The United States of America’s Compliance with the

Convention on the Elimination of All Forms of Racial Discrimination

Suggested List of Themes

Submitted by the US Southern Prisons Coalition

107th Session of the Committee on the Elimination of Racial Discrimination

8-30 August 2022

Submitted 16 May 2022

The **Southern Prisons Coalition** is a coalition of the following civil and human rights organizations representing people incarcerated in the Southeastern United States. This report is authored by the Southern Poverty Law Center on behalf of and based upon the contributions of the following coalition members:

Florida Justice Institute

Legal Defense Fund

Mississippi Center for Justice

Promise of Justice Initiative

Root & Rebound

Southern Center for Human Rights

Southern Poverty Law Center

Introduction

The prison systems operated by states in the Southern United States represent a continuation of their deeply embedded legacy of slavery and racial exploitation, in many ways building on the horrors of the Southern plantation system. During the nearly quarter millennium of chattel slavery in the South, people of African descent were held as property, forced to labor on white-owned plantations, and beaten, tortured and killed for the slightest perceived transgressions – or, at times, for no reason at all. The 13th Amendment to the US Constitution banned slavery in the US, but contained a crucial exception:

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.

As post-Reconstruction Southern states began inexorably to imprison Black people to deprive them of their full citizenship and prevent them from gaining any political power, this exception became the primary tool of racial control.

Over the years, first Jim Crow laws, then segregation and Black Codes, and later the criminal justice system and mass incarceration through the criminal legal system replaced slavery as a tool of racial control in the US. Black codes that criminalized ordinary conduct gave way to policies such as the so-called “war on drugs” and criminal justice practices such as mandatory minimum sentences and racial disparities in discretionary sentencing, through which the US imposed mass incarceration of Black people and perpetuated systemic disenfranchisement in the areas of economic mobility, education, employment, housing and suffrage.

Prison systems in the South, many of which are located on former plantation property[[1]](#footnote-1) or are named after Confederate and slaveholding figures, have been particularly adept at perpetuating certain elements of slavery-era conditions. Black Americans are five times more likely to be incarcerated in state prisons.[[2]](#footnote-2) In 2019, these stark racial disparities existed in our Southern region:[[3]](#footnote-3)

|  |  |  |  |
| --- | --- | --- | --- |
| State | Prison Population | % Black in Prison | % Black in Population |
| Alabama | 28,304 | 52% | 27% |
| Arkansas | 17,759 | 41% | 15% |
| Florida | 96,009 | 47% | 15% |
| Georgia | 54,816 | 60% | 31% |
| Louisiana | 31,609 | 67% | 32% |
| Mississippi | 19,421 | 64% | 38% |
| North Carolina | 34,079 | 51% | 21% |
| South Carolina | 18,608 | 59% | 27% |
| Texas | 158,429 | 33% | 12% |

While incarcerated, Black people are more than 8 times more likely to be placed in solitary confinement, and ten times more likely to be held there for inhumanely long periods of time.[[4]](#footnote-4) The U.S. recently represented in its Sixth Periodic Report to the Committee Against Torture that U.S. prisons use solitary confinement occasionally, “when correctional officials have no choice but to segregate inmates from the general population, typically when it is the only way to ensure the safety of inmates, staff, and the public.” This statement is inaccurate. The use of solitary confinement is excessive in prisons across the country, and the conditions in which prisoners are held are inhumane. Both Louisiana and Florida held 10% of their prison populations in solitary confinement in 2019, while in Arkansas, the figure was 11%.[[5]](#footnote-5), [[6]](#footnote-6) In Alabama, a federal district court recently found that people are often held in solitary confinement for weeks or months at a time, often without being allowed out of their cells even to shower, due to the lack of adequate correctional staffing. Dozens of people have committed suicide in Alabama’s solitary confinement units over the last 5 years.[[7]](#footnote-7) In Georgia, where staffing shortages are also extreme and conditions in solitary confinement units are similar to those in Alabama, the suicide rate is also appallingly high, with at least 12 suicides (mostly in solitary confinement) during the past two years. The crisis in Georgia’s prison is so dire that the Department of Justice has initiated a statewide investigation into violence there. Regrettably, the Georgia Department of Corrections has obstructed the DOJ’s investigation at every turn, mostly recently by refusing to provide them with the basic documents and site visits to which they are entitled under CRIPA. On March 28, 2022, the DOJ filed a petition to enforce their CRIPA subpoena.[[8]](#footnote-8) South Carolina prisons have kept thousands of incarcerated individuals in lockdown for periods ranging from several months to more than a year, both prior to and during the COVID-19 pandemic, due to chronic staffing shortages.[[9]](#footnote-9) These extended lockdowns are akin to long-term solitary confinement, depriving people of access to vocational and educational programming, visitation with loved ones, and access to the outdoors; and significantly delaying access to lifesaving medical and mental health services.

For many years after the ban on slavery, state prisons forced disproportionately Black prisoners to labor for private companies in arrangements known as convict leasing, with funds going both into state coffers and into the pockets of unscrupulous officials. Prisoners were also sent out to perform manual labor for the state itself, shackled together in “chain gangs.” Many were forced to work in plantation-like conditions, such as cotton farming, and were subjected to harsh punishments for failing to work quickly or productively enough, recalling slavery-era plantation bosses.

While many of the labor practices that are most directly reminiscent of slavery were eventually ended, mostly through civil rights litigation, they nevertheless evolved into other practices that are less obvious on the surface but just as exploitative. In many prison systems today, incarcerated people are forced or coerced to work jobs for which they are paid tiny wages – a few states pay nothing.[[10]](#footnote-10) Voluntary work programs also provide labor to for-profit industries at extremely low rates.[[11]](#footnote-11) People incarcerated in prisons operated by the US government are required to perform physical labor unless medically unable, and are paid between 12 cents and 40 cents per hour.[[12]](#footnote-12) Some of this work is quite arduous and dangerous.[[13]](#footnote-13) Federal worker safety standards do not apply to incarcerated workers and some states, such as Texas, expressly exclude incarcerated workers from receiving compensation for work-related injuries.[[14]](#footnote-14) Also reminiscent of the slavery and Jim Crow eras is the woeful lack of educational resources provided to incarcerated people.

The meager wages paid to incarcerated people for their labor is no match for the price gouging inflicted on them for goods and services such as commissary items,[[15]](#footnote-15) medical care charges,[[16]](#footnote-16) and exorbitant telephone fees,[[17]](#footnote-17) which recalls the economic exploitation of sharecroppers in the years following the abolition of chattel slavery. Combined with offender-funded criminal legal systems that impose massive fines and fees on people convicted of crimes,[[18]](#footnote-18) these charges result in many people who are eventually released from prison being saddled with overwhelming debt for decades.

Suggested Themes and Questions

* How is the State party addressing the continuing legacies of slavery in its modern-day systems of incarceration?
* How is the State party ensuring that its commitment to the human rights of incarcerated individuals is equal to that afforded their non-incarcerated counterparts?
* How is the State party addressing the racial disparities of Black people entering correctional facilities and being subject to discriminatory policies within correctional facilities once incarcerated?
* Provide data, disaggregated by federal/state jurisdiction and by race, regarding forced labor and extremely low wage labor performed by people incarcerated in federal and state-run jails, prisons, and other places of detention.
* Provide data showing profits to private, for-profit entities resulting from low wage prison labor.
* What steps will the State party take to address the use of forced, extremely low wage labor, by people incarcerated in facilities operated by the federal Bureau of Prisons?
* What measures are being taken or considered to investigate and address state practices of obtaining forced labor and extremely low wage labor from incarcerated people?
* Provide information on incarcerated labor injuries and deaths relating to forced labor in incarceration.
* Provide data, disaggregated by federal/state jurisdiction and by race, regarding the incarcerated population held in solitary confinement, including separate data for those held in solitary confinement continuously for more than 180 days.
* What steps is the State party taking to eliminate the use of long-term solitary confinement in federal and state prisons?
* What steps is the State party taking to ensure that solitary confinement is used only rarely and only when absolutely necessary?

1. Such as the Angola state penitentiary in Louisiana. [↑](#footnote-ref-1)
2. [*The Color of Justice: Racial and Ethnic Disparity in State Prisons*](https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf), Sentencing Project, 13 October 2021, at 5. [↑](#footnote-ref-2)
3. *Id.* at 20. While prison populations have shrunk somewhat due to reduced admissions during the pandemic, they are expected to rise again as the pandemic eases. [↑](#footnote-ref-3)
4. [*The population prevalence of solitary confinement*](https://www.science.org/doi/epdf/10.1126/sciadv.abj1928), Science Advances, 2021, at 5. [↑](#footnote-ref-4)
5. Grace Toohey, *Louisiana prisons over-rely on solitary confinement, report finds, but leaders committed to progress*, The Advocate, May 16, 2019; Southern Poverty Law Center, *Solitary Confinement: Inhumane, Ineffective, and Wasteful* at 6, Apr. 2019, available at https://rb.gy/eosobi. [↑](#footnote-ref-5)
6. DecARcerate, *Solitary Confinement in Arkansas Prisons* at 1, Jan. 2021, available at https://tinyurl.com/ycf2rwrn. [↑](#footnote-ref-6)
7. [*Braggs v. Dunn*](https://casetext.com/case/braggs-v-dunn-48), 2021 WL 6128418 (M.D. Ala. Dec. 27, 2021. [↑](#footnote-ref-7)
8. [*DOJ says state impeding investigation of prison violence*](https://www.ajc.com/news/investigations/doj-says-state-impeding-investigation-of-prison-violence/UINO55IG7JED7BB65TTMYHI75U/), Atlanta Journal-Constitution, 4 April 2022. [↑](#footnote-ref-8)
9. *E.g.,* [*Inmates: Some S.C. prisons locked down 8 months*](https://theitem.com/stories/inmates-some-sc-prisons-locked-down-8-months,320032), The Sumter Item, 23 December 2018. [↑](#footnote-ref-9)
10. [*How much do incarcerated people earn in each state*](https://www.prisonpolicy.org/blog/2017/04/10/wages/)?, Prison Policy Initiative, 10 April 2017. [↑](#footnote-ref-10)
11. [*Involuntary Servitude: How Prison Labor is Modern Day Slavery*](https://harvardpolitics.com/involuntary-servitude-how-prison-labor-is-modern-day-slavery/), Harvard Political Review, 3 February 2022. [↑](#footnote-ref-11)
12. [*Work Programs*](https://www.bop.gov/inmates/custody_and_care/work_programs.jsp), US Bureau of Prisons. [↑](#footnote-ref-12)
13. *Involuntary Servitude, supra.* [↑](#footnote-ref-13)
14. [*Regulating Prison Labor*](https://www.theregreview.org/2021/10/20/russo-regulating-prison-labor/), The Regulatory Review, 20 October 2021. [↑](#footnote-ref-14)
15. [*Following the Money of Mass Incarceration*](https://www.prisonpolicy.org/reports/money.html)*,* Prison Policy Initiative, 25 January 2017. [↑](#footnote-ref-15)
16. [*Should Prisoners Have to Pay for Medical Care During a Pandemic?*](https://www.themarshallproject.org/2018/05/30/the-580-co-pay)*,* The Marshall Project, 20 November 2020; [*The $580 co-pay*](https://www.themarshallproject.org/2018/05/30/the-580-co-pay)*,* The Marshall Project, 30 May 2018. [↑](#footnote-ref-16)
17. [*The staggeringly high price of a prison phone call*](https://www.washingtonpost.com/opinions/2021/11/30/staggeringly-high-price-prison-phone-call/)*,* Katrina vanden Heuvel, Washington Post, 30 November 2021. [↑](#footnote-ref-17)
18. [*Who Pays? The True Cost of Incarceration on Families*](http://whopaysreport.org/who-pays-full-report/)*,* Ella Baker Center for Human Rights, *et al.,* September 2015; [*After a hard-won sentence reduction, Huntsville man’s court debt is another obstacle to freedom*](https://www.splcenter.org/news/2019/11/12/after-hard-won-sentence-reduction-huntsville-mans-court-debt-another-obstacle-freedom), Southern Poverty Law Center, 12 November 2019. [↑](#footnote-ref-18)