Inequality in Involuntary Servitude: Wage Variation Among State Prison Inmates

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Abstract: More than 1,300,000 adults were incarcerated in state prisons in the United States in 2004 and over half of them worked while in prison. This paper examines wage inequality among those working in state prisons. We find evidence of prisoners' wage inequality by race, sex, and education nationally and these inequalities echo that of the inequalities in the non-prison labor market. Within regions, however, we see reduced inequality with regard to sex and education. Racial inequality is completely absent. Rather, the national racial inequality in prison wages is explained by differences in the composition of regional prison populations, that is, the regions where wages are the highest have prisoner populations with demographically different than regions where wages are the lowest. Paradoxically, then, today's prison system—which has been shown to exacerbate racial inequality outside prison—in at least one sense fosters equality within its walls. This endeavor is one of a few to examine prisoner experience while imprisoned and to consider prisons as institutions with their own logics, organizing principles, and dimensions of inequality.

The 13th Amendment to the U.S. Constitution, ratified in 1865, at once outlawed slavery and reaffirmed the legality of penal servitude. Today, over 50 percent of inmates incarcerated in state and federal prisons do work of some kind as a part of their sentences (Atkinson and Rostad 2003; Zatz 2008; Zatz 2009). This paper examines wage inequality among working inmates in state prisons. We find evidence of prisoners' wage inequality by race, sex, and education nationally—inequalities that mimic broader inequalities in the non-prison labor market. Yet while inequalities by sex and education remain significant after controlling for region, racial inequality in state prison wages is explained as a result of variation in regional wage rates and in the composition of regional prison populations. Paradoxically, then, today's prison system—which has been shown to exacerbate racial inequality outside prison—in at least one sense fosters equality within its walls.

Wage and income inequality are of lasting concern to sociologists, and scholars have demonstrated persistent differentials in earnings by race, sex, and educational attainment among U.S. workers (for a review see Fischer and Hout 2006, pp. 114 ff.) Yet little is known about wage inequality among the more than two million inmates *within* jails and prisons (Bureau of Justice Statistics 2012). Prison has become a modal life experience for young, unskilled black men (Pattillo, Weiman, and Western 2004, p. 7; Pettit and Western 2004, p. 161), one that Pettit and Western (2004) characterize as a life-course stage in and of itself. But little recent scholarship has examined prisons as institutions with their own logics, organizing principles, and dimensions of inequality. We investigate one part of prison life – work.

To the extent that compensation for prison work is the result of institutional demands different from those in the broader labor market, we would expect different patterns of stratification. On the other hand, to the extent that compensation for prison work mirrors patterns in the broader labor market, we would expect similar patterns of stratification. This forms the puzzle of the relatively unexamined terrain of prison work: do patterns of wage inequality outside

prison reproduce themselves inside prison? Our inquiry draws primarily on prisoner self-reports in survey data. And for the final paper for the ASA, we will supplement this analysis with information drawn from official prison manuals of operations and other administrative data.

Prisons and Economic Inequality

The dramatic fourfold expansion of the U.S. prison population since the 1970s has been a topic of great interest and concern among a wide range of social scientists (see, for example, Drucker 2011; Garland 2001; Wacquant 2001). Incarceration rates in the United States today are higher than in any other industrialized nation (Clear 2007; Tonry 1999). Scholars have shown that "mass incarceration" has a wide range of negative effects, from the erosion of individual social ties to the destabilization of neighborhoods (Clear 2007; Durlauf and Nagin 2011; Pattillo et al 2004; Sampson 2011).

Within this extensive body of literature, some scholars have focused explicitly on the prison's relationship to the broader economy. Some have argued that prison serves as a "labor market institution" by removing potential job seekers and thus artificially lowering national unemployment rates (Wacquant 2001; Western and Beckett 1999; Western and Pettit 2005). Others have demonstrated how prisons exacerbate earnings inequalities, particularly by race (see Pattillo et al 2004). Since the criminal justice system disproportionately impacts African American men, it worsens black-white wage inequality both by removing African Americans from the workforce and by reducing their long-term job prospects (Western and Petit 2005; Petit and Western 2004). The mark of a criminal record, moreover, is especially damaging for the economic futures of black ex-inmates (Lyons and Pettit 2011; Pager 2003).

Much less attention has been given to prisoners' economic status within prisons. In part, this oversight reflects a longstanding sociological neglect of the *experience* of incarceration in favor of analyses of its antecedents and consequences (Wacquant 2002; for a recent exception see Phelps

2011). In part, however, this oversight may be a result of the prison work's ambiguous economic status (see Zelizer 2005).

The Puzzle of Prison Work

Legally, prison work is excluded from most national employment law, a status justified in recent litigation by the extra-economic character of this work (Zatz 2008; Zatz 2009). By this logic, prison work is not an economic transaction but rather is part of a broader correctional program intended to rehabilitate the inmates involved, to maintain institutional security, and to reduce the costs of incarceration. Some prisoners are paid to do activities that are generally not compensated for outside of prison – attending high school or counseling – whereas others are *not* compensated for traditionally paid labor activities. As an example, prisoners in New York State are paid for the time spent completing their high school education whereas prisoners in Texas are not paid regardless of their activity even if it is, say, doing laundry or cooking (Texas Department of Criminal Justice 2013; State of New York Department of Corrections and Community Supervision 2011).

Indeed, the history of prison labor is, in large part, a history of its retreat from the private market. Throughout the second half of the nineteenth century, many prisoners engaged in industrial goods production for private employers through the convict-lease system in the South and a system of prison contract labor in the North (Garvey 1998; Lichtenstein 1996; McLennan 2008). The private use of prison labor, however, became a target both for labor activists and small businesses forced to compete with the holders of prison contracts (see Garvey 1998; McLennan 2008). Today, the private use of prison labor continues to receive a disproportionate share of attention—both as a target for prison-rights activism and as a focus of policy debate (Frasier and Freeman 2012; Freeman 1999; Kling and Krueger 1999; Levitt 1999; Marshal 1999). Yet only approximately 6,000 inmates worked for private employers as of 2008 (Farrell 2008).

Those few prisoners employed by private firms have similar protections to free workers. The federal Prison Industry Enhancement Act of 1979 allowed private firms to employ inmate labor more freely yet mandated that these firms pay prevailing wages; mandated that they offer workers' compensation and other benefits and regulated the types of deductions that could be made on these wages. Yet it also included mandates that differentiated it from free labor, namely restricting the goods and services that could be produced so as not to compete with free labor (Garvey 1998, pp. 371-372).

This is the exception rather than the rule. The vast majority of prison work today involves institutional upkeep—laundry, maintenance, cooking and cleaning—or what Noah Zatz (2008, p. 470) calls "prison housework." Prisoners work to keep prisons functioning; as such their labor is never seen by the public nor is it subject to public scrutiny. A smaller number of prisoners are involved in "state-use" production (of license plates, office furniture, etc.), production controlled by prison administrators and sold to state agencies. Both of these forms of inmate labor are free from federal labor regulation: individual states have significant discretion over the types of inmate work employed, the nature of this work, and the forms of compensation that inmates receive.

Earnings Inequality and Prison Work

Over the last forty years, seismic shifts in the national and global economy have complicated the study of stratification. These shifts have increased within-group inequality while simultaneously altering across-group inequality (for a review, see Leicht 2008). Moreover, in recent years, several scholars have criticized the weakness of causal mechanisms in most analyses of ascriptive inequality (Reskin 2003). There is wide agreement that some portion of earnings gaps is attributable to differences in human capital; some portion is attributable to differences in the returns to human capital between ascriptive groups; and some portion is attributable to discrimination (Leicht 2008, p. 238). But within this rather coarse framework there remains much to be explained.

Nevertheless, despite the changing landscape of earnings inequality and the cogent criticisms of "gap" research, race, sex, and educational attainment continue to be powerful predictors of current and future earnings in the U.S. economy. While the male-female wage gap seems to have lessened slightly over the last few decades, with women earning approximately eighty percent of men's earnings, the wage gap between white and nonwhite workers seems actually to have increased during this time (see Bernhardt et al 1995; Blau and Kahn 1997; Grodsky and Pager 2001; Huffman 2004; McCall 2001). In the face of skill-biased technological change, moreover, several scholars have observed an increased relative value of educational credentials, although declines in the wages of unskilled workers may have driven these changes more than increasing returns to job skills (Leicht 2008; Leicht and Fitzgerald 2006; Fischer and Hout 2006).

A basic question concerning prison labor, then, and the question that animates this paper, is whether the categories that predict earnings inequality outside prison can predict earnings inequality inside prison. On the one hand, given prison labor's relative insulation from employment law and market pressures, it seems reasonable that patterns of stratification inside prison would be different from those in the broader labor market. Prisoners are compelled to work and in most circumstances are not able to choose the types of work to which they are assigned. States like Texas and Florida rarely offer any compensation at all. Within those states that do offer regular compensation, workplace penalties and rewards are often tied to behavior outside traditional employment relationships. California's penal code, for example, outlines how prisoner pay may be forfeited in light of different sorts of prisoner intransigence (California Penal Code, Section 2765). New York's correctional code, in turn, allows for "incentive allowances" to be paid for inmates involved in any kind of "educational, career and industrial training program" that might "facilitate an inmate's eventual reintegration into society" (N.Y. Corrections Code, Section 200). These examples indicate the broader institutional prerogatives that prisoner compensation inevitably serves.

In other ways, however, it seems likely that patterns of prisoner compensation might mimic inequalities in the broader labor market. Several states offer wage premiums for skilled work. For example, New York's prison code mandates that the department of corrections prepare "graded wage schedules for inmates, which schedule shall be based upon classifications according to the value of work performed by each" (N.Y. Corrections Code, Section 170). California's prison operations manual (2012) lists, among other criteria for hiring, the formal education and training that inmates have received. Presumably, more highly educated workers are able to perform work considered of higher value, and so would command higher wages. In addition, we might expect similar—or even exacerbated—patterns of race and sex discrimination in work assignments in prison, given the salience of race and gender as organizing principles within the prison (McDonald and Weisburd 1991; Reich 2010; Weitzer 1996, p. 318). This should be particularly true for race given the extent of racial discrimination throughout the criminal justice system (see Cole 2000).

Data

The data are from the 2004 Survey of Inmates in State Correctional Facilities. The survey was conducted by the US Census Bureau for the US Bureau of Justice Statistics. The data are representative of state prisoners nationally. Personal interviews were conducted from October 2003 to May 2004 in which prisoners provided information on their current incarceration, criminal and incarceration history, personal and family characteristics as well as numerous other characteristics. The survey was about an hour in length and prisoners were assured on more than one occasion that their participation was voluntary, their responses were confidential and that no individual would be identified from the survey data.

The sample was selected in two stages. First, prisons were selected from 8 geographic areas: Northeast except New York, New York, Midwest, South except Florida and Texas, Florida, Texas, West except California, and California. Second, prisoners were selected. A total of 225 male prisons

and 62 female prisons are included in the sample; 11,569 male prisoners were interviewed; 2,930 female prisoners were interviewed. The total response rate, taking into account both facilities that failed to participate and prisoners who chose not to respond was 89.22% The wage data was self-reported but matches in range what is expected from administrative sources.

The data are weighted to adjust for the probability of being selected, facility sampling rates, small prisons, non-interviews and differences in sampling by geography. All reported results are weighted.

[insert Table 1: Sample Characteristics about here]

Table 1 reports characteristics of the sample, which is representative of state prisoners in 2004. State prisoners differ from the non-prison population in a number of ways. The population is overwhelmingly male and disproportionately young and racial minorities. It is also under-educated and under-employed (prior to arrest) than the population generally. Three-quarters of the prisoners have served fewer than five years in prison for this sentence; a quarter less than one.

Results

Rates of workforce participation in prison are unequal along the same dimensions as we see outside of prison – gender, race, education, previous employment and region – but the size of the inequality is diminished and occasionally the direction is reversed as can be seen in Table 2. A greater proportion of women work than men; while this difference is substantively small, outside of prison in 2010 women were less likely to work than men (59% compared to 71%) (Bureau of Labor Statistics 2012). Hispanic prisoners are the least likely to work but black prisoners and white prisoners work at equal rates. Again, this differs from inequality outside of prison, where white Americans are significantly more likely to be employed than minority Americans. Prisoners without a high school degree are the least likely to work, as would be the case outside of prison. Unlike work outside of prison, prisoners who have a high school degree and who engaged in higher education are

equally likely to work within prison. Prisoners who were employed prior to their arrest, particularly if they were employed full-time, are more likely to work within prison than their peers who did not work, or worked only occasionally, prior to their arrest.

[insert Table 2 about here]

With regard to wages for prison-work, we see similar patterns of inequality as are evident outside of prison. Prisoners in state prisons earn on average $.15 per hour. Men are paid more than women; by and large, white prisoners are paid more than racial minorities; college graduates earn more than their less-educated peers.

The largest differences in participation and pay, however, are geographic. This is a source of inequality only recently examined by scholars and is now examined as a means by which to understand the structure of educational and labor market opportunities (Leicht 2008). Geography has not been characterized as a "group" difference such as race and gender. This may be due to the fact that individuals are usually mobile and such geography is not a fixed characteristic. Prisoners, however, are primarily immobile; as such, geography is a group characteristic and our analyses show that it is a meaningful one.

Fewer than half of California prisoners work; when they do, they are paid $.13 per hour on average. Almost 90 percent of prisoners in Florida work and are paid $.02 per hour on average. Texas does not pay prisoners at all while prisoners in the Northeast (excluding New York) and the West (excluding California) are paid 31 and 33 cents per hour on average respectively. Wages vary within each geographic unit except for Texas, in which no prisoner is paid.

When considered in a multivariate context, geography drives the inequalities in workforce participation and in compensation. The other sources of inequality largely remain with regard to workforce participation and dissipate with regard to compensation. Most notably, when controlling

for traditional sources of wage inequality, respondent characteristics and the region in which the prisoner is employed, race no longer is a significant source of inequality in wages.

Table 3 reports odds-ratios for workforce participation without controlling for region (Model 1a) and controlling for region (Model 1b). Geography is the largest driver of inequality in prisoner workforce participation – prisoners in Florida are more than 8 times as likely to work as prisoners in California. Even in the face of regional controls, we see many of the same patterns of inequality as in the bivariate analyses. Women are markedly more likely to work than men and more educated prisoners are more likely to work than less educated prisoners. Prisoners who worked full-time prior to arrest are more likely to work within prison. Race becomes a less important source of inequality when controlling for region: Hispanic prisoners are less likely to work than white prisoners but there are no other racial inequalities.

[insert Table 3 about here]

Geography is also the largest driver of wage inequality. Interestingly, however, when controlling for region, many of the traditional sources of inequality are mediated or disappear. Table 4 reports ordinary least-squares analyses regressing wages on respondent characteristics. Model 1a controls for characteristics other than region. Race, gender, education and prior work history are all significant sources of inequality. Model 1B additionally controls for geography at which point race and prior workforce participation are no longer significant, education is significant only at the distinction between having a high school diploma/GED and not. Model 1c takes into account the differences in workforce participation by using a Heckman-like adjustment for selection into working; this has a negligible effect on the models.

[insert Table 4 about here]

Differences in wages by race nationally are a result of differences in the prison population composition by geography as can be seen in Table 4. Almost half of the prisoners in the West are white, and this is the highest paying area; eight percent are black and over a quarter are Hispanic. Over 70 percent of the prisoner population in Texas are racial minorities, and this state does not pay its prisoners at all.

To illustrate the effect of regional racial composition on national wage inequality by race, we conducted a demographic standardization analysis by race. That is, we asked how wages by race would differ if each region's prison population had the racial composition of the prison population nationally. To do these analyses, we retained the size of each region's prisoner population and its average wage rate by race. However, we altered the racial composition of that region's population so that it mimicked the national composition of prisoners in state prison. Given there are no statistically significant differences in wages by race within prisons, when we assume the racial composition of each region to be the same, as expected, we see markedly reduced rates of racial inequality in wages nationally.

[insert Table 5 about here]

Conclusion

Imprisonment is now a common life experience for American men and a modal life experience for poorly educated black men (Pettit and Western 2004) yet we know relatively little about contemporary experiences within prison. This article provides insight into one aspect of life in prison – working – and compensation for that work.

Though imprisonment rates are highly stratified by race and being imprisoned exacerbates labor inequalities by race (Pettit and Western 2004; Pattillo, Weiman, and Western 2004), working within prison is, to a surprising extent, characterized by equality. Race is largely not determinative of having employment within prison nor is it determinative of a prisoner's wage rate within prison.

Region, not race, is largely determinative of both outcomes and is the major source of inequality with regard to working in prison.

Life in prison, at least this component of life, is unexpectedly different than life "on the outside." We hope that this article inspires future research in the following ways. First, further research should interrogate the institutional and legal explanations for the differences in workforce participation and wages by region. Prisons in these regions operate with different histories and within different political contexts, which certainly inform their policies. Indeed, it may be that the geographic patterns of prison wages we observe can be explained, at least in part, by the racial compositions of the prison populations within these regions.

Second, we examined inequality regarding just one aspect of prison life. We hope that future scholarship explores inequality concerning other aspects of life in prison and, if possible, includes more detailed accounts from prisoners themselves.

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Table 1: Sample Characteristics

Age	
18-25	16.8
25-35	33.0
35-45	31.5
45-55	14.1
55+	4.7
Gender	
Male	93.3
Female	6.8
Employment Status Prior to Arrest	
Full-time	59.2
Part-time	8.8
Occasionally	2.1
Not Work	26.7
Education	
Less than high school	36.7
High school graduate/GED	49.5
Some college	10.9
College or More	3.0
Race	
White, non-Hispanic	35.3
Black, non-Hispanic	40.6
Hispanic	18.2
All other	6.0
Citizen	94.7
Years in Prison	
0	24.5
1	18.4
2	12.1
3	8.0
4	6.8
5	4.8
6-10	14.4
11-15	6.4
15+	4.7

Table 2: Percent employed and hourly wage for state prisoner workers by select demographics

	Employed (%)	Hourly Wage ($)
Total Sample	66.11	0.15
Gender		
Male	65.83	0.16
Female	69.92	0.14
Race/Ethnicity		
White non-Hispanic	68.37	0.18
Black non-Hispanic	68.44	0.14
Hispanic	57.32	0.14
Other, non-Hispanic	63.87	0.19
Education		
Less than HS	59.41	0.13
HS Diploma/GED	69.53	0.17
Some college	71.91	0.18
College graduate	71.61	0.21
Work Before Arrest		
Full-time	70.00	0.15
Part-time	63.03	0.18
Occasionally	59.91	0.20
Not Work	59.60	0.16
Geography		
California	46.16	0.13
Northeast	62.74	0.31
Midwest	63.37	0.27
West	65.18	0.33
Texas	67.11	0.00
South	72.31	0.14
New York	73.74	0.30
Florida	87.79	0.02

Table 3: Regressing Workforce Participation on Demographics

	Workforce Participation (Odds Ratio)	
	Model 1A	Model 1B
Gender (reference is male)		
Female	1.38***	1.37***
	(0.071)	(0.073)
Race (reference is white non-Hispanic)		
Black non-Hispanic	1.18***	1.07
	(0.057)	(0.054)
Hispanic	0.73***	0.84**
	(0.045)	(0.055)
Other, non-Hispanic	0.90	0.90
	(0.078)	(0.081)
Education (reference is less than HS)		
HS Diploma/GED	1.45***	1.52***
	(0.063)	(0.069)
Some college	1.52***	1.68***
	(0.11)	(0.12)
College graduate	1.34*	1.49**
	(0.17)	(0.19)
Work Before Arrest (reference is full-time)		
Part-time	0.80**	0.85*
	(0.056)	(0.062)
Occasionally	0.67**	0.76*
	(0.088)	(0.10)
Not work	0.65***	0.69***
	(0.030)	(0.033)
Geography (compared to California)		
Midwest		1.92***
		(0.14)
South		2.90***
		(0.21)
West		2.15***
		(0.18)
Florida		7.95***
		(1.04)
New York		3.31***
		(0.35)
Texas		2.22***
		(0.17)
Northeast		2.13***
		(0.19)

Constant	0.63**	0.31***
	(0.10)	(0.057)
Observations	13,712	13,459

*** p<0.001, ** p<0.01, * p<0.05

Note: The models also control for age, marital status, occupation within the prison, years in prison, and citizenship. Model fit was diagnosed using Hosmer-Lemeshow's F-adjusted mean residual test for logistic regression using sample survey data (Archer and Lemeshow 2006).

Table 4: Regressing Hourly Wage on Demographics, OLS Regression

	Hourly Wage		
	Model 1A	Model 1B	Model 1C
Gender (reference is male)			
Female	-0.03***	-0.02**	-0.02***
	(0.01)	(0.01)	(0.01)
Race (reference is white non-Hispanic)			
Black non-Hispanic	-0.03***	-0.002	-0.002
	(0.01)	(0.01)	(0.01)
Hispanic	-0.03**	-0.005	-0.007
	(0.01)	(0.01)	(0.01)
Other, non-Hispanic	0.01	0.006	0.006
	(0.01)	(0.01)	(0.01)
Education (reference is less than HS)			
HS Diploma/GED	0.032***	0.02***	0.023***
	(0.01)	(0.01)	(0.01)
Some college	0.033**	0.012	0.014
	(0.01)	(0.01)	(0.01)
College graduate	0.050*	0.032	0.033*
	(0.02)	(0.02)	(0.01)
Work Before Arrest (reference is full-time)			
Part-time	0.04***	0.02	0.02
	(0.01)	(0.01)	(0.01)
Occasionally	0.05	0.04	0.04
	(0.03)	(0.03)	(0.02)
Not work	0.02*	0.00	0.01
	(0.01)	(0.01)	(0.01)
Geography (compared to California)			
Midwest		0.160***	0.157***
		(0.01)	(0.01)
South		0.014	0.017
		(0.01)	(0.01)
West		0.214***	0.210***
		(0.01)	(0.01)
Florida		-0.104***	-0.096***
		(0.01)	(0.01)
New York		0.175***	0.173***
		(0.01)	(0.01)
Texas		-0.126***	-0.115***
		(0.01)	(0.01)
Northeast		0.190***	0.196***

		(0.02)	(0.01)
Constant	0.110	0.083***	0.087***
	(0.03)	(0.02)	(0.02)
R-squared	0.04	0.28	
Observations	7,323	7,147	7,147

*** p<0.001, ** p<0.01, * p<0.05

Note: The models also control for age, marital status, citizenship, occupation within the prison, years in prison, and citizenship. Model 1c includes a Heckman-like adjustment for selection into working.

Table 5: Average Wage by Race Unstandardized and Standardized by Racial Composition

	Wage Rate ($)	Wage Rate Standardized by Racial Composition ($)
White, non-Hispanic	0.1838	0.1829
Black, non-Hispanic	0.1427	0.1955
Hispanic	0.1371	0.1870
Other	0.1922	0.1895