



## Colorado Voters to Consider Banning Slavery

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Freedom is on the ballot in Colorado this November.

Voters in the Centennial State must decide on changing the language in the state's constitution so that it no longer allows slavery as a form of punishment.

Over 15 state constitutions in the United States permit slavery as a way of legal punishment for those who've committed a crime, despite the 13th Amendment being ratified in 1865.

The unclear wording in Colorado's constitution means "slavery and involuntary servitude may not be fully unconstitutional" according to the state's ACLU chapter executive director Nathan Woodliff-Stanley, via the Atlanta Black Star.

Article II, Section 26 of Colorado's constitution reads that there "shall never be in this state either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted."

However, voters will be given an opportunity to change the language of the state's constitution so that slavery is no longer allowed as punishment.

A similar measure failed in Colorado two years ago.

Residents will be given two options, to keep Article II Section 26 of the state's constitution, or choose Amendment A which will change the diction to, "There shall never be in this state either slavery or involuntary servitude."

Jumoke Emery of Abolish Slavery Colorado told CNN that voters almost got the amendment to pass two years ago, but blamed the legislators' terminology for the outcome of the vote.

"I hope that this puts forth the message that our past doesn't have to be our future, that by and large we as Americans are interested in fixing our mistakes and that there's hope for our future," Emery told the news outlet.

Those who are against amending the constitution say it's not necessary because Colorado already bans slavery. They also argue that certain prisoner programs could be affected.

When most Americans learn about the 13th Amendment in high school, the teacher will cursorily remark that "the 13th Amendment ended slavery in the United States," and move on to the 14th

Amendment, Randal John Meyer, a legal associate in the Cato Institute's Center for Constitutional Studies, wrote in an editorial.

"This oversimplification is a fiction. Slavery is still legal in the United States, so long as it is pursuant to a criminal conviction and if it is limited to compulsory uncompensated labor — and indeed that is precisely the system America maintains today," Meyer said.

The 13th Amendment, as enacted, reads "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

Meyer argued that slavery is neither a cruel nor unusual punishment according to the Supreme Law of the Land, nor historically has it been considered that.

In the 1700s and early 1800s, Americans viewed compulsory labor as a way to fight vagrancy and to rehabilitate such idleness, he said.

However, the states began to understand the potential for revenue generation from prisons in the 1800s – compulsory labor and the sale of prison products became a means to offset state costs.

To be sure, the Virginia Supreme Court in *Ruffin v. Commonwealth* (1871) declared that prisoners were the "slaves of the State" within a compulsory labor system.

This "Punishments" clause allowed for the birth of the "convict-lease" system in the South after the war. Many Southern states passed anti-vagrancy "black codes," criminalizing the status of being unemployed. Citing cost reasons, states would then lease out their prisoners to private persons to work under slave-like conditions.

As Frederick Douglass noted, "companies assume charge of the convicts, work them as cheap labor and pay the states a handsome revenue for their labor. Nine[-]tenths of these convicts are Negroes."

Since the 1860s, courts have interpreted the 13th Amendment as it plainly reads. "Once individuals have been duly tried, convicted, sentenced, and imprisoned, courts will not find 13th Amendment violations where prison rules require inmates to work."

The compensation of prison labor today reflects this history.

In Georgia and Texas, the maximum wage in dollars per day is \$0.

In Nevada, prisoners make \$0.13 an hour.

The average wage is between \$0.93 a day and \$4.93 a day – less than an hour of work at minimum wage. Conservative estimates put the value of output from prison labor at \$2 billion annually.

Indeed, much like the Southern states claimed after the Civil War, "states facing growing budget deficits are increasingly turning to inmate labor to produce additional revenue, or at a minimum, offset the cost of imprisonment."

At least 37 states have legalized the contracting of prison labor by private corporations that mount their operations inside state prisons.

“While amending the Constitution to fix a \$2 billion a year compulsory labor industry is politically unlikely, Congress may take measures to ensure that rehabilitative compulsory labor is not uncompensated, like compelling the payment of a federal minimum wage,” Meyer argued.

“State legislatures also could apply minimum wage rules to prisoners,” he said.

Removing the wording from the Colorado constitution “closes the door on the possibility of future abuses, and it also sends a positive message in a time of great division in our nation,” Woodliff-Stanley of the ACLU said.