

## **Group 6: Prison Labor and the GND**

### **Part I: Problem/Issue Description**

The problem that our group will be focusing on throughout this project is whether prison labor in America is unethical and inequitable, and if so, how the Green New Deal can help reform the system. Our group will be looking at the Green New Deal and how it can fill the gaps of policies like the Fair Labor Standards Act and National Labor Relations Act, both of which do not include incarcerated workers enough. Specifically, certain exceptions to the FLSA are legalized forms of racial discrimination, (Leung). In order to support our project's problem identification, our group will briefly mention the case study of prison labor in the California fire programs. There is potential unethical treatment and compensation of workers committed to the response of natural disasters such as fighting these wildfires. This is because when dealing with the fires, these prison workers receive little to no pay for risking their lives; once done with the program, they are still not able to become actual firefighters within the workforce. These are just some of the examples of how there may be unethical practices in our government system that we will be discussing throughout this project. Our group will also be discussing the stakeholders involved in our problem focus, such as policy makers, private prison owners, investors like corporations such as UNICOR, the general public, non profits, incarcerated workers and their families, and former incarcerated workers/people. Each of these stakeholders have an impact on the prison labor in America and are affected by the system, either directly or indirectly.

To provide some background on prison labor, we must look to post civil war implementations of the Black Codes and the Thirteenth Amendment (Hammad, page 68-70). Once Black people were declared free from slavery, discriminatory laws, or Black Codes, were enabled to criminalize their everyday activities. This provided a base of 'prisoners' upon which the Thirteenth Amendment could be used to justify (otherwise unconstitutional) forced labor (Hammad, page 68). From here, different systems were established to fill the workforce gap created by abolition, and generate profit from this growing population. State prisons formed convict leasing agreements with private contractors to house and feed imprisoned people in exchange for commercial labor. Chain Gangs were a similar arrangement, with work going towards public projects (Hammad, page 70). These were considered economically attractive because those in captivity were expendable sources of cheap work, without any property investment incentives to maintain their wellbeing (Hammad, page 69- 70). This dynamic of high profitability and low regard resulted in severe inhumane treatment. Both operations were eradicated in the 1920s and 1950s respectively, after being exposed for their harsh practices and gained opposition from labour unions and the public (Hammad, page 69-71). The modern prison-industrial complex is slightly different in execution, but similar in business plan. Incarcerated people living in California can be employed by UNICOR, or Federal Prison Industries: a company that leases out prison labor under claims to reduce crime, improve recidivism, and provide workers with practical job skills and training so they may be employable

post-incarceration (Hammad). One objective of their 7 factory locations within California, is to ensure the corporation remains financially self-sustaining, which means they must turn some kind of profit through the means of potentially unethical prison labor.

Within our group, Amariah will continue to focus on the economic aspects of our problem as it relates to the labor market and financial security during or after incarceration, while Trinity will discuss the ethics of prison labor. This part is essentially challenging the system on whether or not prison labor is ethical or not. Jessica will be researching the occupational health aspect for the same reason. Alexa will look at the differences between the STEM vs. industrial job market in order to address the labor reform that can be implemented with the Green New Deal to include minority groups such as ex prisoners. Kat will examine the history of prison labor and how rhetoric influences and impacts not only the kinds of policy we see legislated, but also the social perceptions surrounding inmates. This is important because the way society perceives inmates both in and outside of prison alters their support for certain policies, which can either harm or benefit the inmates. Everyone in our group will be looking at their individual aspects through a GND lens in order to analyze how their policies could help reform prison labor.

## **Methodology**

### **Policy**

PolicyArchive and Proquest have been useful databases for search terms such as “prison labor,” “inmate work compensation,” “Federal Labor Standards Act,” “Work Opportunity Tax Credit,” “UNICOR,” “recidivism,” as well as other words related to the economy and tax law. I also had to read through the Fair Labor Standards Act, Jones v. North Carolina Prisoners’ Union Supreme Court case, and information about real estate investment trusts and the Prison Industry Enhancement program. Afterwards, I determined whether these policies/programs were still in effect. Once I compared this research to GND objectives, I was able to address opportunities for reform. In my literature review, I focused on official government documents and online resources like Justia. In addition, I’ve looked through peer reviewed articles to find data about incarcerated wages and tax deductions. Some news articles were read to give me context for how the prison system works, however, they were not used as formal sources.

### **Ethics of Prison Labor**

Through my research on this problem, I plan to undertake a literature review. Through this literature review I will be able to find all resources necessary when looking at the history of ethics. I will not only look at historical and current unethical practices, but I will also look at how the GND could implement new practices or programs to make the system more ethical. I will use search items such as, google scholar, discovery, web of science, as well as taking advantage of tools such as the search strategy builder. This builder will generate a search string in order for me to get started with my research. Through the web of science I will be able to analyze my search results and see how they are broken down into different disciplines. By using this, I will

be able to see the categorization that the web of science sees that my research has been published in and then narrow down everything in relation to that category. Through the web of science I can also do an author search, which will help in the factor of relevancy to the resources I may need. Through this literature review the ethics of prison labor will be evaluated in the process of how to dismantle this system. When evaluating this situation we will have to look into what makes something ethical and unethical. Something that is unethical is “not morally correct (Wiki).” We see the prison labor system as something that is unethical. It is unethical due to the fact that the lives of these prisoners are used for the benefit of the government with barely any say on whether or not they want to be involved in the labor while putting their lives on the line. In *Fireline, Divided: labor representation of unionized and incarcerated firefighters in California’s wildlands* Doty states, “as a workforce, California’s incarcerated firefighters face heightened risks and fewer benefits than unionized firefighters, while dramatically reducing the cost of fire protection for the state (pg. 2).” This reading makes it apparent that these prisoners are being exploited for money purposes. By researching literary sources and other material to support this project, we are able to look through many lenses of the facts of how unethical the prison labor system actually is.

### **Health**

The health aspect of prison labor will be carried out by understanding the policies already implemented to protect occupational health of workers and analyzing data gathered by relevant agencies such as the Occupational Safety and Health Administration, Bureau of Labor Statistics, the Bureau of Justice Statistics, and the CDC. This data will include any gaps in policies from the organizations mentioned before and potentially delving into the effects of physical hazards on prison inmates. I also will be looking through the Green New Deal in order to see how their policies could help reform this aspect of our problem and if not, how they can make the changes and inclusions to their policies to do so. I will be analyzing all this data through a GND lens. I plan to research the problem by undertaking a literature review, which will search for and analyze information that regards the occupational health and safety of American workers and prison inmates. I do have the experience and software needed to continue with this research plan, and will use google scholar, the library database, discovery, web of science and more tools to help with this. I also will use the search strategy builder in order to help me with my search and ensure that I can find reliable reading material. I may use search terms such as, “prison labor,” “occupational health,” “prison inmates occupational health,” “prisoner work related injuries,” “OSHA prison labor,” and “workplace health and safety regulations.” Hopefully these specific search terms will help narrow down the sources while I look. I will keep the questions Andre Montoya-Barthelemy asked in his article, *The Occupational Health of Prison Inmates: An Ignored Population and an Opportunity*, in mind such as, “What are their rates of injury, illness, and disability? How many correctional institutions retain industrial hygiene or occupational medicine professionals? What states provide workplace protections, including occupational safety enforcement and workers’ compensation? What are the specific occupational hazards of the carceral workplace?” (Montoya-Barthelemy, 2019). These questions will help me maintain

my focus during my search and help me analyze the issue of the lack of occupational health protections for prison inmates.

**Rhetoric: Kat Seranni**

The research method I will be investigating this focus through is literature review. I will be examining many documents and policies such as the 13th Amendment and the Fair Labor Standards Act, as well as analyzing the rhetoric used in graphs and/or data from related agencies. Regarding the general nature of my focus, I will be conducting my research in google scholar, VT library database, as well as the web of science. Another critical aspect of this research will be analyzing articles and news releases regarding prison labor and/or prisoners to examine what kind of rhetoric is used for the general public compared to formal, federal legislation. The other side of my research involves the historical context and the uprising of mass incarceration and prison labor since the end of the Civil War. I may use phrases such as “dangers of rhetoric,” “how rhetoric influences stereotypes,” “rhetoric on prison policy,” and “how we view prisoners in society.” I will be prioritizing academic and/or peer-reviewed sources, but I feel it is critical to note the rhetoric that occurs in day to day news articles, even and especially from biased sources. I will also be searching for beneficial rhetoric and alternative methods for talking about these issues that leave less negative connotations within our society.

**Labor Reform:**

The research I am conducting is through a research analysis and literature review of multiple sources that focus on the industries growing within the job market with the implementation of the GND. I have started conducting my research through the lens of the rural, mainly industrial, opportunities in the job market compared to opportunities within the STEM industry. This focus is related to the GND as it’s policies enforce the idea of a growing economy with plenty of jobs but who are these opportunities for? One of the minority groups our group has focused on is the demographic of released prisoners and those being used for labor while still being incarcerated. My focus is on reforming the labor force to include a minority that is often overlooked. I have been using the Virginia Tech database site to help me find scholarly articles as well as academic journals. The keywords I have been using are “Green New Deal”, “ethical jobs,” “prison labor,” and “STEM jobs”. I would like to further my research into the statistics of the rate of which an individual is re incarcerated after finding work and the type of work. There is a huge opportunity within the Green New Deal to address the job industry and create lasting change to create pathways for sustainable jobs. In the research article *Advancing a Viable Global Climate Stabilization Project: Degrowth versus the Green New* the author addresses the means of the logistics of how the Green New Deal will target jobs centered around green energy first and then trickle into other industries. (Pollin, 2019) This article has further allowed me to have questions about what industries are more susceptible to creating jobs as a result of green energy and which ones can be reformed with governmental assistance.

In class we also discussed the Rifkin initiatives which are a parallel of the ideas stated in the Green New Deal. The second initiative states that the federal government should establish a phasedown and elimination of the \$15 billion in annual fossil fuel subsidies. (Rikifin, 2019) When conducting my research I discovered that the majority of jobs that will be created will be

due to a shift in our energy consumption. A research question I have tackled is what is the connection between the energy sector and employment, and if there are opportunities presented to include a program of ex prisoners to work. This change from fossil fuels to renewable energy is the starting point of the GND and the establishment of the carbon tax cut. I have found information through means of academic journals and graphs/charts indicating trends in employment within each of the energy sectors. This has created a clear picture of what adding to the ideas of the GND could do to change the prison system. The use of employment would guarantee healthcare to workers, raticilize the means of payless labor within the system, and address the ethical practices.

## **Main Findings**

### **Policy**

Several pieces of legislation are involved in the persistence of prison labor; if the Green New Deal is to value equity for ALL workers, such policies must be addressed. There are policies that allow prison labor to be profitable for both private-run and government-run facilities. Vague language in the Federal Labour Standards Act disqualifies the incarcerated from eligibility for minimum wage. Even facilities who provide compensation cut into earnings with fees that offset costs of imprisonment (victim restitution, room + board, child support, legal expenses) (Hammad, page 77-78). Beyond this, private companies contracted with UNICOR (Federal Prison Industries) can receive a Federal Income Tax deduction under the Work Opportunity Tax Credit (Hammad, page 78). So, inmates receiving low wages must still pay taxes while big business and private prisons are provided with relief. Job opportunities, including those through the Prison Industry Enhancement Certification Program, are framed as a benefit to a person's employability post-incarceration, thus reducing potential for unemployment (Panday, Lu, Yu, page 4). In reality, the skill-building being offered is largely tailored to the manufacturing industry, which is becoming replaced by a service-based one (Panday, Lu, Yu, page 5). Blue-collar positions are decreasing due to globalization, technology, and immigration. Furthermore, barriers are in place which cut incarcerated people off from the open market (Panday, Lu, Yu, page 5). Contextualizing this with the social stigma experienced by ex-convicts when finding work, all of these factors act as barriers to upward mobility for incarcerated individuals. They are prevented from building financial stability through prison jobs because of significant deductions (Department of Justice, 1999), the skills they develop are not easily transferred post-incarceration, and official legislation does not view them as "employees" worthy of labor protection and standards.

### **Ethics of Prison Labor**

Apart from the rest of the team, I will focus on the ethics of prison labor. I essentially will begin to gather information on the history of prison labor as well as the ideology and theology as to why prison labor exists and as to why the prison system overcompasses on the benefits of prison labor. As a group, we would like to challenge this governmental mindset and question on

whether or not prison labor should exist at all. In today's world, we are beginning to see an increase in information about the ethics of prison labor. Recently, a documentary came out on Netflix called "13th." This documentary reaches as far as to say that prison labor in a new form of slavery. This dives into the racism within the prison system and the exploitation of these prisoners for the government's benefit. Prison labor has been used for cheap labor and to cut down on federal spending. By establishing this system that is used as a method to produce a product at a highly efficient rate with cheap pay, this creates the question of just how ethical is the prison labor system? Prison labor has been made a massive importance for big companies such as Starbucks. The situations, facilities, and protective wear the prisoners are immersed in are unethical as well. For example, the current fires in California are being helped by dozens of prisoners who did not sign up for this job, but are ultimately told to do this job because they are "owned" by the government. Workers are sometimes paid \$2 a day if they are on the outside lines of the fire whereas, on the inside and much riskier areas, they can be paid \$1 an hour. This use of prison labor is unethical in the sense of putting someone else's life at risk for little to no cost and without their approval of the work in the first place. Our focus throughout this issue is to redirect the government's attention and understanding to creating a plan for future and more sustainable outlets for prison workers once they are released from the system. Throughout this assignment, I will be dealing with the history of unethical prison labor and the hope for future implementations for more ethical practices that the GND could help incorporate into the system.

**Health:**

The aspect of our problem that I will be working on will surround the occupational health of the prison inmates and the lack of policies that protect them while they work in prison labor industries. There are policies already in place such as the Occupational Safety and Health Act of 1970 and state Workers' Compensation laws in order to secure the safety of American workers and prevent physical hazards in the workplace. There are also other policies that were implemented in order to improve the psychosocial aspects of the workplace, such as the Fair Labor Standards Act, Title VII of the Civil Right Act, and the National Labor Relations Act. Despite all these policies in place to protect the health of workers and prevent discrimination or unfair wages, the benefits often don't reach prison inmates. This is because of the 13th Amendment, which allows for involuntary servitude as long as it is a punishment for a crime that the party has been convicted of. It shows that the United States believes "prison is punishment, prisoners are convicts, not workers, and regardless of the work they may perform, their offenses have not earned them the 'privilege' of workplace safety," (Montoya-Barthelemy 2019). So for example, prisoners working to clean up oil spills or combat wild fires such as those in California, are given little to no protection for their health when dealing with dangerous chemicals and hazardous smoke. Another reason such policies don't reach prison workers is because relevant agencies like the Bureau of Labor Statistics, the Bureau of Justice Statistics, and the CDC do not gather occupational data from "institutionalized populations" (BLS, BJS, CDC). Therefore, we lack conventional means for determining the rates of injury, illness, and disability of prison workers, making it hard to include them in policies such as the Workers Compensation Laws. At

the same time, not all states include incarcerated workers in their Workers Compensation Laws and directly exclude them from receiving any such benefits. In addition to these barriers, the Occupational Safety and Health Act of 1970 doesn't always assure safe and healthful working conditions for working men and women like they state (OSHA). Oftentimes, those working in prisons, both federal employees and prison workers, are exposed to dangerous chemicals and environments because the safety standards are not strictly enforced. Prentice Cline, director of OSHA's Charleston Area Office supported this and said, "Federal prison employees are often exposed to blood or other potentially infecting materials." Unfortunately, we find that quick, cheap labor through prison workers often overrule their health. Our group argues that it is unethical to say the least and that is why our group is looking to address and analyze whether there are inequity and unethical aspects of prison labor through policies. So I will be focusing on the health aspect of our problem and analyze how the GND can reform the prison system and include this group in their policies for better employment and over all equitability.

### **History & Rhetoric**

The focus I will be delving into regards the history, social ideologies, rhetoric, and how they interact to produce stereotypes that influence how the general public not only perceives those who have been imprisoned, but also what kinds of policies we are willing to consider as a society given these pre-existing limitations. The United States incarcerates more people than any nation in the world, (Grawert et al., 2020). To provide some background implementation of prison labor, we must look to post civil war of the Black Codes and the Thirteenth Amendment (Hammad, page 68-70). Once Black people were declared free from slavery, discriminatory laws, or Black Codes, were made to criminalize their everyday activities. This provided a base of 'prisoners' upon which the Thirteenth Amendment could be used to justify (otherwise unconstitutional) forced labor (Hammad, page 68). In response to the public anxiety surrounding the potential crime to be done by newly freed Black people, as well as the economic depression as a result of the Civil war, Southern states used the criminal justice system "to both pacify the public's fear and bolster the depressed economy," (Delany et al., 2018). Social psychologists have demonstrated the association between race and crime for decades now; "not only are Blacks strongly associated with violent crime, but also the more stereotypically Black a person's features are perceived to be, the more that person is perceived as a criminal," (Hetey & Eberhardt, 2014). There is a pattern to be seen amongst the "crime waves" that are almost always followed by disproportionate incarceration of marginalized communities (Delany et al., 2018). If we can fully understand how we came to this point from a historical context, we can potentially avoid it in the implementation and construction of the GND with careful consideration.

### **Labor Reform**

My focus for our project is how feasible labor reform can be with the Green New Deal in creating new jobs for all minority groups, specifically prisoners. I conducted my research through the lens of industrial vs. STEM centered jobs and availability to create jobs. This conversation began when we began to address whose lives will be affected by the changes stated

in the GND and the reality of how these changes will be implemented. We began to question what systems of society will profit and who is left unaddressed in the current legislation. We fell into the conversation of the prison labor system and how those incarcerated individuals are never addressed in the legislation. The government benefits from this free labor when in retrospect this can be an opportunity for a new job industry to be implemented or create programs to funnel into current job industries and help Americans by creating jobs for a sustainable economy. I have been focusing on the Green New Deal policies and taking into consideration the legislative words used and how it can be more inclusive. In an academic journal, *Climate Change and Work: Politics and Power*, depicts that there is going to be a demand for STEM jobs and an introduction to an influx of money within that industry that is mainly dominated by men. (Iskander & Lowe, 2020) As a country there needs to be a guarantee of a diversity of jobs implemented to ensure the economy stays stable among all industries. In an article by the U.S. Bureau of Labor Statistics states, “Demand for STEM skills also exists below the bachelor’s level. A 2011 survey of manufacturers found that as many as 600,000 jobs remain unfilled because there is a lack of qualified candidates for technical positions requiring STEM skills—primarily production positions (e.g., machinists, operators, craftworkers, distributors, and technicians).” (Xue & Larson, 2015) This need of jobs for skilled trade workers can be a possible pathway for ex prisoners to gain employment in the STEM industry without the need of higher education which has been a limiting factor in most cases. This is especially true when it comes to cities that mainly cater to software or computer science jobs whereas rural jobs are more focused on industrial jobs; since the population of the United States is focused in large cities on the coasts and is where there is the highest crime rates the idea of jobs coming out of incineration are limited. The GND has the opportunity in addressing a problem such as the prison system when it comes to creating an economy with sustainable jobs in a new world of green energy and sustainable development.

In class we also discussed the Rifkin initiatives which are a parallel of the ideas stated in the Green New Deal. The second initiative states that the federal government should establish a phasedown and elimination of the \$15 billion in annual fossil fuel subsidies. When conducting my research I discovered that the majority of jobs that will be created will be due to a shift in our energy consumption. The biggest industry growth for jobs will be in the energy sector. This is an opportunity for there to be a labor increase for minority groups such as ex convicts to be trained. “As the economy expands and the tax increases, job growth from the GND would accelerate, creating, on average, 3.4 million new jobs each year between 2040 and 2050—a nearly 2 percent increase above the 182 million jobs forecast for the U.S. in 2050.” (Brown & Ahmadi, 2019) This fluctuation of jobs from the oil industry to other industries like natural gas, nuclear, or renewable, is key to raising the socioeconomic status of all Americans. When discussing with my group about how the GND wants to create millions of jobs I believe there is room to add policies to give labor opportunities to prisoners who have already been working within the system for free. These opportunities could stem from jobs within the energy industry to be able to train and learn skills with governmental assistance.

The reform I am advocating for is to create work programs for future GND jobs within prisons that would be targeted into the energy sector. The reality is the skill-building being offered is largely tailored to the manufacturing industry, which is becoming replaced by a service-based one and technology based. These blue-collar positions are decreasing due to globalization, technology, and immigration. There has to be an established program to be able to allow these individuals to maintain current status in the United States workforce. The incentives given to learn these skills would ensure job opportunities after release. Creating ethical jobs for those formerly incarcerated would shift the conversation to the inclusion of all Americans. This creation of jobs has already shown progress in areas like California where ex prisoners are hired as firefighters due to their experience. This is an example of how the skills learned through their labor in prison utilizes their experience to create opportunities for jobs. This example can be a testimony of the positive outcome work programs create to not only benefit individuals but society as a whole. Lastly the GND can create financially supported individuals and families after being released. Ultimately our goal to create a conversation with legislators and policy holders to establish a future for all Americans and that includes those that have been part of the prison labor system. The GND wants to create change and with this change we need to make sure all aspects of society are being addressed to create an ethical, environmentally aware, and economically sound country.

### **Connection with the Green New Deal**

The Green New Deal emphasizes the need for equitable jobs and a means of creating a sustainable economy where everyone has opportunities for financial stability. For our research we narrowed down the ways in which the GND can reform areas of society to include minorities such as ex prisoners. Reforming the legislation could create change to the prison labor system that takes advantage of utilizing men and women for man power. In accordance with the Green New Deal, the legislation goes into the background of what scientists have speculated about climate change;

*“(C) wildfires that, by 2050, will annually burn at least twice as much forest area in the western United States than was typically burned by wildfires in the years preceding 2019”*

This statistic puts into perspective what is at stake for our future and the need for change. It also calls to question that if this is our new normal who is going to be at the frontlines? In the online article, *The Former Prisoners Fighting California's Wildfires*, it explains how with a global pandemic the state has been put in a deficit of labor. This reliability of prison labor creates a need for prisons to be facilities for labor rather than a rehabilitation focus to better individuals to rejoin society. Another focus of the Green New Deal is the promotion of justice;

*“(E) to promote justice and equity by stopping current, preventing future, and repairing*

*10 historic oppression of indigenous peoples, communities of color, migrant communities,  
12 deindustrialized communities, depopulated rural  
13 communities, the poor, low-income workers,  
14 women, the elderly, the unhoused, people with  
15 disabilities, and youth”*

These communities described in the legislation are the most vulnerable and ostracized due to over-policing and not enough resources to build the community. When identifying justice we also need to look into prison reform as a means of justice as well. One of the issues regarding this endless cycle of prison labor is the gatekeeping of jobs for those prisoners entering society. Without a means of an economical support system there is no means in building a reputable life for themselves and their families. The Green New Deal mentions the need for job security for all americans;

*“(B) to create millions of good, high-wage (9) jobs and ensure prosperity and economic security (10) for all people of the United States;”*

Creating ethical jobs such as a frontline natural disaster team for those formerly incarcerated would shift the conversation to the inclusion of all americans. This is already being done in certain areas of California such as the Forestry and Fire Recruitment Program where they help find jobs for individuals after being released. This example should be instilled within all states and enforced federally through the Green New Deal legislation to create equitable employment opportunities for all.

If the Green New Deal is going to support prison labor in any industry, then legal precedence excluding incarcerated workers from labor protections must be overturned. Specifically, the Jones v. North Carolina Prisoners’ Union case which upholds the restriction of unionizing activity within state prisons.

*(1) Strengthening and protecting the right (17) of all workers to organize, unionize, and (18) collectively bargain free of coercion, intimidation, and (19) harassment.*

*(3) a Green New Deal must be developed (4) through transparent and inclusive consultation, (5) collaboration, and partnership with frontline and (6) vulnerable communities, labor unions, worker cooperatives, (7) civil society groups, academia, and businesses*

In addition, the GND aims to establish wage and labor safety standards across **ALL** employers, industries and sectors. This phrasing implies that incarcerated workers are included in this. So policies such as the Fair Labor Standards Act, must be amended to all i88ow minimum wage for those in prison.

*(J) strengthening and enforcing labor, (21) workplace health and safety, antidiscrimination, (22) and wage and hour standards across all employers, (23) industries, and sectors;*

*(C) providing resources, training, and (21) high-quality education, including higher education, (22) to all people of the United States, with (23) a focus on frontline and vulnerable communities, (24) so that all people of the United States may be full and equal participants in the Green New Deal mobilization;*

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