

Chapter 8: Struggle Inside

Why, you welcomed the intelligence from France, that Louis Philippe had been barricaded in Paris - you threw up your caps in honor of the victory achieved by Republicanism over Royalty - you shouted a loud - "Long live the republic!" - and joined heartily in the watchword of "Liberty, Equality, Fraternity" - and should you not hail with equal pleasure the tidings from the South that the slaves had risen, achieved for themselves, against the iron-hearted slaveholder, what the republicans of France achieved against the royalists of France?

**- Frederick Douglass
Faneuil Hall, Boston
June 8, 1849'**

Prisoners come from the most impoverished, most disempowered communities of this nation. Prison is the last stop on the line; here, behind cages of concrete and steel, through the sights of a gun and answering to a bill of no rights, government attempts to teach its captives to accept the "fate of the lower classes," to "rehabilitate" prisoners into accepting that fate.

The following letter from a California prisoner to a friend outside illustrates the futility constantly facing those locked inside without rights or resources to determine their own fate:

A very sad prisoner came to me and explained that he had just received a letter from his wife in Detroit. Therein his wife told of a group of charity-oriented persons who brought some food and toys over for Christmas. His baby son refused the broken toys, started crying and shouted, "If you want to do something good then get my Daddy out of prison so *he* can buy me some toys!" Then he ran out of the project-apartment. The mother accepted the food and toys, and went on in her letter to beg her husband for assistance in relocating in California to be near enough to visit. I wanted to help - but I couldn't. February this prisoners got another letter in which his wife said she was going to get another old man "because the kids need a father and I need someone to help me make it through these rough times." The prisoner transferred to another joint and now doesn't give a damn whether he ever gets out or not. . . .

Prisoners are at the mercy of their keepers and, by virtue of their bondage, cannot determine the course of their own lives. They are forced into helplessness and their helplessness turns into despair. Prison slaves suffer atrophy of vital social abilities that prosper only with exercise of freedoms of speech, press, association, the rights to vote, petition, due process, and labor protections. These social "mus-

cles” only become strong with practice of the rights to labor for just wages at a job of one’s choice, safety from undue search and seizure and freedom from cruel and unusual punishment. Slavery and involuntary servitude are founded on denial of these vital protections.

Palsied by bondage, many leave prison with new disabilities, new bitterness, new futility. While society expects that they should have “learned their lesson,” in reality their alternatives have been greatly diminished by the injustices they have suffered as slaves.

A person may develop numerous disabilities during and after release from prison. The ability to exercise citizenship rights becomes atrophied with denial of the opportunity to practice them, while new social muscles develop to contend with the primitive viciousness of contemporary punishment. Prisons train people to survive under cruel conditions; rehabilitation can only occur in the community. The task of crossing a street can overwhelm the new parolee who, having spent years behind high walls in a five-by-ten-foot cell, can no longer judge time, distance, and speed of oncoming traffic. In addition to losing such rights as “voting, holding offices of public and private trust, and serving as a juror,” the prisoner and ex-prisoner may have lost “family by divorce or adoption proceedings resulting from conviction.” The ex-prisoner may experience “difficulty managing . . . property, entering contracts and obtaining insurance, bonding, and pensions,” and may also “be barred from a broad range government-regulated and private employment.”²

Broken families, an already competitive labor market where jobs are even more difficult for an “ex-con” to find, and special restrictions the parolee must abide by in order to avoid being returned to prison - a traffic violation, for example, or leaving the state without obtaining authorization from a parole officer - are only a few of the additional handicaps the newly freed slave must endure. Just as the Black Codes were designed to return freed chattel slaves to their old masters, so parole regulations and social prejudices make it easy to recage newly freed prisoners. No wonder that 40 to 70 percent of those released from prison return. As one Louisiana prisoner put it:

Prisons remind me of a machine that makes tin cans. When a can comes out of the machine with a dent in it, they put it back through the same machine to take out the dent. Instead of removing the dent, the machine dents the can worse! So, they repeat the process until the can becomes so dented that it can never be repaired. When will society consider the fact that it’s the machine that needs repairing?³

Without practice of their citizenship and labor rights, prisoners’ fates are no better than the tin cans this prisoner described. Another prisoner put it this way:

We need to effect a program that will be for the benefit of those incarcerated, not a program that will beef-up security.

Walls, bars, and barbed wire fences do not help a human gain self-respect. What gives a person self-respect is the knowledge that he or she has accomplished something. This (something) is the building of a productive society that develops friendship and cooperation among its inhabitants. One day we will be returned to society and if we are conditioned into not being responsible decision-making humans, then surely we will make irrational decisions. A lot of prisoners have no one to turn to; so, they are in greater danger of returning because there is a lack of support.

Why not ask us (prisoners) what our needs are? Prison officials do not live with us, so how can they even begin to comprehend our problems? My experience with prisons would lead me to believe that we as prisoners could make our world better by having a voice. . . .

Most prison administrators regard prisoner efforts to humanize their living conditions as a threat; any totalitarian regime is threatened by organized, peaceful attempts at self-empowerment by its subjects. Denied the right to vote and often punished for attempting to exercise free expression, American prisoners know the oppressions of bondage. While slavery breeds fear, complacency, frustration and powerlessness, it also breeds struggle for freedom. Thousands of stolen people jumped off slave ships and into the sea rather than face bondage, and slave insurrections left a trail through history of the blood spilled during the slavemasters' brutal backlash. The Underground Railroad was the American slave's only successful escape-route to freedom, but today there can be no underground railroad because no part to the country is free of "slavery . . . as a punishment for crime." The hidden nature of prison slavery's practice keeps many potential abolitionists immobilized by ignorance. Slaves have never been able to safely voice their needs or demands but the antebellum South's unashamed celebration of human bondage made it possible for citizens to witness and then to protest against slavery. Today, slavery is hidden in law and behind high bastilles which guard against physical escape and prevent public witness to daily brutalities.

Rebellion

Increased arrests for political crimes such as unlawful civil rights and anti-war marches; government infiltration and harrassment of organizations such as the Black Panther Party, the Student Nonviolent Coordinating Committee and the National Association for the Advancement of Colored People; and persecution and murder of leaders such as Martin Luther King, Jr., Fred Hampton, the Berrigan brothers, Angela Davis, Malcolm X, and many more, all led public attention to turn to prisons.

In 1969, black prisoners at the Indiana Reformatory petitioned the prison administration to forbid their keepers' use of derogatory racial

epithets and arbitrary punishments. After written appeal brought no results, petitioners sat down in protest and guards opened fire, killing two and wounding 46 prisoners. Those who escaped injury were placed in segregation and denied visitors and writing privileges. "After deliberation the grand jury determined that the guards had committed no criminal act by firing into the group of seated prisoners."⁴

Struggle for Justice, a study of crime and punishment prepared for the American Friends Service Committee, reported:

On August 11, 1970, three Philadelphia judges, reporting on the aftermath of a July 4 riot that left ninety-six persons injured at Holmesburg Prison, characterized the prison as a "cruel, degrading and disgusting place, likely to bring out the worst in man. . . . Since the riot, the prison has, in addition, become a place ruled, as one of the prisoners certified, by 'cold-blooded terror'"

On the following day prisoners in the Tombs - New York's famous bastille, where accused suspects are held before trial - rioted, held several guards hostage, and presented a list of grievances that included inadequate food, filthy cells, brutality, lack of medical care, and insufficient representation by court-appointed lawyers. Less than two months later thousands of inmates in four New York City jails rebelled, taking control of the jails, holding hostages, and raising demands that challenged not only jail conditions but city court practices as well.⁵

That protest was also put down by force and, again, defenseless prisoners were brutally maimed. Significantly, "the New York City prison protests followed a decade in which that city had cooperated fully in implementing what has been widely regarded as the most significant program in the nation dealing with problems of pretrial detention."⁶ Reform of slavery does not produce significant change. Victims of the slavery proviso in the Thirteenth Amendment, the prisoners at the Tombs were demanding relief for themselves from the incessant cruelties that had blighted the lives of slaves before them. In closing their petition, they stated:

We are firm in our resolve and we demand, as human beings, the dignity and justice that is due to us by right of our birth. We do not know how the present system of brutality and dehumanization and injustice has been allowed to be perpetuated in this day of enlightenment, but we are the living proof of its existence and we cannot allow it to continue.

The manner in which we chose to express our grievances is admittedly dramatic, but it is not as dramatic and shocking as the conditions under which society has forced us to live. We are indignant and so, too, should the people of society be indignant.

The taxpayer, who, just happens to be our mothers, fathers, sisters, brothers, sons and daughters should be made aware

of how their tax dollars are being spent to deny their sons, brothers, fathers and uncles justice, equality and dignity.⁷

On January 13, 1970, in California's Soledad Prison, a spontaneous riot provoked by racist agitation occurred when previously segregated prisoners were put in the exercise yard together. Interracial tensions were high, no guards were sent into the yard with them, and, predictably, a fight erupted between two prisoners and led to havoc in the yard.⁸

[Soledad guard] O.G. Miller had the reputation of being a hard-line racist, and was known to be an expert marksman. He was stationed in the gun tower that day. He carefully aimed his carbine and fired several times. Three men fell: W.L. Nolen, Cleveland Edwards, Alvin Miller. They were all Black. A few days later the Monterey County Grand Jury was convened to hear the case of O.G. Miller. As could have been predicted, he was absolved of all responsibility for the deaths of the three brothers. The Grand Jury ruled that he had done nothing more serious than commit "justifiable homicide."⁹

Shortly after, three prisoners, George Jackson, Fleeta Drumgo and John Clutchette, were charged with the death of a Soledad guard. There was no evidence for the charge; these three black men had been singled out because of their continued protest of Miller's acquittal, because of their political beliefs and because of the respect they won from other inmates during discussions of the need for liberation of oppressed peoples: their conviction and execution would serve as an example to like-minded prisoners. In the year that followed, a committee to defend the Soledad Brothers was mobilized and, in May 1971, the State's star witness admitted in court to having given false testimony in exchange for an early parole and all charges against the Soledad Three were dropped.¹⁰

Barely three months later on August 3, 1971, George Jackson was murdered by San Quentin prison guards. Thinking slaves have always been selected for special punishment and George Jackson had become a symbol of freedom for too many people. In her autobiography, Angela Davis described the experience of hearing George Jackson's mother explain the conviction that had put him in prison:

Georgia Jackson, Black, woman, mother; her infinite strength undergirded her plaintive words about her son.

When she began to talk about George, a throbbing silence came over the hall. "They took George away from us when he was only eighteen. That was ten years ago." In a voice trembling with emotion, she went on to describe the incident which had robbed him of the little freedom he possessed as a young boy struggling to become a man. He was in a car when its owner - a casual acquaintance of his - had taken seventy dollars from a service station. Mrs. Jackson insisted that he

had been totally oblivious of his friend's designs. Nevertheless, thanks to an inept, insensitive public defender, thanks to a system which had long ago stacked the cards against young Black defendants like George, he was pronounced guilty of robbery. The matter of his sentencing was routinely handed over to the Youth Authority.

With angry astonishment I listened to Mrs. Jackson describe the sentence her son had received: one year to life in prison. One to life. And George had already done ten times the minimum.¹¹

On August 3, 1971, 28 year old Jackson was sprayed with bullets by guards who claimed he was trying to escape. Those familiar with the inner workings of prison knew that George Jackson had been executed.

On the other coast, in a prison named after an ancient Greek city-state known for its keeping of slaves, Attica, prisoners were already involved in peaceful attempts to convince their overseers to humanize their living conditions. As the *Official Reports of the New York State Special Commission on Attica* expressed it:

Into this atmosphere of frustration and futility came the news of the shooting of George Jackson by prison guards at San Quentin. If officials' explanations of the death of Fred Hampton in Chicago in 1969 were unacceptable to black people in this country, the official account of the death of George Jackson was regarded by Attica inmates as a flagrant insult. California officials claimed that Jackson had attempted to escape with a gun smuggled in to him by an attorney and concealed by Jackson as he left the visiting area.

Every Attica inmate who had ever received a visit in prison believed Jackson must certainly have been subjected to a thorough search before entering and immediately upon leaving the visiting room. Even if a gun could have been concealed in his hair, inmates reasoned, it would certainly not escape detection during such a search.¹²

George Jackson had been murdered and Attica convicts demonstrated their outrage at that death in the quiet rebellion of black arm bands and a hunger strike. A month earlier, in July, a petition had been submitted listing Attica prisoner grievances:

Their demands centered largely on improvement of the conditions of their imprisonment, not the end of that imprisonment itself. Among other things, they demanded legal representation before the Parole Board; improvement in medical care, visiting facilities, food and sanitary conditions in the mess hall, personal hygiene, clothing, recreational facilities, and working conditions in the shops; a uniform set of rules in all prisons; adjustment of commissary prices; and "an end to the segregation of prisoners from the mainline population because of their political beliefs."¹³

Come September, nearly nine months had passed without any response to prisoners' requests to negotiate with the Attica administration. Denied access to the media and appeal to public support, Attica prisoners, like all other prisoners, were stymied in their attempts to effect needed change. John Cohen, friend of Sam Melville, one of those killed in the September massacre, wrote:

By subjecting prisoners to total degradation - one inmate described Mancusi as "not a warden, but a concentration camp commandant to whom inmates are not even dogs, just numbers" - and by refusing the inmates any hope for significant change in prison conditions, the pigs created enough anger, frustration and despair to generate any number of riots. And by refusing the prisoners access to the media the pigs actually *encouraged* riots. As Sam wrote, "We are left with nothing except riots to bring our plight before the public."¹⁴

On September 8th, the growing tension exploded when a guard accused a prisoner of a rule infraction and ordered him into lock-up. Other prisoners went to his defense, a hostage was taken and soon prisoners were holding the yard. The prisoners' attempt to force the administration into fruitful negotiations ended at the order of Governor Nelson Rockefeller on September 13th:

First, a special gas was sprayed into the yard before the police opened fire. Rockefeller described the effects of this gas as "fantastic." Inmates said it was extremely powerful, sending men into convulsions.¹⁵

State snipers, perched on the high walls encircling the yard, fired into the prisoners as troopers charged into the yard from below, spraying bullets as they ran. Reports later showed that

Before they charged into D yard troopers loaded their shotguns with .32 caliber "pellets" - the size of pistol slugs - especially chosen so that each pellet would have murderous effect. Snipers loaded their rifles with .270 Winchester .30 gr. expanding bullets. Ammunition boxes discarded outside prison walls advertise "the exclusive Silvertip bullet with controlled expansion (and) soft-jacketed tip." In plain language, dum-dum bullets, which international law outlaws in warfare.¹⁶

Today, no one questions why the slaves in the South rebelled, no one publicly disclaims their human right to equality and dignity under the law, or their historic right to throw off their chains. Villains of the nineteenth century like Nat Turner and John Brown are now national heroes. They, and millions before and after them, were responding to tyranny. They died demanding justice. There is an ongoing crisis in American prisons which comes to public light only after prison violence too massive and tragic to hide. The public wakes, pressure is put on prisons to remove the causes of violence but, shortly after, all

is forgotten and the conditions which provoke prison violence remain. Nearly a decade after the Attica rebellion, we received the following from an Attica prisoner:

As you may have heard or read, Attica has been in somewhat of a turmoil for the last few months. There has been a rash of killings, stabbings and daily fights amongst the inmate population. It would take more than this mere piece of paper to adequately explain the causes and effects, etc., but I will sum it up by merely saying, things are really bad, and you will definitely be hearing more from the Attica correctional facility!

Another prisoner also wrote in 1979 to explain the roots of prisoner unrest:

I am a prisoner in the state of Washington and a Slave of the state. You have probably read or heard about the lock-down here and as everything comes to light, you will see that Slavery is the cause of it all. The brutality that was submitted here to hundreds of men, by officers with guns, clubs, leaded gloves, belts and whatever they could use to harm and beat innocent men, is only an act that was performed on slaves years ago prior to the abolishment of Slavery and yet it is allowed today to prisoners. WHY?

What would happen if you took an animal and beat it with the instruments named above, for no reason at all?? If you took animals and caged them up so close that they could not move about in a normal manner, what would the Humane Society do to you?? If you worked the animals without proper food, what would the Humane Society do?? YET, the Constitution of the United States allows the above to happen to human prisoners.

Are we not a maturing society? Should we not as prisoners, progress with a maturing society? If so, how can we progress when the Constitution has not progressed and still condones Slavery?

The next year violence overtook the prison at Santa Fe, New Mexico. The rage unleashed in Santa Fe was that of people who had been poked at, terrorized and brutalized for years.

Santa Fe, 1980

New Mexico has drawn the tears from my soul. These things are the result of man's inhumanity to man. In the name of God, Justice and Right Conduct, we will not be on earth if this continues for another two hundred years.

**- Oji
Jessup Prison, Maryland
February, 1980**

In the early morning of February 2, 1980, prisoners in the state penitentiary at Santa Fe, New Mexico, began a 36-hour siege that left an unknown number of prisoners dead, more than 100 wounded and \$10 million in property damages - a "rampage of murder and mutilation," wrote one reporter, "that is apparently without precedent in the history of American prisons."¹⁷

The root causes of the February 2, 1980, prison slave rebellion at Santa Fe lay in the conditions under which those prisoners were forced to live and survive. From the outset, the tragedy of Santa Fe, of prisoners killing other prisoners, was caused by the brutal slave practices of that state prison.

New Mexico's violation of prisoners' rights became clearer in the American Broadcasting Company's television documentary "Death in a Southwest Prison." Severe overcrowding: "...there's about six inches between you and the next bed," reported a former inmate; "you can't even move your arm over without hitting somebody in the face, and you've got all these radios and things on different stations full hog, and all these people are packed in." Flagrant violation of prisoners' rights to privacy and personal property: "They would go in and have [cell] shakedowns and throw his pictures of his children and his wife on the floor and walk on 'em, for no reason at all other than the fact that they just, you know, regarded that person as an inmate or a convicted criminal." Beatings and the "hole": a nine-by-six-foot cell which one ex-prisoner described as having "seven men thrown in there with one hole in the ground, and you have to eat in this place; there's no ventilation. You have a jug of water, where everybody shares it. You have to use a rest room in front of seven people, and if they [the guards] don't want to flush the toilet outside, they won't flush it. . . . there's a lot of individuals that are unable to take it. . . and pretty soon you got guards coming in beating on these guys."¹⁸

In this institution where 90 percent of its prisoners had less than 60 square feet each to live in and men have sentences as long as 250 to 1200 years,¹⁹ there was even less hope for those who succumbed to mental illness. In September 1980, the *Albuquerque Journal* reported on Santa Fe's crude treatment of its mentally disturbed prisoners: solitary confinement, deliberate withholding of medication, medical treatment without supervision by a licensed physician in violation of state health codes, and, in some cases, immobilization of "violently

suicidal inmates. . . in plaster bodycasts, which were left with holes for them to urinate and defecate through.”²⁰

“Self-mutilators are numerous in any prison setting,” Dr. [Frank] Rundle [New York psychiatrist and American Civil Liberties Union forensics health care consultant] told the *Journal*. “But the way prison people deal with it allows them to ignore the fact that the way they’re running the prison and treating people is what’s leading prisoners to do it.

“Prison officials, rather than dealing with the basic problems, lock people up in cells, or put them in restraints, or in some cases, knock them out with tranquilizers. . .

“Everybody knew the problems were there - everybody, all the way up to the governor.”²¹

While imprisoned, cousins Dwight and Lonnie Duran challenged unconstitutional prison conditions in court and won. In December 1979, Santa Fe prisoners told corrections officials that a rebellion would occur if partial court orders of *Duran v. King* were not complied with immediately. Two weeks before the riot, a memo from a prison psychologist informed the prison administration that an uprising would occur, predicting it to the very day. Nothing was done. Ten days before the February riot, Dwight Duran completed his sentence and was released from prison. Now working at the National Prison Project of the American Civil Liberties Union, Dwight explained that the prison rebellion was anticipated at the same time New Mexico’s corrections department was waiting for the legislature to respond to its request for more funds. Dwight said that such “coincidences” had occurred many times before:

A lot of investigative reporters have done work in this area. It’s a fact, a very well known fact that they knew it was coming: memos were sent by staff and security days ahead.

They knew it was coming. But up to that point in New Mexico the riots had been contained in one or two living units. They could easily quell them and they would go to the state legislature, request what they needed, and get funding. But this time they underestimated the rage.

A couple of months before, they had a mass escape of eleven inmates. . . If you check the balances of records for escapes and disturbances, you find the corrections officials have also had an appointment to go to the state legislative finance committee or such. And it’s too frequent to be coincidence.

Prison riots tend to occur at crucial times for state appropriations; New Mexico is not unique in experiencing prison disturbances which occur just in time to help convince politicians to appropriate more money for corrections. Prison rebellions frighten taxpayers into be-

lieving more dollars must be spent to better "protect" them from "dangerous criminals" already locked away.

Since January 1980, the State of New Mexico has appropriated \$300 million to its corrections budget, largely in reaction to that February tragedy in Santa Fe. A considerable portion of the money, Dwight told us, has gone to pay consultants to study the system. But studies on the New Mexico prison system are not new - one quarter of a million dollars paid for a study in 1977 and, two years later, a half million funded another. In December 1979, only one clause of the findings of a study on Santa Fe's staffing was released: "It said that the State of New Mexico was playing Russian roulette with the lives of the inmates, the staff, and the public alike. And that was two months before the riot. They stuck it in the bottom drawer and never released the findings." A few days after the riot, \$95 million was appropriated for the construction of two new prisons, shortly followed by another \$14 million for renovation and building expenses. The 1980 budget shows a 65 percent increase for operational expenses, and when we asked Dwight where the money had gone, he said: "Higher salaries, uniforms and nice offices. Inmates are still wearing rags and eating slop."

Mice and vermin in prisoners' half-cooked meals, arbitrary disciplinary procedures, vengeful staff and inhumane treatment, cavity searches, routine harrassment of prisoner visitors and intolerably long sentences were among the conditions that created the intense rage unleashed on February 2, 1980. This in a state which spends \$8,000 each year to keep one person in prison.²²

Beyond vile living conditions, Santa Fe prison keepers showed traditional overseer vigilance in maintaining slavemaster control. Slaveholders have always planted informants among their chattel and no prison is without its snitches. As the ABC documentary reported, the snitch system at Santa Fe was deliberate, widespread and recruitment of prisoner informants was laced with brutality. If a prisoner refused to be an informer, as one ex-inmate reported,

They'll take him and throw him in with a bunch of hard timers. . . . knowin' that they're going to beat him, they're gonna rape him and everything else. Then, when he gets out of the hospital the Captains and Lieutenants tell him, All right, you do what we want to, and. . . we'll keep 'em away from you.²³

Public report suggested the prisoner violence that night was aimed at the snitches, but no reporters were allowed to interview the prisoners to find out what really happened. As Dwight Duran told us, of the 33 prisoners reported killed, only 13 were found in the protective custody unit where prisoner informants were housed. Nor did the riot result from drug-induced hysteria: as Dwight remarked, the drugs prisoners were alleged to have obtained from the medical dispensary were sed-

atives and could have only helped to quell the rage, not intensify it.

On September 3, 1981, the *Santa Fe Reporter* published findings of the Inter-Media Investigative Group, "a group of newspaper, television and radio reporters and several other individuals, all of whom had become frustrated in their independent efforts to get to the bottom of New Mexico's scandal-ridden corrections system."²⁴ One of the results of their intensive five-month investigation revealed that, while the prison administration's report lists 33 dead, 120 Santa Fe prisoners are unaccounted for, missing since the riot. The investigative group also interviewed prisoners who reported seeing piles of bodies after the riot, deaths not accounted for in official reports.²⁵

Little has changed in New Mexico's Santa Fe prison since that horrible national media event. The court order resulting from *Duran v. King* has not been enforced; there have been isolated prisoner killings and suicides; and, as the Inter-Media Investigative Group reports, there exists no credible fiscal accounting system for the prison.²⁶ The man in charge of Santa Fe's prison, Felix Rodriguez, whom many blame for the tyranny and brutality which rules the prison, still reigns. Prisoners still have six months of visiting privileges taken away if they touch their visitors more than twice, upon greeting and farewell. As Dwight Duran explains, it is not uncommon for a guard to take a baby out of his imprisoned father's arms and charge the prisoner with violating visiting rules.

New Mexico continues to punish its citizens with intolerable long and harsh sentences while several of its towns are competing for the next new prison location and employment that prisons can bring. In the aftermath of Santa Fe, however, there is a growing movement among New Mexico citizens to force the state government to bring humane treatment to its prisoners. Like freedom fighters before them, prisoner rights activists have been threatened with violence. In an interview with ABC, activist Juan Lopez stated:

They have made threats on my life. My line . . . rings all the time . . . and . . . at one time my daughter came to me and she was crying and screaming, she says: they're after you, Dad, they want to kill you, a threat has been made. They told me to tell you . . . stop the investigation . . . or else.²⁷

And, like antebellum slave leaders, prisoners who have used their even limited access to the courts to effectively challenge unconstitutional brutality are further isolated in modern slaveholding attempts to render them powerless. Lonnie Duran, co-plaintiff *Duran v. King*, who is serving 300 years and who was instrumental in saving hostage lives during the February riot, was transferred to Lompoc prison in California. There he met friend David Ruiz who was transferred from a Texas prison. Like Duran, Ruiz was responsible for important litigation, *Ruiz v. Estelle*, which was decided in favor of Texas prisoners. Shortly after, Lompoc prison keepers charged both men with instigat-

ing an alleged work strike which never took place.²⁸ Ruiz was then transferred to the federal penitentiary at Marion, Illinois, and Duran was sent to Leavenworth, Kansas. Like slave leaders before them, they had been “sold South” as punishment.

What happened in Santa Fe prison provided brief, intense insight into the suffering hidden by prison walls. Prison slavery breeds rebellion, results in human destruction and incites riot. Like the systems of human bondage which permeated the antebellum South, the severity of contemporary punishment varies from state to state, from prison to prison, but, as one Texas prisoner put it:

Slavery, man. Human slavery. You write that down. That’s all you need to write, because that puts it all in one word.²⁹

Notes

1. Foner, *Life and Writings of Frederick Douglass*, vol. 1, p. 399.
2. President’s Commission on Law Enforcement and Administration of Justice Task Force Report: Corrections 88 (1967) *The Collateral Consequences of a Criminal Conviction*, *Vanderbilt Law Review*, 23 (1970): 939.
3. Letter from Louisiana prisoner Billy McLeod as printed in “Jake McCarthy, a personal opinion,” St. Louis, Mo. *Post-Dispatch*, January 18, 1978.
4. *Struggle for Justice*, A Report on Crime and Punishment in America Prepared for the American Friends Service Committee (New York: Hill & Wang, a division of Farrar, Straus and Giroux, 1971), p. 6.
5. *Ibid.*, p. 1.
6. *Ibid.*, p. 7.
7. *Ibid.*, pp. 5-6.
8. Angela Davis, *Angela Davis: An Autobiography* (New York: Random House, Inc., 1974), p. 252.
9. *Ibid.*
10. *Ibid.*, p. 253; *If They Come in the Morning*, p. 73 n.
11. *Angela Davis: An Autobiography*, pp. 253-254.
12. New York State Special Commission on Attica, *Attica: The Official Report of the New York State Special Commission on Attica* (New York: Bantam Books, Inc., 1972), p. 139.
13. *Ibid.*, p. 134.
14. Samuel Melville, *Letters from Attica*, introduction by John Cohen (New York: William Morrow & Company, Inc., 1972), p. 70.
15. *Ibid.*, p. 73.
16. *Ibid.*, pp. 75-76.
17. Cynthia Gorney, “New Mexico Prison Toll Reaches 35; At Least 20 Murdered,” *Washington Post*, February 5, 1980.

18. "Death in a Southwest Prison," produced by Stephen Fleischman, *ABC News Closeup* September 23, 1980 television broadcast transcript (American Broadcasting Companies, Inc., 1980).
19. Craig Pyes, "Priority Given to Crisis in Mental Care at Pen," *Albuquerque Journal*, September 25, 1980; length of prison sentences told to us by former Santa Fe prisoner Dwight Duran.
20. Craig Pyes, "Plaster Casts Employed as Prisoner Restraints," *Albuquerque Journal*, September 23, 1980.
21. Craig Pyes, "Mentally Ill State Prison Inmates Receive Crude Treatment," *Albuquerque Journal*, September 21, 1980.
22. National Moratorium on Prison Construction, "Average Maintenance Cost in Prisons and Jails per Prisoner per Year."
23. *ABC News Closeup*, "Death in a Southwest Prison."
24. Inter-Media Investigative Group, "Frustration was the Common Bond," *Hell On Earth: A Special Report, Santa Fe Reporter*, September 3, 1981, p. 2. Members of the investigative team: Roger Morris (team leader), Toni Drew, Kingsley Hammett, David Hendry, Karen McDaniel, Kathy Morris, Peter Morris, Mary Lynn Roper, Diana Stauffer, Charles Zdravesky, and other members who were not identified "because their work within the penitentiary and the Corrections Department, and their contacts within the system, would be jeopardized by public exposure of their role." (p. 2).
25. *Ibid.*, "The Unknown Toll: We'll Never Know," p. 3.
26. *Ibid.*, "They Thought It Was Their Prison," pp. 7, 10.
27. *ABC News Closeup*, "Death in a Southwest Prison."
28. As reported to us by Dwight Duran.
29. Krajick, p. 17.

Chapter 9: A New Abolitionist Movement

That slavery has begun its fall is plain, but . . . its fall will be resisted by those who cling to it . . . The end will be slow. Woe to abolitionists if they think their work is well nigh done.

- Theodore Weld, 1852'

Groups and organizations within the prisoners' rights and criminal justice arenas are joining the struggle to abolish prison slavery at an increasing rate, and their growing rank-and-file membership is also calling for prison slavery's abolition. Habilitation or rehabilitation demands affirmation of human dignity and exercise of the responsibilities inherent in the practice of democratic rights. We cannot expect to have safe streets when we dehumanize lawbreakers and return them to society full of new rage accumulated during years of bondage and with new helplessness caused by enforced powerlessness and denial of democratic protections. Abolition of prison slavery will humanize our systems of punishment and encourage use of humane alternatives to imprisonment.

Unlike nineteenth century bondage, modern slavery is hidden rather than proudly displayed. It selects victims from those most impoverished and its perpetuation depends on national misunderstanding. Slavery is a cancer in our justice system; any remnant of the dreaded illness allows it to flourish, maim and kill. Until prison slavery is abolished, we will continue putting band-aids on cancerous wounds only to have them fester and recur in various forms of suffering throughout our body politic.

The old abolitionist movement did not complete its work. As the struggle against one form of bondage gathered momentum, another was developing in its place. Prison slavery was sealed into the very constitutional amendment which achieved chattel slavery's prohibition. Like chattel slavery before it, modern prison slavery is the most blatant form of human bondage in its time, revealing and requiring elimination of its many contributing oppressions.

Overwhelmingly poor and minority prison populations testify to government's continued effort to train citizens to submit willingly to the "fate" of the lower classes. As American political leadership moves further away from sheltering the rights of people to advocating the rights of a few to accrue wealth, we come to a new era of struggle. Slavery protects the rights of profit rather than the rights of people; advocacy of civil rights has become a defensive political position rather than the vanguard of government policy changes, and we face expansion of slave punishments.

Like the developers of seventeenth century workhouses, the contract labor and convict lease systems, some "reformers" are lobbying to readmit private industry to American prisons and open the free market to prison-made products. Even the Chief Justice of the Supreme Court, Warren E. Burger, has gone on record for building "factories with fences around them."² Touting liberal-sounding labels such as the "free venture system," modern advocates in harnessing prison labor for profit present sophisticated arguments for the rehabilitative value of work and the additional benefit of reducing the cost of imprisonment. Among the unmentioned dangers is the threat to American workers: letting private industry into prison would open the way for corporations unwilling to meet the demands of organized labor. With the unorganized and exploitable labor force in prisons, industrialists who have moved their shops to third-world countries for cheap labor could come home again. Prisons would become profitable for government and big business and serve to depress wages by making free American workers compete with imprisoned workers. Until prisoners are guaranteed the practices and protections of citizenship, labor rights and human rights, all of us remain unprotected victims of their potential exploitation.

Recognizing the immediate dangers of American inequality, we must pick up the prematurely discarded banner of slavery abolition to build a new abolitionist movement. The nineteenth century dictum remains true: while slavery is reserved for one of us, none of us is free. Building on the tradition of abolitionists before us, we need to focus on slavery's last lawful stronghold: "slavery . . . as a punishment for crime."

Lessons from Old Abolitionists

John Woolman gave witness to the relationship between unequal wealth and oppression; Frederick Douglass contributed a former slave's leadership and clarity of perception to the often confused charity of his fellow abolitionists; Dred Scott persisted in fighting for his right to freedom in the courts; Harriet Tubman led her people up from slavery; John Brown died for abolition; workers and slaves fought the Civil War to bring freedom to this nation; Charles Sumner fought slavery in Congress and joined forces with abolitionists like Douglass to ensure the civil rights of emancipated freedmen; Wendell Phillips took his abolitionist training to the labor movement and Susan B. Anthony helped forge the women's movement; the Molly Maguires were hanged for their insistence on justice; W.E.B. DuBois urged his people on to freedom; Dr. Martin Luther King, Jr., George Jackson and unmentioned others have left a legacy and example for us to carry forward. From them, and by examining the development of their struggles, we learn much of what abolition of prison slavery demands. As

we hold to the strengths of our abolitionist heritage, we must also avoid its past mistakes.

Sources of the old movement's weaknesses lay in the superficial understanding of inequality that guided some of its most influential members. Sheltered by relatively affluent lifestyles, several remained ignorant of slavery's roots in economic exploitation. Because of this, the movement generally failed to embrace workers' struggles against class-based oppression. The festering wound of prison slavery was a natural outgrowth of ignored inequities. The movement failed to encourage leadership from ex-slaves within it, even though those who suffer under slavery have always known it best. Frederick Douglass, appalled by victimization of the "free" poor, which he said reminded him "of the plantation, and my own cruelly abused people," was ignored when he argued against postwar disbanding of the movement. He criticized those abolitionists who would abandon the ballot box or let the South secede in order to be cleansed of partaking in a slaveholding government. From the earliest abolitionist struggles we learn that slavery oppresses all, even the slavemaster, but that it is the slave who loses nothing by breaking slavery's chains. It is from the ranks of those most oppressed that we learn what abolition demands. Today, those who know slavery best are behind prison walls; not only have they experienced denial of their rights as prisoners, but their direct victimization by social, political and economic inequities contributed to their imprisonment. The success of a renewed abolitionist movement depends on bridging the abyss which has kept slave and free from working together.

Slavery thrives on divisions among its victims. While it seeks to divide caged victims by fostering racial animosity and offering crumbs of privilege to those who contribute to fellow slave disempowerment, it also prospers from divisions among the "free" who fight it. Labor and civil rights movements have been natural allies but the well-fostered misunderstandings which separate economic and political struggles for equality in this country have served to divide them. The struggle against slavery is a fight against all inequality. If the old abolitionist movement had defended labor, workers would have swelled abolitionist ranks; if slave leadership had been fully recognized, tragic mistakes could have been avoided. With each of slavery's victims contributing to the other's understanding of oppression, the injustices which helped slavery expand and change forms might have been eliminated.

Mandate for a United Front

When the abolitionist movement prematurely disbanded, the modern prisoners' rights movement began. The unfinished work of abolition has also continued in other arenas: civil rights, labor rights,

minority rights, women's rights, the peace movement, advocacy for the poor and the struggle to end oppression from unequal wealth. While important victories have been won, the struggles have continued along a divided front.

This disunity can be examined, in microcosm, in the prisoners' rights movement. Organizations are severely underfunded to carry out their programs and competition develops between like-purposed organizations for meager resources. Despite hard-won battles for justice, the oppressions which have faced prison slaves for centuries appear in new forms again and again. Prisoner needs continue to overwhelm the capacity of any one organization or coalition of organizations to serve. Most prisoners' rights activists have been victimized by the long-prevailing notion that slavery was abolished, that rights are to be protected rather than won. Unaware of this important contradiction, twentieth century prison reform can be likened to humanizing the system of bondage which victimized this nation before the Civil War: it cannot be done without abolishing the institutionalized structure of punishment - slavery.

Since the end of the Vietnam War, there has been a resurgence of the attitudes which upheld antebellum slavery. "Taking government off the backs of the people" has become the political slogan for granting new license for exploitation to the robber barons of burgeoning corporate cartels. The call to balance the national budget by slashing programs which helped protect consumers, workers and the unemployed, minorities, children, the elderly and the poor has given new impetus to "profits before people." Government's renewed war on crime promises that prison populations will increase, punishing those who rebel against growing repression and hiding those who fall victim in the intensifying struggle to survive. Recent burnings of books by "moral majority" censors and cross-burnings by the "new" Klan serve as signposts for the dismantling of our liberties.

The weakened posture of the people's progressive forces is a defensive one, one that assumes this country is free of slavery when it is not and that has failed to grasp the essential unity of interest of those too oppressed to act as one. The Thirteenth Amendment's authorization of prison slavery provides a tactic for a new offensive for people's rights, but abolition of prison slavery and of contributing inequalities requires unprecedented unity. Too much work exists for any single group, organization or coalition, and the struggle is too large to waste precious resources by failing to coordinate efforts.

A United Front to Abolish Prison Slavery would help answer America's need for a new abolitionist movement. Based on the understanding that each quest for equality finally depends upon the abolition of slavery, this federation of abolitionists and their respective organizations could reach out to support other struggles for people's rights while carefully coordinating prison slavery abolitionist activities. By sharing resources and responsibility and avoiding duplication of ef-

forts through cooperative organizing, the United Front would be able to forge an offensive to stop the expansion of modern slavery.

WORK TO BE DONE

We face a social, economic and political problem which must be attacked at the sources of its proliferation: local, state, and federal criminal (in)justice systems. Progressive change in law is worthless without community vigilance and understanding in seeking its enforcement. Slavery abolition is a people's struggle which must work up from the deepest grassroots levels.

Grassroots and State Lobbying

Grassroots lobbying combines organizing, assistance and services, community education about the negative conditions of prison slavery and political action. An empowering grassroots educational and political tactic is petitioning, and the Petition to Abolish Prison Slavery is a basic organizing tool. By presenting the Thirteenth Amendment with its offensive proviso capitalized for emphasis, the document calls attention to the long-ignored exception for slavery in the Constitution:

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.

and asks that the Constitution be amended, deleting the exception for prison slavery so that the Thirteenth Amendment would read:

Neither slavery nor involuntary servitude shall exist within the United States or any place subject to their jurisdiction.

The lesson of the old abolitionists' struggle is clear on petitioning: they so flooded American institutions with their petitions that policy makers were forced to deal with slavery. Today, slavery is hidden by government instruments which support it, assumed to have been abolished by most Americans, and remains unidentified by many prison slaves. The Petition to Abolish Prison Slavery serves as a stimulus to re-examine failing justice systems, create new understanding, empower habilitation of caged Americans through struggle for their own emancipation, and lobby for political change.

Petition signatures are obtained everywhere, in churches and in bars, on street corners and at home, at rallies and at concerts, at community gatherings and by going door to door, through the mail, in prisons and in branches of government. Although many who have signed

C.A.P.S.'s petition have done so immediately, exclaiming that "this exception to slavery explains everything," others have not been as ready. New truth is often resisted and modern abolitionists need to embrace people's questions with new knowledge, perspectives and solutions. Those circulating petitions will not always know all of the answers. In such circumstances, it is always best to state that you will research the matter to find the answer.

Political use of petitioning takes two forms, informal and formal. Informal political petitions are used to persuade lawmakers to introduce local and state legislation calling for abolition of prison slavery and involuntary servitude. Formal use employs the initiative/referendum process of citizens petitioning to qualify abolitionist legislation for voter consideration in state elections. Political organizing can be expanded to support abolitionist candidates and to oppose the election of those who demonstrate slaveholding positions on prisoners' rights. Continued lobbying is also needed to introduce selected prisoners' rights legislation such as voting rights, right to petition, freedoms of speech and press, equal pay for equal work, abolition of the death penalty and abolition of civil death statutes.* The key objective of state political organizing is winning support for national legislation and its ultimate ratification in the various state legislatures.

Prisoner-Support Chapters

The Petition to Abolish Prison Slavery is helping prisoners develop mutual identity. Recognizing the exception within the Thirteenth Amendment is the first step in tracing responsibility for suffering to its source in a philosophical and material system of injustice. It has helped transform prisoner alienation into constructive class consciousness, stimulating needed unity in the quest for abolition. In correcting the misunderstanding which has kept slavery's victims divided, the struggle to abolish prison slavery calls on the vital wisdom of this nation's most oppressed class.

Community-based education and action programs are needed to bridge the abyss of misunderstanding currently existing between outside and inside communities because the key to understanding prison slavery lies behind prison walls. Prisoners hold that key and abolition requires the effective participation of prison slaves. As chattel slaves were most vulnerable to slavemaster retribution when the institutionalized structure of their bondage was attacked, so are prisoners. The first step of any abolitionist program is to address the survival needs of those slavery most severely victimizes. From that protection and advocacy comes the needed participation of the imprisoned, their family members and the communities from which they come.

*Please see Appendix.

Today there is no underground railroad for slave protection and outside abolitionists must reach behind slavery's walls to insure prisoner participants against special punishments. Such a "lifeline" to emancipation depends on active communication and advocacy sustained by free abolitionists. Correspondence, visitation and organizing with prisoners creates this bridge. Together, slaves and abolitionists learn what must and can be done. Based on the common goal of abolishing prison slavery, today's slave-and-advocate relationship works against reprisals facing prisoners who petition for slavery abolition and aims to empower both participants working together for effective change. The bulwark of abolition is built on this lifeline.

Through this lifeline, the public can be informed of news of prisoner oppressions, crisis-provoking prison tensions can be addressed through legal and political action before riots result, legal and political protection can be obtained for imprisoned abolitionists, and survival needs of prisoner family members can be met through community-based projects which help restore vital family ties.

The most viable support base is prisoner families, most often poor people without adequate resources to organize for their collective self-determination. Abolitionist organizing empowers participants through projects which address survival needs while creating the means to organize further. Appropriate projects include emergency food closets, car pool transportation for prison visits, and collective child care. Establishing a community-based office provides an organizing center outside prison needed to recruit volunteers, provide services and assistance, build community education projects, raise funds, petition, lobby and coordinate other chapter activities.

Abolitionism stresses the need to guard against slaveholding principles which warp programs by claiming to represent the best interests of equality while failing to invoke the participation of the unfree. Without their contributions abolition becomes a pompous label for activity by the self-righteous and the misled.

Boycotts

Galley slavery and the convict lease system prospered when blatant slavery and its clearly visible profits were acceptable. Today, slavery exists within every prison and jail in every state. The profits from this exploited labor force are hidden because prisoners work at a variety of jobs so that no one particular product comes to national attention. The average citizen pays little attention to the source of slave-made products since they fall within the realm of "government" services. As nineteenth century abolitionists refused to buy fabrics dyed with slave labor, the renewed abolition movement can draw public attention to the slave economy of many government services. Economic boycotts work.

Prisons are run by slave labor: laundry, clothing, food, repair and maintenance, all are done by prisoners. Services provided by prison slave labor may vary according to the budget needs of each state: plantation labor, road construction and repair, license plates, computer print-outs for government agencies, standard equipment for state and veterans' hospitals, furniture used in prisons, government offices and the homes and offices of correctional personnel, barbecue grills and picnic tables for state and rest areas, road signs, fire fighting services, prison construction and American flags make up an incomplete list of the products and services provided to the State by the slave labor of prisoners within "Corporate Penal Industries".³ A list of products sold by the Texas Department of Corrections, for example, provides the beginning of a list of one state's prison-slave products which could be targeted for boycott. As reported by a Texas prison slave, these products include license plates, inspection stickers, canned goods, boxes, mops, brooms, microfilming, plastic signs, plastic name tags, furniture, shoes, soaps, street signs and poultry.⁴ A Pennsylvania prisoner reports that all "Pencor" products are slave-made and easily recognizable by the label advertising their trade name.

One recent example of a boycott for prisoners' rights is provided by the internationally supported avoidance of British-made products to protest denial of political prisoner status for Irish Republican prisoners. Other contemporary examples of boycott effectiveness are found in the past decade's boycott of grapes and lettuce by the United Farmworkers' Union and in the more recent boycott of products by Nestlé, the international trafficker in infant formulas, especially harmful in third-world countries. Both campaigns won nationwide support and were instrumental in changing repressive corporate policies. Boycotting prison slavery's products* could create public education and political pressure. While calling attention to slavery's continuance, economic action throws a wrench into the slave economy, forcing institutional consideration of slavery-free solutions.

Slavery abolition remains a moral, political, legal and economic struggle belonging in international, national, state and local arenas. Today's worldwide condemnation of slavery and involuntary servitude places a new abolitionist movement on advantaged footing. Least known, but crucial to the strategy of a United Front, are the various state constitutional provisos for slavery and involuntary servitude to punish crime.

* Because the sale of their art work is often the most equitable source of income available to prisoners, boycotts should not include prisoner crafts.

THE STATES

The war between the North and South was fought to forcibly reunite a “house divided” over slavery. Since that great Civil War, a common geographical reference point for socioeconomic and political comparisons has been between states north and south of the old Mason-Dixon Line.

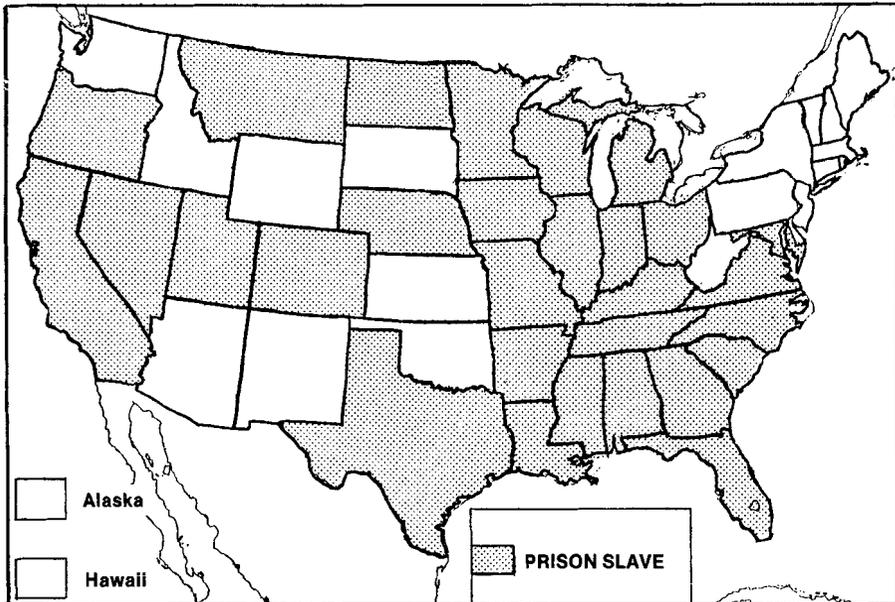
There is another frame of reference for measuring today’s house-divided concept: a prison slavery abolitionist perspective.

A Prison Slavery Abolitionist Perspective

The significance of the various state constitutional provisos on prison slavery cannot be ignored in a workable strategy for abolition. Behind each state’s modern prison oppressions are laws and traditions in denial of prisoners’ rights deeply ingrained from centuries of practice.

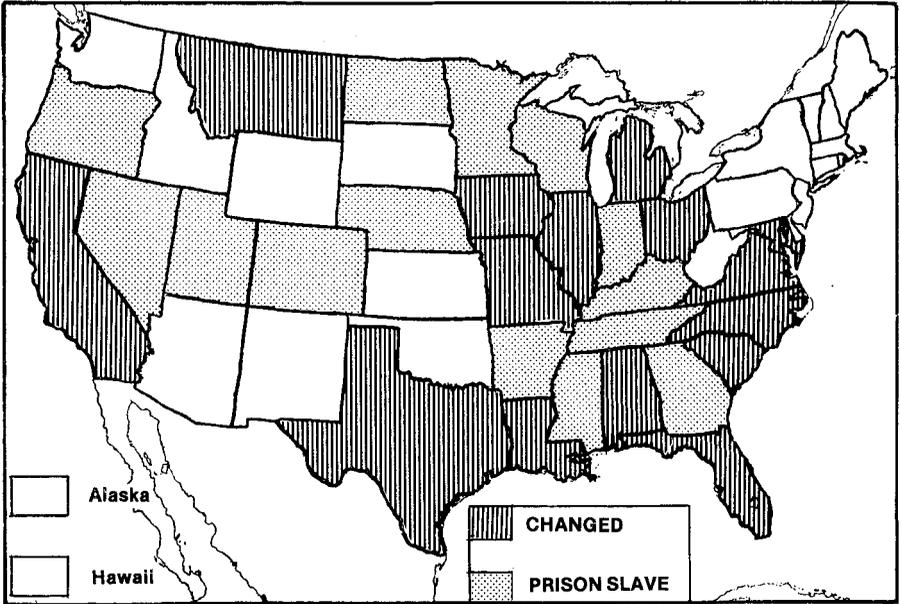
The states fall into four primary categories: prison slave, changed, involuntary servitude, and no proviso. Those states whose constitutions call for prison slavery and involuntary servitude are referred to as *prison slave* states. Originally there were 29 *prison slave* states; now there are 14.

29 ORIGINAL PRISON SLAVE STATES



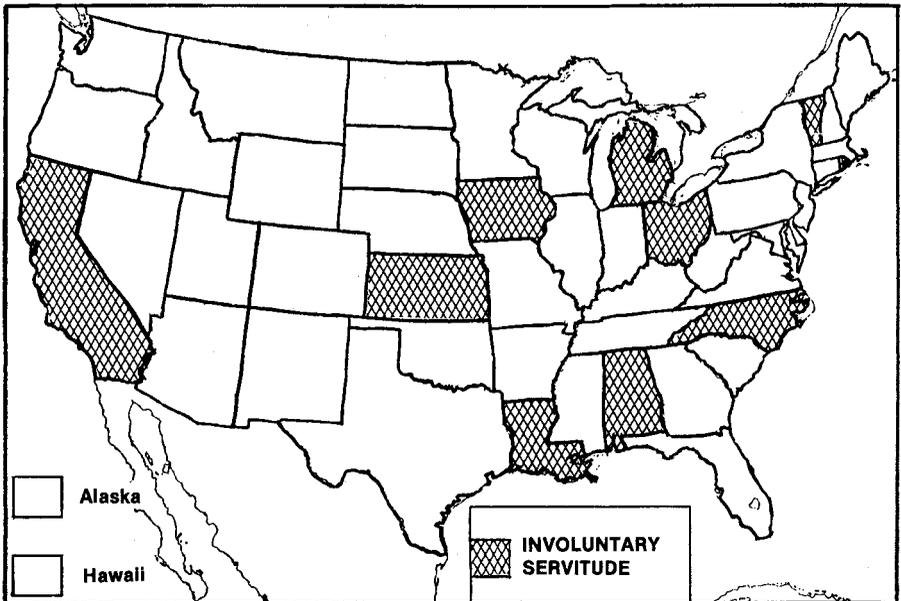
Those 15 states which changed their prison slavery provisos are known as *changed states*. As a result of these constitutional changes, there are now only 14 *prison slave* states.

15 CHANGED & 14 PRISON SLAVE STATES



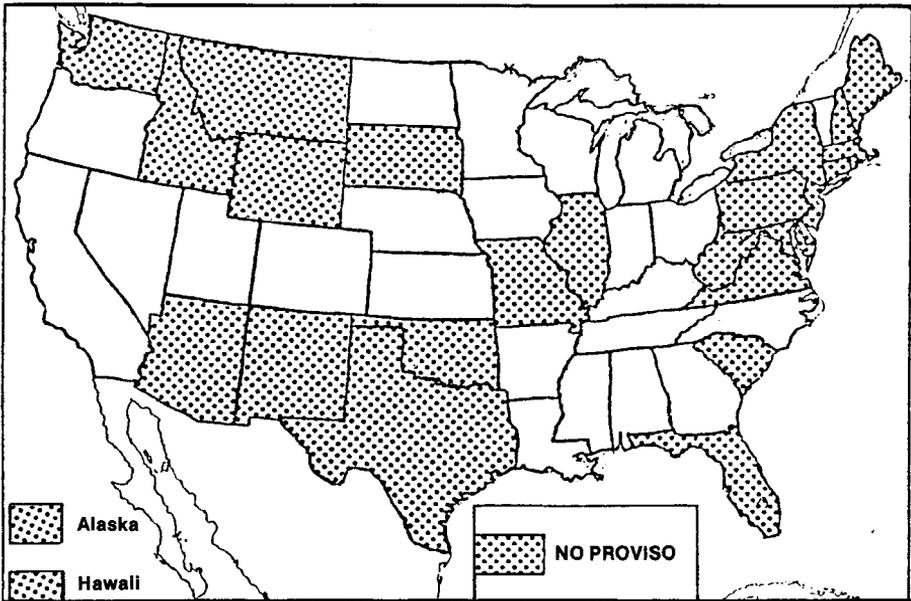
Those 10 states whose constitutions prohibit slavery but provide for involuntary servitude as a punishment for crime are referred to as *involuntary servitude* states.

10 INVOLUNTARY SERVITUDE STATES



Those 26 states making no mention of either slavery or involuntary servitude are referred to as *no proviso* states.

26 NO PROVISO STATES



Georgia, for example, is a *prison slave* state and Article I, Section I of its constitution blatantly says so:

There shall be within the State of Georgia neither slavery nor involuntary servitude, **SAVE AS A PUNISHMENT FOR CRIME AFTER LEGAL CONVICTION THEREOF.**

Michigan is one of those states whose constitution changed from prison slave to *involuntary servitude*. Article 18, Section 11 of its 1850 constitution stated:

Neither slavery nor involuntary servitude, **UNLESS FOR THE PUNISHMENT OF CRIME**, shall ever be tolerated in this State.

In 1963, Michigan became an *involuntary servitude* state by its new constitution's Article I, Section 9:

Neither slavery, **NOR INVOLUNTARY SERVITUDE UNLESS FOR THE PUNISHMENT OF CRIME**, shall ever be tolerated in this State.

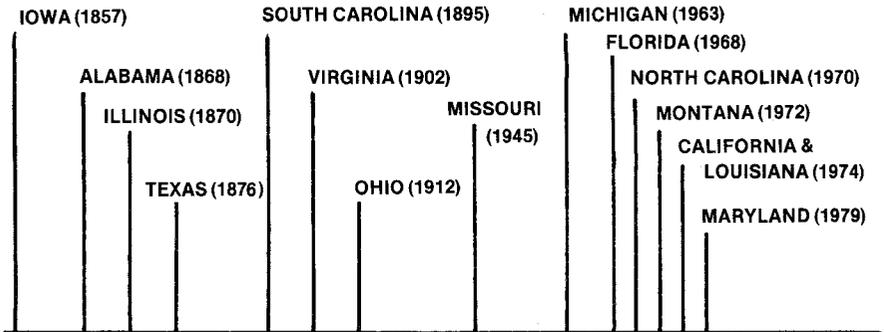
Montana is a state which changed from prison slave to *no proviso*. Article III, Section 28 of its 1889 constitution stated:

There shall never be in this state either slavery or involuntary servitude, **EXCEPT AS A PUNISHMENT FOR CRIME,**

WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

This section was omitted from Montana's 1972 constitution and no reference was made to either slavery or involuntary servitude.

The notion that prison slavery is an emotional term with no functional significance is refuted by the fact that 15 states have *changed* their state constitutional provisos to *involuntary servitude* or *no proviso*. There were two major periods of state constitutional changes on prison slavery, during the period of Radical Reconstruction and the era of controversy over private business use of prison labor when seven states changed their slavery provisos; and, again, during the sixties' and seventies' struggles for civil rights and against the war in Vietnam, when eight states changed their constitutional provisos. Including the pre-Civil War proviso change in Iowa during 1857, 15 states changed their constitutional rulings on prison slavery:



Excepting Texas, California and Montana, the change states are in the South and the Northwest Territory. Eight of these 15 are now *no proviso*; the remaining seven are *involuntary servitude* states.

These 15 state governments must be confronted with their constitutional changes, and more research is needed to reveal the political motivation for each change. Efficient organizing strategy can be designed following additional research to determine the statistical signatures of oppression within and among each of the states. Changed states provide important historical examples of legislative dealings with the embarrassing constitutional sore of modern slavery.

California - from Slavery to Involuntary Servitude

Until 1974, California authorized slavery and involuntary servitude to punish crime. The old Article I, Section 18 read:

Neither slavery nor involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIMES, shall ever be tolerated in this State.

The prisoners' rights, civil rights and anti-war movements of the late sixties and early seventies helped influence the California legislature to amend its state constitution to prohibit "slavery. . . for the punishment of crime." Article I, Section 6 of the 1974 California constitution reads:

Slavery is prohibited. Involuntary servitude is prohibited EXCEPT TO PUNISH CRIME.

In 1975, California followed the tradition of other involuntary servitude states by removing its authorization of Civil Death for prisoners and parolees. Section 2600 of the Penal Code had stated:

A sentence of imprisonment in a state prison for any term suspends all the civil rights of the person so sentenced, and forfeits all public offices and all private trusts, authority, or power during such imprisonment. But the Adult Authority may restore to said person during his imprisonment such civil rights as the authority may deem proper. . .⁵

The replacement for Section 2600, however, shows little effective change from the old:

A person sentenced to imprisonment in a state may, during any such period of confinement, be deprived of such rights, and only such rights, as is necessary in order to provide for the reasonable security of the institution in which he is confined and for the reasonable protection of the public.⁶

The institutional structure of California punishment has not changed, even though its labels have. Prisoners still cannot vote, they are caged and chained, due process and free expression are severely limited, they are forced to live in unsafe, crowded and unhealthy environments with inadequate nutrition and medical care: citizenship rights continue to give way to the "reasonable security" of prison slavery.

Abolition of any form of slavery requires radical change in the institutional structures which have disfranchised and victimized the oppressed. For example, one of the first acts of nineteenth century Radical Reconstruction was passage of the Fourteenth and Fifteenth Amendments, guaranteeing voting and citizenship rights to emancipated slaves. Rather than restore rights to prisoners, California's new penal code orders that rights "be deprived. . . in order to provide for the reasonable security of the institution. . . [and] public." If California legislators were intent on abolishing the perpetuation of slavery, Section 2600 would state:

The 1974 prohibition of "slavery. . . for the punishment of crimes" in California guarantees that all citizenship, labor and human rights are restored to prisoners and to persons henceforth sentenced to state prisons. The inalienable rights

of citizenship, and the practice thereof, are necessary for the reasonable security of the institution, for the reasonable protection of society, and for the reasonable habilitation of the offender. During such period of confinement the practice of these rights shall not be denied but shall be guaranteed.

The hypocrisy of slavery prohibition in California is further illustrated by the 1976 addition of Section 2652.5 to its Penal Code:

Chain or mechanical restraint around neck of prisoner; prohibition; violations misdemeanor

No person employed by the Department of Corrections, the Department of the Youth Authority, or any city or county jail facility shall place any chain or other mechanical restraint around the neck of any prisoner for any purpose. Any violation of this section shall be a misdemeanor.⁷

Removing a chain from the neck of a slave does not emancipate the slave, it merely makes less blatant the visible atrocity of human bondage by eliminating one of its symbols. Furthermore, how can shackling a person be merely a misdemeanor in a "slave free" state?

As in other involuntary servitude states, no serious attempt at "radical reconstruction" occurred in California. The continued denial of prisoners' rights was merely reworded, camouflaged by replacing "slavery" with "involuntary servitude." The essential process facing "involuntary servitude" states is the same process that faced Congress after the passage of the Thirteenth Amendment. At the very least, prohibition of slavery must be enforced by guaranteed protection of prisoners' citizenship, voting, and labor rights.

A prison slavery abolition program in California could focus on that state's 1974 prohibition and unconstitutional continuance of "slavery. . . to punish crime." While California has had sufficient time to promote citizens' understanding of the responsibilities inherent in its state constitutional change and to establish serious guarantees for prisoners' rights, it has failed to do so. California prison slavery abolitionists can cite the relatively meaningless state penal code changes since 1974 as testimony of this failure. An effective program for slavery abolition in California could maintain that continued denial of prisoner citizenship and labor rights be declared unconstitutional, immediately restrained and all appropriate orders be issued against further such unconstitutional practices. It could call for establishment of a Caring Community Board with authority to guarantee protection of prisoners' rights as citizens, thereby ensuring radical reconstruction of that state's prison system, and it could maintain that monetary damages of no less than \$100 per day be awarded to each prisoner who suffered under the unconstitutional yoke of slavery since 1974.

Each "involuntary servitude" state continues its unconstitutional practice of slavery as a punishment for crime; each provides its aboli-

tionist citizens with a unique opportunity for struggle. While their constitutions proclaim abolitionist intent, the involuntary servitude states have merely called slavery by another name. In addition to seeking state legislative action, citizens of involuntary servitude states can bring their struggle to the courts where their states' prohibition of prison slavery could be used to challenge violation of prisoners' rights. The potential of such litigation is illustrated by a prison slavery abolitionist analysis of a 1977 U.S. Supreme Court case.

Jones v. the North Carolina Prisoners Union

An important opportunity to use modern slaveholding language against itself was missed in a 1977 Supreme Court case challenging denial of First Amendment rights to North Carolina prisoners. North Carolina had changed its constitution to prohibit slavery and permit only involuntary servitude to punish crimes. That state's prior prison slavery proviso was found in Article I, Section 33 of the 1868 Constitution:

Slavery and involuntary servitude, OTHERWISE THAN FOR CRIME, WHEREOF THE PARTIES SHALL HAVE BEEN CONVICTED, shall be, and are hereby forever prohibited within this State.

Article I, Section 17 of the 1970 Constitution ended North Carolina's license to practice slavery by permitting only involuntary servitude to punish the convicted:

Slavery is forever prohibited. Involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME WHEREOF THE PARTIES HAVE BEEN ADJUDGED GUILTY, is forever prohibited.

As a consequence of the new North Carolina Constitution, labor rights but not citizenship rights could be denied to prisoners. As we have seen, however, slavery is enforced by means of denying citizenship rights to ensure involuntary servitude, slavery's mode of production. The North Carolina prison system violated prisoners' new constitutional protection from slavery when it prevented them from associating in the North Carolina Prisoners' Union. Prisoners, still under complete control of the state, were being denied their First Amendment rights and the prison administration violated its state prohibition of "slavery . . . for crime." Even though the U.S. District Court granted the North Carolina Prisoners' Union "substantial injunctive relief, having concluded that prohibiting inmate-to-inmate solicitation 'border[ed] on the irrational,'" the U.S. Supreme Court ruled against the union, stating that "the challenged [prison] regulations do not violate the First Amendment as made applicable by the Fourteenth."⁸ The June 23, 1977 U.S. Supreme Court decision on *Jones v. The North Carolina Prisoners' Labor Union, Inc.* held that state prison officials

can prohibit prisoners from asking fellow inmates to join a union, can refuse to distribute inmates' bulk mailings from outside union organizers, and can prohibit the use of prison facilities for union meetings. Writing for the Court's majority, Justice William H. Rehnquist stated that such regulations do not violate a prisoner's rights to freedom of speech and association since prisoners' First Amendment rights "must give way to the reasonable regulations of penal management."⁹ Nowhere were the "reasonable regulations of penal management" challenged as being based in North Carolina's unconstitutional practice of "slavery . . . for crime."

In spite of this missed opportunity to challenge the unconstitutional practice of prison slavery in the Court, the dissenting opinions of Justices Brennan and Marshall provided some hope for future litigation efforts. Written by Justice Marshall, their dissent reminded the court of the affirmation of prison slavery in the 1871 ruling of *Ruffin v. The Commonwealth of Virginia*:

There was a time, not so very long ago, when prisoners were regarded as "slave(s) of the State," having "not only forfeited (their) liberty, but all (their) personal rights. . ." *Ruffin v. The Commonwealth of Virginia*, 62. Va., 790, 792 (1871). In recent years, however, the courts increasingly have rejected this view, and with it the corollary which holds that courts should keep their "hands off" penal institutions. Today, however, the Court, in apparent fear of a prison reform organization that has the temerity to call itself a "union," takes a giant step back towards that discredited conception of prisoners' rights and the role of the courts. I decline to join in what I hope will prove to be a temporary defeat. . . .¹⁰

Like the nineteenth century court cases which tossed Dred Scott and his family from slavery to freedom to slavery again, the "hands on/hands off" doctrine towards prisoners' rights merely describes United States judicial policies on slavery: hands off, hands on, then hands off "slavery . . . as a punishment for crime." Since *Ruffin*, the courts have conveniently circumvented reference to the Thirteenth Amendment with terms such as the "reasonable regulations of penal management" used by Justice Rehnquist. The various state constitutional rulings on prison slavery, however, provide important opportunity for abolitionists to confront the institutional structure of punishment, even in the courts.

Had the North Carolina Prisoners' Union focused on the difference between the U.S. Constitution and the North Carolina Constitution rulings on prison slavery, it might have won its case by using the authority of the Tenth Amendment, which guarantees that all states can guarantee more but not fewer rights than the federal constitution. It could have confronted the Supreme Court's judicial responsibility to uphold the legal meanings of constitutional language through prison practices by presenting North Carolina's 1970 prohibition of "slav-

ery. . . . for crime.” The U.S. District Court had been correct in restoring First Amendment rights to North Carolina prisoners and the U.S. Supreme Court overstepped its constitutional authority by granting fewer rights to prisoners than authorized by Article I, Section 17 of the North Carolina Constitution.

Maryland - A Timely Example

Shortly after the American Civil War, the Thirteenth Amendment to the United States Constitution passed through the two houses of Congress, was submitted to the states for ratification and was certified as law on December 18, 1865. In 1867, Maryland added the then new Article 24 to its Declaration of Rights.

THAT SLAVERY SHALL NOT BE RE-ESTABLISHED IN THIS STATE; but having been abolished under the policy and authority of the United States, compensation, in consideration thereof, is due from the United States.

112 years later, in 1979, Article 24 was completely removed from the Maryland Constitution. At first glance it would seem appropriate to eliminate the antiquated last portion. However, upon careful examination we note that this legislative action nullified the progressive first portion (“That slavery shall not be re-established in this State”) by allowing sanction for prison slavery to be “re-established” in Maryland under the authority of the Thirteenth Amendment. Simply, rescinding of Article 24 deferred constitutional authority on slavery from Maryland to the U.S. Constitution’s Thirteenth Amendment whereby slavery is sanctioned “as a punishment for crime.”

The U.S. Constitution allows each state to grant more rights, but not fewer than exist on the federal level. Upon C.A.P.S.’s informing Maryland House of Delegates Representative Wendell Phillips of his state’s error in nullifying its abolitionist ruling, Delegate Phillips decided to introduce legislation to amend the Maryland State Constitution to “abolish and prohibit slavery absolutely.” On February 29, 1980, Delegate Phillips submitted his proposed amendment to the Maryland House of Delegates’ Constitutional and Administrative Law Committee.* C.A.P.S. testified at this hearing, criticizing the rescinding of all of Article 24 in 1979, explaining the meaning of Maryland’s legislative history, and urging solicitation of prisoner participation in designing legislation in their own behalf.

If the 1980 bill had passed, it would have abolished the permissible practice of slavery as a punishment for crime in Maryland by requiring Maryland to discontinue those aspects of punishment which can be fairly regarded as attributes of slavery. In their simplest context, those attributes are denial of the practice of citizenship, labor, and human

*Please see Appendix for the 1980 proposed legislation in Maryland.

rights to prisoners. The bill did not pass the Constitutional and Administrative Law Committee.

In 1981, Delegate Phillips introduced further legislation to abolish prison slavery and C.A.P.S. sent the following communication to its members and to Maryland legislators in support of that legislation:

We respectfully urge your support of Maryland House Joint Resolution No. 70, "A House Joint Resolution concerning Slavery or Involuntary Servitude for the purpose of urging the amendment of the United States Constitution to remove any trace of the acceptability of slavery or involuntary servitude. . . ."

Most legislators do not know that slavery is still legal or that the United States Constitution authorizes slave punishment within the Thirteenth Amendment. Nor do legislators know that prisoners are slaves through the institutionalized denial of the practices of their citizenship, labor and human rights. The abolition of prison slavery would mean the restoration of prisoners' rights to vote, free speech, due process, freedom from undue search and seizure, freedom from cruel and unusual punishment (slavery is just this), the right to a just and equitable wage for their labor, the right to join a labor union, and many more inalienable rights which are currently being denied to prisoners.

In seeking your support of House Joint Resolution No. 70, we ask that you consider the following unheeded appeal by Senator Charles Sumner in 1864:

In placing a new and important text into our Constitution, it seems to me we cannot be too careful in the language we adopt. . . . Therefore, it seems to me, we have every motive, the strongest inducement in the world, to make that language as perfect as possible.

In due respect to the spirit of the proposed bill, we further request that prisoners be included in the democratic process which will consider passage of House Joint Resolution No. 70. Their testimony and representation is an important part of the emancipative process and would demonstrate the State of Maryland's clarity in considering this most historic appeal to the U.S. Congress.

The failure of these two legislative appeals provides important lessons for twenty-first century abolitionists. Maryland citizens were not informed about the practices of prison slavery in their state, prisoners were not consulted or asked to testify in behalf of their best interests and no preparation was made to create a needed grassroots movement to participate in designing legislation or to lobby in its behalf. Simply put, those pushing for submission of the legislation failed to accept responsibility for bridging the abyss between the outside and inside communities so that their proposed change in law would be representative of the will of a large abolitionist community inside and

outside prison walls. The lesson for abolition is clear: legislative efforts to abolish slavery must be accompanied by grassroots organizing and lobbying efforts from the bottom up. Without community participation in this process, we face probable failure of well-meaning legislation, possible misrepresentation of the needs of prisoners and community members, and a misrepresentation of the very democratic process which abolition seeks to correct and expand.

Since abolition cannot be achieved until slavery is prohibited and that prohibition enforced, the 1980 proposed bill to amend the Maryland Constitution - "That slavery is abolished and shall be prohibited absolutely" - was technically incorrect and misleading. If passed, the 1980 bill could have served to make Maryland citizens assume there was no need for radical reconstruction of state penal practices. However, the 1981 proposed legislation, which would have called on Congress to amend the Thirteenth Amendment, was far more representative of abolitionist needs, citing the U.S. Constitution's authorization for prison slavery and consequent violation of the United Nations Declaration of Human Rights.

State by State Abolition

When a people's status is reduced by denying them practice of their citizenship rights, they become slaves and their bondage cannot be legitimized or camouflaged by not mentioning it or calling it something other than it is. To a lesser or greater degree, all states deny or negate prisoners' citizenship, labor and human rights; all states practice slavery as a punishment for crime. Regardless of constitutional category, each state practices prison slavery and each community bears its own responsibility for slaveholding. Abolition must expose local and state traditions, laws and practices in slave punishment and eradicate them, one by one. As Germantown Quakers gave up slaveholding in 1648 and were followed by all Quakers in 1806, so the power of abolition can spread from one community through an entire state and the nation.

UNITED NATIONS APPEAL

The international authority in support for the proposed abolitionist legislation in the United States is found in Article 4 of the United Nations Universal Declaration of Human Rights.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited *in all their forms*. [Emphasis added.]

In 1967, the United States Senate ratified the "Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions

and Practices Similar to Slavery.” Simply put, the Senate ratified Article 4 of the U.N. Declaration of Human Rights.

The obvious contradiction is that, unlike the Thirteenth Amendment to the U.S. Constitution, Article 4 contains *no exception* for either slavery or involuntary servitude - both are “prohibited in all their forms.” Hence, the United States seems to be in violation of an international treaty on human rights.

The 1981 proposed Maryland House Resolution No. 70 addressed this violation of international treaty by maintaining:

WHEREAS, With the states’ ratification of Amendment XIII of the United States Constitution in 1865, the legality of slavery and involuntary servitude was restricted to “punishment for crime whereof the party shall have been duly convicted”; and

WHEREAS, With the United States Senate’s ratification of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery in 1967, we recognized the illegality of the “status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”; and

WHEREAS, We have become increasingly aware that by accepting as just any form of slavery or involuntary servitude we reduce a human being’s personhood and are responsible for the abominable consequences that flow therefrom; and

WHEREAS, In spite of this growing awareness, United States Courts have been bound by Amendment XIII of the Constitution to accept the proposition that “the labor of a convict belongs to the state”; now, therefore, be it

RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That the United States Constitution should be amended to remove any trace of the acceptability of slavery or involuntary servitude; . . .

While the above resolution never received full consideration by either house of the Maryland state legislature, it serves to show the importance of international appeal. Abolitionist appeal to the United Nations could bring world-wide pressure to bear on the United States to abolish its prison slave practices, thereby providing important assistance to a campaign for national abolitionist legislation.

NATIONAL LEGISLATION

The national legislative focus of a United Front to Abolish Prison Slavery would be amendment of the Thirteenth Amendment to prohibit all slavery and involuntary servitude and passage of supporting laws to enforce that prohibition.

Thirteenth Amendment:

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.

Proposed Amendment Change:

Neither slavery nor involuntary servitude shall exist within the United States or any place subject to their jurisdiction.

Prohibition would be accomplished by amending the Thirteenth Amendment; abolition would begin when the newly worded amendment is enforced by supporting law.

Prohibition

There are three basic stages to amending the Constitution to prohibit all slavery and involuntary servitude: writing and submitting a bill to Congress to prohibit all slavery and involuntary servitude; passage of the proposed Amendment by two-thirds majority in each house of Congress; and ratification of the new Amendment by 38 states, three-quarters of the United States. Each stage requires sustained grassroots and legislative lobbying from a well-coordinated national base.

As exemplified by the nineteenth century abolition struggle, arriving at the first stage of national prohibition involves a protracted campaign. While the old movement laid the groundwork by prohibiting chattel slavery, misrepresentation of the continued practice of prison slavery must be understood and eliminated to ensure that a new amendment leaves no provision for slavery under any other name. Complete and explicit prohibition of involuntary servitude is absolutely essential.

Once enough Congressional allies agree to sponsor a bill prohibiting prison slavery and involuntary servitude, intensive lobbying and abolitionist education will be needed throughout Congress. As before, slaveholding lawmakers will adopt different forms of resistance, the danger in their efforts being explicit enforcement of slave punishments or compromise of an abolitionist victory.

The success of the correct rewording of the Thirteenth Amendment and its subsequent passage depends on the amount of pressure coming from the grassroots and international levels. The old movement kept pressure on Congress from their communities, from millions of petitioners, through the separate abolitionist victories in each state and with the help of vocal support abroad. Successful organizing would combine state-by-state victories with effective petitioning of the United Nations to achieve national prohibition.

Perhaps the best example of what is needed to win ratification is found in examining the long struggle for the Equal Rights Amendment, a movement also rooted in nineteenth century abolitionism. Most significant in this recent lesson of parliamentary struggle is the growing power of relatively small groups of opponents of equality. With well-funded campaigns they have sent their powerful allies to influence the political process and have infiltrated the media and flooded the mails with convincing deceit aimed at creating opposition to the E.R.A. While their numbers are small, their financial backing is strong. Prison slavery abolitionists have the same opponents. Changing the Constitution to prohibit all slavery will depend on preparing ground for abolition: grassroots organizing and state by state constitutional changes can build national victory.

Abolition

Prohibition is only the beginning; abolition requires radical reconstruction of our systems of justice. It is the building of a community of care, a safe society which replaces vindictive punishment with habilitation, restitution and social justice. Abolition enforces equality instead of exploitation, cutting out all remnants of slavery root and branch.

In the second section of the Thirteenth Amendment, the Constitution states:

Sec. 2. Congress shall have the power to enforce this article by appropriate legislation.

Congressional response to this mandate for enforcement came during the short but official post-bellum period of Radical Reconstruction when the Fourteenth and Fifteenth Amendments were passed granting citizenship and voting rights to former slaves. Both of these amendments also had sections calling for Congressional enforcement. The most recent application of reconstructionist law came when the Voting Rights Act was passed at the height of the civil rights movement, banning the use of literacy tests, poll taxes and other devices used to keep black and other minority citizens from voting and requiring those states with a history of voting rights discrimination to obtain clearance ahead of time from the Justice Department for any changes in state or local election laws.

After the first section of the Thirteenth Amendment is amended to abolish all slavery and involuntary servitude, the second section will be needed to enforce prison slavery prohibition. Abolition of prison slavery requires "radical reconstruction" at many levels: restoring the right to vote to the convicted as well as other protections and practices of citizenship, returning their labor rights as citizens, and the enforcement of their human rights in all aspects of their treatment, in-

cluding the right to healthful living conditions. The death penalty, the ultimate expression of slavemaster power, must be eliminated; the building of human cages must also stop. Each negative condition now suffered must end: prisoners can tell you what they are - ask them.

By removing the yoke of slavery from our systems of justice, we will also open the way to alternatives to imprisonment: victim-offender mediation, victim restitution, community service, counseling and teaching for those that need them. Eventually, prison will take its place in a history which will refer to a time long past when humankind had not yet learned how to heal.

CONCLUSION

Much remains to be done before Americans grasp the reality of the exception to slavery within our Constitution and how it epitomizes the many sufferings of prisoners. Meanwhile, continued denial of the practices of citizenship, labor and human rights in our nation's systems of punishment makes a mockery of any attempt to create a truly safe society. There can be no Safe Society without a Caring Community, and there can be no Caring Community which permits "slavery . . . as a punishment for crime."

Abolition is a struggle for universal emancipation. As one prisoner put it, "You won't find members of the ruling clique in places like this, but you will find their victims." The exception to slavery in the Constitution represents many inequalities Americans have yet to eliminate. There will be - as there presently are and as history has shown there to be - many twists and turns, ebbs and flows in the road to abolition. We have proposed organizing projects which can accomplish the work needed to produce an abolitionist movement for the 1980's and beyond and we have sought to clarify the unity of struggle which abolition requires.

The problem of prison slavery, like its historical counterparts, cannot be separated from the need for fundamental progressive change in the social, political and economic structure of the United States. The abolition of prison slavery is an integral part of that change.

The task is ours - together, we must begin.

Notes

1. Lerner, p. 305.
2. "Remarks of Warren E. Burger, Chief Justice of the United States, at the University of Nebraska," December 16, 1981, Lincoln, Ne. (Washington, D.C.: Supreme Court Public Information Office), p. 2.
3. Burkhardt, pp. 284-286.
4. "A Few of the Products Available from T.D.C.," as listed in a Texas prisoner's letter and published in the Spring 1980 issue of C.A.P.S.' newsletter *The Abolitionist*:

License Plates	Diesel Mechanics
Inspection Stickers	Dental Prosthetics
Cattle	Plastic Signs
Canned Goods	Plastic Name Tags
Boxes	Swine
Mops	Clothes
Brooms	Uniforms
Scouring Powders	Laundry
Soaps	Dry Cleaning
Furniture	Mattresses
Building Materials	Welding and Stock Trailers
Shoes	Street Signs
Complete Microfilming	Building Trades
Automobile Repairs	Bus Renovations
Engine Repairs	Poultry

5. *West's Annotated California Codes, Penal Code* (St. Paul, Minn.: West Publishing Company, 1970), vol. 51A, p. 48.
6. *West's Annotated California Codes, Penal Code, Volume 51A Supplementary Pamphlet 1970 to 1981*, p. 14.
7. *Ibid.*, p. 21.
8. *Jones v. North Carolina Prisoners' Union, Inc.*, 433 U.S. 119 (1976).
9. *Ibid.*, p. 132.
10. *Ibid.*, p. 139.

Appendix

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PRISON SLAVE STATE CONSTITUTIONS

ARKANSAS
 COLORADO
 GEORGIA
 INDIANA
 KENTUCKY
 MINNESOTA
 MISSISSIPPI

NEBRASKA
 NEVADA
 NORTH DAKOTA
 OREGON
 TENNESSEE
 UTAH
 WISCONSIN

CONSTITUTION OF ARKANSAS

Article 5, Section 37 (1868)

No citizen of this State shall be disfranchised, or deprived of any rights or privileges secured to any citizen thereof, unless the same is done by the law of the land, or the judgement of his peers, except as hereinafter provided. There shall be neither slavery nor involuntary servitude, either by indentures, apprenticeships, or otherwise, in the State, EXCEPT FOR THE PUNISHMENT OF CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

NOTE:

Arkansas "was re-admitted to representation in Congress, upon the fundamental condition that its Constitution should never be amended or changed so as to deprive any citizen or class of citizens of the United States of the right to vote, who were entitled to vote by the Constitution then recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted, under laws equally applicable to all the inhabitants of the State. . . ."

Article 2, Section 27 (1874)

There shall be no slavery in this State, nor involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME. . . .

CONSTITUTION OF COLORADO

Article 2, Section 26 (1876)

Slavery Prohibited. There shall never be in this state either slavery or involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

CONSTITUTION OF GEORGIA

Article 1, Section 4 (1868)

Sec. 4. There shall be within the State of Georgia neither slavery nor

involuntary servitude, SAVE AS A PUNISHMENT FOR CRIME AFTER LEGAL CONVICTION THEREOF.

Art. I, Sec. 1 Paragraph XIX. Slavery and Involuntary Servitude. (Current)

Same wording as Article I, Section 4 of the Constitution of 1868. This section was S-2117 of the 1945 Constitution.

CONSTITUTION OF INDIANA

Article I, Section 37 (1851)

There shall be neither slavery nor involuntary servitude within the State, OTHERWISE THAN FOR THE PUNISHMENT OF CRIMES, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED. No indenture of any Negro or Mulatto, made and executed out of the bounds of the State, shall be valid within the State.

Article I, Section 37 (Current)

Slavery Prohibited. There shall be neither slavery, nor involuntary servitude, within the State, OTHERWISE THAN FOR THE PUNISHMENT OF CRIMES, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED. No indenture of any Negro or Mulatto, made and executed out of the bounds of the State, shall be valid within the State.

CONSTITUTION OF KENTUCKY

Article I, Section 25 (1891)

Slavery, except as a punishment, forbidden. Slavery and involuntary servitude in this state are forbidden, EXCEPT AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

CONSTITUTION OF MINNESOTA

Article I, Section 2 (1857)

Sec. 2. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgement of his peers. There shall be neither slavery nor involuntary servitude in the State OTHERWISE THAN IN THE PUNISHMENT OF CRIME, WHEREOF OF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

Article I, Section 2 (Current)

Sec. 2. No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgement of his peers. There shall be

neither slavery nor involuntary servitude in the state OTHERWISE THAN AS PUNISHMENT FOR A CRIME OF WHICH THE PARTY HAS BEEN CONVICTED.

CONSTITUTION OF MISSISSIPPI

Article I, Section 19 (1868)

Sec. 19. There shall be neither slavery nor involuntary servitude in this State, OTHERWISE THAN IN THE PUNISHMENT OF CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

Article 3, Section 15 (Current)

Same wording as Article I, Section 19 of the 1868 Constitution.

CONSTITUTION OF NEBRASKA

Article I, Section 2 (1875)

Sec. 2. There shall be neither slavery nor involuntary servitude in this state, OTHERWISE THAN FOR PUNISHMENT OF CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

CONSTITUTION OF NEVADA

Article I, Section 17 (1864)

Sec. 17. Neither slavery nor involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIMES, shall ever be tolerated in this State.

CONSTITUTION OF NORTH DAKOTA

Article I, Section 17 (1889)

Sec. 17. Neither slavery nor involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIME, shall ever be tolerated in this state.

CONSTITUTION OF OREGON

Article I, Section 35 (1857)

Sec. 35. There shall be neither slavery nor involuntary servitude in the State, OTHERWISE THAN AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

Article I, Section 34. Slavery or involuntary servitude. (Current)

Same as Article I, Section 35 of Constitution of 1857.

CONSTITUTION OF TENNESSEE

Article I (1870)

Sec. 33. That slavery and involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED, are forever prohibited in this State.

Sec. 34. The General Assembly shall make no law recognizing the right of property in man.

Sec. 33. Slavery prohibited (Current)

Same as in 1870 Constitution.

Compiler's Notes. Section 33 did not appear in the Constitution of 1796 and 1834.

The amendments to the Constitution made February 22, 1865, abolishing slavery in this state were substantially the same as S 33, 34 of this article. . . .

Slavery was recognized and protected by the Constitution of the United States, until abolished by the 13th amendment, becoming effective the 18th day of February, 1865. By the fourth condition in North Carolina's cession act ceding to the United States the territory subsequently becoming the State of Tennessee, it was provided "That no regulations made or to be made by congress shall tend to emancipate slaves."²

Sec. 34. Right of property in man. (Current)

Same as Article I, Section 34 of 1870 Constitution.

CONSTITUTION OF UTAH

Article I, Section 21 (1896)

Sec. 21. Slavery forbidden

Neither slavery nor involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED, shall exist within this State.

CONSTITUTION OF WISCONSIN

Article I, Declaration of Rights (1848)

Sec. 2. There shall be neither slavery, nor involuntary servitude in this state, OTHERWISE THAN FOR THE PUNISHMENT OF CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

This state was the fifth and last one formed out of the Territory North-West of the Ohio River, established in 1787.³

INVOLUNTARY SERVITUDE STATE CONSTITUTIONS

ALABAMA
CALIFORNIA
IOWA
KANSAS
LOUISIANA

MICHIGAN
NORTH CAROLINA
OHIO
RHODE ISLAND
VERMONT

CONSTITUTION OF ALABAMA (Changed State)

Article I, Section 34 (1865)

Sec. 34. That hereafter there shall be in this State neither slavery nor involuntary servitude, OTHERWISE THAN FOR THE PUNISHMENT OF CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

Article I, Section 35 (1868)

Sec. 35. That no form of slavery shall exist in this State; and there shall be no involuntary servitude, OTHERWISE THAN FOR THE PUNISHMENT OF CRIME, OF WHICH THE PARTY SHALL HAVE BEEN DULY CONVICTED.

Article I, Section 33 (1875)

Same as in 1868, Article I, Section 35.

Article I, Section 32 (1901)

Sec. 32. That no form of slavery shall exist in this state; and there shall not be any involuntary servitude, OTHERWISE THAN FOR THE PUNISHMENT OF CRIME, OF WHICH THE PARTY SHALL HAVE BEEN DULY CONVICTED.

CONSTITUTION OF CALIFORNIA (Changed State)

Article I, Section 18 (1849)

Sec. 18. Neither slavery nor involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIMES, shall ever be tolerated in this State.

Article I, Section 6 (1974)

Sec. 6. Slavery is prohibited. Involuntary servitude is prohibited EXCEPT TO PUNISH CRIME.

CONSTITUTION OF IOWA (Changed State)

Article I, Section 23 (1846)

Sec. 23. Neither slavery nor involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIMES, shall ever be tolerated in this State.

Article I, Section 23 (1857)

Sec. 23. There shall be no slavery in this State; nor shall there be involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIME.

CONSTITUTION OF KANSAS

Bill of Rights, Section 6 (1859)

Sec. 6. **Slavery prohibited.** There shall be no slavery in this state; and no involuntary servitude, EXCEPT FOR THE PUNISHMENT OF CRIME, WHEREOF THE PARTY SHALL HAVE DULY CONVICTED.

CONSTITUTION OF LOUISIANA (Changed State)

Title I, Article 3 (1868)

Art. 3. There shall be neither slavery nor involuntary servitude in this State, OTHERWISE THAN FOR THE PUNISHMENT OF CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

Article I, Section 3. Right to Individual Dignity (1974)

Sec. 3. No person shall be denied the equal protection of the laws. No law shall discriminate against a person because of race or religious ideas, beliefs, or affiliations. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations. Slavery and involuntary servitude are prohibited, EXCEPT IN THE LATTER CASE AS PUNISHMENT FOR CRIME.

CONSTITUTION OF MICHIGAN (Changed State)

Article 18, Section 11 (1850)

Sec. 11. Neither slavery nor involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIME, shall ever be tolerated in this State.

Article 2, Section 8 (1908)

Same as Article 18, Section 11 of 1850 Constitution.

Article 1, Section 9 (1963)

Sec. 9. **Slavery and involuntary servitude.** Neither slavery, nor involuntary servitude UNLESS FOR THE PUNISHMENT OF CRIME, shall ever be tolerated in this state.

Convention Comment

No change from Sec. 8, Article II, of the present [1908] constitution except for the insertion of a comma after the word "slavery" and elimination of a comma after the word "servitude". The old punctuation conceivably made slavery permissible as a punishment for crime.⁴

CONSTITUTION OF NORTH CAROLINA (Changed State)

Article I, Section 33 (1868)

Sec. 33. Slavery and involuntary servitude, OTHERWISE THAN FOR CRIME, WHEREOF THE PARTIES SHALL HAVE BEEN CONVICTED, shall be, and are hereby forever prohibited within this State.

Article I, Section 17 (1970)

Sec. 17. **Slavery and involuntary servitude.** Slavery is forever prohibited. Involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME WHEREOF THE PARTIES HAVE BEEN ADJUDGED GUILTY, is forever prohibited.

CONSTITUTION OF OHIO (Changed State)

Northwest Territory Ordinance, Article 6 (1787)

Art. 6. There shall be neither slavery nor involuntary servitude in the said territory, OTHERWISE THAN IN THE PUNISHMENT OF CRIMES, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED; *Provided, always*, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, said fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.

Article 8, Section 2 (1802 Constitution of Ohio)

Sec. 2. There shall be neither slavery nor involuntary servitude in this state, OTHERWISE THAN FOR THE PUNISHMENT OF CRIMES, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED; nor shall any male person, arrived at the age of twenty-one years, or female person arrived at the age of eighteen years, be held to serve any person as a servant, under the pretense of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a bona fide consideration receiv-

ed, or to be received, for their service, EXCEPT AS BEFORE EXCEPTED. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of the state, or if made in the state, where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeships.

Article I, Section 6 (1851)

Sec. 6. There shall be no slavery in this state, nor involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIME.

Article I, Section 6 (1912)

Sec. 6. **Slavery and involuntary servitude.** There shall be no slavery in this state; nor involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIME.

Note the difference between the two versions of Art. I, Sec. 6 contained in punctuation: the 1851 version has a comma (,) after the word "slavery" while the 1912 version has a semicolon (;). This singular alteration created great change in meaning of Ohio's constitutional law: from slavery and involuntary servitude "FOR THE PUNISHMENT OF CRIME" in 1851 to involuntary servitude without slavery "FOR THE PUNISHMENT OF CRIME" in 1912.

CONSTITUTION OF RHODE ISLAND

Article I, Section 4 (1842)

Sec. 4. Slavery shall not be permitted in this State.

CONSTITUTION OF VERMONT

Chapter I, Article 1st (1793)

Art. 1st. That all men are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; therefore no person born in this country, or brought from over sea, ought to be holden by law, to serve any person as a servant, slave or apprentice, after he arrives to the age of twenty-one years, unless he is bound by his own consent, after he arrives to such age, or bound by law for the payment of debts, damages, fines, costs, or the like.

Annotations

4. Slavery. No inhabitant of this state can hold a slave. Selectmen of *Windsor v. Jacob* (1802) 2 Tyl. 192.⁵

NO PROVISO STATE CONSTITUTIONS

ALASKA	NEW HAMPSHIRE
ARIZONA	NEW JERSEY
CONNECTICUT	NEW MEXICO
DELAWARE	NEW YORK
FLORIDA	OKLAHOMA
HAWAII	PENNSYLVANIA
IDAHO	SOUTH CAROLINA
ILLINOIS	SOUTH DAKOTA
MAINE	TEXAS
MARYLAND	VIRGINIA
MASSACHUSETTS	WASHINGTON
MISSOURI	WEST VIRGINIA
MONTANA	WYOMING

CONSTITUTION OF ALASKA

NO PROVISO

Article I, Sec. 12 (1956)

Sec. 12. **Excessive Punishment.** Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted. Penal administration shall be based on the principle of reformation and upon the need for protection of the public.

CONSTITUTION OF ARIZONA

NO PROVISO

CONSTITUTION OF CONNECTICUT

NO PROVISO

CONSTITUTION OF DELAWARE

NO PROVISO

CONSTITUTION OF FLORIDA

(Changed State)

Declaration of Rights (1868)

Sec. 18. Neither slavery nor involuntary servitude, UNLESS FOR THE PUNISHMENT OF CRIME, shall ever be tolerated in this State.

Declaration of Rights (1885)

Sec. 19. Slavery prohibited; penal servitude. Neither slavery nor involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY HAS BEEN DULY CONVICTED, shall ever be allowed in this State.

Historical Note

The Constitution of 1868, in which this section first appeared, did not specify that one must be duly convicted before the imposition of involuntary servitude as a punishment for crime.⁶

NO PROVISIO (1968 Revision)

References to slavery and involuntary servitude omitted from the 1968 Declaration of Rights.

The 1968 revision of the Florida Constitution omitted Section 19 of the 1885 Declaration of Rights; and in 1969, Florida “transferred all powers, duties and functions of the division of corrections of the board of commissioners of state institutions to the division of adult corrections. . . of the department of health and rehabilitative services.”⁷

CONSTITUTION OF HAWAII

NO PROVISIO

CONSTITUTION OF IDAHO

NO PROVISIO

**CONSTITUTION OF ILLINOIS
(Changed State)**

Article 4, Section 1 (1818)

Sec. 1. Neither slavery nor involuntary servitude shall hereafter be introduced into this State, OTHERWISE THAN FOR THE PUNISHMENT OF CRIMES, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED. . . .

Article 13, Section 16 (1848)

Sec. 16. There shall be neither slavery nor involuntary servitude in this state, EXCEPT AS A PUNISHMENT FOR CRIME WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

NO PROVISIO (1870)

CONSTITUTION OF MAINE

NO PROVISIO

CONSTITUTION OF MARYLAND (Changed State)

Declaration of Rights, Article 24 (1867)

Art. 24. THAT SLAVERY SHALL NOT BE RE-ESTABLISHED IN THIS STATE; but having been abolished under the policy and authority of the United States, compensation, in consideration thereof, is due from the United States.

NO PROVISIO (1979)

CONSTITUTION OF MASSACHUSETTS

NO PROVISIO

(See PENNSYLVANIA)

CONSTITUTION OF MISSOURI (Changed State)

From *American Constitutions* by Franklin B. Hough:

A petition from the Territorial Legislature, asking for a State government, was received in Congress December 18, 1818, which was referred to the Committee on Territories. On the 13th of February, 1819, the House went into Committee of the Whole and took up the bill upon this subject, and several amendments were adopted on the 15th, the most important of which, moved General James Tallmadge, of New York, was as follows:

"And provided, also, that the further introduction of slavery or involuntary servitude be prohibited, EXCEPT FOR THE PUNISHMENT OF CRIMES, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED; and that all children of slaves, born within the said State, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years."

This amendment was adopted by a vote of 87 to 76, upon that part ending with the word "convicted," and upon the residue, by a vote of 82 to 78. In this form it was referred back to the House, and on a third reading it passed, as amended, by a vote of 98 to 56.

In the Senate, the latter part of the amendment was stricken out, by a vote of 27 to 7, and on the remainder, the

vote for striking out was 22 to 16. Upon being referred back to the House, they refused to concur, by vote of 69 to 74, and so the bill was lost. . . .

When the war of the rebellion began, the Governor of Missouri (C.F. Jackson) proved to be in sympathy with secession, and a strong effort was made to carry this State with the South. The Legislature voted, on the 16th of January, 1861, to call a Convention, which was elected, and met on the 28th of February, 1861; but that body proved to be in favor of remaining in the Federal Union, and refused to secede therefrom. It remained in existence by adjournments until the 1st of July, 1863. In October, a remnant of the Legislature who adhered to the fortunes of the rebellion, were assembled by Governor Jackson at Neosho, and went through the farce of secession. The Constitutional quorum of the Legislature was 67 in the House and 17 in the Senate; but at the session at Neosho, there were present but 35 of the former, and 10 of the latter. A few days after they were joined by five other members and one Senator, which was the nearest approach made to a quorum in either House.

Nevertheless, persons claiming to have been elected, appeared to represent Missouri in the Confederate Congress in December, 1861, and the shadow of a State government in sympathy with the rebellion, continued for some time after.⁸

Article I, Section 2 (1865)

Sec. 2. That there cannot be in this state either slavery or involuntary servitude, EXCEPT IN PUNISHMENT OF CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

Article 2, Section 31. (1875)

Sec. 31. **Slavery prohibited.** That there cannot be in this State either slavery or involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

NO PROVISIO (1945)

Constitution of 1945 makes no reference to slavery or involuntary servitude - 1875 Article 2, Section 31 is omitted.

CONSTITUTION OF MONTANA (Changed State)

Article 3, Section 28 (1889)

Sec. 28. There shall never be in this state either slavery or involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

NO PROVISIO (1972)

CONSTITUTION OF NEW HAMPSHIRE

NO PROVISIO

Bill of Rights, Article 18 (1792)

[Art.] 18th. [Penalties to be Proportioned to Offenses; True Design of Punishment.] All penalties ought to be proportioned to the nature of the offense. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do to those of murder and treason. Where the same undistinguishing severity is exerted against all offenses, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offenses. For the same reason a multitude of sanguinary laws is both impolitic and unjust. *The true design of all punishments being to reform, not to exterminate mankind.* [Emphasis added.]

CONSTITUTION OF NEW JERSEY

NO PROVISIO

Slavery existed prior to the adoption of the constitution of 1844, and was not abolished by that constitution, but was abolished by Act April 18, 1846, Rev. St. 1847, p. 382. *State v. Post*, 21 N.J.L. 699 (1848); *State v. Post*, 20 N.J.L. 368 (1844).⁹

CONSTITUTION OF NEW MEXICO

NO PROVISIO

CONSTITUTION OF NEW YORK

NO PROVISIO

(See PENNSYLVANIA)

CONSTITUTION OF OKLAHOMA

NO PROVISIO

CONSTITUTION OF PENNSYLVANIA

NO PROVISIO

Historical Note

The book *Free Men All*, by Thomas D. Morris, "follows the developments in five free states (Massachusetts, New York, Pennsylvania, Ohio, and Wisconsin) in which 'Personal Liberty Laws' were passed. These laws variously guaranteed a jury trial to a person who claimed to be free; extended habeas corpus to cover the claims to freedom of fugitives; required state procedures in addition to, or as an alternative to, the federal fugitive rendition procedures; punished state officials for performing duties under the federal fugitive slave acts, or withdrew jurisdiction from state officials in such cases; denied the use of jails to house alleged runaways; provided counsel for blacks or persons claimed as slaves; and provided punishment for persons convicted of kidnapping. Not all were in effect in any one state, and some were later repealed by pro-southern state legislatures. The most bold and threatening (the first three listed above) were ruled unconstitutional or void in *Prigg* [*Prigg v. Pennsylvania*, 41 U.S. (16 Pet.) 539 (1842)] and *Ableman v. Booth* [62 U.S. (21 How.) 506 (1859)] as conflicting with valid federal law."¹⁰

CONSTITUTION OF SOUTH CAROLINA (Changed State)

Article I, Section 2 (1868)

Sec. 2. Slavery shall never exist in this State; neither shall involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED.

NO PROVISIO (1895)

CONSTITUTION OF SOUTH DAKOTA

NO PROVISIO

CONSTITUTION OF TEXAS (Changed State)

Article I, Section 19 (1869)

Sec. 22. Importations of persons under the name of "coolies," or any other name or designation, or the adoption of any system of peonage, whereby the helpless and unfortunate may be reduced to practical bondage, shall never be authorized or tolerated by the laws of this State; and neither slavery nor involuntary servitude, EXCEPT AS A PUNISHMENT FOR CRIME, WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED, shall ever exist in this State.

NO PROVISIO (1876)

**CONSTITUTION OF VIRGINIA
(Changed State)**

Article I, Section 19 (1870)

Sec. 19. That neither slavery nor involuntary servitude, EXCEPT AS LAWFUL IMPRISONMENT MAY CONSTITUTE SUCH, shall exist in this State.

NO PROVISIO (1902)

CONSTITUTION OF WASHINGTON

NO PROVISIO

Article 6. Elections and Elective Rights

Sec. 3. **Who Disqualified.** All idiots, insane persons, and persons convicted of infamous crime unless restored to their civil rights are excluded from the elective franchise.

CONSTITUTION OF WEST VIRGINIA

NO PROVISIO

CONSTITUTION OF WYOMING

NO PROVISIO

Notes

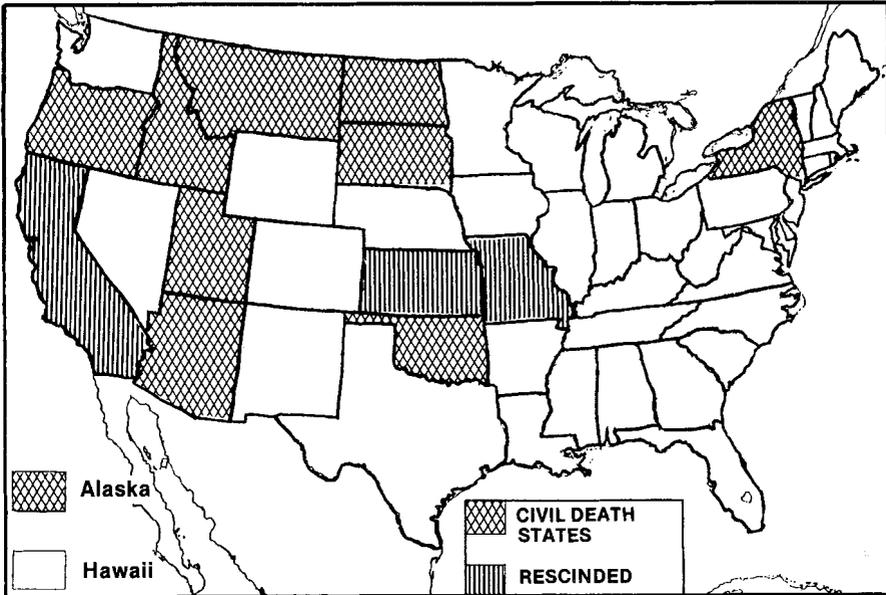
1. Hough, vol. 1, p. 82.
2. *Tennessee Code Annotated*, vol. 1, 1980 replacement ed. (Charlottesville: Michie Company, 1980), pp. 399-400.
3. Hough, vol. 2, p. 493.
4. *Michigan Compiled Laws Annotated*, vol. 1 (St. Paul: West Publishing Company, 1967), p. 560.
5. *Vermont Statutes Annotated, Title I through Title 3*, 1972 replacement ed. (Orford, N.H.: Equity Publishing Corporation, 1972), p. 98.
6. *Florida Statutes Annotated*, (St. Paul: West Publishing Co., 1970), vol. 25, p. 98.
7. *Ibid.*, vol. 24, p. 234.
8. Hough, vol. 1, pp. 96-98.
9. *New Jersey Statutes Annotated, Constitution of New Jersey, Articles I-III* (St. Paul: West Publishing Co., 1970), p. 127.
10. Wyeth Holt, pp. 1066-1067; see also Thomas Morris, *Free Men All, The Personal Liberty Laws of the North, 1780-1861* (Baltimore: Johns Hopkins University Press, 1974), pp. 195-199, which Holt cites as "a good summary of the types of Personal Liberty Laws, and what became of them."

Civil Death Statutes

Prison slavery state constitutional changes would be meaningless without subsequent changes in state statutes. This technical conformity focuses on the changes in state civil death statutes.

Three *prison slave* and 6 *no proviso* states have civil death. Three *changed* states had civil death statutes - now they have one. *Involuntary servitude* states had 3 - now they have none.

CIVIL DEATH STATES



Further research in state statute and policy changes will empower critical analysis of the practices of prison slavery and involuntary servitude. Correlation and cross-correlation of several factors will establish state signatures and both positive and negative effects of state constitutional changes. Factors needing research and correlation include: civil death, death penalty, prison sentences, time served before release, prison construction, unconstitutional prison conditions, the existence of labor union-busting "right to work laws," passage or failure of the Equal Rights Amendment, abortion rights legislation, affirmative action, the distribution of nuclear power plants, and unemployment, poverty, and incarceration rates.

**CONSTITUTIONAL AMENDMENT
HOUSE OF DELEGATES**

No. 1087

By: Delegate Phillips

Introduced and read first time: February 4, 1980

Assigned to: Constitutional and Administrative Law

A BILL ENTITLED

AN ACT concerning

Declaration of Rights - Abolition of Slavery

FOR the purpose of amending the Declaration of Rights of the Constitution of Maryland to prohibit the practice of slavery; and submitting this amendment to the qualified voters of the State of Maryland for their adoption or rejection.

BY proposing an addition to the Constitution of Maryland

Declaration of Rights

Article 47

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, (Three-fifths of all the members elected to each of the two Houses concurring), That it be proposed that section(s) of the Constitution of Maryland be repealed, amended, or added to read as follows:

Declaration of Rights

Article 47.

THE PRACTICE OF SLAVERY IS ABOLISHED AND SHALL BE PROHIBITED ABSOLUTELY.

SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly determines that the amendment to the Constitution of Maryland proposed by this Act affects multiple jurisdictions and that the provisions of Article XIV, Section 1 of the Constitution concerning local approval of constitutional amendments do not apply.

SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section proposed as an amendment to the Constitution of Maryland shall be submitted to the legal and qualified voters of this State at the next general election to be held in November, 1980 for their adoption or rejection in pursuance of directions contained in Article XIV of the Constitution of this State. At that general election, the vote on this proposed amendment to the Constitution shall be by ballot, and upon each ballot there shall be printed the words "For the Constitutional Amendments" and "Against the Constitutional Amendments," as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Constitution, and further proceedings had in accordance with Article XIV.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

HOUSE JOINT RESOLUTION No. 70

By: Delegates Phillips, Murphy, Dean, Rawlings, and Conaway
Introduced and read first time: February 13, 1981
Assigned to: Constitutional and Administrative Law

HOUSE JOINT RESOLUTION

A House Joint Resolution concerning

Slavery or Involuntary Servitude

FOR the purpose of urging the amendment of the United States Constitution to remove any trace of the acceptability of slavery or involuntary servitude.

WHEREAS, With the states' ratification of Amendment XIII of the United States Constitution in 1865, the legality of slavery and involuntary servitude was restricted to "punishment for crime whereof the party shall have been duly convicted"; and

WHEREAS, With the United States Senate's ratification of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery in 1967, we recognized the illegality of the "status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised"; and

WHEREAS, We have become increasingly aware that by accepting as just any form of slavery or involuntary servitude we reduce a human being's personhood and are responsible for the abominable consequences that flow therefrom; and

WHEREAS, In spite of this growing awareness, United States Courts have been bound by Amendment XIII of the Constitution to accept the proposition that "the labor of a convict belongs to the state"; now, therefore, be it

RESOLVED BY THE GENERAL ASSEMBLY OF MARYLAND, That the United States Constitution should be amended to remove any trace of the acceptability of slavery or involuntary servitude; and be it further

RESOLVED, That a copy of this Resolution be sent to the Maryland Congressional Delegation: Senators Charles Mc C. Mathias, Jr. and Paul S. Sabanes, Senate Office Building, Washington, D.C. 20510; and Representatives Royden P. Dyson, Clarence D. Long, Barbara A. Mikulski, Marjorie S. Holt, Gladys N. Spellman, Beverly B. Byron, Parren J. Mitchell, and Michael D. Barnes, House Office Building, Washington, D.C. 20515.

Petition to Abolish Prison Slavery

Committee to Abolish Prison Slavery
P.O. Box 3207, Washington, D.C. 20010 (202) 797-7721

I sign this petition in support of changing the status of prisoners from that of slaves to that of full citizens and in recognition that the Thirteenth Amendment to the United States Constitution presently 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.

and should be changed to read:

Neither slavery nor involuntary servitude shall exist within the United States or any place subject to their jurisdiction.

1. Print Name _____ Street Address _____ ID No. or Phone _____

Signature _____ City _____ State _____ Zip _____

2. Print Name _____ Street Address _____ ID No. or Phone _____

Signature _____ City _____ State _____ Zip _____

3. Print Name _____ Street Address _____ ID No. or Phone _____

Signature _____ City _____ State _____ Zip _____

4. Print Name _____ Street Address _____ ID No. or Phone _____

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5. Print Name _____ Street Address _____ ID No. or Phone _____

Signature _____ City _____ State _____ Zip _____