



The root of extraction: understanding prison labor through the lens of human dignity

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Abstract

This study explores the compatibility of prison labor with human dignity by synthesizing and critically reflecting on existing research on the topic. Evaluating work in incarceration through the perspective of a core, foundational value such as human dignity allows us to consider whether it is a reality irredeemably linked to abuse or coercion, as it is frequently portrayed, or whether there may be instances when engaging in work behind bars can be compatible with fundamental human rights and contribute to an imprisoned person's positive sense of self-worth, personal identity, and social rehabilitation. The aim of this dissertation is to map the current state of the art in the literature on carceral work and human dignity, establishing a solid foundation upon which to build further research. The literature collected through a systematic process of research was reviewed and integrated into a broader theoretical analysis that accounted for two complementary understandings of dignity: dignity as an intrinsic and unconditional value common to human beings as part of humanity (as developed by Kant) and dignity as a property that is dependent on the material world, and which must be fulfilled and promoted by political action, i.e., the ability to live a dignified life. The project demonstrated that penal work, in abstract, is not necessarily antithetical to human dignity; however, its current practices, which entail, for example, meager or nonexistent wages, or the seclusion, hyper-surveillance, discrimination, and abuse of incarcerated laborers deprive prisoners of their autonomy, agency and well-being, and therefore cannot be considered congruent with human dignity. The study also concluded that penal work is an under-researched, albeit prevalent, reality, and further research is needed, particularly to expand our knowledge on the functioning of carceral facilities in wider geographical areas, and to stretch the angles of academic reflection on the subject, including on the nature of the prison itself.

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Keywords: prison labor; human dignity; human rights; prison abolition; systematic literature research.

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“Wherever you look in the development of modernist penalty you will find labor. Exhort the offenders with religious tracts, but make them work. Subject them to silence, but make them work. Educate them as citizens, but make them work. Treat their pathological features, but make them work.”
—Jonathan Simon (1993, p. 39)

“Jails and prisons are designed to break human beings, to convert the population into specimens in a zoo—obedient to our keepers, but dangerous to each other. In response, imprisoned men and women invent and continually invoke various and sundry defenses. Consequently, two layers of existence can be encountered within almost every jail or prison. The first layer consists of the routines and behavior prescribed by the governing penal hierarchy. The second layer is the prisoner culture itself: the rules and standards of behavior that come from and are defined by the captives in order to shield themselves from the open or cover terror designed to break their spirits. In an elemental way, this culture is one of resistance, but a resistance of desperation.”
—Angela Y. Davis (2023, pp. 53-54)

1. Introduction

1.1. Background and contextualization of research topic

From August 1 to August 6, 2023, Pope Francis visited the capital of Portugal, Lisbon, to mark the celebration of the Catholic Church's World Youth Day. To prepare for his arrival, the Portuguese government announced the development of the "Reconciliation Park": a congregation of 150 small wooden structures arranged in a public park in the city center where pilgrims and believers could gather to practice the Sacrament of Penance and further deepen their faith, within their religious community. The makeshift confessionals were to be built by prisoners of the prisons of Coimbra, Paços de Ferreira, and Porto as a result of an agreement reached between the Portuguese General Directorate of Reintegration and Prison Services (*Direção-Geral de Reinserção e Serviços Prisionais* (DGRSP) and the World Youth Day Foundation in February of the same year (Agência Lusa, 2023).

When questioned about the reasoning behind the decision to promote the involvement of prisoners in the construction of these confessionals, Rui Abrunhosa Gonçalves, the general director of the DGRSP, affirmed: "Regardless of whether prisoners are believers or not, participating in this effort can lead to self-reflection"¹ (Agência Lusa, 2023). This statement, with clear punitive undertones, appears to convey a desire to portray those who are incarcerated as deviants, incapable of autonomous introspection, and in need of learning discipline and self-containment through the performance of work. In this sense, work is seen as penance, rather than choice. And the conditions attached to the tasks the prison workers were set out to complete seem to reinforce this idea. For their manual labor, the incarcerated individuals involved in the manufacture of the "Reconciliation Park" received roughly 5€ per day, which is equivalent to just over 60 cents per hour in an 8-hour working day (Demony and Pereira, 2023). This amount is considerably lower than Portugal's minimum wage, which is, at current, 820€ per month, or approximately 5,13€ per hour if we consider a standard 40-hour working week (Portuguese Government, 2024).

'Soft law' international instruments and guidelines declare unequivocally that penal labor structures should uphold the human rights of incarcerated individuals. For instance, the reviewed

¹Unless specifically stated, all translations from Portuguese to English that appear throughout this dissertation are my own.

United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners (‘Nelson Mandela Rules’), adopted by the General Assembly in December 2015, states, in its Rule 96, that “sentenced prisoners shall have the *opportunity* to work and/or actively participate in their rehabilitation” [my emphasis]. The adoption of this document was a pivotal moment for the establishment of a set of core foundational principles for the welfare, security, and integrity of imprisoned people across the globe. Its section on ‘work’ emphasizes that penal labor should only be allowed if it is non-compulsory, equitably remunerated, and oriented towards the preservation and potentiation of the self-worth and independence of those who are incarcerated. Likewise, the European Prison Rules, developed by the Council of Europe in 2006 and applicable in all 47 Council of Europe countries, highlight,

Prison work must not be used as a punishment; it should be of a useful nature, provide fair payment, and include vocational training for those able to benefit from it. People should be given a degree of choice over the work they undertake and working standards (...) must not be lower than they are outside of prison. The pursuit of financial profit must not be prioritized over the interests of people in prison. (Penal Reform International & Council of Europe, 2021, p. 7)

However, these instruments do not establish that incarcerated workers are to be afforded equivalent employment rights as those who participate in the labor market in the free world. They simply enact minimal safeguards against exploitative or unsafe working conditions, while simultaneously allowing states’ domestic legal and political frameworks to determine how labor in prisons is to be performed (Jarman and Heard, 2023). In practice, both ‘soft law’ instruments and binding treaties on forced labor (particularly the International Labour Organization’s Convention No. 29 of 1930 and Convention No. 105 of 1957) give space for each country to self-handedly determine the conditions of work in public prisons, going as far as allowing states to compel prisoners to work, for no pay, in facilities under their wing (Jarman and Heard, 2023).

Inevitably, this leads to the creation of a double standard. The edification of World Youth Day’s “Reconciliation Park” in Lisbon is an illustrative case within a panoply of situations in which employment carried out in public correctional facilities is done so in terms that drastically differ from those attached to work that is performed outside the prison (Dores, Loureiro and Pontes, 2013). Within Portuguese correctional facilities, prisoners who engage in work receive between 60€ to 100€ per month, even though the national legal framework (Code on the Execution of Legal Sanctions – Law No. 115/2009, of 12 October (*Código da Execução das Penas e Medidas Privativas da Liberdade*) that establishes the organization and functioning of the penitentiary

system explicitly determines that the incarcerated worker is to be compensated in a manner analogous to the productive activity performed (Article 41, paragraph 5) and that prison work must unequivocally preserve the well-being of each prisoner and ensure appropriate hygiene, health, and safety conditions (Article 41, paragraph 3). People in prisons do not automatically collect the entirety of their scarce earnings: instead, this amount is divided into quarters. One is kept in a reserve account the prisoner will only be able to access when released from imprisonment, another is made available to the prisoner to use freely to purchase goods within the correctional facility, another is automatically used for the payment of any imposed fines or other pecuniary obligations that are due by the prisoner and finally, the last quarter is utilized to fulfill the prisoner's alimony payments, if applicable (Dores, Loureiro and Pontes, 2012). Corporations often rely on hiring prisoners to obtain cheap labor and significantly increase profit, with many operating exclusively within carceral spaces (Henriques, 2020).

Because of the continued and demonstrated occurrence of coercive and exploitative labor practices within correctional facilities in Portugal (Midões, 2019) and across the world (Jarman and Heard, 2023), activists and experts alike have raised doubts regarding the compatibility between carceral work and human dignity, particularly as it is understood in international law: as a foundation from which all fundamental rights derive their meaning, such as the principle of prohibition of forced or compulsory labor, as established on Article 4 of the UDHR (Farge, 2023; Stukenberg and Argüeso, 2021). But consideration must also be paid to the personal subjectivities of incarcerated workers in order to attend to a specific interpretation of a multifaceted notion of dignity: one that attends to empowerment and self-governance. In Portugal, for instance, half of the incarcerated population engages in prison work (Henriques, 2019). Many of those prisoners characterize work and, more generally, productivity as a vehicle to attain self-fulfillment, personal contentment or even serenity within their experience of confinement (Silveira, 2023). As it is true for all workers, imprisoned people's assessments of self-regard are linked to their work (Gibson-Light, 2023a, p.11). When inquired about what motivated them to take part in the edification of the structures that would make up the "Reconciliation Park", for instance, several prisoners affirmed it brought them strength, genuine joy, and solace (Pacheco, 2023). Incarcerated worker Manuel Dias asserted, "It's a way to pass the time. When you're in there, you stand still. Time doesn't go by." (Reuters, 2023).

Insofar as many prisoners spend the majority of their time behind bars as laborers, and some consider prison work to be a valuable, beneficial activity, which allows them, to some extent, to exercise their capabilities and personal resources and reclaim their sense of confidence, self-growth and even experience pleasure within a life in imprisonment that is marked by severe restriction and control, classifying prison work as a violation of the idea of human dignity in and of itself can be contradictory. If we are to acknowledge that the notion of human dignity encompasses a dimension of respect for the individual choices of others as an expression of their identity and equal worth, voluntarily engaging in prison labor can be understood as an assertion of dignity, and not an affront to dignity. But it is also true that carceral structures, and, in particular, penal labor structures reproduce and aggravate concrete and harmful inequalities between social groups, particularly those based in race, ethnicity, and class (Gibson-Light, 2023a) and that, as noted by the International Labour Organization, a minimum of one-fifth of the incarcerated population across the globe are estimated to be working in conditions that can be characterized as exploitative (Jarman and Heard, 2023).

The research problem this dissertation intends to address stems from the paradox of penal labor as a reality that is simultaneously perceived as regenerative of the self and destructive of the self. The current discourse seems to situate itself into two, irreconcilable fields, a running paradox. On the one hand, prison labor is thought of as contributing to the ends of self-realization and social rehabilitation, thus reaffirming the humanity and dignity of imprisoned people; on the other, prison labor is thought of as rooted in broader institutional policies and structures that perpetuate oppressive and degrading rituals in the name of potentiating profit, discipline and the subjugation of imprisoned people, thus undermining their humanity and dignity.

1.2. Research aims and question

Against this backdrop, the aim of this study is to explore the complex interplay between prison labor and the idea of human dignity in two of its most widely recognized formulations. The following research question will be addressed: *Is prison labor compatible with human dignity?*

My decision was to undertake a strictly literature-based project. This relates to the characteristics of the prison as a secluded and relatively inaccessible institution and to the ethical complexities and human rights implications (particularly in regards to privacy and consent) that arise when conducting empirical research with prisoners, which will be explored in the latter

chapters of this project. A multidisciplinary approach was favored, enabling the integration of scholarly studies and debates in the disciplines of law, sociology, criminology, and ethics, which contributed to enriching our subsequent analysis.

A literature-centered project allows for the development of a thorough review and examination of the varying existing theories, debates, and perspectives related to the alignment of penal work with human dignity while bypassing eventual logistical challenges associated with the collection of primary data within prison walls and maximizing the time and resources available for the completion of this dissertation. The literature we gathered will be our empirical starting point, from which we will move onto a broader theoretical analysis on prison labor and dignity.

Considering prison labor through the lens of a foundational and widely cited value such as human dignity allows us to assess whether practices of work in incarceration can be aligned with fundamental human rights principles, particularly equity, justice and the humane treatment of incarcerated individuals within the criminal justice system, or whether they are irredeemably entwined with instances of abuse or coercion. More so, mapping the state of the art in the literature on prison labor and dignity through a systematic process aims to establish a solid foundation upon which to build further research and sustain the ongoing and increasingly pertinent discourse on the topic.

2. Relevance of topic for the field of human rights

The notion of dignity is the cornerstone of modern human rights discourse. Even if its significance can be thought of as abstract or contentious, dignity is “(...) the closest that we have to an internationally accepted framework for the normative regulation of political life, and it is embedded in numerous constitutions, international conventions and declarations” (Rosen, 2012, pp. 1-2). It is nearly impossible to engage with global human rights frameworks without stumbling upon the concept. Arguably the most notable human rights instrument, the Universal Declaration of Human Rights (UDHR), approved by the UN General Assembly on December 10, 1948 states, right at the outset of its preamble, that the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” and reaffirms this maxim in its first article, according to which “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”. Similarly, the International

Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) both proclaim that all human rights stem from the intrinsic dignity of every individual (McCrudden, 2008). The African Charter on Human and Peoples' Rights of 1981 states that "Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status" and, curiously in the same paragraph, it upholds that "All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited" (Article 5). In this sense, dignity appears to be portrayed as a moral basis from which all fundamental moral or political rights derive their meaning (Habermas, 2010).

These international human rights instruments determine that dignity is bestowed upon all human beings solely by virtue of their humanity. It is an innate, indiscriminate, and unconditional quality. It is a foundational value, it subsists regardless of external factors or contingencies, and it holds true everywhere: within and outside of the prison gate. The Nelson Mandela Rules are straightforward in this same sense, reminding us that incarcerated individuals "shall be treated with the respect due to their inherent dignity and value as human beings" (Rule 1). When incarcerated, imprisoned individuals do not yield their fundamental and inalienable human rights, except for the logical limitations inbuilt into the experience of lawful incarceration, for instance, restrictions to liberty and freedom of movement (Rule 5). This is a principle that is entrenched in international human rights jurisprudence, such as in various decisions put forth by the European Court of Human Rights (ECtHR) throughout the years, which assert that the rights ingrained in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) do not cease to be applicable to those who enter the realm of imprisonment (for example, *Khodorkovskiy and Lebedev v. Russia*, 2013, § 836). Truthfully, a distinctive characteristic of human rights frameworks relies on the fact that they offer the promise of the protection of the fundamental rights of all human beings, and, specifically, of those who are more vulnerable and disenfranchised (van der Valk and Rogan, 2021).

Despite the dominance of the notion of dignity in contemporary human rights discourses, the quest to ensure the acknowledgment and safeguarding of the dignity of all persons is far from complete. In particular, to achieve the effective protection of the integrity of prisoners as human beings, thus bearers of fundamental rights, it is necessary to confront specific hurdles, that relate to the function of degradation in the execution of punishment, and the unequal power relations and

severe dependence of prisoners “in a quintessential total institution” as is the prison (Snacken, 2021, p. 303).

Over the years, research has demonstrated the extent to which the functioning of many contemporary correctional facilities is marked by “tremendous brutality, violence, racial stratification, ideological rigidity, despair, and waste”, where the imprisoned person’s basic humanity, autonomy and self-worth are severely eroded (McLeod, 2015, p. 1156). The prisoner is regularly physically caged and has little to no ability to freely move, interact, communicate, or exert control over basic routines such as eating or sleeping (McLeod, 2015). These mechanisms of permanent constraint are operated within settings that are extremely unsanitary and overall marked by demeaning and humiliating conditions. In Portugal, our previous illustrative case, the state has faced numerous condemnations by the ECtHR for placing prisoners in correctional facilities that are characterized by lack of fresh air, extreme humidity, lack or insufficient quantity of food, poor quality of food, dirty or moldy cells, infestation with insects and rodents, lack of cleaning products, overcrowding and inadequate temperature (for example, *Marques Ângelo v. Portugal*, 2024, § 8). According to the Portuguese Association for Prisoner Support (*Associação Portuguesa de Apoio ao Recluso* (APAR)), prisoners are kept in environments that would be unsuitable “even for animals” (Luz, 2024). The appalling circumstances in which many prisoners design their existence tend to be overlooked or relativized because of how we perceive the ‘prisoner’ as the ‘other’, a living personification of risk, threat, or filth (Snacken, 2021). Incarcerated individuals are often depicted as irreconcilably different from ourselves: they are the ‘evildoers’, the ‘undesirables’, the ‘criminals’; those who, because they have broken the law, belong to a class of human beings unworthy of the inalienable rights granted to others (Davis, 2003). A prevalent narrative is that “incarcerated populations occupy an inherently compromised moral ground” because they have committed a crime, but this narrative is extremely fragile (Evans, 2021, p. 190), particularly if we consider that, across the European Union, almost 100.000 people (one in five) occupying prisons are currently being held on remand (Fair Trials, 2021). This means that, in reality, those we deem worthy of less safeguard because of their illicit and impermissible behavior might not have been convicted of any criminal offense.

Our collective perceptions of carceral structures, as well as of those who are imprisoned, are heavily influenced by implicit biases and prejudices, which are enhanced due to the nature of the prison as an institution that is literally secluded and fortified, and which exists on the periphery of

our daily existence. Because of this, its subsistence is rarely problematized. As Wang (2018) stated, referencing Mark Fisher's formulation of 'capitalism realism', "It is easier to imagine the end of the world than it is to imagine a world without prisons" (p. 297). Davis (2003) reinforces this sentiment, claiming the prison often operates as an abstract site but one that is simultaneously present and absent from our lives,

We take prisons for granted but are often afraid to face the realities they produce (...). Because it would be too agonizing to cope with the possibility that anyone, including ourselves, could become a prisoner, we tend to think of the prison as disconnected from our own lives. (p. 15)

But the prison's character as a reality that frequently eludes our consciousness does not mean this institution is a legal vacuum in which human rights principles are rendered irrelevant or inapplicable. It is precisely because the prison is characterized by an absence of transparency and accountability, as well as by continuous frictions between ensuring security and preserving the humanity and welfare of those who are imprisoned, that the implementation of human rights principles is of paramount importance (Cliquennois, Snacken and van Zyl Smit, 2021). Conceiving the prison as an environment where human rights standards are or should be heavily enforced is not only key to preventing instances of torture or ill-treatment within its perimeters, but also essential to guarantee the efficiency and success of human rights standards, more generally (Cliquennois, Snacken and van Zyl Smit, 2021). The topic of prison labor and its ties to human dignity is, therefore, a topic that is intricately correlated with the field of human rights.

3. Theoretical framework and literature review

3.1. Conceptualizing dignity

Drawing upon the discussion in our preceding section, it is possible to assert that the notion of dignity has become commonplace, particularly after the end of World War II (Kateb, 2011, p. 1). Nowadays, it is a term that appears frequently in distinct contexts, most notably as the underpinning of several international human rights texts where it figures as the foundation for human rights themselves. However, its discursive prevalence does not mean that there is consensus about its definition, or even about its value. Philosophically speaking, there appears to be relatively modest attention given to the concept of dignity, and some of it is outwardly critical (Rosen, 2012,

p. 4). Those who question it have argued that dignity is simply too repetitive of an idea, and that “appeals to [it] are either vague restatements of other, more precise, notions or mere slogans that add nothing to an understanding of the topic” (Macklin, 2003, p. 1419). In a similar light, Pinker (2008) depicts dignity as an innately useless or overly ambivalent concept, “a squishy, subjective notion, hardly up to the heavyweight moral demands assigned to it” (p. 28).

These are justifiable and unsurprising critiques of a notion whose concrete meaning may be difficult to discern because its applications are so often variable, depending on the context at stake. But it is possible to look at this issue from a contrasting viewpoint, according to which dignity is not a concept that lacks definition, but one whose definition is simply contested (Waldron, 2015). Such a perspective is helpful to support the argument that there is merit to this disputed idea. According Waldron (2015), though some scholars believe that dignity offers little value to color concepts that are already reasonably thoroughly grasped such as autonomy or respect for others, “we would be unwise to dismiss dignity unless we were sure that it neither added anything to or nor modified our understanding of those other concepts” (p. 124).

In this sub-chapter, I will review relevant and complementary theoretical approaches to the concept of dignity, which will be used for the analysis of our literature-based results in the further chapters of this dissertation. This is not an exhaustive review, as there are several (moral, political, religious) approaches to this ancient concept that, for practical considerations, we cannot incorporate in this study. I will aim to strive away from the prevalent idea of dignity as axiomatic, requiring limited to no theoretical backing (Kateb, 2011, p. 1). To understand why dignity is, or can be, important, we need to understand, firstly, what it is, how it originated, and how it has been portrayed in moral and political philosophy throughout the years.

3.1.1. Dignity as an intrinsic and unconditional quality of all human beings: Kant and the UDHR

The idea of dignity as it is now enshrined in the UDHR — as “inherent” and “the foundation of freedom, justice and peace in the world” — is the pinnacle of a process of historical evolution that had its roots in a remarkably distant point (Debes, 2023). The concept of ‘*dignitas hominis*’ in classical Roman tradition signified ‘status’ and was associated with the honor and respect due to someone who was deserving of honor and respect because of their particular (elevated) position in society. It was a trait not exclusively bound to human beings, but also to the state itself, as well

as other institutions (McCrudden, 2008). However, as argued by both McCrudden (2008, p. 657) and Rosen (2012, p. 12), even in these early days the thought of dignity seemed inclined to progress beyond its strict link to status or honor. Cicero himself alluded frequently to the concept of dignity, often invoking it in the context of rank within a social order, but in his work *De Officiis*, dignity appears in reference to a quality that is shared by human beings because they are humans instead of animals. In this sense, our contemporary moral-political idea of dignity as the basic value or standing of human persons as such stemmed from this philosopher's body of work (Debes, 2023). According to Cicero,

[I]t is vitally necessary for us to remember always how vastly superior is man's nature to that of cattle and other animals; their only thought is for bodily satisfactions Man's mind, on the contrary, is developed by study and reflection. (as cited in McCrudden, 2008, p. 657)

In *De Dignitate Hominis*, Pico della Mirandola (1486) validated the idea of dignity as a property of human beings in general because of their god-given capacity for self-governance, a framing that seems to come closer to the conceptualization of dignity that we encounter in the previously enumerated human rights instruments (Rosen, 2012, pp. 14-15). Other originary understandings of dignity correlate with the idea of "goodness on account of itself", or the intrinsic value of something situated in its rightful place within God's creation, as contended by St. Thomas Aquinas, in which case dignity is construed as a property that is not unique to those who are human (Rosen, 2012, p. 17). Francis Bacon, conversely, seemed inclined towards the defense of a multi-dimensional understanding of the concept, embracing simultaneously the idea of dignity as a prized characteristic applicable to human beings, but not exclusively; dignity as prestigious social rank; and having dignity as behaving in a way that merits respect (Rosen, 2012, p. 16).

Though these rival viewpoints provide us with useful historical context on the inception of dignity, it was with German philosopher Immanuel Kant (1724-1804), hailed by some as "the father of the modern concept of human dignity" (Bognetti, 2005, p. 89), that the concept began to occupy an amplified role in political theory (Rosen, 2012, p. 19). In fact, the Kantian account of dignity is, perhaps, the most influential formulation of the idea that now takes center stage in the international human rights system (Andorno, 2013).

Kant's philosophical legacy is complex and widely debated. There is not a single, unanimous interpretation of what Kant characterized as dignity, but the most common understanding is that dignity constitutes the inner and unconditional worth of a class of beings — human beings —

insofar as human beings, and human beings only, are capable of morality (Rosen, 2012, p. 22; Hughes, 2011, p. 14) (for dissenting opinions, see, for example, (Sensen, 2009). This idea of “inherent worth of the human person” imposes an obligation to “treat people not as mere means but also ends in themselves” (Bayefsky, 2013, p. 811). McCrudden (2008, pp. 659-660) notes, in addition to this, that dignity is conventionally depicted with respect to autonomy, and that to treat people with dignity is to treat them as individuals with the capacity to self-legislate, i.e. to freely settle on a path for their destiny. In fact, in *Groundwork of the Metaphysics of Morals*, Kant distinctively affirmed that autonomy is the core “of both human nature and of every rational nature” (as cited in Nordenfelt, 2004, p. 78). Similarly, Bognetti (2005) refers to Kant’s theory of dignity as establishing “that man is a *morally autonomous* being, who as such deserves respect and must never be treated, in general and especially by the law, as only a means to contingent ends but always (also) as an end unto himself” (p. 89) [my emphasis]. The dignity that Kant alludes to is not susceptible to be infringed normatively. It cannot be harmed, it is inalienable, and it holds universally, applying to all persons (Killmister, 2010, p. 160).

According to Donnelly (2009), the UDHR mirrors Kant’s “fully-formed account” of dignity, adding that,

The old notion of dignity as a special status of the nobility (and clergy) has been universalized to all men. Humanity, which is present in even the lowliest of men, gives each individual a dignity/status that must be respected by all other individuals, society, and the state. (pp. 21-23)

In a sense, Donnelly parallels Klaus Dicke’s belief that “the dignity of human beings is a formal transcendental norm to legitimize human rights claims” (2001, as cited in Waldron, 2015, p. 127). Waldron (2015) interprets this as an assertion that it is the inherent and absolute value bestowed upon human beings by virtue of their humanity (i.e., moral autonomy) that concretely secures that they are holders of rights “prior to and independent of the positive law proclamation” (p. 127). These rights do not derive from the state or any other external authoritative body.

3.1.2. An alternative understanding of dignity: the capability theory

Whereas critics of the idea of dignity consider it redundant or uncertain, urging the ethical, social and political debate to center itself around the more resolute concept of ‘autonomy’ (Macklin, 2013), others refuse to settle for a definite death of dignity, and argue that its

conceptualization as a multifaceted and controverted idea is worth preserving, because it represents an opportunity to engage in constructive interchange between people and cultures around a single, aggregating notion (Hāyry, 2004, p. 12). In this sense, dignity is acknowledged as an idea that is simultaneously slippery and potent, which would explain why appeals to eradicate it from ethical and human rights-based discourses are persistently fruitless (Schroeder, 2008, p. 237). Schroeder (2008) suggests that dignity presents a chance to enrich dialogue provided that we accept it as a concept that cannot be clarified through a single perspective. This is not a limitation of the notion of dignity, only an attribute of it.

Martha Nussbaum (2008; 2011) endorses a similar belief in dignity as a vital, albeit ambiguous idea, and offers a novel lens through which to study it, which will be referred to as the ‘capability theory’. We will look at this theory narrowly, focusing particularly on where it offers a specific angle through which the concept of dignity can be examined, but it is important to point out that the general foundations of this approach were pioneered by economist and philosopher Amartya Sen, and later developed by a growing number of scholars, including Nussbaum (Robeyns and Byskov, 2023). Generally, this approach encompasses two normative claims: “the claim that the freedom to achieve well-being is of primary moral importance and, second, that well-being should be understood in terms of people’s capabilities and functionings” (Robeyns and Byskov, 2023, paragraph 1).

Sen does not prioritize the concept of human dignity in his theoretical approach, even though he acknowledges its importance (Nussbaum, 2011). This is why Nussbaum’s appropriation of the capability framework to construct a critical examination of dignity is of value. It also demonstrates a trend of renewed interest, among contemporary philosophers and political theorists, in the application and scrutiny of the idea (McCrudden, 2008, p. 663). Nussbaum introduces an alternative theoretical pathway to that followed by Kant in contemplating dignity, which, as argued by the author, mimics the Stoic outlook of human worth as derivative from the rational powers of human beings. Claassen (2014) reproduces Nussbaum’s description of the Stoic-Kantian idea of dignity, according to which,

The fact of possessing reason makes all human beings equal (...), and this is the ground for our moral respect for all humans. Rationality and morality are thus closely connected: the fact of possessing reason justifies treatment as an end-in-itself, not as a mere instrument to the purposes of others (p. 243)

Nussbaum embraces the idea that dignity warrants respect for creatures as ends in themselves (Claassen, 2014, p. 243). But the author also distances herself from the Stoic-Kantian idea of dignity as essentially and limitedly *human*, as well as *unconditional*. Firstly, insofar as Kant's definition of dignity renders it an intrinsic value possessed by beings adept at exercising universally-applicable moral law due to being gifted with creative discernment and freedom of will, the notion is necessarily asymmetrical. It appears to dismiss all living beings which are non-human, as well as those who are human but, by virtue of mental disabilities, for example, cannot exercise their presumed intellectual capacity (Hughes, 2011, p. 14). Nussbaum's first point of divergence with Kant resides on her conviction that dignity should extend to other forms of animal life, as well as to those who are not able to autonomously exercise reason in their day-to-day lives and do not deserve to be excluded from their rightful condition as part of humanity because of discriminatory and ableist standards. She does so by associating the idea of dignity to that of agency, and by depicting dignity as a fundamentally changeable concept, with distinct contours predicated on the subject at stake (Nordenfelt, 2021, p. 21-22). Dignity is to be thought of in relation to other ideas, including that of *respect* and *equality*. Dignity is also grounded in the *potentiality* — found in humans and animals — to cultivate specific capabilities according to their circumstances (Claassen, 2014, p. 244). This is a contentions assertion at points, one which intersects with ethical considerations on the rights of animals, for instance, and the analysis of its validity falls outside of the scope of this project. We will focus here on human dignity. Particularly relevant to our reflection is Nussbaum's second point of divergence with the Stoic-Kantian's understanding of dignity as an inviolable property of all human beings by virtue of being human (Claassen, 2014, p. 244). Nussbaum (2008) writes,

Respect human dignity, the Stoics say. But it turns out that dignity, radically secure within, invulnerable to the world's accidents, doesn't really need anything that politics can give. So the appeal to dignity grounds a practical attitude that is either inconsistent or quietistic. The Stoics are quietistic when they make no objection to the institution of slavery, on the grounds that the soul is always free within. They are inconsistent, I believe, when they argue, in the same breath, that respect for human dignity requires the master to refrain from beating slaves or using them as sexual tools: for what is the harm of these things, if they do not affect what is most precious, and merely touch the body's morally irrelevant surface? (paragraph 13)

The author proposes an alternative depiction of dignity she describes as the Aristotelian-Marxian approach, stating very clearly that “human beings have a worth that is indeed inalienable,

because of their capacities for various forms of activity and striving. These capacities are, however, dependent on the world for their full development and for their conversion into actual functioning” (2008, paragraph 18). It is futile to affirm reverentially that human life has worth, which is all but detached from external circumstances. All humans are endowed with dignity because of their skill to apply towards objectives, but not all persons have access to the necessary material (social, political, familial, economic) conditions to *live a dignified life*. One’s dignity is susceptible to being harmed: Nussbaum (2008) gives the example of sexual assault, a behavior which does not diminish the survivor’s individual and unconditional worth but is still considered a breach of dignity because it “violates the bodily, mental, and emotional life of [the individual], affecting all [their] opportunities for development and functioning” (paragraph 21). More so, dignity is not merely a negative concept, which requires (only) political abstention. It must be fulfilled: respect for dignity encompasses “the appropriate institutional support in place to ensure that individuals are able to flourish in a truly human way” (Nordenfelt, 2021, p. 23).

Nussbaum’s framework puts forward a list of ten core capabilities which must be observed and supported (by political will) in order to guarantee a minimum degree of dignity in a life. This is a necessary prerequisite to ensure effective social justice (Nussbaum, 2011, p. 36). Nordenfelt (2021) summarizes them as such:

1. *Life*: being able to live to the end of a human life of normal length.
2. *Bodily health*: being able to enjoy good health.
3. *Bodily integrity*: being able to move freely from place to place, being able to feel secure against violent assault.
4. *Senses, imagination and thought*: being able to use one’s senses, to imagine, think and reason, and to do these things in a truly human way.
5. *Emotions*: being able to have attachments to things and people outside ourselves.
6. *Practical reason*: being able to form a conception of the good and to engage in critical reflection about the planning of one’s life.
7. *Affiliation*: being able to live with and towards others, having the social bases of self-respect and nonhumiliation.
8. *Other species*: being able to live with concern for and in relation to animals, plants and the world of nature.
9. *Play*: being able to laugh, to play, to enjoy recreational activities.

10. *Control over one's environment*: being able to participate effectively in political choices that govern one's life; being able to hold property and having property rights on an equal basis with others. (pp. 22-23)

The two conceptualizations of dignity examined in this chapter will be referred to in our analysis of collected literature.

3.2. Prison labor and prisoners' rights

3.2.1 The modern prison and its critiques

Punishment did not always equate to imprisonment. It was only in the eighteenth century, in Europe, and the nineteenth century, in the United States of America (U.S.A.), that the widespread use of capital punishment began to be seriously questioned, and deprivation of liberty took center stage as the primary mode of criminal sanction. The Western model of punishment soon transposed to the functioning of the colonized nations as a crucial element of imperial domination (Davis, 2003, p. 42). As observed by Foucault in his seminal work *Discipline and Punish: The Birth of the Prison*, first published in 1975, it was around this time that the body of the wrongdoer ceased to operate as “the major target of penal repression” (p. 8). Punishment was primarily administered in public as a theatrical display of horror and ostentatious intensity, before it was converted into the most obscure part of the penal process, a purely legal and bureaucratic practice that derived its effectiveness from its immutability, instead of from its visibility. The primordial object of punishment was no longer “torture as a technique of pain”, but the “loss of wealth or rights” (Foucault, 2020, p. 15). According to Foucault (2020),

The body now serves as an instrument or intermediary: if one intervenes upon it to imprison it, or to make it work, it is in order to deprive the individual of a liberty that is regarded both as a right and as property (...). From being an art of unbearable sensations punishment has become *an economy of suspended rights*. (p. 11 [my emphasis])

This transition in paradigm reflected new intellectual currents associated with the Enlightenment, specifically in terms of how the individual was perceived: as a bearer of rights and liberties. It was also indissociable from the rise of industrial capitalism, and thus to the emergence of the bourgeoisie class as the social class whose ideological aspirations and priorities populated scientific, philosophical, cultural, and popular discourses (Davis, 2003, p. 43). Soon, this penological reform allowed for the prison to attain a “self-evident character” (Foucault, 1975, p. 232). It became an institution vastly accredited as irreplaceable, and eventually “a central feature

in the development of secular states”, responsible for molding our notions of punishment, fairness, and freedom (Gilmore, 2007, p. 11).

The announced functions of the prison have evolved throughout the years. The dawn of the human rights age in the twentieth century contributed to the legitimization of deprivation of liberty as a form of punishment only if it is non-arbitrary, including as a consequence of a lawful judicial conviction (see, for example, Article 9(1) of the ICCPR and Article 5(1), indent (a) of the ECHR). Retribution is still an integral component of incarceration, but the emphasis in penal policy is said to have shifted towards the rehabilitation of the imprisoned person (see, for example, *Vinter and others v. the United Kingdom*, 2013, § 115). Alongside these two aims, international legal standards dictate that imprisonment should contribute to the fulfillment of the purposes of deterrence from crime (both individual and collective) and public protection (European Prison Rules, 2006). Prisoners are regarded as vested with fundamental rights and duties and not mere objects of the state’s punitive power (see, for example, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2013, § 40). The implementation of mechanisms that are openly designed to monitor national compliance with minimum detention standards across the globe (such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which oversees the functioning of places of imprisonment in member states of the Council of Europe) showcases the formal relevance attributed to the prevention of ill-treatment and abuse within correctional facilities. The success of these reforms has been, however, limited, as international organizations often report that conditions in prisons are so deficient they can be seen as constituting cruel, inhuman, or degrading treatment, violating Article 7 of the ICCPR (Human Rights Watch, no date).

The permanence and ever-evolving character of the prison does not mean its existence has become uncontroversial. Some consider it a dehumanizing and morally irredeemable institution, which perpetuates harmful social and economic hierarchies by housing “the jobless, the poor, the racial minority, and the uneducated, not the merely criminal” (Wakefield and Uggen, 2010, p. 394). This is particularly evident when we observe that the majority of the prison populations in regions of the Global North consists of individuals from impoverished backgrounds, even though various socioeconomic groups engage in criminal activities at similar rates (Gibson-Light, 2023a, p. 6). Studies demonstrate how the prison system has progressively expanded to house those who have been forced out of or relegated to the fringes of the mainstream labor market: the unemployed or under-employed, devoid of professional opportunities and social protections (Wacquant, 2009).

Gilmore and Kilgore (2019) refer to this surplus population as the “members of the marginalized sector of the working class” (paragraph 20). Gilmore (2022) explains,

The ongoing destruction of postwar labor markets pushes people into new relations of competitions, while the dismantling of the welfare state adds new stresses to the everyday life of the working and workless poor. And once in the industrialized punishment system, it is hard to stay out (...). (p. 220)

These patterns of exclusion are particularly intensified if we consider minority communities. In the U.S., black Americans, who are disproportionately over-policed and hyper-surveilled (Beckett, Nyrop and Pfingst, 2006), are incarcerated in state prisons at nearly five times the rate of white Americans (Nellis, 2021). Because of this, some scholars affirm that imprisonment imposes and legitimates a violent racial caste system (Alexander, 2012). In Europe, where, since the 2000s, experts have remarked on the occurrence of a ‘punitive turn’ (Dünkel, 2017), the reality is not entirely distinct from that of the U.S. Research has shown that individuals categorized as foreigners and migrants, as well as those identified as ‘second-generation’ immigrants from non-Western backgrounds and racialized people more generally, are significantly overrepresented within incarcerated populations to a level akin to the racial inequality affecting black Americans in the U.S. This is because these individuals are precisely those who occupy the most vulnerable tier of both the labor market and the state’s social welfare sector, have a lower socioeconomic status, lack qualifications and endure intersecting and cumulative forms of discrimination (Wacquant, 2005, p. 34).

Abolitionist scholars characterize abolition as a project that entails not just the removal of places of imprisonment from society, but a total overhaul of our social order. It is not simply absence but relies on the presence of “life-affirming institutions” (Byrd, 2023, p. 5). They highlight a specific, under-addressed function of the prison: that of ‘incapacitation’ of the imprisoned bodies. According to Gilmore (2007),

Incapacitation doesn’t pretend to change anything about people except where they are. It is in a simpleminded way, then, a geographical solution that purports to solve social problems by extensively and repeatedly removing people from disordered, deindustrialized milieus and depositing them somewhere else (p. 14)

Similarly, Davis (2003) characterizes the prison as “an abstract site into which undesirables are deposited, relieving us of the responsibility of thinking about the real issues afflicting those communities from which prisoners are drawn in such disproportionate numbers” (p. 16). The prison is understood, by critics, as a fundamentally inadequate institution, plagued by critical and

systematic failures and unable to repair the root causes of criminality, only to obscure them. At the prison's epicenter, abolitionists argue, there is a distinct, harmful priority: to punish and ostracize (Kaba, 2021). This aim overrides that of the social rehabilitation of those who have committed a crime, perpetuating a cycle of damage. In this sense, abolitionist scholars do not simply maintain that the carceral state perpetuates policies that are violent and repressive but also, and perhaps principally, ineffective.

Some scholars are particularly critical of the supremacy of liberal rights-based accounts of the prison, which hinders any possibility of considering more radical critiques of the state's punitive power itself (Carlen, 1994). "The limit to any reform (...) is the system itself", reminds us Gilmore, referring to the words of Angela Y. Davis (2022, p. 218). Contemporary reformist approaches to the criminal justice system are deemed insufficient because they try to sanitize a system that is "fundamentally asymmetrical in its production and organization of normalized misery, social surveillance, vulnerability to state terror" (Rodríguez, 2019, pp. 2-3). This does not mean abolitionist frameworks disregard any and every policy implementation that alleviates the harsh and abusive conditions prisoners are subjected to when in detention. Rather, they call to look beyond these temporary, restricted tactics which are confined to a world where caging people is the only acceptable, and indispensable, harm-reduction practice.

3.2.2. Penal labor: previous research and gaps

Having discussed dignity and the modern prison, let us now turn to prison labor. Work has been an integral part of imprisonment since the dawn of civilization (Jackson, 1927, p. 218). Historically, different theoretical approaches help contextualize its emergence, functions, and development. For Foucault (1975), labor is not understood as a crucial underpinning of the modern prison in and of itself, but it figures as instrumental in the establishment of mechanisms of disciplinary power and individual surveillance over those who are imprisoned (Simon, 1993, p. 42). The prison operates not only as a site for the application of punishment but "as a means of insidious social control" (Jouet, 2022, p. 203). Rusche and Kirchheimer (1939), alternatively, emphasize the economic dimensions of penal labor, characterizing its practices as intertwined with the inception and cadences of capitalism. For one, they maintain that the conditions of the labor market determine the extent to which incarcerated populations are utilized as an industrious force: when there is a surplus of non-incarcerated workforce, the penal system becomes particularly focused on physical punishment and less on production, and vice versa. Additionally, the genesis

of capitalism transformed the way the human body is perceived, both in relational and institutional terms. As the body began to be basically understood as a valuable (and exploitable) vehicle of labor power, forms of punishment that harmed its physical integrity and potential were frowned upon (Simon, 1993, p. 41).

Despite the longstanding history of carceral labor, the prevailing research focus on the subject often pertains to specific economic aspects associated with its modern practices and programs, and studies are primarily aimed at examining the phenomenon in the North American context (for example, Blackett and Duquesnoy, 2020; Cao, 2019; Browne, 2007). The emphasis on the reality of the U.S. can be seen as resulting from a variety of circumstances. Firstly, the incarceration rate in the U.S. surpasses that of any other nation worldwide (Prison Policy Initiative, 2024), with more than two million imprisoned people, or about 16% of the incarcerated population in the world, despite the fact that the U.S. is home to only 4% of the globe's population (Vera Institute of Justice, no date). At some point, in the 2000s, the growth of detained persons was so exponential in the region that the term 'mass incarceration' began to be seen as outdated, with commentators choosing to use 'hyper-incarceration' as more appropriate to describe the intensity of this phenomenon (Gibson-Light, 2023a).

Secondly, if in the last decade the topic of prison labor has progressively achieved significant public momentum, it is also due to the organized efforts of prisoners' rights activists and North American prisoners themselves, who, in the past years, have highlighted the precarious conditions in which their labor is produced through the staging of cross-country strikes and demonstrations which advocate for the definite ending of forced labor and slavery in prisons, and which have gathered unprecedented support and visibility (Speri, 2016). It is documented that the ratification of the 13th Amendment of the U.S. Constitution in 1865, which bans slavery and "involuntary servitude" except "as a punishment for crime whereof the party shall have been duly convicted" allowed for the prison to be used as a vehicle for the reproduction of crucial traits of the chattel slavery system, providing cheap labor as well as racial control and suppression (Gibson-Light, 2023a, p. 13). Research around prison labor practices in the U.S. has also demonstrated that incarcerated workers are often forced to work for extremely low or no pay, are heavily monitored, endure humiliation and abuse, and are stratified according to identity characteristics such as ethnicity, nationality, education, or class (Gibson-Light, 2023a). These findings reinforce the thesis that labor conditions in prisons are chronically associated with coercion and abuse, and ground concrete demands to repeal a constitutional clause that perpetuates the mistreatment of a large tier of the population.

It is relevant to note that the 13th Amendment of the U.S. Constitution is not entirely singular in its content. Other legal instruments, including the ECHR, establish that “forced or compulsory labor” does not encompass “any work required to be done in the ordinary course of detention” (Article 4, paragraph 3, indent (a)). The same applies to the ICCPR (Article 9, paragraph 3, indent (c)(i) and even to Convention No. 29 of the ILO (1932), one of the ILO’s core labor standards, which has been widely ratified by states across the globe (Fenwick, 2005). Although Article 1 of Convention No. 29 determines the prohibition of the extraction or demand of forced or compulsory labor in any form, Article 2, paragraph 2, indent (c) exempts prison labor from this classification, meaning work that is “exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations”. Additional research on the practical repercussions of these provisions to the prisoners working in the regions in which they are applicable is, therefore, needed.

Prison labor is also frequently examined in terms of the possible outcomes it produces or is meant to produce, particularly whether it contributes to the aims of social rehabilitation and reduction of recidivism (for example, Maguire, Flanagan, and Thornberry, 1988). More recently, Nur and Nguyen (2023) conducted a systematic review and analysis of prison work and vocational programs and their impact on the prisoners’ post-prison trajectories precisely because they identified that research on the topic was either outdated or heavily dependent on uniform effect sizes to ascertain the effectiveness of these programs. The authors conclude that “it is crucial to work toward a cohesive body of literature that will aid in [the] determination of work[‘s] (...) true effects on multiple outcomes, which can in turn aid policy implementation (...)” (2023, p. 150). A similar thought process informs this study. Prison labor is not a monolithic reality – it can have negative implications, as well as positive. As for most people outside of the prison gates, work occupies a substantial portion of most prisoners’ daily routines. It affects their sense of self-esteem and shapes their (and society’s) interpretations of punishment, equity, and justice. In this sense, some authors and activists have highlighted the importance of addressing prison labor as an issue with more complexity than the stereotype of super-exploitation allows for (Gilmore & Kilgore, 2019). Similarly, there is limited understanding on what defines a sense of dignity for incarcerated individuals before their reintegration into society (VanderPyl, 2021), and a lingering ambiguity about how dignity intersects with a key aspect of incarceration: labor. Convention No. 29 of the ILO does not mention the notion of dignity when referring to forced or compulsory labor, but, rather unusually, the American Convention on Human Rights, which also carves out an exception

to the prohibition of forced or compulsory labor (provided that the laws of the respective country authorize such sentences), hinges it on the condition that the coercive work imposed should not "adversely affect the dignity or the physical or intellectual capacity of the prisoner" (Article 6, paragraph 2) (Fenwick, 2005, p. 281). This indicates that a link between labor and dignity can exist and should be further explored.

4. Methodology

4.1. Collecting data: a process of systematic literature research

This dissertation followed a methodological approach based on the comprehensive review and critical analysis of existing literature and data related to the topics of prison work and human dignity. I engaged with this process by observing the first steps of a systematic literature review, which is a method that aids in processing extensive amounts of information, mapping areas of ambiguity in research, or identifying fields of knowledge where minimal investigation has occurred and new studies are warranted (Petticrew and Roberts, 2005). Systematic literature reviews might prove to be particularly helpful in circumstances where there is a wide range of research on a thematic area but important questions remain unaddressed (Petticrew and Roberts, 2005). They minimize bias, by making use of explicit, predetermined criteria to address a specific (or various) research question(s) (Patterson, 2024).

In this dissertation, the systematic literature research I decided to conduct intended to fulfill an objective: to collect and craft a concise overview of previous research conducted in relation to penal work and human dignity, aiming particularly to identify potential gaps and trends in the academic discourse on the topic, understand where and how these two realities intersect and inform new research paths. This systematic literature research intends to move beyond the development of a traditional literature review, which would feature in most studies of this nature, insofar as the extracted body of information represents data *per se*, collected through a set of 'guidelines' defined *a priori* and documented in this sub-chapter, which then will be framed in a broader theoretical analysis. The steps that figure in this research protocol can be reproduced by others and lead to equivalent results, guaranteeing a rigorous and expansive data retrieval process.

My research canvassed all English-language, peer-reviewed articles published between 2003 and 2023 in the catalogs of the databases ProQuest Social Sciences and HeinOnline. These databases were chosen in order to guarantee the inclusion of interdisciplinary findings on prison work and human dignity, ranging from the domain of social sciences to criminology and legal theory.

I opted to chronologically frame the research from 2003 to 2023 in order to cover all studies published in the last twenty years. This allowed me to gather articles from a reasonably extensive period of time while remaining contemporary, and to guarantee a relevant overview of existing literature on the topic while remaining realistic about the time constraints associated with this research project. In addition to this reason, it is important to note that the early 2000s marked a shift in patterns of incarceration across the globe, as we have briefly alluded to in our previous section.

Within both databases, the research identified scholarly articles containing the keywords ['prison labour'] OR ['prison labor']² AND ['dignity'] in any section except in the full text (ProQuest Social Sciences) or in the full text (HeinOnline) (these correspond to the two default research options in each database). Due to the sizable number of preliminary results identified in both databases, my decision was to narrow down the collected records according to subject. In both databases, the records were filtered to limit the search to documents that could directly be linked to the thematic subject 'prisoners'. This resulted in 386 records in ProQuest Social Sciences and 174 records in HeinOnline.

Afterward, a manual screening was conducted to eliminate records that fell outside the scope of this dissertation project by examining the titles and abstracts of the articles obtained after the application of the inclusion criteria. Articles that did not refer to the concept of dignity explicitly in its full text were omitted from the analysis. Likewise, records that did not approach the topic of prison work at the core of their analysis were disregarded. This includes records in which work is referenced, but only tangentially, for instance in scholarly articles which refer to the experience of incarceration as a whole and acknowledge prison labor as a component of this experience. It also includes studies that focus on specific socioeconomic phenomena related to modern punishment

² The aim was for the research to include relevant results regardless of American and British English spelling differences.

(for example, prison privatization) but do not clearly probe into the world of labor behind bars (for example, Mulch, 2009).

Scholarly articles that were identified as fulfilling the two criteria determined above within the database but probe into imprisoned people's post-prison trajectories, particularly ones that focus on the conditions or restrictions attached to the performance of work by incarcerated individuals after they are released from imprisonment were not incorporated into this study (for example, Haimson, 2022). Records that investigate the impact of recreational, cultural, or educational activities that stimulate the incarcerated individual's sense of purpose and agency and facilitate social reintegration of prisoners through creativity and leisure were not analyzed, as those activities do not correspond to work (for instance, Miklósi, Becker-Pestka and Molnár, 2023).

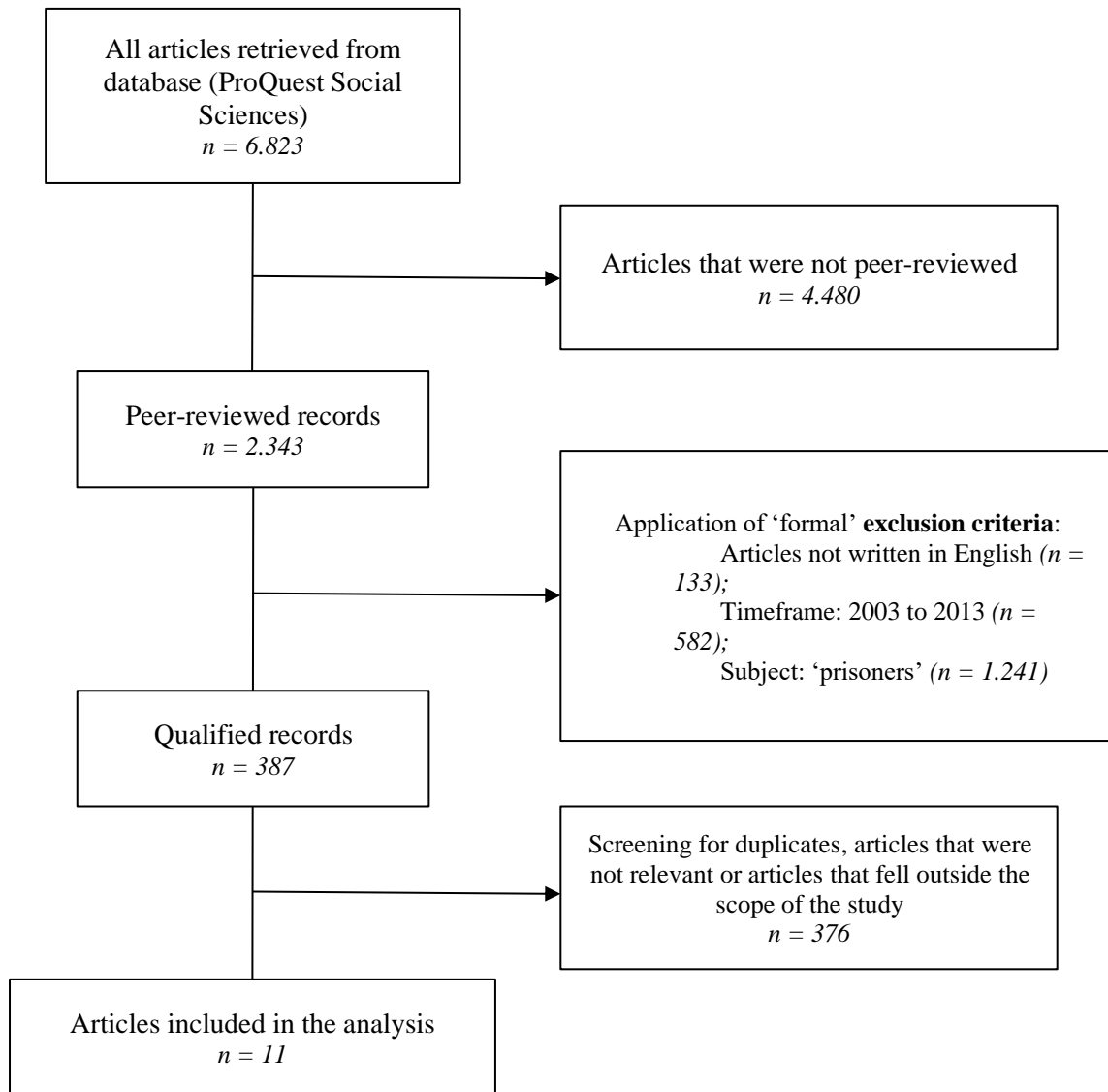
A different exclusion criterion pertained to the various historical forms of detention which do not directly correspond to the modern concept of the prison as an institution. In this case, records that came up in the electronic databases but explored penal work in the context of labor camps (for example, Różycki *et al.*, 2020) were not considered. Similarly, records that delved into the role of labor in non-metropolitan 'penal colonies' (for instance, Coates, 2018), i.e., settlements that served to incarcerate those who were considered socially marginal or undesirable, and which served as foundations of imperial architecture by cumulating functions of social, economic and geopolitical domination (Anderson, 2018), were not part of this analysis.

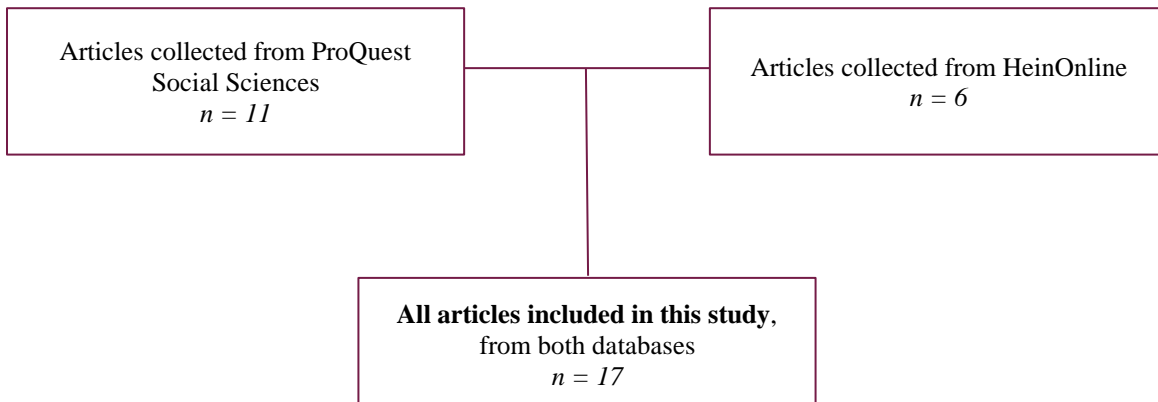
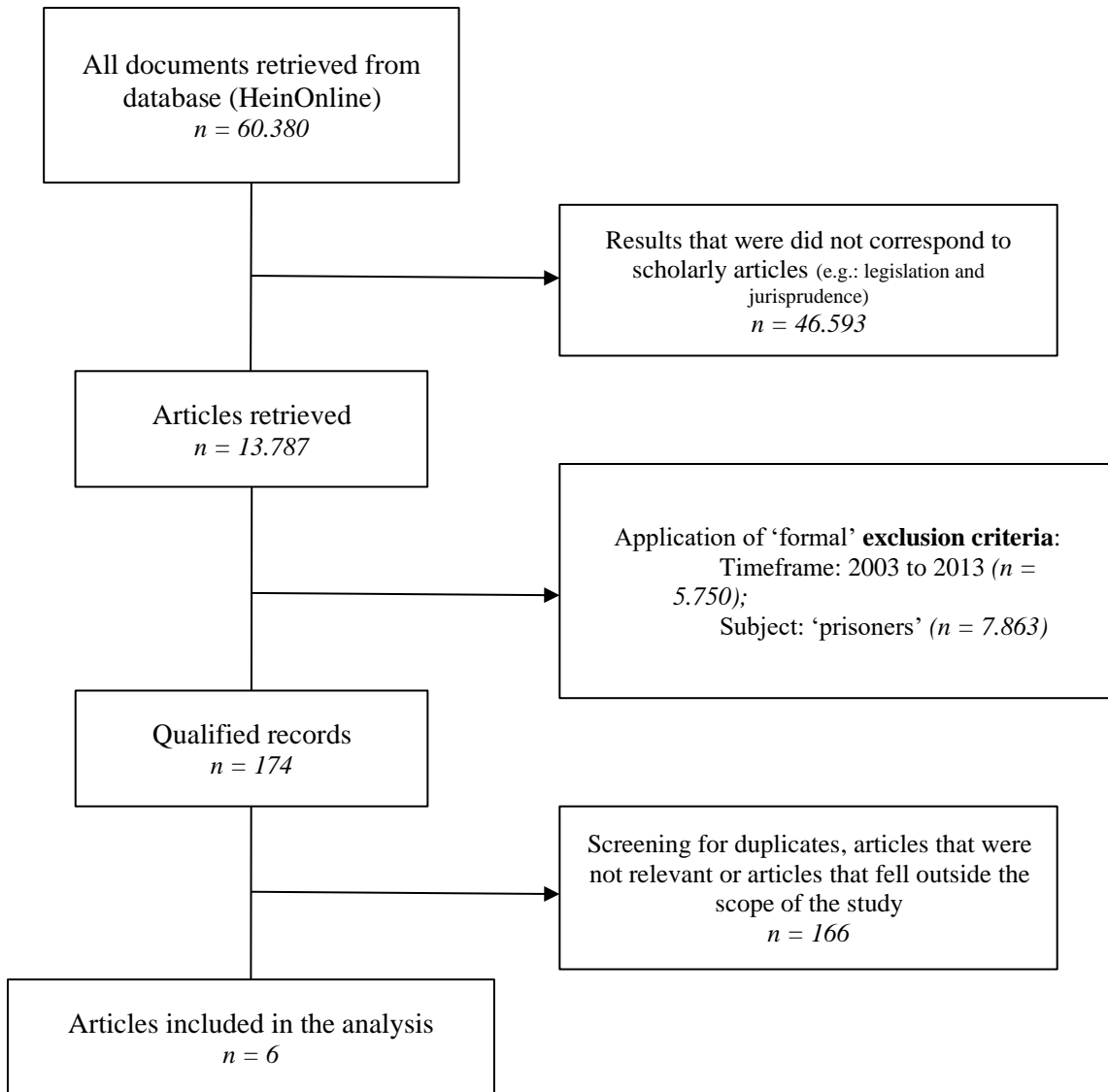
Firstly, the decision to exclude studies that focus on the aspect of convict work within penal colonies was due to the particularities of these settlements and their role in advancing, ideologically and in practice, forms of national and imperial expansion localized in a specific point of History. Though it is possible to argue that what we now refer to as modern forms of imprisonment necessarily emerge from and are deeply shaped by the *modus operandi* of penal colonies (Anderson, 2018), to study the role of labor and personal dignity in these settlements would entail paying consideration to the specific types of hard labor performed in these locations (many which have less relevance today), the implications of convict transportation (a limited practice, nowadays), or to the fact that many of those 'serving time' in penal colonies had actually not even seen the inside of a courtroom before being exiled (Anderson, 2018). It would inevitably demand the exploration of the phenomenon of forced mobility as punishment, something that, one would expect, influences the prisoners' sense of dignity and selfhood, as well as how penal work is organized and the purposes it fulfills. A similar reasoning can be applied to labor camps, which

differ from modern prisons principally because the former were established precisely to fuel the economy during an ongoing war, in a context where, to justify incarceration, the authoritarian regime would generally invoke the suspension of several basic rights as an imperative to defend itself from a specific hazard (Buggeln, 2023). The detainment of laborers was often done so for indefinite periods of time, and, similarly to what occurred in penal colonies, the requirement of a judicial conviction prior to detainment was regularly bypassed. In fact, the existence of a criminal offense was not, at all, a prerequisite for arrest (Buggeln, 2023). Because both these realities bear resemblances to current carceral structures, but also the significant variances detailed above which could heavily influence the findings of this study, my decision was not to include them in the analysis.

Following the establishment of the inclusion and exclusion criteria to be applied in this study, the results of this research process were as indicated in Annex I (ProQuest Social Sciences) and Annex II (HeinOnline).

The analysis of all extracted records as well as their framing in a broader theoretical analysis around the concepts of dignity and penal labor, will be carried out in the following chapters.





4.2. Ethical considerations and limitations

The choice to carry on a desk-based project relates to the ethical and practical constraints I identified when assessing the possibility of engaging in primary collection of data within spaces of incarceration for the purpose of completing this dissertation.

Imprisoned people are, undoubtedly, in a privileged position to speak directly on the topic I aim to address in this project due to their lived experience of participating in work within correctional facilities. The fact that their testimonies are systematically sidelined and undervalued underscores a pressing need to encourage and open space for imprisoned persons to share their personal motivations and feelings around what directly refers to and impacts their existence. Having unfiltered access to imprisoned people's perspectives allows us to humanize those who are within prison walls and what they endure and experience in their day-to-day lives. It helps us acknowledge our generalized reluctance to critically confront the rampant human rights abuses, violence, marginalization, and racial, gender, and class inequalities the prison systematically produces or increases because it is such a distant reality in our collective consciousness. Since we so often learn about the ins and outs of incarceration through third parties' evidence and reporting, our understanding of it is skewed, and a more complete picture could be drawn if we were to rely on first-hand accounts through, for example, the method of interviews.

However, in the particular context of conducting research activities, it is essential to bear in mind the specificities of the prison as a political institution and physical location characterized by hyper-surveillance, deprivation, and danger (Haney, 2012). Imprisoned people tolerate and are forced to adapt to a context of extreme stress, scrutiny, and vulnerability, which impacts the way they move, self-express, and relate to others (Haney, 2012). Because interviews can be understood as social occasions, which reflect the particularities of the context in which they occur (Hammersley & Gomm, 2008, p. 99), it is possible to conclude an environment such as the prison, which can be generally described as hostile towards the prisoner's sense of psychological and physical well-being and comfort, conditions the prisoner's free participation in a research project of this nature. Consent may be tainted by social pressure or fear of authority or retaliation, and the prisoner may withdraw from expressing their true feelings and opinions about their experience as a strategy for self-preservation. As Haney (2012) argued, "Prisoners regularly witness the severe consequences that can befall those who appear weak or vulnerable. They may correctly infer that

revealing too much about themselves provides others with the knowledge that can be used to exploit them.” (p. 6)

In contexts where research is to be conducted in relation to communities that may be particularly vulnerable or marginalized, it is the researcher’s ethical duty to thoroughly consider their role in creating or enhancing harmful power asymmetries between themselves and the researched subject (Fuji, 2012). This concern to strive away from an approach that could potentially be framed as self-serving, aligned with pragmatic considerations related to this research project’s limited extent and duration, was the primary reason why I decided to conduct desk-based research, which allows for the use of existing data where the collection of primary data might not be viable or appropriate (Robson and McCartan, 2016).

4.3. Thematic analysis of results

The literature I collected through the systematic process of research will be analyzed according to a thematic coding approach. This method could be considered a genetic approach to analyzing various forms of qualitative data, including if it is literature-based (Robson and McCartan, 2016). It involves “identifying and recording one or more passages of text (...) that, in some sense, exemplify the same theoretical or descriptive idea” (Gibbs, 2007 as cited in Robson and McCartan, 2016, p. 467).

My process began by reading all the records gathered while generating initial codes, according to my interaction with the data itself, but also bearing in mind the theoretical frameworks portrayed in chapter 3. The initial codes were organized into the themes described below, and later interpreted to fulfill the main objective of this dissertation: understanding how prison labor is portrayed, in previously published literature, in relation to human dignity. The results of our study will be presented in the following chapter, alongside with a critical discussion of the data.

5. Findings and discussion

5.1. The various understandings of dignity in the context of prison labor

Despite the pervasiveness of prison labor in our contemporary era, few studies focus specifically on this phenomenon (Hatton, 2018). This pattern is followed in international law, and particularly within the ILO: although carceral labor has been somewhat a matter of contention, it is otherwise a topic considered to be underdeveloped (Fenwick, 2005, p. 250). Our systematic process of research demonstrates that, in the last twenty years, an even more limited number of articles examine work in incarceration through the lens of human dignity, despite the centrality of this notion in both soft and hard law instruments that regulate prisoners' human rights across the globe.

Researchers who do scrutinize the intersections of penal labor and dignity have often invoked varying ideas of dignity in relation to penal work. Gibson-Light (2020) emphasizes that dignity is a multifaceted notion, one whose meaning has shifted both in terms of its conversational and legal interpretations throughout the years (p. 199). Other authors highlight, likewise, the complexities inherent to the exercise of characterizing the notion of dignity in the absence of an evident and incontrovertible definition (Kioko, 2022; VanderPyl, 2021). Despite this challenge of definition, the conceptualizations of dignity that appear, either centrally or in passing, in the literature that analyzes contemporary practices of prison labor can be grouped into specific themes.

5.1.2. Dignity as personal identity, and the potentiation of self-worth through work

Gibson-Light (2020) asserts that dignity can be understood, in general terms, as an ability to build and maintain a sense of self-worth and self-respect, and that it is necessarily linked to a sense of personal identity. The construction of dignity as selfhood is a recurrent theme in our analyzed literature, arising particularly in ethnographic studies that rely primarily on first-hand accounts of incarcerated workers to assess the impact of prison labor programs on their individualities.

The activity of building a sense of identity gains particularities in imprisonment because, in a setting characterized by severe deprivation and control, inmates encounter considerable barriers in accessing resources and opportunities to self-express, consolidate their sense of distinctiveness,

and reimagine uplifting and productive narratives about their own lives (Gibson-Light, 2020). Drawing from the experiences of incarcerated workers within Arizona's (U.S.) Inmate Wildfire Program (IWP), Feldman (2018) argues that personal identity is a fluid process, in the same way that the prison is a dynamic, heterogeneous structure, and that an imprisoned person's sense of selfhood is not necessarily antithetical or subversive to the carceral context but construed in conjunction with it. Feldman (2018) states,

People in prison exist in a type of holding pattern, restricted by physical movement, that does not extend to their sense of self; prisoners continually shape and reshape who they think they are and could be through stories they tell about themselves (...) prison identity work falls on a spectrum from stigma management to transformative potential, sometimes with multiple points on the spectrum happening at once. (p. 24)

In this sense, because the performance and material and institutional conditions of work contribute heavily to how incarcerated people "perceive their time and positions behind bars", labor is portrayed as an imperfect but useful medium through which incarcerated men and women can *pursue* a sense of dignity (Gibson-Light, 2020, p. 200). Feldman (2018; 2020), for instance, notes that, in the context of fighting wildfires, incarcerated laborers can employ a sense of critical thinking, humility, and self-governance, insofar as they gain a temporary prerogative to dispute or question directives from those in power in circumstances of peril or undefinition, given that the nature of their role requires rapid, instinct-driven actions. More broadly, some incarcerated workers express that work empowers them to recognize themselves (and to be recognized) in a different, more hopeful light, to self-affirm as trustworthy and principled, to foster a feeling of confidence, and even to take pride in their specific abilities and potential for overcoming. Depending on the nature of the tasks at stake, penal work may evoke a feeling of honor and privilege as incarcerated individuals perceive themselves as being truly committed to something that is ultimately good and important (Weill, 2020, p. 118). An incarcerated worker told Feldman (2018),

Just getting away from the yard changes everything. You get to think about what you want. [pointing to the vista in front of us] See out there? That's freedom. That's what I am working towards. (...) I'm figuring out that this is who I am ... I wouldn't get to do this if I never left the yard. (p. 27)

For many, work behind bars operates, thus, as a "spatial and temporal release" not only from the present hopelessness of incarceration but from the eventual idleness of the future (Guilbaud and Jacobs, 2010, as cited in Pandeli, Marinetto and Jenkins, 2019, p. 16). Others assume more

tempered feelings about their engagement with carceral labor, characterizing it as a mechanism to escape, momentarily, the flatness and boredom of carceral routines, which are marked by incessant hyper-surveillance (Feldman, 2018, p. 225), or simply as an opportunity to exert some control over their daily routine, albeit within the tight bounds of confinement (Pandeli, Marinetto and Jenkins, 2019; Weill, 2020). A recurrent sentiment was that prison work was a way to “pass the time”, or even to kill it, a wording that implies work acts as a chance to escape an otherwise insufferable context (Pandeli, Marinetto and Jenkins, 2019, p. 15). As Guilbaud (2010) noted, “the big problem of incarceration is time (...). For an inmate, working means seeing the clock hands turn faster; this explains why some went so far as to say that work alone, without pay, would be enough for them” (p. 64). On her experience, Marilyn Buck (2004) depicts undertaking work in confinement not primarily as a transformative effort, but as a display of resilience,

Despite the coercive nature of work as discipline and punishment, women prisoners continue to expand the horizons of their human productivity. Some women discover resources they did not recognize in themselves before imprisonment or which they have developed in response to the repression and punishment we experience daily. (...) Because prison labor is firmly established in a power-submission dynamic, it engenders an attitude of rebellion: a moral and ethical response to an immoral situation of coercion and degradation. (p. 451)

The analyzed studies indicate that a complex phenomenon such as prison labor elicits distinct responses and emotions among incarcerated individuals. But there seems to be a common thread: to some extent, engaging in work mitigates the suffering associated with confinement and, thus, allows prisoners to foster a sense of dignity or self-worth. The implications of this will be analyzed in the latter sections of this chapter. For now, it is relevant to examine how penal labor is portrayed in relation to two components of the broader concept of selfhood: inclusion and status.

5.1.2.1 Work and inclusion

In many ways, identity is (and can only be) construed alongside and within a community. Because the prison itself represents the most literal and brusque form of physical isolation, those who are imprisoned often share a sense of powerlessness and are incapable of reaching out to strong social support networks or establishing purposeful emotional bonds. This increases sentiments of despair and detachment, and prisoners become particularly prone to engaging in detrimental behaviors of self-harm and violence (Feldman, 2020, p. 225). The literature analyzed in this study often associates the idea of dignity with inclusion, belonging, or the ability to nurture a sense of social cohesion (Pandeli, Marinetto and Jenkins, 2019; VanderPyl, 2021). Feldman

(2018) writes that identity is “not an individual pursuit; the social and individual are co-constitutive, and so any discussion of a person’s identity is also a discussion of the institutions that shape them” (p. 22). Engaging in meaningful work allows imprisoned individuals to socialize and feel a sense of companionship and connection with others, as well as with the outside world. Feldman (2018) reported being told, by a crewmember,

“I feel small, you know? But not insignificant. I feel ... this is the first time I can sort of see what people mean when they talk about being part of something (...). On the yard we act big. Like ... [he puffed his chest up and grimaced] ... but I think we get sick of acting big but feeling small. Playing politics. Guards fucking with us. It all makes you feel small so you act big. But here ... right now, I feel small but significant.” (p. 27)

5.1.2.2. Work and status

The literature analyzed showcase that another facet of working while in detention, and alongside other incarcerated laborers, is that individuals often measure the honor or pride they derive from their performance by evaluating it against the performance of their peers. Gibson-Light (2020) reinforces that, in an environment characterized by insecurity and intense conflict such as the prison, the quest for self-worth through work cannot be dissociated from “the perceived relative worth of one’s work” (p. 201). Competitiveness is tolerated, and discipline and commitment to the performance of (oftentimes hard) labor are particularly socially and morally valued characteristics (Gibson-Light, 2020). As declared by Gibson-Light (2020, p. 201), “by highlighting the importance of work ethic, contemporary prisoners not only signal virtue but also inject meaning into their labors and hence their time behind bars”.

The ability of incarcerated laborers to retrieve self-satisfaction and a sense of importance from their professional occupation is also reported to be closely associated with the duties they are assigned, which are often widely varied in terms of the degree of responsibility, pleasantness, effort, or even the danger they entail (Pandeli, Marinetto and Jenkins, 2019). For this reason, inmates positioned at the top of the hierarchical prison employment structure are capable of affirming their self-worth in ways that elude the majority. Because the possibility of moving upward in the labor hierarchy is hindered for minority inmates (particularly on grounds of class, race, or nationality), their potential to preserve an encouraging sense of selfhood is further compromised (Gibson-Light, 2020). Gibson-Light (2020) notes that many inmates, particularly those occupying the bottom rank of the labor hierarchy, loathe work, and see it as simply another facet of punishment, which does not cultivate the development of a positive sense of identity but

instead instigates despair and frustration, leaving them to feel “trapped” (Gibson-Light, 2020, p. 203).

Dignity in incarceration is, in this context, portrayed as a malleable reality, inextricably tied to the various aspects and conditions of work: for incarcerated laborers generally, a sense of self-worth is heightened when the work performed is (regarded as) meaningful, and depleted if it is not.

5.1.3. Dignity as an intrinsic and unconditional quality of all human beings

An alternative understanding of dignity present in our records portrays it as a quality common to all humans as *equal beings*, which grounds a set of moral rights. This is not an entirely opposing perspective to that of dignity as selfhood, but it does rely on or is built upon distinct premises. VanderPyl (2021), for instance, resorts to McCrudden’s (2008) theoretical advancements to discern the outlines of a basic minimum content of human dignity, which relies on the notion “that each human being possesses an intrinsic worth that should be respected, that some forms of conduct are inconsistent with respect for this intrinsic worth, and that the state exists for the individual not vice versa” (McCrudden, 2008, p. 723). This aligns with the conceptualization of dignity articulated in the UDHR.

VanderPyl (2021) notes that, in some cases, penal work is described by those performing it as even more than a process of building a positive sense of selfhood: it is a process of building *a self*; a humanizing effort in and of itself because so often imprisoned individuals feel deeply that they are ‘not real people’, or that they are ‘less than human’, and thus believe themselves to be fundamentally deviant individuals, undeserving of equal rights and fair treatment and separated from society by an uncrossable moral, as well as physical barrier. Some scholars highlight that incarcerated individuals describe participating in work as a pathway to achieve a *sensation of normality* because normality itself is so permanently out of reach (Weill, 2020), or to experience emotions that would otherwise be inaccessible to them, such as love, or freedom (Scofield, 2020).

Among prisoners, there's a collective inner sense of being part of a lower, disparaged class. This conviction is strengthened by the frequent abusive and degrading treatment they endure in prison. Hatton (2018) reported being told by a prisoner,

It’s the human decency they [the prison guards] don’t really have. No human respect for you. (...) You are below them. You are a peasant. They are upper class, you are lower class. You’re poverty. You are nothing. So, they talk to you in any kind of way. Sometimes, they put hands on you, they put feet on you. (p. 12)

The prisoners' internalized feelings of shame and worthlessness also mirror the treatment they receive from society at large, as well as from lawmakers, those in positions of political authority (VanderPyl, 2021), and even the media (Feldman, 2020). Some authors underscore the structural bias implicit in collective attitudes toward the rights of prisoners (Poddar and Das, 2017, p. 95). Prisoners are considered to be morally excluded from communal social life and, thus, the potential harms they endure in their day-to-day existence are understood as being less reprehensible and, in some cases, even necessary (Weill, 2020). Across studies, labor is described as a chance to strive away from the lethargic and morally wretched social category that is imposed on them by the realities of incarceration: that of the 'criminal', made invisible and inferior by inorganic processes of social exclusion and marginalization (Feldman, 2018).

The idea of dignity as a shared value to all human beings by virtue of their humanity is also the most recurrent in legal articles, albeit from a slightly different angle. Our study revealed that legal scholars tend to shift focus from dignity as self-worth or personhood and refer more often to a constitutional right to dignity (Quigley, 2004; Milman-Sivan, 2013; Heben, 2021; Kioko, 2022). This right is granted to every person regardless of their positioning in society, which is equivalent to affirming it applies to those who are incarcerated as it applies to those who are free (Quigley, 2004, p. 1171). Scholars invoke distinct justifications for this shared entitlement. Quigley (2004), for instance, argues in favor of a foundational maxim of Catholic social thought, according to which all human beings have intrinsic dignity because they were made in the image of God. Kioko (2022), alternatively, resorts explicitly to Kant's secular framework of dignity as an "absolute inner worth" shared by all persons due to their ability to self-govern and apply moral law autonomously and emphasizes the idea that human beings are an end in and of themselves and must not be treated as mere means (p. 61). This applies to penal work in the sense that, as Kioko (2022) argues, incarcerated individuals should not be treated as mere means to generate profit through their productive force but as ends in themselves: as people with dignity and a right to physical and emotional integrity. Both authors allude to the UDHR to claim that it formally stipulates a shared value that must be universally recognized and actively safeguarded. It is also, according to Kioko (2022), a right that can be limited, and so, though it is a collective property, the material circumstances of an individual may determine the extent to which they can enjoy the plenitude of their human rights. But limitations to the right of dignity, as to any fundamental right, must be proportional and just, as well as lawful and necessary.

5.2. Findings on penal labor

5.2.1. The detrimental aspects of work in incarceration

Not a single article featured in this study characterizes prison labor as a phenomenon that is entirely without its faults. Researchers on the topic frequently describe it as a complex and deeply imperfect reality, which inevitably bears an impact on the dignity of prisoners: both if the concept is understood as an ability to construct a positive sense of identity or self-worth, or more formally, as a universally applicable human right. There is an overwhelming concern about the exploitative and dehumanizing aspects of carceral work, despite its transformative or rehabilitative potential. As Quigley (2004) wrote, “(...) when the issues of work, lack of work, and fair wages arise within the prison system, a hothouse of injustice flourishes” (p. 1160).

A few elements are repeated throughout the records examined for this project. Firstly, the authors commonly highlight that prison labor is intrinsically punitive. This is not only because prisoners are often required to work, have limited ability to refuse work, or encounter unfavorable consequences if they resist work, although research shows that, in many cases, work is indeed a necessary precondition to being able to enjoy substantial rights (Hatton, 2018; Pandeli, Marinetto and Jenkins, 2019). It is also because specific dimensions of carceral work can be perceived as punitive. Gibson-Light (2020) underscores the following: lack of or meager remuneration, lack of independence in selecting a workstation, lack of mobility, lack of capacity to negotiate the terms of labor, and the ill-treatment and humiliation prisoners endure on site. In practice, the author notes, the presence of these characteristics contributes to “a general sense of *indignity* for incarcerated laborers” (p. 204) [my emphasis]. Labor is seen as a tool to “coerce the inmate into a conformity that would ultimately produce a respect for the rules”, and to potentiate subordination and order (Gibson-Light, 2020, p. 205). The testimonies of incarcerated individuals regularly show a tendency to refer to modern-day slavery when discussing the need to challenge the punitive conditions associated with penal work, most notably the standard low pay (Hatton, 2018). Many prisoners involved in the studies we collected find prison work to be demeaning and deprived of meaning precisely because of the conditions attached to it (Gibson-Light, 2020), and do not perceive labor as an opportunity to pursue social and economic inclusion in a future outside of the prison gate. This is also because, objectively, several labor programs do not purpose to contribute materially to the incarcerated worker’s life post-release (Feldman, 2020).

Another frequently highlighted aspect is the disparity and disconnection between labor performed by incarcerated workers and labor undertaken in the free world. Prison workers often occupy themselves with tasks that are monotonous, repetitive, and precarious, and that are consequently less desirable for the available workforce in the external labor market (Pandeli, Marinetto and Jenkins, 2019). The exposure to risk, in specific contexts (such as fighting wildfires), is also heightened (VanderPyl, 2022; Weill, 2020). Oftentimes, prisoners choose to perform a type of work that is dangerous precisely to escape the typical dangers of incarceration (Weill, 2020). Prisoners lack protections against mistreatment, and report being punished, physically assaulted by those who are watching over their performance, insulted, shouted at, and overall, belittled (Hatton, 2018). Horizontal surveillance between prison workers is a normalized and even embraced practice, unlike what would happen in a non-carceral workspace (Gibson-Light, 2023b). The severe stratification of prison work, as well as the near impossibility of moving upwards in the job hierarchy, means that lower-tier workers find it particularly difficult to find pleasure or utility in their responsibilities or to see work as an opportunity to develop new skills and prepare for reentry in society (Gibson-Light, 2020; Kioko, 2022). As Pandeli, Marinetto and Jenkins (2019) noted,

Where prisoners were assigned tasks which developed some level of skill and self-belief (...) inmates could envision a future of work that promised some form of economic and social inclusion. In contrast, where work was so degraded that such a vision was absent (...) the lack of opportunity for social and economic betterment through work means that the subordination and exploitation of devalued, noneconomic work is stripped bare. (p. 26)

5.2.2. Dignity and labor rights in prison

In the legal literature reviewed, prison labor is often discussed in terms of the labor rights of incarcerated workers, or the absence thereof. As Poddar and Das (2017) declare, although “imprisonment can deprive inmates of constitutional rights (...) when it is a necessary consequence of confinement, (...) labour rights are not necessarily taken away due to imprisonment” (p. 93). This often does not translate into practice. Incarcerated individuals who engage in work behind bars, in particular, are denied equivalent safeguards as the members of the non-incarcerated workforce simply because, despite engaging in work, they are not considered ‘employees’ (Heben, 2021; Pandeli, Marinetto and Jenkins, 2019). They inhabit a place of simultaneous utility and blatant disregard, a sort of unregulated middle-ground where they are responsible for the generation of substantial revenue for mercenary private companies but receive no protections and

only limited compensation for their labor force (Heben, 2021). Most legal records lay out the argument that poor and unequal penal labor conditions, specifically extremely meager wages, are commonplace among correctional facilities (Quigley, 2004).

This paradigm is reinforced by an international legal system that contains “virtually no binding standards that relate to the performance of work by prisoners”, and that narrows the distance between prison labor and forced or exploitative labor, because it facilitates the instrumentalization of the worker behind bars to secure profit (Fenwick, 2005, p. 287). More so, the system, as it exists – anchored on the protections conferred by Convention No. 29 of the ILO – offers a disproportionate focus on the interactions of prison labor and prison privatization, to a point where incarcerated workers in private prisons are better protected than incarcerated workers in state-run facilities, which have a bigger leeway to determine the terms of work (Fenwick, 2005). Indeed, Article 2, paragraph 2, indent (c) of Convention No. 29 effectively prohibits forced prison labor for private gain, but it does not prevent forced prison labor for the benefit of the state (Fenwick, 2005, p. 276). This occurs notwithstanding the fact that, in Europe (where ten of the fifty largest prison systems are located), only four countries (the United Kingdom, France, Germany, and Spain) have used prison privatization (Byrne et al., 2019). Even in the U.S., where correctional privatization has, since the 1980s, grown as a trend, 95% of prisons and jails remain publicly owned and operated (Gilmore, 2007). Overall, the consensus is that prison workers, particularly prison workers in state-run facilities, are under-protected, undervalued, and overlooked.

5.3. Discussion: where dignity and prison labor intersect

Having laid out the primary results of our process of systematic research of literature, it is important to contextualize them into a broader theoretical analysis, and address our research question: *Is prison labor compatible with human dignity?*

The first point relevant to our analysis is that the literature we collected does not settle on a single, universally agreed-upon definition of dignity. This is consistent with what we had initially acknowledged about the concept: although it has become widespread, dignity is still a somewhat abstract or nebulous idea, its substance subject to renewable debate. That does not mean, however, that it is purposeless and that it should be abandoned. If anything, because it features so predominantly in social, political, and human rights discourses, it is difficult to argue that dignity has little or no symbolic or argumentative value.

In the articles we gathered, two major conceptualizations of dignity are endorsed, and both can be traced back to the two theoretical frameworks we laid out in Chapter 3, which we will now briefly summarize. The first, as crafted by Kant, depicts dignity as the absolute and inner worth of all human beings as members of humanity, and thus holders of a fundamental capacity to self-determine and self-govern. All human beings possess an equal moral status, and this status warrants a moral obligation – from our peers, from society, from the law, and from the state – of respect. Additionally, as Donnelly (2009) writes, “the details of that respect, especially in its political elements, are specified through human rights” (p. 23). In this sense, dignity is more of a negative property, and treating someone with dignity is intrinsically related to observing their human rights and ensuring that they are left undisturbed and unharmed. Prisoners, as we have maintained, are not excluded from this entitlement.

Where the articles we examined refer to the “right to dignity” of incarcerated individuals (for example, Quigley, 2004; Milman-Sivan, 2013; Heben, 2021; Kioko, 2022), they reinforce that there is a need to safeguard every incarcerated individual’s equal and inviolable standing as part of a group united by reason and morality: humanity. Where our records highlight that incarcerated individuals occupy a position of extreme vulnerability and social inequality and thus deserve additional layers of protection while in incarceration and, in particular, while performing labor behind bars (Weill, 2020), the underlying idea is that prisoners have equal worth comparing to that of free citizens, and that the obligation of the state is to level the playing field, and enforce punishment in a way that safeguards the prisoner’s welfare. Their intrinsic human value must guide and determine all penological approaches. For example, and to further justify this point, Weill (2020) highlights international instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners and the American Correctional Association’s (ACA) *Code of Ethics* of 1994, and its more recent *Declaration of Principles* of 2002, according to which,

The treatment of criminals by society is for the protection of society. But since such treatment is directed to the criminal rather than the crime, its great object should be his moral regeneration. The state has not discharged its whole duty to the criminal when it has punished him, nor even when it has reformed him. *Having raised him up, it has further duty to aid in holding him up.* (Weill, 2020, p. 114 [my emphasis])

Dignity can also be conceived as something that is built upon and permanently susceptible to being realized, more than as something that is inevitably and irrevocably there, calling simply for non-interference. This is, in part, what Nussbaum’s ‘capability theory’ entails. All human beings share, indeed, an equivalent and inalienable worth, and must be respected as ends in themselves.

Nussbaum's conception of dignity stems from this Kantian premise but surpasses it. For the author, dignity demands more than compliance or plain political inaction. Human beings need material and institutional support to live a dignified life, flourish as persons, and fulfill their human strivings and desires. They should be given the social and economic tools to procure, for example, affiliation, or the ability "to live with and towards others, having the social bases of self-respect and nonhumiliation", to form nourishing and rewarding personal attachments, to think creatively and critically, and to envision a positive future of inclusivity and participation (Nordenfelt, 2021, p. 23). Dignity is truly political: political will is key to ensure individuals are provided with favorable opportunities to access this set of crucial capabilities, which make up the basic threshold of 'dignity'. Where the studies analyzed allude to dignity as linked to self-worth or personal identity, i.e., something that needs to be pursued, maintained, and sometimes reclaimed, which is widely dependent on external circumstances (for example, Feldman, 2018; Gibson-Light, 2020), they share a similar reasoning to that of Nussbaum.

Our understanding is that these two conceptualizations of dignity are not necessarily antagonistic but can be seen as mutually reinforcing. Simply claiming that a person has equal worth to their peers and deserves equal respect from laws and institutions "may not entail equalizing the living conditions of all" (Nussbaum, 2011, p. 31). It is an imperative of social justice to ensure that every individual can access the minimum conditions necessary to live a dignified life (Nussbaum, 2011, p. 40). Human dignity must be observed, but it must also be actively *promoted*; it is an inherent quality but also something that needs to be cultivated in tandem with the conditions of the outside world and one's positioning in it, which results from the junction and accumulation of the multiple personal and social characteristics that form one's identity, such as class, race, sexuality and gender identity, nationality, migratory or disability status, among others. What specific areas of freedom must be actively safeguarded by political initiative are open to debate – Nussbaum (2011) herself describes her heterogenous list of capabilities as a mere proposal and concedes that there may be occasions where not all of them can be simultaneously fulfilled, where they may collide or where there might be a need for hierarchization. However, to correspond the idea of dignity with "a social minimum" (Nussbaum, 2011, p. 40) is to declare that more than dogmatic, it is aspirational. This understanding of dignity as something that is to be potentiated allows us to strengthen the concept, to argue against its worthlessness or redundancy, and to assert its appropriateness and utility in connection to welfare and equity.

The question now is whether prison labor can be compatible with these cumulative frameworks of dignity. Theoretically, wherein dignity equates to or grounds respect for human rights as

specifications of all humans' intrinsic and unconditional worth, prison labor is not necessarily an affront to dignity provided that the human rights – and specifically the labor rights – of incarcerated workers are preserved. As Milman-Sivan (2013) recalls, labor laws stem precisely from an intention “to reduce the commoditized nature of labor relations so as to guarantee that *all workers live in dignity*”, so it makes sense to affirm respecting dignity implies respecting the labor rights of all workers (p. 1671). Our findings also show that engaging in carceral work offers chances for prisoners to execute their capabilities and to strive to fulfill their internal strivings, whether they relate to self-respect, integration, the ability to engage in critical reflection, foster imagination and optimism, or simply to have control over one’s environment. Many direct testimonies of incarcerated workers reflect this. The ability to access these capabilities, which figure according to Nussbaum, is what makes a life worthy of human dignity.

A different question is whether prison labor is compatible with human dignity in practice. To reach a conclusion in this respect, it is first relevant to briefly address our literature-based project’s specific limitations. The studies we collected, with very few exceptions (Poddar and Das, 2017; Pandeli, Marinetto and Jenkins, 2019; Kioko, 2022), focus overwhelmingly on prison labor programs in the U.S., which demonstrates that there are still significant gaps in (and, consequently, opportunities for) research about human dignity and prison labor, particularly in contexts in which penological approaches obey different priorities, where incarceration, as a sanction, is only applied as a last resort, and where the maxims of the traditional criminal justice system are being progressively questioned (for example, in certain European countries such as Finland or Germany (Weiss and MacKenzie, 2010). But even if our research has a specific, somewhat narrow focus, there are still inferences to draw.

Our studies demonstrate that most prison labor programs constitute, to some extent, a violation of the incarcerated individual’s right to dignity insofar as they constitute a violation of an incarcerated individual’s labor rights. This is evident when the findings systematically mention that incarcerated workers are coerced into working for little to no pay, with no prospects for mobility, are heavily surveilled, and endure constant abuse while fulfilling their assigned tasks. Wherein prisoners are coerced into working too much, in poor conditions, and for too little, they are being treated as means to an end, or as if they are simply tools to make money and keep prisons running (Kioko, 2022). Although a criminal conviction, as we have observed, does not entail the revocation of all human rights, what seems to follow is that prisoners are left adrift in a territory of legal ambiguity, where they can work while being considered non-workers, and exist while

being considered non-persons. This is in clear contradiction to Kant's framework of human dignity, which is embodied in the UDHR.

When it comes to our second understanding of dignity, we have acknowledged that prison labor programs create, in abstract, opportunities for prisoners to pursue a sense of dignity through the exercise of the capabilities we enumerated. However, a doubt remains about whether those who engage in work activities within incarceration are being offered the appropriate material support to, in fact, build a positive sense of identity and affiliation, or if the feelings of relief, satisfaction or even honor some of those report experiencing arise *through work but despite the conditions in which the work is performed*. Although some incarcerated workers reveal that performing a job behind bars sometimes allows them to fight idleness, loneliness, or anguish, this process of extracting positivity from work is entirely dependent on the job itself, with tasks resting at the bottom of the labor hierarchy — characterized as monotonous, degrading, or even, in some cases, juxtaposed with slavery — igniting the precise opposite reaction (Pandeli, Marinetto and Jenkins, 2019; Gibson-Light, 2020). Buck (2004), for example, describes working as a mechanism to escape the prison, an “insane institution” that “exists ostensibly to deprive one of the liberty or to detain in the belly of the society for the protection of others, does much more. It redefines work, life, and culture” (p. 451). Though the author notes that some prisoners develop personal skills and are able to extract positive consequences from being engaged in work, those positive outcomes arise *despite* the prison, and not because of it, a sort of ultimate act of resistance in a totalizing and dehumanizing context. In this sense, prison labor cannot be compatible with an understanding of dignity as something that depends on and is stimulated, or depleted, by the concrete external circumstances in which an individual exists.

Is there a way for prison labor to be congruent with human dignity? As we have observed, legal instruments such as the 13th Amendment of the U.S. Constitution, but also the ECHR, the ICCPR, and, most notably, Convention No. 29 of the ILO, where they create regulatory frameworks for the prohibition of forced labor but exclude prison labor from this reality, fundamentally allow for the performance of labor in carceral facilities (in case of the ILO, state-run carceral facilities) to be immune to international labor standards. In this sense, prisoners are not protected from forced labor because the work they conduct – despite being frequently marked by coercion, humiliation, lack of remuneration, lack of support, abuse, and hyper-surveillance – is exempt from the classification of forced labor. The consistent and widespread enforcement of labor standards in incarceration would provide the means for incarcerated workers to effectively perform work in a way that aligns with their needs, aspirations, and inherent worth as human beings. More

so, the state, where it is responsible for the operability of the majority of the carceral facilities in its territory, has a duty of care to all prisoners, and particularly incarcerated workers: to grant them the necessary conditions for them to achieve a sense of dignity. Justice demands reasonable wages and decent work opportunities for all incarcerated workers (Quigley, 2004; Poddar and Das, 2017; Kioko, 2022), where mobility between jobs is not an illusion, and where workers may collectively organize, and employ their time in tasks that contribute to their rehabilitation and social and economic integration.

An alternative concern has been introduced over time, particularly by prison abolitionists. Critics of the criminal justice system as it exists consider that abolishing work in prisons would not truly target the causes that drive the exploitation of incarcerated individuals, because, as we have seen, prison labor involves significant nuances that cannot be contained in stereotypes of super-exploitation (Gilmore and Kilgore, 2019). But neither would the improvement of labor conditions resolve all there is to resolve in a system so tremendously marked by oppression and violence. There is a deeper underlying issue, the issue of the compatibility of incarceration itself with human dignity. A thorough analysis of this matter is beyond the scope of this project, but the question is worth bringing up. Could there ever be a life worthy of dignity in such an extreme environment as the prison? Gilmore and Kilgore (2019), for instance, reflect on the consequences of abruptly elevating incarcerated workers' hourly wages to a livable income, warning that this would implicate either substantial boosts in correctional budgets, hindering any efforts towards decarceration, or a significant decline in prison employment. Additionally, they highlight that, given that many non-prisoners fall within the marginalized segment of the working class, not earning a minimum wage or being able to unionize, unionizing prison workers might effectively result in a situation in which incarceration offers economic benefits surpassing those of the broader job market (paragraph 23).

Though there are clear pragmatic advantages of improving conditions of work in prison – to respect the imprisoned person's right to dignity, and to fulfill it, – abolitionists call for the broadening of this debate, to truly consider more than the single issue of labor exploitation, and to look instead into “the dehumanizing environment of contemporary prisons, the warehousing of Black, Brown, and poor human beings, the squelching of their soul and spirit” (Gilmore and Kilgore, 2019, paragraph 24). If we were to successfully implement labor standards in carceral facilities across the globe, would this guarantee that all individuals serving time would be able to actively execute their capabilities, accomplish their strivings, and pursue a life of dignity? What is the true root of extraction – is it labor, is it incarceration itself? The absence of these reflections in

the analyzed literature showcases that there are still opportunities to expand the existing research on prison labor so that it reaches new, underexplored domains. The debate around the compatibility of prison labor and human dignity cannot subsist in a vacuum; instead, it should be fostered within a wider conversation on the terms of punishment in our contemporary, human rights age.

6. Conclusion and recommendations

In March of this year, a story began to circulate on social media: prisoner Hamzah Jihad Furqaani had decided to donate the entirety of his earnings as a laborer in prison to relief efforts in Gaza (Yang, 2024). Hamzah had been incarcerated for nearly four decades after he had accidentally shot his uncle with a gun he was playing with when he was only 17 years old. He was sentenced to 15 years to life. In conversation with the nonprofit organization The Marshall Project, Hamzah reflected on his motivation for doing something that many considered to be an admirable and heartening act (Furqaani and Abdullahi, 2024). He said,

Donating my wages wasn't a matter of sympathy; you can sympathize with someone and do nothing about it. Rather, it was empathy. When you empathize with someone, you place yourself in their shoes. You do your best to relate to their suffering in hopes you will be spurred into action. (paragraph 11)

Hamzah worked for 136 hours in prison. He was a lead porter, or janitor, in his unit at the California Health Care Facility, in Stockton (U.S.). He made 17.74\$, or 13 cents per hour (Furqaani and Abdullahi, 2024). He described his job as a way to pass the time, but also as a source of gratification, knowing that his efforts could positively impact the wellbeing of others (Furqaani and Abdullahi, 2024).

Hamzah's story is not unparalleled. Similarly to the testimonies of other prisoners in the literature we analyzed for this study, his contemporary and poignant example further exposes the challenges intrinsic to addressing our research question: *Is prison labor compatible with human dignity?* There is not a straightforward answer: that is the first conclusion of this study. In the same way that it is impossible to state that prison labor is an unequivocal affront to dignity, it is impossible to portray it as non-exploitative. The lived reality of work in prisons is too stark. In this sense, it is possible to argue that performing work in incarceration is doing a dignified thing in an undignified environment.

The primordial objective of this dissertation was to lay out the state of the art in research on prison labor and human dignity and to assess how these two realities can be compatibilized.

Considering our formerly identified limitations of study, which relate to the hurdles of conducting first-hand inquiries within carceral facilities, our literature-based project allowed us to reach a limited but important set of conclusions. For one, the meaning of dignity is not agreed upon, nor is its utility. Our argument is, however, that the fact that dignity is often characterized as a disputed or even vague notion does not mean it is irrelevant, particularly if we take into account how frequently it is invoked in human rights frameworks. It is therefore useful to consider prison labor in relation to human dignity, the latter acting as an authoritative standard against which work in carceral spaces can be measured and adjusted.

In this dissertation, we have argued that dignity can both be a quality that is intrinsic to those who are human and which operates as the foundation of human rights, as well as something that must be actively fulfilled by political will and concrete public policies. Since prisons are bound by human rights standards, this notion is also applicable within their confines. The systematic literature research we conducted demonstrated, firstly, that prison labor is not inherently prejudicial – rather, it can provide prisoners with opportunities to fulfill their internal strivings and achieve a sense of self-satisfaction and personal development within the margins of detention; but the conditions that are most frequently associated with prison labor programs indicate that they perpetuate a set of vices: minimal to nonexistent wages, demeaning and discriminatory treatment of workers, segregation according to personal characteristics, among others. For work in prisons to be truly congruent with human dignity, labor rights must be fulfilled, and prisoners must be afforded adequate support and care in the exercise of their own internal capabilities.

Perhaps the most unmistakable conclusion of this research project is that penal work, albeit prevalent, is considerably under-theorized and under-investigated. Since this is a primarily theoretical research project, our recommendations must necessarily relate to future research. The first one is that research on prison labor and dignity must expand its geographical scope and move beyond the U.S. to include examinations of penological paradigms that differ from the North American one. The second one is that studies on prison labor and human dignity must also stretch their angles to allow for the questioning of incarceration itself as something that challenges and perhaps warps dignity. Prisons may be so intricately tied to abuse and repression that one is tempted to wonder if dignity could ever be realized in such an environment. That has been the investigative role of prison abolitionists, but it may be the role of human rights researchers and theorists as well. A hypothesis is that abolishing prison labor or redeeming it would not necessarily fix all that is wrong with contemporary prisons. A wider reflection might be necessary, considering the following: since a world where prisons were not as normalized has existed, it seems to be a

logical error to believe prisons are inevitable, and thus to believe that a world without prisons cannot exist.

7. Bibliography

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ANNEXES

ANNEX I - Records extracted from ProQuest Social Sciences

#	DATE	AUTHOR	TITLE	PUBLICATION	ABSTRACT	DOI
1	2023	Gibson-Light , Michael	<i>Remote control: Horizontal surveillance and the gendering of carceral punishment</i>	Theoretical Criminology; London	Research traditionally suggests that men incarcerated in the USA regard horizontal surveillance—that is, monitoring the behaviors of other prisoners—as antithetical to notions of masculinity behind bars. Yet, following an 18-month ethnography in a US prison for men, this article reveals that the imprisoned may in fact embrace prisoner-on-prisoner monitoring tied to labor. It details how participants in this institution sought out peer surveillants who had the power to grant referrals to more desirable jobs. Within prison worksites, individuals further policed peers’ production and service quality. Labor-based horizontal surveillance was integral to performances of masculinity related to employment status and work ethic. Drawing on labor scholarship as well as studies of surveillance in other penal settings, this article reveals how supervision maps onto gendered beliefs about work, offending, and contemporary American corrections in ways that contribute to carceral agendas and broader systems of control.	https://doi.org/10.1177/13624806221082094
2	2022	VanderPyl, Taryn	<i>“We’re Out Here Risking Our Lives”: Value-of-Life Decisions in a Prison Labor Program</i>	Critical Criminology; Dordrecht	Acceptable levels of risk exposure are calculated based on whom is at risk and how individuals in positions of power perceive the value of those at risk. This study examines how value-of-life decisions are experienced in a prison labor program. Data come from interviews with 21 adults in custody (AICs) at a forest work camp. The AICs’ narratives are compared to Oregon’s Occupational Safety and Health Standards (Oregon OSHA) for wildland firefighting that would be required if they were not incarcerated. Because incarcerated individuals are viewed as less valuable by those in power, are not considered employees, and have no legal recourse for safety standards, they are placed in more risky working environments than non-incarcerated	https://doi.org/10.1007/s10612-022-09621-4

					workers.	
3	2021	VanderPyl, Taryn	<i>“We’re Silent Heroes”: Inmate Firefighters’ Experiences with Dignity and Shame in a Prison Labor Program</i>	The Prison Journal; Thousand Oaks	Adults in custody (AICs) in a prison labor program experience conflicting messages and feelings of shame and dignity. Despite the program’s mission to help ease reentry, experiences of shame and shaming from correctional officers (COs) and the community may be setting AICs up for an increased likelihood of reoffending upon release. Using the concepts of shame and dignity, 21 program interviewee narratives were explored for their insights. Program improvements and recommendations for interventions with correctional officers, AICs, and the community are offered.	https://doi.org/10.1177/00328855211029626
4	2020	Feldman, Lindsey Raisa	<i>Anti-heroes, Wildfire, and the Complex Visibility of Prison Labor</i>	Crime, Media, Culture; London	The vast majority of prison labor goes unnoticed by the public, serving as a microcosm of the invisibility of prisoners as a whole. This perpetuates stereotypical media representations and public perceptions of prison laborers as nothing more than their indentured subjugation. This photo essay presents a more nuanced view of the experience of prison labor. I present images of an exceptional labor program, Arizona’s Inmate Wildfire Program, in order to question what happens when prison labor becomes visible, and when the symbolic markers of incarceration disappear. The program, in which 11 prison crews fight wildfires across the state, is an experiential paradox for its participants. It is at once exploitative, with its low pay for risky work, as well as transformative, with its potential for a re-emergence of complex identities and reclamation of dignity for those involved. Through these images, I argue that the transformative potential of the program is due in part to the program’s visibility, as incarcerated firefighters interact with the public—and their own self-representations—in emergent, meaningful ways. I call to examine the complexities of programs that challenge certain dehumanizing experiences of incarceration while being securely entrenched within the carceral regime.	https://doi.org/10.1177/1741659019865309
5	2020	Gibson-Light, Michael	<i>Sandpiles of Dignity: Labor Status and</i>	RSF: The Russell Sage Foundation Journal of the Social	This study investigates discursive strategies through which prisoners seek dignity. In particular, it turns toward the role of penal labor in such pursuits. Drawing on eighty-two	https://doi.org/10.7758/RSF.202

			<i>Boundary-Making in the Contemporary American Prison</i>	Sciences; New York	in-depth interviews and eighteen months of ethnographic fieldwork conducted within one U.S. men's prison, it details the role of job status in prisoner dignity claims. In the scramble to the top of a shifting sandpile of dignity, prisoner appeals to legitimacy rely on downward-facing symbolic boundaries erected to distinguish from lower-status others. Participants in the highest-status work sites made moral claims against others by self-identifying as professionals rather than inmates. At the bottom reaches of the labor hierarchy, workers emphasized lateral distances from other low-status prisoners. These competitive processes serve to reify penal labor structures, inequity, and control.	0.6.1.09
6	2020	Scofield, Rebecca	<i>Violence and Social Salvation at the Texas Prison Rodeo</i>	Journal of American Studies	From 1931 until 1986, at the annual Texas Prison Rodeo, incarcerated people performed before massive crowds. In this negotiated space, prison officials, audience members, and imprisoned riders welded together a performance of violent range labor with a discourse of social rehabilitation. Responsible for funding all educational and recreational programs for the incarcerated population of Texas, the rodeo purported to save lives even as it risked them. Prisoner-led reforms in the 1960s and 1970s, however, helped expose the failures of Texas's labor regime, stripping the rodeo of its rehabilitative pretenses and contributing to the eventual demise of prison rodeo in Texas.	https://doi.org/10.1017/S0021875818001305
7	2020	Weill, Joanna M	<i>Prisoners on the Fireline: The Application of Ethical Principles and Guidelines to Prison Fire Camps</i>	Ethics & Behavior; Philadelphia	Our society gives certain rights and protections to those who are punished and incarcerated, deeming them a vulnerable group in need of additional protections because they are under state control. Despite these protections, prisoners are still susceptible to mistreatment and abuse. This paper delves into one area in which prisoners are particularly vulnerable - the use of prison labor to fight wildfires in the western United States. In this paper, I first broadly discuss prison labor, before going into the current ethical principles and guidelines in the field of corrections that address the treatment of prisoners and prison labor. I argue that	https://doi.org/10.1080/10508422.2019.1579649

					these principles and guidelines should be augmented to help those in corrections to make decisions about what is ethical; suggesting that how researchers evaluate proposed research projects could serve as a model for decision-making. I then introduce prison fire camps, considering whether they are ethical by research ethics principles, and suggesting how they can be changed to better reflect the values professed by our society.	
8	2019	Pandeli Jenna, Marinetto, Michael & Jenkins, Jean.	<i>Captive in Cycles of Invisibility? Prisoners' Work for the Private Sector</i>	Work, Employment & Society; London	This article critiques a case of modern prison-labour by exploring prisoners' attitudes towards the prison-work they undertake while incarcerated. The study is based at a privatised male prison in the UK, assigned the pseudonym 'Bridgeville'. Bridgeville contracts with private-sector firms in providing market-focused prison-work – so-called real work – for inmates in some of its workshops. In exploring prisoners' perceptions of this privatised prison-work, it is found that it mainly comprises mundane, low-skilled activities typical of informalised, poor-quality jobs that are socially, legally and economically devalued and categorised as forms of 'invisible work'. At Bridgeville, such privatised prison-work largely fails in engaging or upskilling inmates, leaving them pessimistic about its value as preparation for employment post-release. Its rehabilitative credentials are therefore questioned. The article contributes to the debate around invisible work more generally by problematising this example of excluded work and the cycle of disadvantage that underpins it.	https://doi.org/10.1177/0950017018777712
9	2018	Feldman, Lindsey Raisa	<i>Forging Selfhood: Social Categorisation and Identity in Arizona's Prison Wildfire Programme</i>	The Howard Journal of Crime and Justice; Oxford	This article examines the expressions of identity for participants in the Inmate Wildfire Program (IWP), a skilled prison labour programme in the US state of Arizona. The identity of imprisoned individuals is deleteriously shaped by the penal regime's construction of the social category 'criminal'. Yet this process is not totalising. Using evidence drawn from 15 months of ethnographic fieldwork with prison wildfire fighters, I argue that participation in the IWP encourages critical thinking, access to open space, and interactions with the public, which destabilises the label of criminality and allows prisoners to engage in positive forms of	https://doi.org/10.1111/hojo.12239

					identity construction. Prison officials can incorporate aspects of the IWP into other prison programmes in order to promote the construction of non-carceral identities.	
10	2018	Hatton, Erin	<i>When Work is Punishment: Penal Subjectivities in Punitive Labor Regimes</i>	Punishment & Society; London	Scholars have persuasively argued that U.S. penal and welfare institutions comprise a single policy regime that has taken a punitive turn with carceral expansion and welfare contraction. Less recognized, however, is the centrality of labor to this regime. Not only has labor been the lynchpin of welfare reform with the expansion of workfare, it has also been an important yet overlooked dimension of mass incarceration, as most able-bodied American prisoners are required to work. For prisoners and welfare recipients, work is a punitive curtailment of citizenship rights, even as it is a foundation of such rights for others. This article thus conceptualizes work as a form of punishment in the penal-welfare regime. Drawing on 83 in-depth interviews with incarcerated and workfare workers, it examines these workers' penal subjectivities—how they ideologically navigate their labor qua punishment. Through this negotiation, it finds, incarcerated and workfare workers deploy, contest, and reify the cultural narratives that justify their relegation to punitive labor regimes.	https://doi.org/10.1177/1462474517690001
11	2004	Buck, Marilyn	<i>Women in Prison and Work</i>	Feminist Studies	[The article] observes that for some prisoners, the decision not to submit to prison labor is an act of resistance. For the vast majority of the women in prison, work is not optional, "because they are forced to work by the prison keepers, under penalty of segregation units and loss of privileges that are ordinary assumptions of life in the broader society. But even for those who appear to submit, work may be liberating because "as women we work to be useful in our own eyes".	https://doi.org/10.2307/20458974

ANNEX II - Records extracted from HeinOnline

#	DATE	AUTHOR	TITLE	PUBLICATION	ABSTRACT ³	DOI/URL
1	2022	Kioko, Peace	<i>Right Behind Bars: Examining the Appropriateness of Kenya's Prison Labour Wages and Earning Scheme</i>	Strathmore Law Review (SLR)	Sentenced inmates in Kenya are obligated to provide labour while imprisoned. This is to reduce idleness, for punishment, to enhance prisons' cost-efficiency, and for rehabilitation. Some scholars posit that prisoners should be paid, others state that they should not, and some others recognise that they should be paid but vary between a high or low rate of payment. In Kenya, prisoners are paid for their labour at rates espoused in Section 5 of the Earnings Scheme, Kenya Prisons Service Standing Orders, 1979. The rates range between 10 and 20 cents a day. From this pay, they are to spend on necessities while in prison, send some money to their families and save some for use after their release. However, the rates are very low and based on the purposes the wages are to serve, the meagre pay is grossly incommensurate. This paper uses the concept of prison industrial complex and the human rights theory to make a case for higher pay for prison labourers. Lastly, it suggests a revision of the earnings scheme after drawing lessons from India.	https://doi.org/10.52907/slr.v7i1.189
2	2021	Heben, Ethan	<i>Prisoners as "Quasi-Employees"</i>	University of Florida Journal of Law & Public Policy	Prison laborers represent a unique class within the workforce of the United States. Prisoners do not meet the definition of "employee" under the Fair Labor Standards Act (FLSA), but the products and services they generate create significant profits for private companies and, in general, the prison industrial complex (PIC). The PIC has seen tremendous growth in recent years, but Congress and courts have been slow to provide the necessary protections required for inmate laborers. The dual problems of prisoners' limited compensation and protections are only compounded by the prison population's disproportionate number of minority inmates. Any potential reform of the PIC	https://scholarship.law.ufl.edu/jlpp/vol31/iss2/1

³ In some cases and particularly for legal articles, the 'Abstract' section of this table includes the article's introduction.

					<p>must consider these discriminatory effects in light of historical discrimination-including slavery and the convict-labor system-within the United States. Congress, working with key stakeholders, has the rare opportunity to address this issue on a clean slate, as there are no current statutes that adequately address prison laborers' status and rights.</p> <p>This Article argues that a new statutory regime should classify working prisoners as "quasi-employees" due to the innate pecuniary nature of certain prison labor, especially when the labor is for private companies. This regime should focus on the reality of each employer-prisoner relationship, take into consideration the human dignity of each prisoner, and endorse policies to reduce recidivism and the debilitating effects of incarceration on future employment. In turn, this regime would remove the ambiguity of applying the FLSA to prisoner laborers, address the current pay deficiencies, and mitigate the discriminatory effects of racial disparity in the PIC.</p>	
3	2017	Poddar, Paridhi & Das, Winnu	<i>Establishing Linkages Between Imprisonment and Impoverishment: Reinstilling Punitive Sensibilities in the Carceral State</i>	GNLU Journal of Law Development and Politics	<p>Traditionally, the prison is seen as a means to protect the society from potential violence through isolation of prisoners, as well as a means of retribution, reformation and restoration. While there may be theoretical differences in the justifications and purposes of imprisonment, incarceration has been demonstrated to be one of the causal factors behind impoverishment and of destruction of the capabilities of the inmates. The aim of this paper is to establish the causal connections between imprisonment and poverty as well as to critique the penal policies of the state that perpetrate poverty, in the context of both income-related and other capabilities. In this background, this paper seeks to urge appropriate reforms in both the jurisprudence governing prisoners' rights and the structure of prisons.</p>	https://gnlu.ac.in/Journal-of-Law-Development-And-Politics/Volume-7-Issue-2
4	2013	Milman-Siv a, Faina	<i>Prisoners for Hire: Towards a Normative Justification of the</i>	Fordham International Law Journal	<p>This article addresses the near absence of normative discussion of private forced prison labor in the legal literature, particularly in international law. It attempts to fill this vacuum, to some extent, by presenting a novel normative,</p>	https://ssrn.com/abstract=2408864

			<i>ILO's Prohibition of Private Forced Prisoner Labor</i>		non-instrumental justification for the prohibition of forced private prisoner labor enshrined in the ILO's 1930 Forced Labour Convention (No. 29). While the ILO's stance is criticized today in light of the proliferation of private prisons and the private prison industry in industrial states, the article defends the requirement that prisoner labor for private entities be voluntary and performed under market conditions. It draws on the prisoner labor regulation scheme in Israel, and, in particular, on the Israel Supreme Court's reasoning in a landmark 2009 decision on prison privatization. In an unprecedented move, the Court ruled private prisons to be unconstitutional partly due to the symbolic harm caused by incarceration in a private prison to prisoners' right to human dignity and autonomy. The article develops an analogous argument in the context of private forced prisoner labor, invoking the civic republican and libertarian normative traditions. It is argued that both procedural and substantive understandings of exploitation support the assertion that involuntary for-profit prisoner labor should, from a moral standpoint, be considered exploitative.	
5	2005	Fenwick, Colin	<i>Private Use of Prisoners' Labor: Paradoxes of International Human Rights Law</i> ⁴	Human Rights Quarterly; Baltimore	Globalization is generally thought to be harmful for human rights, as the state retreats in favor of international organizations or private actors. Analysis of human rights law regulating the use of prisoners' labor offers an interesting insight into the impact of globalization on human rights, particularly where the private operation of prisons is concerned. Prisoners held in privately run facilities are better protected by international human rights law than those in publicly-run prisons, at least in their capacity as workers. The applicable law, however, offers only tenuous protection: there are doctrinal inconsistencies, and the law presumes that state power exists to exact forced labor.	https://doi.org/10.1353/hrq.2005.0005
6	2004	Quigley, William P.	<i>Prison Work, Wages, and Catholic Social Thought: Justice</i>	Santa Clara Law Review	Work is a social good. Prisoners who work do not receive fair pay for their labor. Catholic social thought insists on the human dignity of all, reconciliation, rehabilitation, and	https://digitalcommons.law.scu.edu

⁴ This article was also found in the database ProQuest Social Sciences, but it is included in this table to avoid confusion.

			<i>Demands Decent Work for Decent Wages, Even for Prisoners</i>		the right to work for a family wage. Nearly all prisoners have needy families on the outside. Work in prison at decent wages will help prisoners become employable after release, provide them with an income to support their families, and help advance rehabilitation in prison and reduction of recidivism upon release.	edu/lawreview/vol44/iss4/9
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