

#EndTheException

A CAMPAIGN TO ABOLISH SLAVERY FOR ALL

FREQUENTLY ASKED QUESTIONS

Why was the exception included in the first place?

When the Thirteenth Amendment was drafted, the exception clause reflected the efforts of Senators from slave states to reach a compromise that would allow for the continuation of slavery, albeit in modified form. Abolitionist Senator Charles Sumner of Massachusetts argued that the inclusion of the exception clause allowed “that men may be enslaved” as criminal punishment and that it “do[es] no good there, but... absolutely introduce[s] a doubt.” He proposed alternatives that were shot down, and he did not force the issue.

It’s been more than 150 years, why now?

It's way overdue and there is broad bipartisan support across the country. In the last four years, three states have amended their state constitutions to end the exception and abolish slavery. Colorado led in 2018 followed by Utah and Nebraska in 2020 — and all three had unanimous, bipartisan legislative support. Since then, the Alabama, Louisiana, Oregon, Tennessee, and Vermont have passed state amendments that will be on the 2022 ballot. And there are many other states organizing to amend their state constitutions similarly, several of which are expected to be on upcoming ballots.

What type of work do incarcerated people do?

Incarcerated people work inside prisons and jails for the government and private corporations. Incarcerated people help operate the facilities in which they live through their labor. They work in building maintenance, food service, suicide watch, janitorial service, program instruction, and much more. In many facilities, incarcerated people also work in industry jobs that vary widely, but can include manufacturing license plates, staffing call centers, cell welding, sewing uniforms, asbestos abatement, fighting wildfires, building furniture, digging graves, picking cotton, and more.

How much are incarcerated people paid for their work?

Wages in prisons and jails across the country vary and depend largely on the state in which people are working and the type of work they are doing. Facility jobs, which account for the overwhelming majority of jobs in prison, pay the least with a national average of just \$0.14 per hour. Industry jobs pay anywhere from nothing to a few dollars an hour, after garnishments. Several states, including Arkansas, Georgia, and Texas, pay incarcerated people nothing at all for their work. It is estimated that \$14 billion is stolen in wages from incarcerated people. You can learn more about state prison wages at prisonpolicy.org.

What consequences do incarcerated people face for not working?

Incarcerated people are punished for refusing to work. While punishments can vary agency to agency and even facility to facility, they can include the denial of calls and visits with family, solitary confinement, and even the denial of parole. These punishments also have their roots in antebellum slavery.

How will ending slavery and involuntary servitude impact correctional facilities?

Prisons and jails have never existed without slavery and involuntary servitude, so it will be on us to be the architects of this new and more just world. Ending slavery and involuntary servitude will prohibit facilities from forcing incarcerated people to work, but will not prohibit incarcerated people from working voluntarily. It may require administrators to reconsider wages and other labor protections.

The potential economic impact of ending slavery and involuntary servitude is being studied. However, the figure cannot impede our moral imperative to end slavery and involuntary servitude. Ahead of the Civil War, many warned of the disastrous economic impact that ending slavery would have on the South, but that could not be the basis of allowing slavery to continue. Any claim that we cannot afford to end slavery is devoid of morality.

Will the Abolition Amendment end slavery and involuntary servitude in the penal system?

Slavery and involuntary servitude have no place in our country, not on paper and not in practice. Passing the Abolition Amendment is necessary but not sufficient to end slavery and involuntary servitude in our nation's prisons and jails. Like all constitutional rights, the right to be protected from slavery and involuntary servitude conferred by the Abolition Amendment will need to be interpreted and enshrined by the courts to ensure an end to slavery and slavery-like conditions in our prisons and jails.

The Abolition Amendment is unlikely to automatically confer employment rights to incarcerated people. Courts have routinely held that incarcerated people are not employees under the Fair Labor Standards Act and National Labor Relations Act. Securing employment rights for incarcerated people will likely require additional legislation.

Will the Abolition Amendment prohibit incarcerated people from working?

No, ending slavery and involuntary servitude will not prohibit incarcerated people from working voluntarily.

Will the Abolition Amendment prevent courts from sentencing people to community service?

No, ending slavery and involuntary servitude will not prohibit courts from sentencing people to community service as an alternative to incarceration.

Where can you learn more about the Thirteenth Amendment and prison slavery?

You can learn more about the Thirteenth Amendment and prison slavery by visiting endtheexception.com and abolishslavery.us, where you will find important statistics, educational videos, and first-person narratives. Here are a few other resources:

- The War Over the 13th Amendment and Modern Day Slavery by the Constitutional Accountability Center provides a constitutional law analysis.
- *The Prison Industry: How it started. How it works. How it harms.* by Worth Rises covers the particulars of prison labor today in Chapter 4.
- Thirteenth by Ava Duvernay traces mass incarceration back to slavery.