

I. Policy Recommendations

This chapter details policy proposals to address harms set forth in Chapter Two, Enslavement. The Task Force recommends that the Legislature take the following actions:

- Enact a Resolution Affirming the State's Protection of Descendants of Enslaved People and Guaranteeing Protection of the Civil, Political, and Socio-Cultural Rights of Descendants of Enslaved People
- Amend the California Constitution to Prohibit Involuntary Servitude
- Require Payment of Fair Market Value for Labor Provided by Incarcerated Persons (Whether in Jail or Prison)
- Emphasize the "Rehabilitation" in the California Department of Corrections and Rehabilitation (CDCR)
- Abolish the Death Penalty
- Prohibit Private Prisons from Benefiting from Contracts with CDCR to Provide Reentry Services to Incarcerated or Paroled Individuals

Enact a Resolution Affirming the State's Protection of Descendants of Enslaved People and Guaranteeing Protection of the Civil, Political, and Socio-Cultural Rights of Descendants of Enslaved People

According to the UN Principles on Reparation, full and effective reparations must include, among other elements, restitution, satisfaction, and a guarantee of non-repetition. To satisfy these requirements, the Task Force recommends the Legislature adopt a resolution affirming the state's protection of descendants. The resolution should also guarantee the protection of the civil, political, and socio-cultural rights of descendants.



Amend the California Constitution to Prohibit Involuntary Servitude

As discussed in Chapter 2, Enslavement, and elsewhere throughout this report, the legacy of slavery persists and continues to have devastating impacts on the descendant community in particular. One persistent vestige

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Inmate work crews from the California Correctional Facility battle a blaze in Diamond Bar, CA. (2008)

of slavery and ensuing efforts to subjugate and steal the labor of African Americans is a form of involuntary servitude that continues to exist in California and is in fact mandated under current law. Although the California Constitution prohibits slavery, it still permits involuntary servitude as a form of criminal punishment.¹ Article I, section 6 of the California Constitution states: “Slavery is prohibited. Involuntary servitude is prohibited except to punish crime.”² This “exception” is particularly disturbing given that this constitutional allowance for involuntary servitude is applied excessively to African Americans because they have been disproportionately targeted for enforcement and subjected to a criminal justice system that has historically been used for the very purpose of involuntary servitude.³

The persistence of state-sanctioned involuntary servitude is a reality for tens of thousands of incarcerated individuals throughout California. Overall, approximately 58,000 incarcerated persons are assigned jobs in the state’s prisons, working an average of 6.5 hours per day for a total of approximately 32 hours per week.⁴ Approximately 7,000 incarcerated individuals work for the California Prison Industry Authority, which creates products and provides services to the state, other public entities, and the public.⁵ Individuals who are incarcerated in California perform a wide variety of jobs, including food service, clerical work, custodial work, and construction.⁶ With the exception of firefighters, these incarcerated individuals are typically paid less than \$1.00 per hour.⁷

The Task Force recommends the Legislature amend the California Constitution to end involuntary servitude and thereby dissolve a remnant of slavery and a continued cause of racial inequality. Former State Senator Sydney Kamlager-Dove introduced Assembly Constitutional Amendment (ACA) 3, which would have defined slavery to include involuntary servitude and forced labor compelled by the use or threat of physical or legal coercion.⁸ ACA 3 did not pass,⁹ however, leaving California as a state that continues to sanction, impose, and profit from involuntary servitude. This must end.

Require Payment of Fair Market Value for Labor Provided by Incarcerated Persons (Whether in Jail or Prison)

According to a recent report, 1.2 million people are incarcerated in the U.S., and nearly 800,000 people are forced to work against their will while being paid pennies on the dollar.¹⁰ Incarcerated workers generate \$2 billion in goods and \$9 billion worth of prison maintenance services, yet are only paid, on average, between 13 and 52 cents per hour.¹¹ The Task Force recommends the Legislature provide payment of the fair market value of the labor provided by incarcerated persons, whether they are in jail or prison. Toward a similar end, State Senator Steven Bradford introduced Senate Bill No. 1371, which would have required the Secretary of the CDCR to adopt a 5-year implementation schedule to increase the compensation for incarcerated individuals working under CDCR’s jurisdiction.¹²

Nationwide, incarcerated workers generate

\$2 Billion in goods

but are paid on average between 8¢ and \$20.44 per hour in California

Emphasize the “Rehabilitation” in the California Department of Corrections and Rehabilitation (CDCR)

As discussed in Chapter 11, An Unjust Legal System, mass incarceration has been used to reinforce the subjugation of African Americans nationally and in California.¹³ Recidivism is a substantial contributor to mass incarceration. According to CDCR data, approximately two-thirds of formerly incarcerated people in California will recidivate, meaning they will return to prison within three years, either through new offenses or parole violations.¹⁴ “Research has shown that targeting

rehabilitation programs towards the highest-risk, highest-need offenders has the greatest potential to reduce recidivism rates.”¹⁵ Nonetheless, prison vocational programs often fail to prepare incarcerated persons to secure employment once released,¹⁶ and most of the jobs incarcerated people are required to perform have no real-life application outside of prison.¹⁷ A Legislative Analyst’s Office report showed that less than 3.5 percent of the money spent on incarcerating a person goes towards rehabilitative services.¹⁸

To undo these harms that disproportionately affect African Americans in California, the Task Force recommends the Legislature require the CDCR to prioritize education, job training, substance use and mental health treatment, and other rehabilitative programs for incarcerated people. Rehabilitation programs have proven to be effective in reducing recidivism.¹⁹ One federal prison study found that, “on average, inmates who participated in correctional education programs had 43 percent lower odds of recidivating than inmates who did not.”²⁰

Abolish the Death Penalty

Nearly 30 years ago, then-U.S. Supreme Court Justice Harry Blackmun urged the country to no longer “tinker with the machinery of death.”²¹ Despite once supporting the death penalty, he later felt “morally and intellectually obligated simply to concede that the death penalty exper-

factual, legal, and moral error gives us a system that we know must wrongly kill some defendants . . . ”²² And it is a system that has unjustly, and disproportionately, targeted and killed African Americans.²³ For example, “despite accounting for only 6.5% of California’s population, over one third of people on death row in the state are Black.”²⁴ Another example can be found from a 1977-1986 San Joaquin County study, which “found that the likelihood of being charged with a special circumstance for defendants in cases with a Black victim was one-fifth the likelihood in cases with a white victim.”²⁵

The Task Force recommends the Legislature amend the California Constitution to abolish the death penalty, in

At the time of this report, 23 states have abolished the death penalty and three states, including California, have moratoriums on its use.

all cases. In 2021, the California Committee on Revision of the Penal Code issued a report recommending abolishment of the death penalty.²⁶ The Committee found that the death penalty in California has not only become too costly—it has been imposed arbitrarily and discriminatorily, particularly against African Americans.²⁷ The Committee also found that, no matter what safeguards are imposed, innocent people are far too often sentenced to death.²⁸ In 2019, Governor Newsom declared a moratorium on executions in California.²⁹ In 2020, Assemblymembers David Chiu and Marc Levine introduced Assembly Constitutional Amendment 2, which would have abolished the death penalty, but the bill died in committee.³⁰ At the time of this report’s publication, 23 states had abolished the death penalty and three states, including California, had moratoriums on its use.³¹

Prohibit Private Prisons from Benefiting from Contracts with CDCR to Provide Reentry Services to Incarcerated or Paroled Individuals

Despite the steps California has taken to leave the private prison business,³² the state remains heavily invested in backing for-profit correctional services, including facilities that closely resemble the private prisons the state has sought to move away from funding.³³ The Task Force recommends the Legislature eliminate one major state funding stream to private prison companies, by barring state-funded contracts with for-profit correctional companies for the provision of reentry services.

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San Quentin State Prison’s death row gas chamber is shown before being dismantled. (2019)

iment has failed. It is virtually self-evident . . . now that no combination of procedural rules or substantive regulations ever can save the death penalty from its inherent constitutional deficiencies . . . [T]he inevitability of

Endnotes

¹ Cal. Const., art. I, § 6; see also Pen. Code, § 2700 (directing the Department of Corrections to “require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations of the Director of Corrections”).

² Cal. Const., art. I, § 6.

³ See, e.g., Imai, Analysis of 2020 California Correctional Health Care Services Inmate Mortality Reviews (Dec. 22, 2021) Cal. Prison Receivership, p. 5 (as of May 22, 2023); see generally Chapter 11, An Unjust Legal System; Chapter 10, Stolen Labor and Hindered Opportunity.

⁴ Senate Com. on Appropriations, [Rep. on Assem. Const. Amend. No. 3](#) (2021-2022 Reg. Sess.) p. 2 (as of March 14, 2023).

⁵ Id. at pp. 2-3.

⁶ Id. at p. 2.

⁷ Id. at pp. 2-3; Id. at p. 2 (explaining that incarcerated persons housed at state conservation/fire camps are on a different pay scale with a pay rate of \$1.45 to \$3.90 per day and a \$1 per hour increase when working as emergency firefighters during wildfires).

⁸ Assem. Const. Amend. No. 3 (2021-2022 Reg. Sess.); see also Assem. Const. Amend. No. 8 (2023-2024 Reg. Sess.).

⁹ Assem. Const. Amend. No. 3 (2021-2022 Reg. Sess.).

¹⁰ ACLU & The University of Chicago Law School Global Human Rights Clinic, Captive Labor: Exploitation of Incarcerated Workers (2022) pp. 5-6, 23 (as of May 22, 2023).

¹¹ Id. at pp. 6, 58.

¹² Sen. Bill No. 1371 (2021-2022 Reg. Sess.).

¹³ See generally Chapter 11, An Unjust Legal System.

¹⁴ Duara, [Prison Rehab: Can California Learn Anything from Norway?](#), CalMatters (Jun. 10, 2022) (as of May 23, 2023).

¹⁵ Taylor, [Improving In-Prison Rehabilitation Programs](#) (Dec. 6, 2017) Legislative Analyst’s Office, p. 9 (as of May 24, 2023).

¹⁶ Duara, Prison Rehab, *supra*.

¹⁷ ACLU & The University of Chicago Law School Global Human Rights Clinic, Captive Labor, [supra](#), at p. 16 (“the vast majority of work programs in prisons involve menial and repetitive tasks that provide workers with no marketable skills or training”).

¹⁸ California Legislative Analyst’s Office, [How Much Does It Cost to Incarcerate an Inmate?](#) (2021-2022) (as of Jan. 20, 2023).

¹⁹ Jensen, [Community Reentry Program for Prisoners Reduces Recidivism](#), CalMatters (Sept. 23, 2021) (as of May 24, 2023).

²⁰ Davis, et al., [Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide Education to Incarcerated Adults](#) The RAND Corporation (2013) p. 32 (as of May 24, 2023).

²¹ Callins v. Collins (1994) 510 U.S. 1141, 1145 (dis. opn., of Blackmun, J. from cert. den.).

²² Id. at pp. 1145-1146.

²³ Committee on Revision of the Penal Code, [Death Penalty Report \(November 2021\) p. 20](#) (as of May 25, 2023).

²⁴ *Ibid*.

²⁵ Id. at pp. 19-20.

²⁶ Id. at p. 30.

²⁷ Id. at pp. 4, 20.

²⁸ Id. at pp. 9, 15, 31

²⁹ Governor’s Exec. Order No. [N-09-19](#) (Mar. 13, 2019) (as of May 25, 2023).

³⁰ Assem. Const. Amend. No. 2 (2021-2022 Reg. Sess.).

³¹ Death Penalty Information Center, [States With and Without the Death Penalty – 2023](#) (2023) (as of May 25, 2023); Ohio and Arizona also paused executions as of early 2023.

³² Pen. Code, § 9501.

³³ Soriano, [Private Prison Firms Make Big Money in California](#), Capitol Weekly (Dec. 13, 2021) (as of May 25, 2023).