clearly that the formerly

incarcerated have significantly higher lifetime unemployment rates than other workers do—even when they have been used as a cheap labor force. According to one estimate, “ex-offenders are only one-half to one-third as likely as non-offenders to be considered by employers” and even though “nearly half of the state inmate population and almost all of the federal inmate population has some sort of work assignment while incarcerated,” studies indicate that “these jobs do not always provide work experience that appeals to employers on the outside.”²⁶

But what of the possible benefits of prison growth for workers living outside of prison walls? Might locking up more people at least improve the economic security of, say, those living in our nation’s most depressed rural regions? No. As one study—representing twenty-five years of economic data from rural New York State—makes clear, there has been “no significant difference or discernible pattern of economic trends between the seven rural counties in New York that hosted a prison and the seven rural counties that did not host a prison.”²⁷

Not only did counties that hosted new prisons receive “no economic advantage as measured by per capita income,” but to the extent that there were any differences between non-prison and prison counties, “the non-prison counties performed marginally better.”²⁸ This point has been made by more than one study. Indeed, another one, from Washington State University, found that the construction of new private prisons actually “impeded economic growth,” in part because, “as government funds are allocated to prison construction, other public programs suffer.”²⁹

Even those who land a prison job, such as a security staff position, have benefitted from mass incarceration far less than they realize. Firstly, jobs in the penal sector are far less well-paid than the jobs people used to have

within the manufacturing and agricultural sectors. This is particularly true when such jobs are in private prisons since companies, such as the CCA, are particularly determined to keep wages low (with guards making two-thirds of the salary paid in public prisons) and the prison workplace union-free.³⁰

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Just as importantly, prison employees can’t count on the penal institutions to hire their kids—the next generation of America’s workers. Even though prison populations have expanded, cost-cutting measures on the part of the federal government, state and local municipalities, and private companies have simply meant more prison overcrowding—no more prison jobs. Indeed, according to the Bureau of Labor Statistics, the “employment of correctional officers is expected to grow by 5 percent from 2010 to 2020, slower than the average for all occupations.”³¹ Although guard unions are right to speak out against the fact that closing prisons too often leads to more severe overcrowding in the prisons that remain (and, thus, even more dangerous working conditions), they should not imagine that prison jobs in any way solve our nation’s social and economic problems.

LABOR'S STAKE IN THE CARCERAL STATE

HISTORY TEACHES US VITAL lessons that we ignore at our peril. Indeed, if corporations continue to have their way, there eventually will be even more Americans living behind bars, an even greater loss of free-world jobs to prison jobs, and—with new technological advances—even less need for security staff to monitor the nation's captive workforce. Notably, when thirty-four private companies that produce thirty different product lines and provide a variety of services in adult prisons in eighteen different states were asked whether they were interested in expanding their operations into juvenile facilities, they responded with great enthusiasm.³²

Notes

1. E.g., Absolute Strategy Research's March 19, 2012 "Survey of U.S. Household Finances," available at www.absolute-strategy.com/content/1635/ASR%20Survey%20March%202012_Summary.pdf.

2. Bureau of Labor Statistics, "Metropolitan Area Employment and Unemployment—April 2012," news release, May 2, 2012, available at www.bls.gov/news.release/pdf/metro.pdf; Bureau of Labor Statistics, "Table A-2. Employment Status of the Civilian Population by Race, Sex, and Age," economic news release, available at www.bls.gov/news.release/emp-sit.t02.htm.

3. Bureau of Labor Statistics, "Union Members Summary," economic news release, January 27, 2012, available at www.bls.gov/news.release/union2.nr0.htm.

4. See Todd D. Minton, *Jail Inmates at Midyear 2010—Statistical Tables* (Washington, D.C.: Bureau of Justice Statistics, April 14, 2011), available at <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=2375>; Paul Guerino, Paige M. Harrison, William J. Sabol, *Prisoners in 2010* (Washington, D.C.: Bureau of Justice Statistics, December 15, 2011), available at <http://>

Before the American working class is faced with job losses and wage competition not only from the mass incarceration of adults in this country, but also from children in the nation's equally overcrowded juvenile facilities; before engineers come up with new technologies to eliminate even the jobs that do exist in the prison sector; and before even more of our citizenry is locked up, it is time for the labor movement to speak out against today's carceral crisis. It must demand an end to practices such as stop-and-frisk. It must insist on the repeal of draconian drug laws. It must demand sentencing reform. In short, it is time to really heed AFL-CIO president Richard Trumka's recent and powerful call for worker unity: "Brothers and sisters, we can change America if we do it together."³³ Because, whether one works behind or beyond prison walls, there is but one American working class.

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America's Prison Empire (Metropolitan Books, 2010); Robert Chase, "Slaves of the State: Southern Prison Labor and a Prison-Made Civil Rights Movement" in Robert Zieger, *Life and Labor in the New, New South* (University of Florida Press, 2012); Sarah Haley, "Engendering Captivity: Black Women and Convict Labor in Georgia, 1865-1938" (Ph.D. diss., Yale University, 2010).

6. See U.S. Department of Labor, "Training Needs in Correctional Institutions," Manpower Research Bulletin No. 8, April 1966.

7. Neal Miller and Robert Gemignani, *Juvenile Correctional Industries: A Review of Federal and State Legislative Issues* (Alexandria, Virginia: Institute for Law and Justice; and National Office for Social Responsibility, July 1994), available at www.ilj.org/publications/docs/Juvenile_Corrections.pdf.

8. See ALEC's website at www.alec.org/about-alec/history.

9. PICO National Network and Public Campaign, "Unholy Alliance: How the Private Prison Industry Is Corrupting Our Democracy and Promoting Mass Incarceration," November 15, 2011, available at <http://publiccampaign.org/reports/unholy-alliance>; Justice Policy Institute, "Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies," October 2011, available at www.justicepolicy.org/uploads/justicepolicy/documents/gaming_the_system_-_executive_summary.pdf.

10. *Ibid.*

11. *Ibid.*

12. "ALEC Exposed—Prison Labor," part of Main Street Insider's "90 Second Summaries" series, September 19, 2011, available at www.mainstreetinsider.org/90secondssummaries/?p=477; Mike Elk and Bob Sloan, "The Hidden History of ALEC and Prison Labor," *Nation*, August 1, 2011, available at www.thenation.com/article/162478/hidden-history-alec-and-prison-labor; the text of the Prison Industries Act is available at http://heartland.org/sites/all/modules/custom/heartland_migration/files/pdfs/6275.pdf.

13. Jeff Elliott, "Prison Labor Boon for Employers, Report Says," *Albion Monitor/News*, available at www.monitor.net/monitor/free/prisonjointventures.html;

also see F.C. Farrow, G.E. Sexton, B.J. Auerbach, *Private Sector Prison Industries: A Viable Alternative to Mexican Labor* (Washington, D.C.: National Institute of Justice, 1994), NCJ Number: 161705.

14. See the South Carolina Department of Corrections' "Prison Industries" page, available at www.doc.sc.gov/programs/pi.jsp.

15. See the Prison Policy Initiative's "Prison Economy" page, available at www.prisonpolicy.org/prisonindex/prisonlabor.html; United States Government Accountability Office, "Prisoner Labor: Perspectives on Paying the Federal Minimum Wage," report prepared for the Honorable Harry Reid, U. S. Senate, May 20, 1993, available at <http://gao.justia.com/department-of-justice/1993/5/prisoner-labor-ggd-93-98/GGD-93-98-full-report.pdf>.

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Boundaries of Markets," Zatz, "Prison Labor and the Paradox of Paid Nonmarket Work."

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27. Ryan S. King, Marc Mauer, and Tracy Huling, *Big Prisons, Small Towns: Prison Economics in Rural America* (Washington, D.C.: The Sentencing Project, February 2003), available at <http://prison.pppj.org/files/tracy%20huling%20prisons%20economy%20study.pdf>.

28. *Ibid.*

29. Clayton Mosher and Gregory Hooks, "Don't Build It Here Revisited (or 'There Is No Economic Salvation Through Incarceration')—Prisons Do Not Create Jobs," Washington State University paper, available at http://realcostofprisons.org/materials/dont_build_it_here.pdf.

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