

The New S-Word: How Prison Labor Has Developed into Legalized Slavery

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Abstract: This essay examines the effects of capitalism on prison labor and the key role of racism in its development. This analysis uses Austin Reed's *The Life and the Adventures of a Haunted Convict*, along with historical and contemporary studies, to develop this relationship between penal servitude and capitalism. The essay follows a chronological flow of evidence from the formation of prison labor to its potential future based on political and consumer trends. The study concludes that reformation of the penal and justice systems is necessary to dismantle the current exploitation of prison labor.

"The slaves have armed themselves."

"You know I don't like that word... the S-word."

"Sorry, the 'prisoners with jobs' have armed themselves."

-Thor: Ragnarok (2017)

Fictional worlds depict dehumanized men in striped jump-suits toiling over rocks with pickaxes or imprisoned heroes revolting against their keepers to escape gladiator-style combats as seen in Thor: Ragnarok. The reality of prison labor, however, is much darker and more corrupt than the penal system would let on to the public. Inmates are often leased to private corporations to work in conditions that rival sweatshops in barbarism and for almost nonexistent wages. These corporations work with the penal system to profit on the backs of prisoners while the general population remains, for the most part, unconcerned with where and how their goods are made. Yet this form of blatant exploitation is not new, or even modern. Large scale prison labor has been in existence for as long as slavery has been abolished—this is no coincidence. These two forms of servitude have a complicated relationship that is characterized by the exploitation of two of the most vulnerable groups in our society: people of color and disenfranchised prisoners. Austin Reed, a member of both of these groups, describes his experi-

ences of labor and exploitation within one of America's historically cruel prisons, Auburn State Prison, in his memoir, *The Life and the Adventures of a Haunted Convict*.

Life and Adventures is Austin Reed's account of his life as a black man and convict during three periods of imprisonment. Reed served as an indentured servant for a short time before spending the rest of his childhood at the New York House of Refuge, a juvenile reformatory center that forced delinquent children to work. After Reed became an adult, he was released into the free world where he was quickly caught and reincarcerated deliberately by corrupt officers of justice. This arrest began a pattern of crime and punishment in which he spent the remainder of his life rotating in and out of Auburn State Prison. In Auburn, Reed and other inmates were sent to workshops that spectators could pay to walk through while gaping at the inmates making an assortment of products (Smith xlvi). While working in prison, Reed faced cruel and antagonistic handlers who "[took] delight in swinging the old cat," a whip with multiple tail ends, for any small offense (151). As he grew older while still trapped in the cycle of incarceration, Reed lost hope that he would ever escape Auburn and its corruption, and thus resigned any aspirations of being anything other than a "harden[ed] inmate of a gloomy prison" (212). His tale ends with a warning about the cruelties, hardships, and exploitation woven into the modes of punishment of the 1800s.

By studying the incriminating exploitation of prison labor described in Austin Reed's memoir, which that extends to the current day, this study will determine how the demands of capitalism influenced modes of penal servitude. Austin Reed's work, in combination with historicizing context and contemporary studies, suggest that prison labor in America began as a result of racism and discrimination found in the criminal justice system, in the penal system, and in the social system. His memoir further implies that penal labor's subsequent exploitation of inmates derived from the country's growing consumer culture searching for cheap labor. This mixture of prejudice, the country's craving for wealth, and the abhorrent exploitation of those without power has resulted in what can only be described as

modern, legalized slavery.

Slavery Ends and Prison Labor Begins

The United States Constitution states, “neither slavery nor involuntary servitude... shall exist within the United States, or any places subject to their jurisdiction.” With these words the Thirteenth Amendment abolished the inhumane practice of slavery that the country used to further its profits from agriculture. What might not sound as familiar, or as commendable, is the clause in the middle of this amendment, “...except as a punishment for crime whereof the party shall have been duly convicted...” This inconspicuous phrase allows the federal government to legally enslave those within prison walls. This veiled form of servitude came about after Southern plantations and new Industrial Revolution era factories suffered economically as the newly freed slaves fled from their old work environments (Alexander 28). To make up for the sudden loss of cheap labor, these industries looked to the next best reservoir of people with no rights: prisons. Lawmakers and capitalists of this time redirected their efforts into “inventing new instruments of unfree labor, new sites of confinement, and new patterns of inequality” by creating the convict leasing system, a program that allows corporations to contract prisoners for private work (Smith xix). While this “extreme form of exploitation” continued, the industries that used prisoners experienced “a level of profitability *quadruple* the expenses needed to keep [them] running” as the care that had previously been directed at keeping slaves alive was abandoned for criminals (Young 43). This resulted in a boom in the economy and in the death rates of privatized prisons where the labor force was made up of indentured servants under the guise of correction (43).

During this boom created by the convict leasing system in the late 1800s, Austin Reed was incarcerated in Auburn State Prison and forced into the penal servitude, which Cynthia Young compares to “sweat labor in its utter brutality” (48). As Reed himself was forced to work during his sentence, his experiences reflect the neglect faced by convicts during this time as a result of indifferent prisons, greedy industries, and their

new progeny, the prison-industrial complex. Reed and others in Auburn were forced to work outside, “toiling and laboring and bearing the heavy burdens of a hot summer’s day” (141), or inside a shop where they were lucky “if [they got] out into the open air without having [their] throat choke up with smoke and dust” (142). Faced with such arduous conditions and an overall gloomy environment, the majority of the inmates of Auburn State Prison were resigned to a state of existence where death was the only viable way out. They understood that their chances of leaving the prison forever was dismal compared to the likelihood of being beaten, starved, or overworked to the point of death.

Although the government eventually ruled the convict leasing system “politically and morally objectionable” (Young 43), it nevertheless succeeded in instilling a new and debilitating view of convicts that exists to this day. Acclaimed civil rights lawyer Michelle Alexander describes this discrimination as a “racial caste system” (12) that places prisoners in an undercaste: “a lower caste of individuals who are permanently barred by law and custom from mainstream society” (13). Alexander labels this classification as racially discriminatory because the law enforcement of the 1800s targeted the newly freed black population to fill the prisons, which, in turn, leased convicts to industries. Black men of this time were convicted for crimes and simple offenses that were considered permissible when committed by white men (Young 43). The vast majority of white criminals were charged with lesser crimes, faced lower bail fines, and were arrested less often when compared to their black counterparts (44). This bias created a disproportionate imprisonment rate that grew with new discriminatory legislation later in America’s history, and despite the efforts of the contemporary social justice campaigns, persists today. Currently 50% of the prison population is African American; meanwhile, African Americans only make up 12% of the entire country’s population (44).

Prison Labor Thrives, Dies, and Revives

After its initial success after the abolition of slavery, prison

labor declined following the advancements of the Industrial Revolution that cheapened factory labor so that using inmates was no longer the only profitable option. New and sophisticated machinery was often paired with unskilled workers, leaving factories with an unincarcerated workforce at the same low wage. These two sets of laborers were used in tandem as America's economy boomed. Then, when the country fell into economic disaster in the 1930s, the convict leasing system was discontinued by the moral principles of the New Deal programs. The Roosevelt administration found the exploitation of working prisoners "politically and morally objectionable," an idea that uncoincidentally meant more jobs provided to free citizens (Young 43).

Despite the government labeling convict leasing immoral during the time of the Great Depression, the use of prison labor exploded during the 1970s when the Nixon administration employed the War on Drugs and many other policies that would, among other things, allow privatized prisons to lease prisoners (Young 43). Furthermore, this campaign, under the guise of catching America's most detrimental citizens, was again augmenting the percentage of black men being imprisoned and then sent into labor: "When the War on Drugs gained full steam in the mid-1980s, prison admissions for African Americans skyrocketed, nearly quadrupling in three years" (Alexander 98). The government's new implementation of prison labor reinforced the discriminatory actions of its earlier practice and had merely transformed the public reasons for mass incarceration.

Throughout this history of different modes of servitude, a complementary transformation occurred as America's economy grew into the consumer capitalism that exists in the market today. As Robert P. Weiss analyzed the relationship between the industry being created by prisons and the country's political economy, he found that as the structure of the economy became more capitalist, prison labor itself became more accepted (263-265). Furthermore, he concluded that greater or even continued use of prison labor in the workplace would lead to the exploitation of inmates in ways that are not justified by the boost they would provide to the economy. He advocates that prison la-

bor's effect on production efficiency pales in comparison to the resulting state of "nonbeing that attends the late modern penal status" (282). Not only did the demands of capitalism influence the modes of penal servitude, it also shaped the popular perception of prison labor.

This notion that prison labor is exploited by capitalism is supported by an analysis of the relationship between penal servitude and America's economic market. However, debate persists about whether this exploitation should be ignored for the betterment of the economy. While Weiss initially believed in the use of prison labor and discovered through his research that a prison industry would ultimately result in the exploitation of prisoners, Natalie Deckard believes that the subsequent exploitation of prison labor is second to the economic contributions that mass incarceration produces (9). Her theory revolves around the importance of "coercion of demand and consumption" (3), which means that convicts are forced into being a part of the market economy as a consumer. Outside of prison, the majority of these citizens would have not been able to afford many necessities in life based on their lower income bracket, with over 35% being unemployed before incarceration (Bureau of Justice Statistics). However, while these people are incarcerated, the government will pay for these basic necessities and more without their knowledge (7). This coercion accounts for their unwitting demand in the nation's economy, irrespective of whether they would have had the ability to participate before being put behind prison walls. Deckard's argument that prisoners are essential in creating more demand and consumption for the survival of the capitalist market further illustrates how the market shapes these obligate consumers into a market tool and, thus, exploits them as such.

Deckard's overall disregard for inmate exploitation is a result of the actions of the current justice and penal systems. Convicted people of color are often not given a fair trial and sentenced for much longer than their white counterparts (Young 43). Once in prison, they are also exposed to substandard living facilities and dangerous work environments. Investigative journalist Seth Wessler exposed the deplorable conditions

that occur within private prisons, which make up roughly an eighth of the country's federal prisons (Wessler). He identifies the reason that private prisons are reluctant to provide decent working conditions and even proper medical care is that these prison industries are trying to maximize their own profits by cutting the spending on inmate needs (Wessler). This offense is not a new to the prison industries. In *Life and Adventures*, Austin Reed's entire prison experience occurred within a system that ignored human rights to amass its profits. Reed, too, faced precarious workshops, ones "built against the wall in a slanting position ... and in a very bad condition" (147). Wessler's review of contemporary prison conditions also introduces xenophobia that the penal system thrives on, which contributes to why these inmates are found so exploitable. The justice system arrests illegal immigrants who come to America for a better life and condemns them to involuntarily stay to be worked as slaves. Even Weiss called attention to this group being "invisible in politically important respects" in that they are disenfranchised and marginalized by the government, which allows the prison-industrial system to misuse them freely (280). Wessler revealed that xenophobia and racism against foreigners and black Americans coincide in the penal system's discrimination and subsequent mistreatment. Both in the past and present, members of marginalized groups are subjected to hard work in sordid environments throughout their prejudicialy prolonged prison sentences.

Today, in terms of working conditions and administrative handling, prison labor remains one of the most brutal and immoral avenues of profit for private corporations and for the penal system itself. This avenue was paved by the justice system's preservation of prejudice by transforming it into a new form in which "it is perfectly legal to discriminate against criminals in nearly all the ways that it was once legal to discriminate against African Americans" (Alexander 2). The ability to victimize the members of society's undercaste most directly has been handed to prison guards. During the many trials and tribulations within *Life and Adventures*, Reed's biggest enemy appeared in the form of the guards and keepers in Auburn Prison. For years

these men accosted Reed with whippings and beatings countless times for minor offences and attitudes. The worst of these beatings occurred when “the primitive brutality of slavery’s whips and chains [was] replaced by a distinctly modern piece of machinery” (Smith lvii). This modern piece of machinery, called the showering bath, was used to punish Reed and other prisoners during this era by simulating drowning. Crude showering baths are no longer used today, but severe punishments delivered by prison guards still occur regularly, with and without the public’s knowledge. In 1986, officials discovered and reported cruel and unusual punishment of inmates in a state prison in Chattanooga, Tennessee. Their reports listed offenses such as multiple prisoners “gagged with sticky tape” and described “strip shows performed by female prisoners for male guards” (Burton-Rose et al. 162). Accounts like these, collected from past records and from modern incidents, and the fact that prisons are responding to capitalistic demands by exploiting prison labor have led to a prison system that can, and has been, equated to a “Gulag State” (Burton-Rose et al. 163). This is a harsh name for an equally harsh institution, considering that the Soviet Union’s Gulag agency is infamous for its forced labor camps. If the justice and penal systems continue their congruence with capitalism and discrimination, then Gulag State could eventually become the kindest term applied to the prison system.

The Future of Prison Labor

Since its formation, prison labor has followed certain trends that are contingent on the capitalistic needs of the times. Alexander and Weiss have highlighted these trends through history during postbellum and post-Industrial America. But, as contemporary society and government are continuously changing and thriving, penal servitude is concurrently shifting to align with these changes.

Capitalism’s effects on the labor market have been observed by many scholars like Young, Deckard, and Weiss as they have studied the economy, the labor force, and the relationship between them. Jonathan Crary identifies this relationship by us-

ing the diminution of our sleep as an allegory for the debilitating effects of a consumerist society on its labor force (28). When applied penal servitude, Crary's theory implies that capitalism's disregard for the fundamental requirement of sleep for its normal labor force can be equated with its and society's overall ignorance of the brutal modes of penal servitude experienced throughout the history of prison labor. If employers get away with not caring about the health and safety of their free, law-abiding employees, they have little reason to care or acknowledge the wellbeing of an undercaste made up of prisoners who no longer have rights or the means to unionize. Industries' abilities to have their source of workers go disregarded is part of what has led to their increasing greediness as they have no officials scrutinizing their choice of what is arguably slave labor. Unchecked, this will lead to more detrimental conditions for convicts in the future as capitalists further drain these people of basic rights in search of profit.

While Crary and others focus on the greediness of industry, some theorists concentrate their research on the type of society surrounding these industries and how it allows for this exploitation to exist. Michael J. Sandel investigates the problems with a "market society" that incentivizes exploitation by creating a culture in which "everything is up for sale" (66). He did this by examining our society's changing views on the value of buying and selling anything and determined that, over the course of America's capitalist journey, our nation has eliminated the ability to care about whether we should buy and sell anything. This conclusion is not unexpected when recalling the country's experience with allowing human lives to be subject to market forces. When related to our nation's early history, the consumer culture arising from the Industrial Revolution is predominantly what led to penal servitude being transformed into a new form of slavery. Attitudes toward the welfare of laborers in any field became apathetic in this time of economic surge because capital was produced no matter their condition. It was during this time that Sandel's theory also determines that the exploitation of prison labor as depicted in Reed's memoir is a result of our market society maximizing its capitalist nature. According to

Sandel's theory, the participants in this mature consumerism are complicit in the exploitation of prison labor.

While stories of abuse and exploitation within the prison complex are explored by scholars and the media, the plight of the incarcerated is largely unknown. Part of this ignorance on the matter of prison labor, however appalling, is due to convenience. Many goods made by prisoners are used commercially, and the companies that sell them are held in esteem by consumers. AT&T, Microsoft, Revlon, and Target are all major companies in our nation and are also guilty of having sold or selling prison-made products (Young 46). The popularity of these brands is what keeps them safe from facing negative ramifications from consumers because, as long as customers are happy, it doesn't matter where their goods come from. A CEO doesn't care that his Starbucks mug was made by a prisoner because it keeps his coffee hot either way (46). A struggling waitress doesn't even think about how she's saving up her tips to buy a Victoria Secret bra made by an inmate who makes only 23 cents an hour (47). In the context of markets, consumers only have one role—to consume—so they cannot be blamed for playing their part. However, they can be held responsible for the effects that their wants and demands have on those that fulfill them. Prison labor is still used today because, not only does it benefit corporations and their profits, but it also benefits the people who buy products made by shackled hands. This is why, as a consumer society, we are compliant with the exploitation of a work force that is legally obliged to service us.

When looking at the historical and current patterns of the economy, industries, and our own society based on their relationships with the penal system, a bleak hypothesis for the future of prison labor emerges. This potential future can be theorized by compiling these fundamental patterns and concepts and comparing them with the historicizing context of *Life and Adventures*. If the capitalist demands of our economy continue to influence penal trends, then it can be predicted that working prisoners will be forced into labor that resembles a Gulag State as the rest of the nation ignores and benefits from their incarceration. With industries looking for more accessible, cheap labor

and with the rates of incarceration growing for many people of color (Young 44), Capitalist America has perverse incentives, not to reform, but to maintain the status quo in the penal system. Furthermore, with consumerism dominating the minds of free citizens within the nation and also desensitizing them to the inherent immorality of forced labor, this potential American Gulag State would likely not be opposed by the general public. In a worst-case scenario, this form of legalized slavery could potentially be commended by radical capitalists and indifferent consumers alike as a cheap and effective mode of production and subsequent punishment.

While this hypothesis seems pessimistic and cynical, it remains entirely possible when compared to the similar state of Auburn Prison in *Life and Adventures*. Austin Reed was incarcerated in Auburn and almost immediately forced to toil in a dangerous workshop where he was supervised by cruel, volatile guards. Records of his beatings cover report sheets recovered from Auburn's historical accounts, and still Reed was subjected to greater tortures such as the showering bath (Smith xlviii). The sufferings of Reed and the prisoners of Auburn were not unacknowledged by the general public; they were, in fact, used as a source of entertainment and spectacle: "Every year thousands of tourists paid the twenty-five-cent admission fee to watch the inmates working in eerie quiet" (Smith xlvii). Therefore, when considering the possible path of prison labor in the nation's near future, its past must also be considered to determine whether the penal system and our society are capable of becoming so inhumane that prison labor becomes slavery – or worse. And, based on our nation's history with different forms of servitude, it is not only possible, it has already happened.

Conclusion

By examining *The Life and the Adventures of a Haunted Convict* and Austin Reed's experience in the prison system in an era when the roots of prison labor lay in racism and discrimination, one can see the ways in which capitalism and its demand on the labor force instigated the exploitation of penal servitude. Prison labor in this shameless form has produced a modern day,

First World form of legalized slavery. Given all of the evidence produced by contemporary research and by historical perspectives, the prospects of a future in which the lives and labor of prisoners are improved seem bleak. Capitalism continues to demand cheap labor, apathetic industries relentlessly look to prisons to supply this need, and indifferent consumers mindlessly participate in the demand for slave labor. Meanwhile, society for the most part continues to ignore the plight of an undercaste it believes is better left in their cells for the sake of the products that depend on their toil. This does not have to be the case, however, as reformation of the penal system is entirely possible through many different organizational and civil efforts. Supporting these collaborations, such as the American Civil Liberties Union and The Marshall Project, offers more power to those who have been stripped of their basic rights and their voices. Rallying with these organizations for better working conditions for public and private prisons could at least somewhat increase the standard of living for those still forced to labor behind bars. Even the acknowledgement of prison labor and its negative connotations in the film industry can help spread awareness of the real struggles occurring inside prison walls. Then given that they are no longer victims of exploitation, men and women like Austin Reed who are subjected to a cycle of crime and punishment can be instead genuinely rehabilitated, or even perhaps prevented from being a part of this cycle in the first place. Further evaluation of our current justice and penal systems is needed to eliminate their prejudiced roots and begin a new era of corrective sentencing.

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Works Cited

- Alexander, Michelle. *The New Jim Crow*. The New Press, 2012.
- Burton-Rose, Daniel, Dan Pens, and Paul Wright. *The Celling of America*. Common Courage Press, 1998.
- Crary, Jonathan. 24/7. Verso, 2013, pp. 1-28.
- Deckard, Natalie Delia. "Prison, Coerced Demand, and the Importance of Incarcerated Bodies in Late Capitalism." *Social Currents*, vol. 4, no. 1, 22 September 2016, pp. 3-12.
- Reed, Austin. *The Life and the Adventures of a Haunted Convict*. 1823? Edited by Caleb Smith, Modern Library, 2016.
- Sandel, Michael J. "What Isn't For Sale?" *The Atlantic*, April 2012, pp. 62-66.
- Smith, Caleb. "Editor's Introduction." *The Life and the Adventures of a Haunted Convict*. By Austin Reed, Modern Library, 2016.
- Thor: Ragnarok*. Directed by Taika Waititi, Walt Disney Studios, 2017.
- U.S. Constitution*. Amend. XIII, Sec. 1.
- United States, Department of Justice, Bureau of Justice Statistics. *High Levels of Alcohol and Drug Dependence Common among Nation's Jail Inmates*. Government Press Release, 26 Apr. 1998.
- Weiss, Robert P. "'Repatriating' Low-Wage Work: The Political Economy of Prison Labor Reprivation in the Postindustrial United States." *Criminology*, vol. 39, no. 2, 2001, pp. 253-292.
- Wessler, Seth Freed. "Investigation Into Private Prisons Reveals Crowding, Under-Staffing and Inmate Death." *Fresh Air*. Narrated by Dave Davies, National Public Radio, 25 Aug. 2016. Transcript.
- Young, Cynthia. "Punishing Labor: Why Labor Should Oppose the Prison Industrial Complex." *New Labor Forum*, iss. 7, 2000, pp. 40-52.