

ARTICLE

RESTRUCTURING THE INSTITUTIONAL LOGICS OF
TAIWAN'S PRISON LABOR:
A HUMAN RIGHTS-BASED APPROACH

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ABSTRACT

In Taiwan, inmates are mandated to participate in work programs, a system long criticized for its mistreatment of prisoners. Despite numerous reform efforts, substantive change remains elusive. This Article investigates the persistence of Taiwan's in-prison work programs through the lens of institutional logics theory and proposes a human rights-based approach to address the issue. Drawing on in-depth interviews and a focus group discussion, the study identifies four key logics sustaining these programs: security and management, bureaucracy, accounting imperatives, and competitive disadvantages. These logics stem from two opposing ideologies, market-driven and state-driven, yet collectively function to resist reform. Consequently, reform initiatives rooted in one ideology are undermined by the countervailing logics of the other, enabling the system to endure challenges. Having traced the root cause of the persistence of the in-prison work programs, the Article advocates for a human rights-centered reform strategy. It recommends redefining prison labor as a voluntary opportunity rather than a compulsory duty, thereby eliminating the coercive elements of the current system. Furthermore, it urges recognizing inmates as free workers and protecting their labor rights to

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dismantle the exploitative framework of in-prison work programs. Beyond its practical implications, this Article enriches institutional logics theory by demonstrating that multiple logics within a single organization can simultaneously embody conflicting ideologies and cooperate to resist change. This Janus-faced nature of institutional logics highlights an underexplored dimension of the theory, opening avenues for further research.

Keywords: institutional logics, criminal justice reform, organizational inertia, prison labor, work programs

ABSTRACT	491
INTRODUCTION	493
I. ORGANIZATION, INSTITUTIONAL LOGICS, AND PRISONS	496
II. IN-PRISON WORK PROGRAMS IN TAIWAN'S LEGAL CONTEXT	499
A. Legal Structure	499
B. Problems and Reforms	501
III. INSTITUTIONAL LOGICS OF IN-PRISON WORK PROGRAMS	508
A. Security and Management	508
B. Bureaucracy	511
C. Accounting Requirements	513
D. Competitive Disadvantages	515
IV. CONFLICTING INSTITUTIONAL DESIGN AND ENDURING PROBLEMS	518
A. The Market-Driven Ideology	518
B. The State-Driven Ideology	520
C. Clashing Goals within a System	521
V. REFRAMING PRISON LABOR FROM A HUMAN RIGHTS PERSPECTIVE	522
A. Restructuring Labor as an Opportunity for Inmates	523
B. Treating Inmates as Free Workers	525
CONCLUSION	527
APPENDIX: METHODOLOGY AND DATA	530

INTRODUCTION

The demand for reform of the criminal legal system has remained constant throughout modern history.¹ Changes in the criminal legal system, whether successful or not, have perhaps been among the most widely discussed topics in recent decades in the literature of criminal law as well as criminal justice. Studies on mass incarceration in the United States,² British policing,³ the parole board in England and Wales,⁴ community correction in the United States,⁵ penal control of the indigent in Australia,⁶ prison population in England and Wales,⁷ and prison labor in the United States are pertinent examples.⁸ However, achieving substantial reform of the criminal legal system through institutional changes is never an easy task.⁹ Instead, it may oftentimes take tremendous efforts to transform the criminal legal system through institutional adjustments, but it eventually turns out that all the endeavors are in vain, and the organizational inertia persists.¹⁰ The seminal work by Malcolm Feeley on the reforms in the US criminal courts has taught us an important lesson.¹¹ It explores four crucial innovations made to the US criminal court system, including bail reform, pretrial detention, sentencing reform, and speedy trials,

1. Thomas Guiney, Ashley Rubin, & Henry Yeomans, *Path Dependence and Criminal Justice Reform: Introducing the Special Issue*, 62(1) HOW. J. CRIME & JUST. 3, 3 (2023).

2. See generally Susanne Karstedt, Tiffany Bergin, & Michael Koch, *Critical Junctures and Conditions of Change: Exploring the Fall of Prison Populations in US States*, 28(1) SOC. & LEGAL STUD. 58 (2019).

3. See generally John Topping, *Austerity, Path Dependency and the (Re)configuration of Policing*, 32(6) POLICING & SOC'Y 715 (2021).

4. See generally Thomas C. Guiney, *Parole, Parole Boards and the Institutional Dilemmas of Contemporary Prison Release*, 25(3) PUNISHMENT & SOC'Y 621 (2023).

5. See generally Nicole Kaufman, *Community Corrections at a Critical Juncture: Privatisation, Race, and the Redefinition of the Community after Attica*, 62(1) HOW. J. CRIME & JUST. 61 (2023).

6. See generally Emma Watkins, *Path Dependence and Jumping Tracks: Investigating Institutional Continuity and Change across the Tasmanian Convict and Pauper Systems*, 62(4) HOW. J. CRIME & JUST. 535 (2023).

7. See generally Thomas Guiney & Henry Yeomans, *Explaining Penal Momentum: Path Dependence, Prison Population Forecasting and the Persistence of High Incarceration Rates in England and Wales*, 62(1) HOW. J. CRIME & JUST. 29 (2023).

8. See generally Michele Goodwin, *The Thirteenth Amendment: Modern Slavery, Capitalism, and Mass Incarceration*, 104 CORN. L. REV. 899 (2019).

9. Guiney, Rubin, & Yeomans, *supra* note 1, at 3.

10. *Id.*

11. See generally MALCOLM M. FEELEY, *COURT REFORM ON TRIAL: WHY SIMPLE SOLUTIONS FAIL* (2013).

and examines the reasons why these institutional innovations ultimately failed to meet their original expectations.¹² It argues that despite good intentions, reforms often collapse due to unrealistic expectations, broken decision-making structures, fragmented institutions, fading political will, powerless constituencies, and reformers' hubris.¹³ Instead, Feeley proposes that courts should be empowered to identify challenges through litigation and research, craft incremental, locally grounded solutions, and support modest pilot programs, with litigation functioning as a mode of institutional learning.¹⁴

The same predicament exists in the reform of Taiwan's prison system as well. As of the end of 2025, more than 56,000 inmates are housed behind bars in Taiwan.¹⁵ Adult inmates in Taiwan are, in principle, required to participate in work programs unless their health conditions prevent them from doing so, security concerns arise, or other circumstances stipulated by laws or regulations apply.¹⁶ According to an official report issued by the Control Yuan,¹⁷ in 2019, 64.4% of Taiwan's entire prison population participated in in-prison work programs,¹⁸ while only around one percent worked in out-of-prison programs.¹⁹ Additionally, 21.5% did not participate in any work programs,²⁰ and the remaining inmates were responsible for duties that supported prison operations, such as maintenance, food services, cleaning, nursing, and other supportive tasks.²¹ Thus, among those inmates who took

12. *Id.*

13. *Id.*

14. *Id.*

15. FAWUBU (法務部) [MINISTRY OF JUSTICE], FAWU TONGJI YUEBAO (法務統計月報) [MONTHLY REPORT OF JUSTICE STATISTICS] 87, https://www.rjsd.moj.gov.tw/RJSDWeb/book/Book_File.ashx?book_id=715_4 [<https://perma.cc/FX27-DNC5>].

16. Jianyu Xingxing Fa (監獄行刑法) [Prison Act], art. 31, § 1 (Taiwan).

17. JIANCHA YUAN (監察院) [CONTROL YUAN], 108 SIDIAO 0014 DIAOCHA BAOGAO (108 司調 0014 調查報告) [YEAR 2019 SIDIAO NO. 0014 INVESTIGATION REPORT] (2019), <https://cybsbox.cy.gov.tw/CYBSBoxSSL/edoc/download/55930> [<https://perma.cc/CT8P-ULP5>].

18. *Id.* at 11–12. Regarding the introduction to the system of in-prison work programs, see discussion *infra* Part II.A.

19. *Id.*

20. *Id.*

21. *Id.* Comparable work refers to the prisoner's cooking, cleaning, construction and maintenance, nursing, and other tasks designated by the prison. See Shouxingren Zuoye Shishi Banfa (受刑人作業實施辦法) [Regulations of Prison Work Programs], art. 2, § 4 (Taiwan).

part in work programs, the vast majority worked within carceral facilities.

Over the past two decades, in-prison work programs have faced sustained criticism due to multiple controversies. These include the limited variety of available programs, extremely low wages for inmate labor, minimal rehabilitative or correctional benefits, and the dominance of labor-intensive tasks that provide few transferable skills and generate low profit margins.²² As a result, such programs have been accused of violating prisoners' human rights,²³ and although several reform strategies have been tested, few have led to meaningful change.²⁴

Therefore, the central research questions of this Article are why this coercive and exploitative system of in-prison work programs has persisted for so long despite numerous prison reform attempts, and how the situation can be addressed. To answer these questions, the present study adopts the theoretical framework of institutional logics, which stems from organization studies, to examine the persistence of in-prison work programs in Taiwan over the past two decades. The term "institution" herein refers to the law in its broader sense, encompassing statutes, regulations, guidelines, standards, and court decisions. Drawing on interviews with prison staff and representatives of contracting firms, as well as a focus group discussion with former inmates and government officials,²⁵ this Article expects to reveal the nature of the institutional logics of the current in-prison work programs and to explore how the institutional logics respond to the various reform attempts. After identifying the root cause of the persistence of in-prison work programs, this Article proposes a human rights-based approach to reform. Specifically, it advocates for repositioning prison labor from a mandatory duty to a voluntary opportunity, thereby eliminating the coercive nature of current in-prison work programs. Additionally, it calls for recognizing

22. See discussion *infra* Part II.B.

23. See generally Mao-hong Lin, *Carceral Firms in Disguise: Prison Labor, Human Rights, and the Public-Private Divide*, 39 EMORY INT'L L. REV. 705 (2025).

24. See discussion *infra* Part II.B.

25. There is an emerging trend to employ the method of interview in law review articles. See, e.g., Matthew S. Erie, *Chinese Law and Development*, 62 HARV. INT'L L.J. 51 (2021); Matthew S. Erie & Thomas Streinz, *The Beijing Effect: China's Digital Silk Road as Transnational Data Governance*, 54 N.Y.U. J. INT'L L. & POL. 1 (2021).

inmates as free workers and safeguarding their labor rights to prevent exploitation within the prison labor system.

The remainder of this Article is organized as follows: Part I presents an overview of the literature on the theory of institutional logics and its application to the study of prisons. Part II outlines the legal framework governing Taiwan's prison labor, identifies existing issues, and reviews past reform efforts. Part III unveils the four distinct institutional logics within Taiwan's in-prison work program system. Part IV explores the relationship between these institutional logics and the structure of Taiwan's prison labor system. Part V focuses on addressing the coercive and exploitative nature of the in-prison work programs. The Article concludes with a summary of findings, limitations, and suggestions for future study. An appendix detailing the research methodology and data analysis is attached at the end of this Article.²⁶

I. ORGANIZATION, INSTITUTIONAL LOGICS, AND PRISONS

The study of institutional influence on organizations has been one of the perennial topics in organization studies, as institutions provide stability and meaning to organizational activities.²⁷ The ways in which organizations respond to institutional change significantly impact their legitimacy. Consequently, organizations generally conform to the demands and expectations established by the institutional environment to ensure their survival.²⁸ Traditional institutional studies suggest that, under institutional pressure, different organizations tend to undergo isomorphic change through four major mechanisms: coercive, mimetic,

26. I follow Professor Erie's arrangement to place the part of methodology and data in the end of this Article as an appendix. See Matthew S. Erie, *The Soft Power of Chinese Law*, 61 COLUM. J. TRANSNAT'L L. 1, 53 (2023).

27. W. RICHARD SCOTT, INSTITUTIONS AND ORGANIZATIONS: IDEAS, INTERESTS, AND IDENTITIES 56 (4th ed. 2014).

28. Christine Oliver, *Strategic Responses to Institutional Processes*, 16(1) ACAD. MGMT. REV. 145, 146 (1991).

normative,²⁹ and actuarial.³⁰ Therefore, traditional institutional theory adopts an “iron cage” perspective, viewing organizations as passive adapters to institutional changes.

Recent research outlines several modifications to organizations’ traditionally inactive role when confronted with external institutional pressure. Beyond the structural perspective, which views organizations as passively adapting to institutional change, recent institutional studies have shifted focus toward agency, illustrating how organizations strategically respond to calls for reform through institutional change.³¹ The strategic responses include acquiesce, compromise, avoid, defy, and manipulate.³² Which response an organization adopts largely depends on the alignment between new institutions and existing ones, as well as the associated institutional logics.³³

The concept of institutional logics was first introduced by Alford and Friedland to describe the central tenets governing the operation of a field,³⁴ encompassing the cultural beliefs, rules, and associated practices that shape actors’ cognitions and behaviors while dominating an organizational field.³⁵ Institutional logics can either impede or facilitate organizational change and serve as a framework for examining the connections between macro-level

29. See Paul J. DiMaggio & Walter W. Powell, *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields*, 48(2) AM. SOCIO. REV. 147 (1983).

30. Ryken Grattet & Valerie Jenness, *The Reconstitution of Law in Local Settings: Agency Discretion, Ambiguity, and a Surplus of Law in the Policing of Hate Crime*, 39(4) LAW & SOC’Y REV. 893, 904–06 (2005).

31. See generally Paul J. DiMaggio, *Interest and Agency in Institutional Theory*, in INSTITUTIONAL PATTERNS AND ORGANIZATIONS: CULTURE AND ENVIRONMENT 3 (Lynne G. Zucker ed., 1988).

32. See generally Oliver, *supra* note 28.

33. See generally Patricia H. Thornton & William C. Ocasio, *Institutional Logics*, in THE SAGE HANDBOOK OF ORGANIZATIONAL INSTITUTIONALISM 99 (Royston Greenwood, Christine Oliver, Roy Suddaby, & Kerstin Sahlin eds., 2008).

34. See ROBERT R. ALFORD & ROGER FRIEDLAND, POWERS OF THEORY: CAPITALISM, THE STATE, AND DEMOCRACY (1985); see also Roger Friedland & Robert R. Alford, *Bringing Society Back in: Symbols, Practices and Institutional Contradictions*, in THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS 232 (Walter W. Powell & Paul J. DiMaggio eds., 1991).

35. See, e.g., Mary B. Dunn & Candace Jones, *Institutional Logics and Institutional Pluralism: The Contestation of Care and Science Logics in Medical Education, 1967-2005*, 55(1) ADMIN. SCI. Q. 114–49 (2010); Judith van den Broek, Paul Boselie, & Jaap Paauwe, *Multiple Institutional Logics in Health Care: ‘Productive Ward: Releasing Time to Care’*, 16(1) PUB. MGMT. REV., 1–20 (2014).

and micro-level phenomena.³⁶ It is common for multiple institutional logics to coexist within an organization. The multiplicity of logics may sometimes create uncertainty,³⁷ or it may be mutually cooperative or competing.³⁸ Individual interpretations of these logics suggest that actors within an organization have the power to influence them, either by maintaining the status quo³⁹ or by gradually steering them in a particular direction.⁴⁰

There are numerous studies on the institutional logics of prison systems as well. It has been found, for instance, that a male-oriented logic exists in the training of prison officers and their assignments in the United States.⁴¹ The institutional logics perspective has also been applied to other aspects of prison studies, such as inmate health care in California⁴² and Spain,⁴³ religious organizations in German prisons,⁴⁴ end-of-life care in Switzerland's high-security prisons,⁴⁵ training programs for prison

36. See, e.g., Graeme Currie & Dimitrios Spyridonidis, *Interpretation of Multiple Institutional Logics on the Ground: Actors' Position, Their Agency and Situational Constraints in Professionalized Contexts*, 37(1) ORG. STUD. 77–97 (2016).

37. See, e.g., Amy Binder, *For Love and Money: Organizations' Creative Responses to Multiple Environmental Logics*, 36(6) THEORY & SOC'Y 547–71 (2007).

38. See, e.g., Marya L. Besharov & Wendy K. Smith, *Multiple Institutional Logics in Organizations: Explaining Their Varied Nature and Implications*, 39(3) ACAD. MGMT. REV. 364, 370–73 (2014).

39. See, e.g., Gerry Johnson, Stuart Smith, & Brian Codling, *Microprocesses of Institutional Change in the Context of Privatization*, 25(3) ACAD. MGMT. REV. 572–80 (2000).

40. See, e.g., Danielle S. Rudes, Shannon Magnuson, Shannon Portillo, & Angela Hattery, *Sex Logics: Negotiating the Prison Rape Elimination Act (PREA) Against Its Administrative, Safety, and Cultural Burdens*, 23(2) PUNISHMENT & SOC'Y 241, 244 (2021).

41. See, e.g., Dana M. Britton, *Gendered Organizational Logic: Policy and Practice in Men's and Women's Prisons*, 11(6) GENDER & SOC'Y 796–818 (1997); DANA M. BRITTON, *AT WORK IN THE IRON CAGE: THE PRISON AS GENDERED ORGANIZATION* (2003).

42. See, e.g., Jennifer L. Heckman, *Competing Logics and Organizational Failure: The Structuring of California Prison Health Care* (May 2013) (Doctoral dissertation, University of Southern California) (on file with the library of the University of Southern California).

43. See, e.g., JR Repullo, *Healthcare in Prisons: Reflections on the Inertia of Systems and the Low Effectiveness of Health Policies in Spain*, 16 REVISTA ESPAÑOLA DE SANIDAD PENITENCIARIA 103–109 (2014).

44. See, e.g., Sara J. Jahn, *Institutional Logic and Legal Practice: Modes of Regulation of Religious Organizations in German Prisons*, in RELIGIOUS DIVERSITY IN EUROPEAN PRISONS 81–101 (Irene Becci & Olivier Roy eds., 2015).

45. See, e.g., Irene Marti, Ueli Hostettler, & Marina Richter, *End of Life in High-Security Prisons in Switzerland: Overlapping and Blurring of "Care" and "Custody" as Institutional Logics*, 23(1) J. CORR. HEALTH CARE 32–42 (2017).

guards in Italy,⁴⁶ efforts to eliminate sexual misconduct and violence in US prisons,⁴⁷ and the assessment of remorse in parole decision-making in the United States.⁴⁸ All these studies indicate that, as in other types of organizations, multiple institutional logics exist within prison systems. Moreover, while some of these logics may align to facilitate organizational change, others may vacate reform efforts.⁴⁹

Following this trend, this Article explores the complexity of Taiwan's in-prison work programs through the theoretical lens of institutional logics and provides insights into the central research questions of this Article: Why has this problematic institution persisted for so long despite several reform attempts, and how can the situation be addressed? The following Part provides readers with the context of Taiwan's in-prison work programs, including their legal framework, remaining issues, and past reform efforts.

II. IN-PRISON WORK PROGRAMS IN TAIWAN'S LEGAL CONTEXT

This Part provides a comprehensive overview of the legal framework governing prison labor in Taiwan, examining the statutory and regulatory provisions that shape the structure and operation of in-prison work programs. Two most crucial features are unearthed: the duty to labor and the requirement of self-sufficiency. It further identifies the key issues that have emerged within this system, including the coercive and exploitative aspects that persist despite reform efforts. Additionally, this Part summarizes past attempts at reform, as well as the challenges they faced.

A. Legal Structure

As stated in the Introduction, inmates in Taiwan are required to participate in work programs if they are medically fit and there

46. See, e.g., Caterina Gozzoli, Chiara D'Angelo, & Giancarlo Tamanza, *Training and Resistance to Change: Work with a Group of Prison Guards*, 74(6) WORLD FUTURES 426–49 (2018).

47. See, e.g., Rudes, Magnuson, Portillo, & Hattery, *supra* note 40.

48. See, e.g., Kathryne M. Young & Hannah Chimowitz, *How Parole Boards Understand Remorse: Relational Legal Consciousness and the Reproduction of Carceral Logic*, 56(2) L. & SOC'Y REV. 237–60 (2022).

49. See discussion *infra* Parts III & IV.

are no security concerns. Most of them work behind bars. The work program system is designed to help inmates reintegrate into society after their release.⁵⁰ Inmates are not allowed to choose which work program to participate in; instead, they are assigned to specific programs by prison authorities.⁵¹ There are two major types of in-prison work programs: one consists of those run by the prison itself (prison-run work programs), and the other includes those outsourced to prisons by external entities (commissioned work programs), usually local firms.⁵² The revenues generated by work programs, after deducting costs and fees, result in what is termed “work surplus.”⁵³ Of this surplus, 60% is allocated as wages for inmates’ labor,⁵⁴ 10% is designated for victim compensation,⁵⁵ another 10% is used as a food subsidy for inmates,⁵⁶ and the remaining amount is returned to the Operations Fund of Correctional Agencies for future use in work programs.⁵⁷

Operations funds are established to maintain the functionality of work programs in an effective and sustainable manner. They are a type of special fund set up by the government for specific purposes.⁵⁸ In addition to the operations fund for running prison work programs, there are also other types of operations funds, such as those created for the operation of universities, veteran care, and other governmental initiatives.⁵⁹ Unlike for-profit firms, which aim to maximize profits, operations funds are not designed to generate as much profit as possible; instead, their primary requirement is to achieve self-sufficiency.⁶⁰ In other words, operations funds must generate sufficient revenue to cover all necessary operational expenditures and the management costs of

50. Prison Act, art. 31, § 1 (Taiwan).

51. *Id.*, § 2.

52. Prison Act, art. 34, § 1 (Taiwan); Regulations Governing Labor by Prisoners, art. 2, § 3 (Taiwan).

53. Prison Act, art. 37, § 1 (Taiwan).

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.*

58. Yusan Fa (預算法) [The Budget Act], art. 4, § 1(2) (Taiwan).

59. *Feiyingye Jijin Yusan* (非營業基金預算) [Nonprofit Budget], XINGZHENG YUAN ZHUJI ZONGCHU (行政院主計總處) [DIRECTORATE GENERAL OF BUDGET, ACCOUNTING AND STATISTICS OF EXECUTIVE YUAN], https://www.dgbas.gov.tw/News_Content.aspx?n=3627&s=103513 [https://perma.cc/57N3-UKPV] (last visited Aug. 5, 2025).

60. The Budget Act, art. 4, § 1(2) (Taiwan).

the funds themselves, allowing them to break even and remain sustainable.⁶¹ Accordingly, the Operations Fund of Correctional Agencies is allocated to cover the expenses of work programs, such as purchasing or repairing equipment, skill training, rewards, medical services, injury compensation, and the necessary costs of fund management, among others.⁶²

In summary, on the one hand, work programs are designed to help inmates reintegrate into society upon their release from prison.⁶³ On the other hand, they are required to be self-sufficient in accordance with the central mandate of the Operations Fund of Correctional Agencies. In other words, no government subsidies are provided to support these programs. Therefore, even though work programs are originally intended to promote inmate rehabilitation, they must also strive to generate revenue, reduce costs, increase surplus, and minimize unnecessary expenditures due to the legal requirement of self-sufficiency. As a result, work programs are simultaneously tasked with two distinct objectives: rehabilitation and self-sufficiency. Consequently, prison staff must operate these programs in compliance with both mandates, despite their inherent tensions.

B. Problems and Reforms

In the early stages, the products manufactured and services offered by prison-run work programs were relatively simple, including laundry, sewing, and printing.⁶⁴ Most of these were either used internally or distributed to other public sectors.⁶⁵ In 2005, the Ministry of Justice (MOJ) decided to revamp prison-run

61. Zhongyang Zhengfu Tezhong Jijin Guanli Zhunze (中央政府特種基金管理準則) [Guidelines for the Management of Special Funds of The Central Government], art. 4, § 2 (Taiwan).

62. Fawubu Jiaozheng Jiguan Zuoye Jijin Shouzhi Baoguan Ji Yunyong Banfa (法務部矯正機關作業基金收支保管及運用辦法) [Regulations for the Utilization of the Revenues and Expenditures of the Operations Fund of Correctional Agencies of the Ministry of Justice], art. 5 (Taiwan).

63. Prison Act, art. 31, § 1 (Taiwan).

64. Hu Hsiu Chu (胡秀珠), Xiang Shehui Qiye Qujing Woguo Jiaozheng Jiguan Ziyang Zuoye Moshi de Biange Yu Tiaozhan (向社會企業取經？我國矯正機關自營作業模式的變革與挑戰) [Learning from Social Enterprises? The Innovation and Challenge of Self-Run Business Mode of Correction Authority] 52-53 (Dec. 19, 2019) (M.A. thesis, Shih Hsin University) (on file with the Shih Hsin University Library), <https://hdl.handle.net/11296/ask235> [<https://perma.cc/Y69Y-Z2NR>].

65. *Id.* at 53.

work programs by diversifying their offerings, expanding market circulation, and increasing distribution channels.⁶⁶ The goal was to enhance the competitiveness of prison-run products and services while generating higher revenue.⁶⁷ Moreover, the MOJ required each prison to develop its own signature product or service, such as soy sauce in Pingtung Prison and chocolate in Taichung Women's Prison,⁶⁸ so that revenues from prison-run work programs could increase while also providing inmates with practical skills.⁶⁹ However, it was later discovered that only a very small portion of inmates were permitted to participate in these so-called "reformed" work programs. As a result, this seemingly progressive initiative functioned more as window dressing for in-prison work programs rather than a genuine transformation of their nature.⁷⁰

The Control Yuan's investigation report reveals that only 6% of inmates participate in prison-run work programs, while 58.4% work in commissioned work programs.⁷¹ The wage disparity between these two programs is significant. For instance, in Taipei Prison, the monthly wage for an inmate in prison-run work

66. *Id.*

67. *Id.*

68. Lin Hsin-ching (林欣靜), *Tiechuang Nei de Jingji Qiji* (鐵窗內的經濟奇蹟) [*Economic Miracle Behind Bars*], TAIWAN GUANGHUA ZAZHI (台灣光華雜誌) [TAIWAN PANORAMA] (Mar. 2010), <https://ppt.cc/fwj6vx> [<https://perma.cc/SU8W-CNWP>].

69. Shih Maolin (施茂林), *Sifa Baohu Zhong Zhi Fanzui Yufang Celui* (司法保護中之犯罪預防策略) [*Crime Prevention Strategies from the Perspective of Judicial Protection*], 2314 FAWU TONGXUN (法務通訊) [JUST. NEWSL.] 3, 7 (2006). Shih was the Minister of Justice at that time; the policy of one prison with one (or multiple) featured product(s) was launched by him.

70. GAO FENGXIAN (高鳳仙), LIN JULANG (林鉅銀), ZHAO CHANGPING (趙昌平), WU FENGSHAN (吳豐山) & YU TENGFANG (余騰芳), JIANYU, KANXUSO SHOURONGREN CHUYU, CHAO SHOURU JI JIAOHUA WENTI ZHI JIANJIU (監獄、看守所收容人處遇、超收及教化問題之檢討專案調查研究報告) [PROJECT INVESTIGATION REPORT ON THE TREATMENT OF PRISON AND DETENTION CENTER INMATES, OVERCROWDING, AND REFORMATION ISSUES] 274 (2010), <https://www.cy.gov.tw/public/Data/011261010171.pdf> [<https://perma.cc/YK79-PCNP>]; JOU SUSYAN (周榛嫻), LEE MAUSHENG (李茂生), LIN YUSHENG (林育聖) & BILL HENBENTON, WOGUO JIAOZHENG ZHENGCE YU GUANLI JIZHI ZHI YANJIU (我國矯正政策與管理機制之研究) [RESEARCH ON THE CORRECTIONAL POLICY AND ADMINISTRATION IN TAIWAN] 171, 179 (2011), <https://www.cprc.moj.gov.tw/media/8266/5226104448457.pdf?mediaDL=true> [<https://perma.cc/LYH4-VVSX>].

71. JIANCHA YUAN (監察院) [CONTROL YUAN], *supra* note 17, at 12. In addition to prison-run work programs and commissioned work programs, 1% of inmates participate in out-of-prison work programs, 11.3% of inmates engage in comparable works, and 21.5% do not participate in any work programs. *See supra* notes 17–21 and accompanying text.

programs is NT\$1,156,⁷² whereas inmates in commissioned work programs earn only NT\$174 per month.⁷³ Therefore, even though prison-run work programs generate more revenue than commissioned work programs, the issue remains that they can accommodate only a small fraction of the prison population.

In addition to the meager wages, commissioned work programs have other issues, such as limited variety, minimal correctional effects, low profit margins, and a lack of useful skills for inmates to acquire.⁷⁴ Due to the labor-intensive nature of in-prison work programs, particularly commissioned work programs, prison labor serves not as a means of rehabilitation, but rather as a tool for discipline, management, or even degradation.⁷⁵ Although some have called for reform of in-prison work programs, the Agency of Corrections (AOC), the competent authority on correctional affairs, and its supervising body, the MOJ, remained indifferent to these issues and failed to implement any meaningful modifications during this period.

On the afternoon of February 11, 2015, at around 3:30 PM, six inmates attempted to escape from prison but failed.⁷⁶ They then seized four rifles and six pistols from the prison, along with more than two hundred bullets, while searching for another way out.⁷⁷ The warden, deputy warden, and security chief were taken hostage. Later, the deputy warden was released.⁷⁸ The standoff between the police and the six inmates lasted for almost fourteen hours, with exchanges of gunfire.⁷⁹ The riot ended with the

72. 1 USD to TWD – Convert US Dollars to Taiwan New Dollars, XE, <https://www.xe.com/en-us/currencyconverter/convert/?Amount=1&From=USD&To=TWD> [<https://perma.cc/2LHH-GXN7>] (last accessed Feb 7, 2026, 22:52 UTC) (US\$1 ≈ NT\$32, making NT\$1,156 approximately US\$36).

73. JIANCHA YUAN (監察院) [CONTROL YUAN], *supra* note 17, at 14.

74. JOU SUSYAN (周愷嫻) ET AL., *supra* note 70, at 179; *see also* Lee Mausheng (李茂生), *Cong Daliao Jianyu Shijian Tan Yuzheng Gaige de Weilai* (從大寮監獄事件談獄政改革的未來) [*Discussion on the Future of Prison Reform from the Incident of Daliao Prison*], 154 YUEDAN FAXUE JIAOSHI (月旦法學教室) [TAIWAN JURIST] 61, 63 (2015).

75. GAO FENGXIAN (高鳳仙) ET AL., *supra* note 70, at 274; Lee Mausheng (李茂生), *supra* note 74, at 63.

76. J. Michael Cole, *Prison Hostage Situation in Taiwan Turns Deadly . . . and Political: A Botched Prison Break Turns into a Political Melodrama with a Tragic Conclusion*, THE DIPLOMAT (Feb. 12, 2015), <https://thediplomat.com/2015/02/prison-hostage-situation-in-taiwan-turns-deadly-and-political/> [<https://perma.cc/QC2M-AZVY>].

77. *Id.*

78. *Id.*

79. *Id.*

suicides of all six inmates at 5:00 AM the next day, and the two remaining hostages were rescued safely.⁸⁰ During the standoff, the six inmates issued a statement, criticizing Taiwan's criminal justice system.⁸¹ Among their complaints was that wages earned for their labor in prison were excessively low, only NT\$200 a month.⁸² They had no choice but to rely on financial support from their families to survive in prison.⁸³ This reliance made them feel humiliated, as they perceived it as a loss of dignity and self-respect.⁸⁴ In the end, they felt they had no choice but to choose between escape and suicide.⁸⁵

The Control Yuan issued an investigative report on this tragedy in 2016, examining inmates' lives and working conditions behind bars.⁸⁶ The report reveals that, according to the internal rules of AOC, inmates must provide almost all of their daily necessities themselves, including underwear, bedding (pillow, quilt, and mattress), slippers, a cup, a toothbrush and toothpaste, a towel, soap, shampoo, toilet paper, dishwashing detergent, laundry detergent, and more.⁸⁷ Prisons only provide meals and four uniforms (two for summer and two for winter) to each inmate upon their initial admission.⁸⁸ According to an AOC directive issued in 2013, purchasing daily necessities, medical supplies, and food supplements in prison costs approximately NT\$1,000 per month for male inmates and NT\$1,200 for female inmates.⁸⁹ In other words, once their uniforms become worn out, inmates must

80. *Id.*

81. Cao Mingzheng (曹明正) & Ding Shijie (丁世傑), *Jiaozheng Shuzhang Nian 5 Dian Shengming Kezhang Chuanjiang Huoshi* (矯正署長念5點聲明 科長傳將獲釋) [*The Director of the Agency of Corrections Recited a Five-Point Statement; the Section Chief Was Reported to Be Released*], ZHONGSHI XINWENWANG (中時新聞網) [CHINA TIMES] (Feb. 11, 2015), <https://www.chinatimes.com/realtimenews/20150211004681-260402?chdtv> [<https://perma.cc/64S2-SFLR>].

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.*

86. JIANCHA YUAN (監察院) [CONTROL YUAN], 105 SIDIAO 0009 DIAOCHA BAOGAO (105 司調 0009 調查報告) [YEAR 2016 SIDIAO No. 0009 INVESTIGATION REPORT] 28–53 (2016), <https://cybsbox.cy.gov.tw/CYBSBoxSSL/edoc/download/43909> [<https://perma.cc/J4Q6-YPJ8>].

87. *See id.* at 42.

88. *See id.* at 41.

89. *See* Fawu Bu Jiaozheng Shu (法務部矯正署) [Agency of Corrections, Ministry of Justice], Interpretation Letter No. 10101860430 (Jan. 21, 2013) (Taiwan).

buy new ones from the prison using their own money. Indigent inmates may receive subsidies from the prison, but most do not meet the AOC's internal criteria to qualify for such assistance.⁹⁰

Furthermore, the monthly wages earned by inmates in commissioned work programs are far from sufficient to cover their expenses in prison. According to the report, the average monthly wage for an inmate in commissioned work programs at Kaohsiung Prison was only NT\$191,⁹¹ which is clearly inadequate to meet their daily necessities. The wages for inmates in prison-run work programs were higher, averaging NT\$509 per month in Kaohsiung Prison.⁹² However, this amount was still insufficient to cover their basic monthly expenses. In other words, most inmates participating in in-prison work programs earned meager wages that were inadequate to support even their fundamental needs. As a result, the Control Yuan censured AOC for violating inmates' human rights and ordered improvements to the in-prison work program system.⁹³

Three years later, the Control Yuan received another complaint about the disastrous working conditions in prisons, prompting another round of investigation and the release of a more detailed report on in-prison work programs.⁹⁴ In addition to the persistent issues of low wages for inmate labor and the scarcity of prison-run work programs, the report uncovered other long-criticized problems within the system.⁹⁵ For example, more than fifty percent of inmates in commissioned programs are engaged in folding paper products, such as paper bags or paper flowers.⁹⁶ The remaining inmates primarily work on processing or assembling small and simple components, such as screws or plastic parts.⁹⁷ As a result, the variety of commissioned work programs is highly limited,⁹⁸ offering minimal rehabilitative benefits.⁹⁹ Moreover, since these tasks require no particular skills, inmates neither gain

90. See CONTROL YUAN, *supra* note 86, at 41–42.

91. See *id.* at 52.

92. See *id.*

93. See *id.* at 40–41, 46.

94. See CONTROL YUAN, *supra* note 86.

95. See, e.g., JOU ET AL., *supra* note 70.

96. See CONTROL YUAN, *supra* note 86, at 29–33.

97. See *id.* at 31.

98. See JOU ET AL., *supra* note 70, at 63.

99. See *id.* at 63–64; see also CONTROL YUAN, *supra* note 86, at 29–31.

useful job training nor have the opportunity to earn higher wages.¹⁰⁰ Naturally, the profit margins of such programs remain exceedingly low.¹⁰¹ In other words, commissioned work programs fail to provide inmates with skill training, rehabilitation, or sufficient wages. On the contrary, the labor-intensive nature of these programs makes it easier for prison staff to manage and control inmates.¹⁰² Consequently, the primary goal of work programs—facilitating inmate reentry—has been neglected in favor of security management. Additionally, the requirement of self-sufficiency has been met at the cost of inmate labor. Once again, the Control Yuan reprimanded the correctional agency and demanded reforms to in-prison work programs.¹⁰³

An overhaul of the Prison Act and relevant regulations took place in 2020, introducing two significant adjustments to in-prison work programs: one is concerning inmate wages,¹⁰⁴ and the other is associated with the variety of in-prison work programs.¹⁰⁵ Before this revision, 37.5% of the work surplus was allocated to inmates as wages;¹⁰⁶ now, the percentage has been increased to 60%.¹⁰⁷ It is therefore reasonable to expect a substantial improvement in inmate wages. Moreover, under the new law, when prisons consider introducing new work programs, they are advised to take into account economic development, market supply and demand, and to seek professional opinions and assistance from relevant public agencies or private organizations.¹⁰⁸ By virtue of this amendment, inmates are expected to acquire useful skills with market value while participating in in-prison work programs, thereby facilitating their reentry and reintegration into society.

100. See CONTROL YUAN, *supra* note 86, at 31–33.

101. See *id.* at 26.

102. See JOU ET AL., *supra* note 70, at 63.

103. See Hsieh Chun-lin, *Control Yuan Censures Agency over Prison Labor*, *TAIPEI TIMES* (Feb. 20, 2019), <https://www.taipeitimes.com/News/taiwan/archives/2019/02/20/2003710059> [<https://perma.cc/ZN3V-754Q>].

104. See Prison Act, art. 37 (Taiwan).

105. See Prison Act, art. 31, § 1 (Taiwan).

106. See Prison Act, art. 33 (Taiwan).

107. See Prison Act, art. 37, § 1 (Taiwan); Jianyu ji Kanshousuo Zuoye Laozuojin Jiyu Banfa (監獄及看守所作業勞作金給與辦法) [Regulations on the Disbursement of Work Program Wages in Prisons and Jails], art. 4 (Taiwan).

108. See Regulations of Prison Work Programs, art. 3 (Taiwan).

The legal revisions initially appeared promising, but over time, it has become evident that the expected changes have not materialized. Although the average monthly wages increased from NT\$294 in 2018 to NT\$592 in 2021,¹⁰⁹ this figure remains far below NT\$3,000, the amount suggested by AOC as the basic monthly expenses for an inmate.¹¹⁰ A recent court decision on wages for prison labor in commissioned work programs confirmed that the wages of the inmate-plaintiff in August 2020 and October 2021 were only NT\$194 and NT\$325, respectively, significantly lower than the suggested NT\$3,000. The court deemed this a violation of the plaintiff's human dignity.¹¹¹ Research has already identified the root cause of these inadequate wages: the limited variety of commissioned work programs.¹¹² As long as in-prison work programs continue to consist mainly of low-skill, low-profit-margin tasks, revenues will never reach the level needed to cover basic monthly expenses.

Moreover, the variety of in-prison work programs has not undergone any meaningful changes. Prisons continue to contract with "sunset industries," namely those that are labor-intensive, require minimal skills, and yield low profit margins. For instance, commissioned work programs in Taichung Prison still include paper folding, wire assembling, sock packaging, bath sponge processing, and reusable bag manufacturing, among others.¹¹³ Thus, despite the newly amended laws and regulations advising prisons to consider market factors when selecting new work programs, the actual practice of in-prison work programs remains unchanged.

109. See Li Bingfang (李秉芳), *Kaixiang Jianyu Laodong Chi Mianqian Laofan Haishi Lianjia Laogong 6 Zhang Tubiao Gaodong Shouxingren Ruhe Laozuo Zhuanqian Zhiying Kaixiao* (開箱監獄勞動 吃免錢牢飯？還是廉價勞工？6 張圖表搞懂受刑人如何勞作賺錢 支應開銷) [*Unboxing Prison Labor: Having Free Prison Meals or Cheap Labor? Six Charts Explaining How Inmates Make Money through Labor to Pay for Their Expenses*], GUANJIAN PINGLUN (關鍵評論) [THE NEWS LENS] (Dec. 14, 2023).

110. See Fawu Bu Jiaozheng Shu (法務部矯正署) [Agency of Corrections, Ministry of Justice], Fajiao Shuqin No. 10705003180 [Interpretation Letter, June 4, 2018] (Taiwan).

111. See Taiwan Hualian Dist. Ct., 112 Niandu Jian Jian Geng Yi Zidi 3 Hao Panjue (臺灣花蓮地方法院 112 年度監簡更一字第 3 號行政訴訟判決) [Admin. Judgement No. 112 Jian-Jian-Geng-Yi-3] (2023) (Taiwan).

112. See JOU ET AL., *supra* note 70, at 63–64.

113. *Chenglan Jiagong* (承攬加工) [*Commissioned Work Programs*], FAWU BU JIAOZHENG SHU TAIZHONG JIANYU (法務部矯正署臺中監獄) [TAICHUNG PRISON, AGENCY CORR., MINISTRY JUST.], <https://www.tcp.moj.gov.tw/309667/309874/309877/387396/post> [https://perma.cc/H32T-QUVA] (last visited Aug. 5, 2025).

III. INSTITUTIONAL LOGICS OF IN-PRISON WORK PROGRAMS

After exposing the coercive and exploitative nature of the prison labor system and recounting its problems and unsuccessful reforms over the past two decades, this Part examines the factors that contribute to its persistence. By analyzing the interviews and focus group discussions conducted between May and August 2022,¹¹⁴ this Part unveils four distinct institutional logics within the in-prison work program system: security and management, bureaucracy, accounting requirements, and competitive disadvantages. These institutional logics share a common function of upholding the status quo and resisting change, thereby helping explain prisons' reluctance to embrace reform.

A. Security and Management

Rather than focusing on rehabilitation and reentry into society, the statutorily designated goals of work programs,¹¹⁵ the primary institutional logic of in-prison work programs is to maintain prison security and facilitate the management of inmates. Almost every participant in the interviews has expressed that prison security and inmate management are the top concerns of prison administration. As one prison staff member stated, "Security is our top concern; rehabilitation is certainly only auxiliary."¹¹⁶ Even though the law does not cite security and management as factors in assigning inmates to work programs,¹¹⁷ in practice, these are the predominant factors influencing such decisions. When prisons select new firms or consider adding new work programs, security and management take precedence over all other considerations. As a result, sunset industries, those that

114. With respect to the details of my methodology, please see *infra* Appendix.

115. Prison Act, art. 31, § 1 (Taiwan).

116. Interview with a staff member of Prison D (Aug. 17, 2022).

117. It stipulates that:

A prison shall consider inmates' work based on sanitation, edification, economic benefits, the inmate's sentence, health, knowledge, skills, and abilities to rehabilitate their living after release. The prison shall also assign inmates to workshops inside or outside the prison or other specific places. After discussions with the inmate, the prison shall specify suitable work programs in the inmate's individual treatment plan, and it may be revised based on its authority when necessary.

Prison Act, art. 31, § 2 (Taiwan).

are labor-intensive and have low entry barriers, become the optimal choice for in-prison work programs. Another prison staff member stated: "The most serious concern when selecting new firms is prison security. In this regard, sunset industries, such as paper folding, are the best fit for prisons because they do not require any particular skills, allow large numbers of inmates to participate, and thus meet the needs of prison administration."¹¹⁸

Oftentimes, in commissioned work programs, firms attempt to bring their own tools or install equipment inside prisons to enhance inmates' production efficiency but are rejected. This, again, is due to security and management considerations. Possible concerns include the potential danger to inmates' safety, the impact on their health, and the threat to prison order. Additionally, maintenance costs for the equipment may also play an important role. A firm representative provided an example that inmates at times break the equipment when they are in a bad mood, leading him to decide to remove the machines from the prison workshop:

Sometimes the classmates¹¹⁹ were emotionally unstable, and as a result, my machines broke down more easily . . . To be honest, a cutter for a milling machine costs around NT\$400 to 500, but cutters wear out more quickly when the inmates are feeling down.¹²⁰

More importantly, "keeping as many inmates busy as possible" is the central principle of prison management. This tenet shapes prison policies regarding the selection of work types. As a result, some firms choose to forgo contracting with prisons, while others opt to commission only tasks that do not require equipment. A firm representative expressed his frustration with this principle when recounting his experience negotiating with the prison about bringing in equipment:

They won't approve your request to bring in equipment anyway. The workshop is supposed to engage more than one hundred inmates in work programs. Once the machine is brought in and requires only three inmates to operate, how can the prison guards manage the rest? Where will they place

118. Interview with a staff member of Prison G (June 20, 2022).

119. For purposes of this Article, "classmates" is the byname for inmates.

120. Interview with a firm representative contracting with Prison F (June 21, 2022).

them? That's why they only want tasks that can be done by hand. They don't want you to use any tools.¹²¹

Even if certain jobs have high market margins and do not require any "dangerous" equipment, such as commercial design, it is still impossible to introduce them into prisons due to the need for frequent communication with clients, which raises additional security concerns. A prison staff member expressed this concern: "How can we be sure that you inmates are talking to clients rather than colluding with other accomplices?"¹²² A firm representative also mentioned: "Design requires discussion, but how can we allow it to proceed? It is a back-and-forth process."¹²³ It has also been pointed out that many modern jobs require only a single computer, such as computer-aided design or computer graphics. However, due to security concerns, AOC does not permit inmates to access computers.¹²⁴

The representative of the Ministry of Labor (MOL) expressed their willingness to provide prisons with professional assistance, such as training courses, instructors, and the necessary equipment to keep up with market trends.¹²⁵ However, the representative also emphasized the importance of equipment for vocational training, stating that "the crux of vocational training is hands-on operation; its purpose is to provide more opportunities for skill practice."¹²⁶ On the other hand, MOL also made it clear that it must respect the authority of AOC and its security and management concerns, as AOC has the final say on matters related to work programs.¹²⁷ Another participant in the focus group discussion expressed a pessimistic view regarding any potential shift in the AOC's conservative stance: "I don't see any [possibility of change] for AOC."¹²⁸

121. Interview with a firm representative contracting with Prison C (July 28, 2022).

122. Interview with a staff member of Prison B (May 6, 2022).

123. Interview with a firm representative contracting with Prison B (May 6, 2022).

124. Interview with a staff member of Prison B (May 6, 2022).

125. Remarks of MOL representative in the focus group discussion (Aug. 26, 2022).

126. *Id.*

127. *Id.*

128. Remarks of former inmate A in the focus group discussion (Aug. 26, 2022).

B. Bureaucracy

When asked about the obstacles to increasing the revenues of in-prison work programs, one common answer is the bureaucratic structure of the prison system. Bureaucracy, in one regard, refers to hierarchy, consisting of superiors and subordinates. For example, a prison staff member expressed his thoughts on public employees: "We are public employees, so we follow the policies of our superiors to keep inmates consistently engaged in work programs. We are just doing this job. The business side, as you mentioned, is too distant in my opinion."¹²⁹ It was also pointed out that the decisions and considerations of superiors have a significant impact on the practice of in-prison work programs. As another prison staff member stated:

The attitudes of superiors and their decisions are the central driving force of prisons . . . If the superior is enthusiastic about bringing new ideas to the work programs . . . the achievements of the work programs will be tangible. But if the superior . . . cares more about the stability of the prison and pays less attention to the system of work programs, work programs will be affected in the same way.¹³⁰

Bureaucracy, in another regard, means layers of laws and orders. This characteristic is evident from the interviews. As one prison staff member stated, "Working in the government means you have to go up through different levels. Our own thoughts are not always right. Superiors have their concerns. There are also limitations from the laws."¹³¹ Only if superiors support the reform plans, along with the necessary statutory adjustments, can the improvement of in-prison work programs begin from scratch and grow step by step. If they do not, no changes will be possible. Sometimes, orders may even outweigh laws. A firm representative complained about the government's policies during the COVID-19 pandemic:

Our government doesn't obey the law at all. They plan to launch the quintuple stimulus voucher program [to stimulate the economy] this year, so they designated this prison to distribute the vouchers. Where did they get the labor force?

129. Interview with a staff member of Prison G (June 20, 2022).

130. Interview with a staff member of Prison F (June 21, 2022).

131. Interview with a staff member of Prison E (Aug. 16, 2022).

They just appropriated the inmates from the workshop contracted with my firm. What about my firm's work? They had the quintuple stimulus voucher program this year and the triple stimulus voucher last year. They took away four to five hundred inmates from the workshop for two to three months. How could I endure that? Who can I complain to? Shall I sue the government?¹³²

Bureaucracy sometimes suggests staying in your lane, that is, to mind your own business and not take on any tasks beyond your responsibilities. In fact, most of the prison staff have negative thoughts about the reform of work programs. As one prison staff member stated, "The money is not earned for you, so why do you care so much about the inmates?"¹³³ Even if there are good examples in another prison, it is hard to replicate them in other prisons because, as another prison staff member indicated, "Under such a bureaucratic structure, not everyone is willing to do so."¹³⁴ Therefore, a firm representative grumbled, "It is futile to talk about this issue with public employees. They still get paid [even if they don't make any changes]. The suggestions are ineffective."¹³⁵ In addition, public employees rotate routinely, including wardens, among different prisons or transfer to other government sectors, so any new plans usually do not last long. As another prison staff member stated, "The superiors come and go every two or three years. It is hard to innovate under such circumstances. [The traditions of] the work programs are hence passed on and on."¹³⁶ Furthermore, among all sections of the prison system, the section of work programs is the least appreciated one. You do not need any experience or specialties to join this section. Therefore, even if AOC provides training resources to enhance skills in business administration, not every staff member in this section will make use of them. As one staff member remarked, "It in the end depends on their personal will."¹³⁷

Bureaucracy also indicates inflexibility. Prisons prefer to cooperate with medium- or small-sized firms because they are

132. Interview with a firm representative contracting with Prison C (July 28, 2022).

133. Interview with a staff member of Prison E (Aug. 16, 2022).

134. Interview with a staff member of Prison D (Aug. 17, 2022).

135. Interview with a firm representative contracting with Prison H (June 27, 2022).

136. Interview with a staff member of Prison G (June 20, 2022).

137. Interview with a staff member of Prison D (Aug. 17, 2022).

more willing to comply with the inflexible requirements of prisons. On the contrary, big companies usually have their internal checking procedures. The legal and accounting departments of big companies present collaboration difficulties. A prison staff member made it clear: "It will be quite burdensome to negotiate with them (big companies). By contrast, for medium- or small-sized firms, their owners can decide on everything. You don't have to go through any legal or accounting procedures."¹³⁸ Firm representatives also have some complaints about the inflexible nature of the prison system. Several firms have suggested that prisons make some adjustments to the in-prison work programs, such as increasing working hours, enhancing yield, and improving the reliability of their processing. However, all these suggestions were of little use. One firm representative expressed his dissatisfaction, stating:

I have asked for a favor from them to allow inmates to work longer during the peak months. They said no problem, but in fact, they didn't do anything. It is no use . . . no use to request their favor because they have lots of activities. Sometimes, when they have a new warden, there will be too many new activities, so my production goes down.¹³⁹

C. Accounting Requirements

The system of in-prison work programs being encumbered with accounting requirements is another common concern. The Operations Fund of Correctional Agencies is cited as one of the root causes of the dilemmas facing in-prison work programs due to its strict accounting requirements. The representative of AOC admitted that it is quite cumbersome for the prison staff to comply with the complicated accounting procedures and respond to internal audits.¹⁴⁰ Additionally, the use of the fund is under the supervision of Congress and external auditing sectors.¹⁴¹

The institutional design of the Operations Fund of Correctional Agencies encourages surplus but highly discourages any deficits, so prisons must spend money from the fund "in an

138. Interview with a staff member of Prison B (May 6, 2022).

139. Interview with a firm representative contracting with Prison H (June 27, 2022).

140. Remarks of the representative of AOC in the focus group discussion (Aug. 26, 2022) [hereinafter AOC Representative's Remarks].

141. *Id.*

extremely conservative way.”¹⁴² Regarding the surplus, a prison staff member complained: “AOC sets the minimum surplus for us, which is 20% [of the selling price].”¹⁴³ On the side of deficits, the representative of the AOC made it clear: “Our current accounting system expects not to have any deficits.”¹⁴⁴ Another prison staff member further explained this point:

The entire system . . . it doesn’t allow the presence of any minus signs. Our accounting system does not have any negative numbers, so we are supposed to make money . . . If there are any negative numbers in the records, you won’t be able to pass the check of the accounting division . . . Therefore, it must be surplus; no deficit is allowed.¹⁴⁵

Therefore, prisons have no choice but to operate work programs as cautiously as possible. Under the scheme of the Operations Fund of the Correctional Agencies, if prisons plan to purchase new tools or devices, they must take out a loan from the fund,¹⁴⁶ and repay it in monthly installments along with interest charges.¹⁴⁷ This places tremendous pressure on prisons to ensure that the expected revenues from the new equipment each month will be high enough to cover both the wages of inmates and the installment payments with interest. As a result, old machines in prison workshops are often kept running even though they should have been discarded long ago. A prison staff member expressed his helplessness when facing such a dilemma:

The machine we are using now has been in service for 30 to 40 years. If we want to move into higher-level and higher-priced business, we must replace the machine and purchase a new one. But the latest one costs around four to five million NTD. If I don’t have confidence that we can cover the monthly installments, I won’t purchase the new machine.¹⁴⁸

It is also indicated that the problem of the accounting procedures becomes more complicated when entangled with the routine redeployment of wardens. That is, if staff members plan to

142. Interview with a firm representative contracting with Prison H (June 27, 2022).

143. Interview with a firm representative contracting with Prison E (Aug. 16, 2022).

144. AOC Representative’s Remarks, *supra* note 140.

145. Interview with a firm representative contracting with Prison H (June 27, 2022).

146. Interview with a firm representative contracting with Prison E (Aug. 16, 2022).

147. Interview with a firm representative contracting with Prison H (June 27, 2022).

148. *Id.*

purchase a new device, they first strive to persuade the warden and then include the item in the budget for the coming year. If the budget is approved the following year, the prison must go through the public tender procedure to purchase the device, which usually takes several months to complete, provided there are no issues. Consequently, it may take up to one and a half years from obtaining the warden's approval to receiving the device.¹⁴⁹ If the warden is redeployed during this period, or shortly thereafter, and the new warden has different views on work programs, then the new plan and device will become obsolete. Therefore, the issues with complicated and strict accounting procedures are exacerbated by the routine transfer of wardens. A prison staff member provided us with a vivid example:

There was once a warden who decided to introduce a new program. He told me that he had a new idea and wanted me to implement it, so I mapped it out. After I completed the plan, including the firms and their machines, we didn't have the budget . . . because the warden retired.¹⁵⁰

D. Competitive Disadvantages

Another widely accepted response to the difficulties of in-prison work programs is that prisons face competitive disadvantages compared to other market participants. The first competitive weakness concerns inmates' working hours. Although the statutory limitation on regular daily working hours for an inmate is eight hours,¹⁵¹ in practice, educational courses, rehabilitation activities, and other programs take up a substantial portion of their time.¹⁵² Some inmates also need time for taking medicine, seeing a doctor, making phone calls, or meeting visitors.¹⁵³ Security checks are also a time-consuming daily routine.¹⁵⁴ As a result, the time available for work is much less than the statutory eight hours. A firm representative complained:

In the contract, the working hours for inmates are stipulated to be six hours a day. I have worked [with prisons] for forty

149. Interview with a staff member of Prison F (June 21, 2022).

150. Interview with a firm representative contracting with Prison E (Aug. 16, 2022).

151. Prison Act, art. 32, § 1 (Taiwan).

152. Interview with a firm representative contracting with Prison C (July 28, 2022).

153. *Id.*

154. Interview with a staff member of Prison E (Aug. 16, 2022).

years, but they never comply with this requirement. In fact, it is usually around three and a half hours a day, and at most, four hours a day.¹⁵⁵

Prisons acknowledged that the actual daily working hours are indeed shorter than expected, resulting in unstable production that often falls below the stipulated amount.¹⁵⁶ The working hours are also highly inflexible, including the fixed times for starting and ending work.¹⁵⁷ This limited and rigid schedule also affects the utilization of machines in prison workshops. As a firm representative stated: “Even if the machine is brought in, if its usage is low, it is still a loss for me. The machine is quite expensive, so we keep it running all day long outside the prisons.”¹⁵⁸ Nevertheless, it is not possible for machines to run nonstop behind bars.¹⁵⁹

The second weakness is about the identity of inmates as workers. Inmates are not the type of workers that we understand in our everyday life. The entire society has many misgivings about them. As the representative of AOC explained, even a few individual bad cases can negatively impact the public perception of the entire prison population.¹⁶⁰ It is quite common for firms to avoid working with prisons due to negative stereotypes about inmates.¹⁶¹ Moreover, many countries prohibit the importation of products manufactured through prison labor. As a result, some firms worry about whether inmate labor “will bring about any [negative] impact on our products.”¹⁶² Additionally, in the free market, firms have the power to select workers who meet their requirements. However, they lose this flexibility when collaborating with prisons, making them more hesitant to do so. The quality of the prison workforce is another concern. As one prison staff member bluntly stated: “They are housed here [in prisons] because they are the ones who don’t like to work . . . About one-third of the classmates are disinclined to work. I spend a lot of

155. Interview with a firm representative contracting with Prison C (July 28, 2022).

156. Interview with a staff member of Prison G (June 20, 2022).

157. Interview with a firm representative contracting with Prison G (June 20, 2022).

158. Interview with a firm representative contracting with Prison C (July 28, 2022).

159. *Id.*

160. AOC Representative’s Remarks, *supra* note 140.

161. *Id.*

162. Interview with a staff member of Prison F (June 21, 2022).

time dealing with their frequent violations of work requirements.”¹⁶³

Space availability is another competitive weakness for prisons. For example, the bakery in Prison D's prison-run work program is popular in the neighborhood, but it cannot scale up its production due to a lack of available space.¹⁶⁴ Food workshops face similar space limitations, preventing them from accommodating more inmates and increasing their revenue.¹⁶⁵ Wood processing is another profitable in-prison work program in Prison B, but due to space constraints, only a small group of around ten inmates can participate.¹⁶⁶ “We don't even have adequate space for sleeping,” a prison staff member complained.¹⁶⁷ Some prisons don't even have enough space for commissioned work programs, forcing inmates to fold papers in their own cells.”¹⁶⁸ The representative of AOC explained that most of Taiwan's prison buildings were constructed in the 1960s or earlier during the colonial period, making them old and cramped, with inevitably limited space for inmates to work.¹⁶⁹

Weak bargaining power in the market is another disadvantage for prisons. The current sales channels are not favorable to prisons. “They just looked straight through you and brushed you off,” a prison staff member shared, recalling an unpleasant experience negotiating with sales channels.¹⁷⁰ If prisons want to sell products from their work programs through supermarkets or convenience stores, distributors will charge them substantial slotting fees, regardless of whether any products are sold.¹⁷¹ Due to their weak bargaining power, the prison system is hence unable to negotiate better slotting conditions with distributors or retailers.

163. Interview with a staff member of Prison B (May 6, 2022).

164. Interview with a staff member of Prison D (Aug. 17, 2022).

165. Interview with a staff member of Prison H (June 27, 2022).

166. Interview with a staff member of Prison B (May 6, 2022).

167. *Id.*

168. Interview with a staff member of Prison A (Aug. 8, 2022).

169. AOC Representative's Remarks, *supra* note 140.

170. Interview with a staff member of Prison B (May 6, 2022).

171. *Id.*

IV. *CONFLICTING INSTITUTIONAL
DESIGN AND ENDURING PROBLEMS*

After identifying the four distinct institutional logics within the in-prison work program system, one further question needs to be addressed: in what way(s) are these four logics connected to the institutional structure of in-prison work programs? In other words, how does the current institutional framework of prison labor give rise to and shape the four logics? This Part thus examines the structure of Taiwan's prison labor to unearth the connection between the four institutional logics and the institutional design of in-prison work programs. This Part finds that there are two fundamental ideologies supporting the four institutional logics: the market-driven ideology and the state-driven ideology.

A. *The Market-Driven Ideology*

There are two conflicting ideologies existing in Taiwan's prison labor system: the market-driven ideology and the state-driven ideology. On the one hand, due to the constraints imposed by the Operations Fund of Correctional Agencies, prison work programs are required to be self-sufficient.¹⁷² In other words, the government does not allocate any budget for these programs; prisons must generate revenue by selling the products and services produced through in-prison work programs.¹⁷³ Moreover, new laws passed in 2020 allow prisons to operate their work programs in a more business-oriented manner, such as developing comprehensive operation plans and adopting a business administration model.¹⁷⁴ Therefore, prisons must actively participate in the market, run in-prison work programs like for-profit firms, and compete with other market players. They also need to consider key market principles, including supply and

172. See discussion *supra* Part II.A.

173. *Id.*

174. Regulations of Prison Work Programs, art. 10 (as amended in 2020) (Taiwan). It stipulates that: "When handling work programs, prisons shall have a comprehensive and proper management plan, adopt enterprise managerial approaches, and pay attention to the effective use of resources and manpower." *Id.*

demand, cost and profit, as well as advantages and disadvantages, when managing their in-prison work programs.¹⁷⁵

The reflections from the interviewees also reveal the tendency to think of in-prison work programs as a private business. Prison C, for example, disclosed their considerations when being asked why they do not expand their profitable in-prison work programs: "There are high seasons and low seasons for our business . . . the sales [in low seasons] cannot [allow us to expand]." ¹⁷⁶ They are also aware of their competitive weaknesses: "The price of our [food] products is higher than that of products outside." ¹⁷⁷ At the same time, they recognize their advantages: "The wages for inmate labor are quite low . . . This is an attractive factor [for firms]." ¹⁷⁸ Additionally, they acknowledge the rivalrous relationship with nearby prisons: "There is indeed strong competition [between prisons]. Therefore, on the one hand, we must preserve our own advantages, and on the other, we need to improve the working quality of our classmates . . . and enhance their productivity so that we can avoid being eliminated." ¹⁷⁹

The market-oriented nature of the prison staff's responses above explains why most firm representatives, when asked why they chose to contract with prisons, also replied from a market-based and competitive standpoint. Their reasons included the better location of prisons and lower transportation costs, ¹⁸⁰ a stable workspace, ¹⁸¹ and the immediate availability of workforce: "For industries like ours, and for me personally, prisons provide access to a readily available workforce in a short time If you need to recruit a large number of workers quickly, prisons are possibly the only option." ¹⁸² Another firm representative highlighted the shifting social structure in Taiwan: "The younger

175. Regulations of Prison Work Programs, art. 3 (as amended in 2020) (Taiwan). It stipulates that: "Supervisory authorities and the prison shall select work programs in consideration of economic development and market supply and demand, while consulting labor, industry, or related public and private agencies (institutions) and organizations for their opinions as well as seeking their assistance or cooperation." *Id.*

176. Interview with a staff member of Prison C (July 28, 2022).

177. Interview with a staff member of Prison A (Aug. 8, 2022).

178. Interview with a staff member of Prison F (June 21, 2022).

179. *Id.*

180. Interview with a firm representative contracting with Prison B (May 6, 2022); Interview with a firm representative contracting with Prison H (June 27, 2022).

181. Interview with a firm representative contracting with Prison G (June 20, 2022).

182. Interview with a firm representative contracting with Prison B (May 6, 2022).

generation is unwilling to work in factories, so we can't find labor [in the free world] . . . but prisons can help alleviate the labor shortage to some extent."¹⁸³ One firm representative also provided a strategic perspective on business operation:

A good company always has a backup plan. In my view, this prison serves as a reliable backup. In case of emergencies, such as during the pandemic when the supply chain was disrupted, I would have been doomed without outsourcing labor. This is why a good company must always have two options; it cannot rely on just one. Thus, I will always maintain two alternatives in any situation.¹⁸⁴

B. The State-Driven Ideology

On the other hand, prison labor is intended to correct and rehabilitate inmates.¹⁸⁵ Through labor, inmates learn to abandon their previous unfavorable habits, develop a lifestyle more suited to society, and acquire practical skills that may facilitate a smoother reintegration into society.¹⁸⁶ Accordingly, compelling inmates to work is regarded as one of the core functions of the state's penal power. Work programs, in this sense, serve as an institution through which sovereign power is realized. From this perspective, prison work programs are fundamentally distinct from for-profit industries outside prison. The prison system, as a public institution, aims to correct offenders through compulsory labor rather than to generate profits or surpluses.

Several prison staff members expressed similar views on this "state-driven ideology" regarding prison work programs and prison labor during their interviews. One prison staff member stated:

Working is only a part of the rehabilitation process. It is meant to help them become hardworking individuals The most important goal is to change their disposition and way of thinking. Work programs serve as a means to help them

183. Interview with a firm representative contracting with Prison C (July 28, 2022).

184. Interview with a firm representative contracting with Prison G (June 20, 2022).

185. Prison Act, art. 31, § 1 (Taiwan).

186. Lu Ying-Chieh (盧映潔), *Woguo Jianyu Zhong Zuoye Zhidu ji Shouxingren Zai shehuihua zhi Shizheng Yanjiu* (我國監獄中作業制度暨受刑人再社會化之實證研究) [*The Link Between the Prisoners' Labor System and Their Re-Socialization in Taiwan*], 68 (6) *JUNFA ZHUANKAN* (軍法專刊) [MIL. L.J.] 1, 39 (2022).

maintain stability. This is the objective of punishment, rather than the relentless pursuit of higher revenues from work programs.¹⁸⁷

Similarly, as another prison staff member has emphasized, profits are not the primary concern of the work programs.¹⁸⁸ Work programs are not meant to operate in the same manner as private firms: "We are different from business models in the free world."¹⁸⁹ Moreover, prisons, as public-sector institutions, cannot compete with civilians: "If we focus on profit and compete with private firms, it will cause trouble, and we will be reproached."¹⁹⁰ Therefore, "we stay in the middle.... We don't exploit [the inmates], nor do we compete for profit with civilians. We simply adhere to the doctrine of the mean."¹⁹¹

C. Clashing Goals within a System

We can grasp the essence of the conflicting design of the institution of in-prison work programs: on the one hand, they make prisons resemble firms striving for profit, while on the other hand, they materialize the state's penal power. These two institutional designs are equipped with clashing goals: the market must be competitive and open to multiple players, while the penal power is sovereign and exclusive. This conflicting institutional design thus contributes to the persistence of problematic in-prison work programs; specifically, to fulfill the requirement of self-sufficiency by treating inmates as slave labor, which results in limited variety of in-prison work programs, extremely low wages, few rehabilitative effects, and no useful living skills.

We are hence also able to comprehend how the four institutional logics were shaped by such conflicting legal designs. Accounting requirements and competitive disadvantages, on the one hand, are logics stemming from the market-driven ideology, as they make in-prison work programs resemble private businesses that seek higher surpluses and lower costs in order to achieve self-sufficiency. In contrast, security and management, along with

187. Interview with a staff member of Prison E (Aug. 16, 2022).

188. Interview with a staff member of Prison D (Aug. 17, 2022).

189. Interview with a staff member of Prison A (Aug. 8, 2022).

190. Interview with a staff member of Prison D (Aug. 17, 2022).

191. Interview with a staff member of Prison B (May 6, 2022).

bureaucracy, are logics derived from the state-driven ideology due to their punitive and authoritative features.

Furthermore, even though the four institutional logics can be categorized into two mutually conflicting groups, namely the market-driven ideology and the state-driven ideology, they fundamentally share a common theme: resisting reforms. Changes may jeopardize prison security and inmate management, the rigid bureaucratic structure and complex accounting requirements stifle innovative ideas, and the competitive disadvantages discourage prisons from experimenting with new approaches in their in-prison work programs.

Therefore, by leveraging these conflicting institutional logics in different scenarios, any reform attempt can be neutralized. When challenged or pressured to change based on the market-driven ideology, such as introducing revenue-generating prison work programs to raise inmate wages, prisons can counter with a state-oriented response, arguing that work programs exist to rehabilitate, not profit. They may assert that wages are secondary, the for-profit model is inappropriate, and the primary goal is to instill a work ethic, not generate income. Conversely, when the demand for reform arises from a state-driven perspective, such as offering high-value skill training, better equipment, and expert instructors, prisons can deflect it by invoking the market's standpoint, citing lack of guaranteed revenue, threats to self-sufficiency, and competitive disadvantages in labor, space, and bargaining power. As a result, they claim only low-value industries will engage, making the reform strategy unfeasible. Ultimately, no matter how many reform efforts are made, they are destined to fail, leaving the underlying problems unresolved.

V. REFRAMING PRISON LABOR FROM A HUMAN RIGHTS PERSPECTIVE

This Part focuses on addressing the coercive and exploitative nature of Taiwan's in-prison work programs. Part V.A follows the United Nations Standard Minimum Rules for the Treatment of Prisoners and suggests restructuring labor as an opportunity for inmates on a voluntary basis, thereby eliminating coercion. Part V.B introduces the European Prison Rules and recommends treating inmates as workers as those in the free world by

protecting their labor rights, thereby avoiding potential exploitation of their labor.

A. Restructuring Labor as an Opportunity for Inmates

As elucidated in the previous Part, the root cause for the persistence of in-prison work programs lies in the shared function of resisting changes, which is common across the four institutional logics. No reforms can be achieved as long as the four institutional logics remain, and the coercion and exploitation of inmates continue. Therefore, if we want to make reforms a reality and rescue inmates from suffering under the coercive and exploitative system of Taiwan's in-prison work programs, we must remodel the structure of prison labor and realign the associated logics from the ground up.

For the problem of coercion, one plausible approach is to introduce a ban on forced labor for inmates,¹⁹² reframing labor instead as a voluntary opportunity.¹⁹³ This is expected to provide Taiwan's prisons with the incentive to change the current form of in-prison work programs, encouraging inmates to engage in labor to achieve either the goals of correction and rehabilitation or the requirement of self-sufficiency.

The 2015 revision of the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR) represents a pivotal moment in the evolution of international prison standards, particularly with regard to the regulation of prison labor. It marked a significant shift in the understanding of prison labor by reformulating it from a compulsory duty to a voluntary opportunity focused on rehabilitation.¹⁹⁴ Whereas the original SMR required all prisoners to work,¹⁹⁵ the revised version omits this mandate and instead states that every inmate "shall have the

192. Faina Milman-Sivan & Yair Sagy, *On the International Labour Organization and Prison Labour: An Invitation to Recalibrate*, 159(4) INT'L LAB. REV. 505, 518–19 (2020); Gerad De Jonge, *Still Slaves of the State: Prison Labour and International Law*, in PRISON LABOUR: SALVATION OR SLAVERY? INTERNATIONAL PERSPECTIVES 313, 330 (Dirk van Zyl Smit & Frieder Dünkel eds., 1999).

193. Lin, *supra* note 23, at 737–39.

194. United Nations Standard Minimum Rules for the Treatment of Prisoners (the "Nelson Mandela Rules"), G.A. Res. 70/175, U.N. Doc. A/RES/70/175 (Dec. 17, 2015), https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf [<https://perma.cc/AT58-2WL9>].

195. *Id.*, r. 71.2.

opportunity to work and/or to actively participate in their rehabilitation,”¹⁹⁶ emphasizing choice, personal development, and reintegration rather than punishment. SMR is now known as the “Nelson Mandela Rules”.¹⁹⁷ The renaming of the rules in honor of Nelson Mandela, who spent decades imprisoned and later championed humane treatment for all, reinforces this more human-centered, rights-based approach to incarceration.

SMR stresses the positive aspects of labor for inmates in the 2015 revision. It places strong emphasis on the rehabilitative aspects of prison labor and requires the work offered to inmates to be both useful and sufficient,¹⁹⁸ while explicitly prohibiting any form of labor that is afflictive or resembles slavery or servitude.¹⁹⁹ To support rehabilitation and successful reintegration, SMR states that prison work should help inmates maintain or improve their employability after release,²⁰⁰ and that meaningful vocational training should be provided.²⁰¹ Working conditions are also expected to mirror those in the outside world as closely as possible.²⁰² In terms of voluntariness, inmates must be allowed to decide not only whether to work but also what kind of work they undertake.²⁰³ Importantly, SMR underscores that prison labor must not serve the personal gain of staff or the financial interests of the institution, thereby aiming to prevent exploitation and abuse of power.²⁰⁴

Thus, even though SMR is not legally binding due to its soft-law nature,²⁰⁵ it advises us to ban forced prison labor across the board and, instead, to suggest rearranging labor as an opportunity for inmates on the basis of their voluntariness, which would be a

196. *Id.*, r. 96.1.

197. UNITED NATIONS, *Nelson Mandela International Day 18 July*, https://www.un.org/en/events/mandeladay/mandela_rules.shtml [<https://perma.cc/8FY9-P8YJ>] (last visited Aug. 5, 2025).

198. *Nelson Mandela Rules*, *supra* note 194, r. 96.2.

199. *Id.*, rr. 97.1–97.2.

200. *Id.*, r. 98.1.

201. *Id.*, r. 98.2.

202. *Id.*, r. 99.1.

203. *Id.*, r. 98.3.

204. *Id.*, rr. 97.3 & 99.2.

205. Contrary to hard law’s binding effects, soft law indicates its preference instead of imposing an obligation that states shall act, or shall refrain from acting, in a specific manner. *See* Dinah Shelton, *Soft Law*, in *ROUTLEDGE HANDBOOK OF INTERNATIONAL LAW* 68, 69 (David Armstrong ed., 2009).

novel yet plausible approach in Taiwan's context for promoting inmates' correction and rehabilitation as well as for achieving self-sufficiency.

B. Treating Inmates as Free Workers

In addition to the coercive aspect of current in-prison work programs, another key concern in past reform efforts has been to eliminate the exploitation of inmates.²⁰⁶ One feasible approach is to reposition inmates as workers as those in the free world when engaging in in-prison work programs, protect their labor rights, and thereby reduce potential exploitation of their labor.²⁰⁷

The European Prison Rules (EPR) introduce an innovative approach to regulating prison labor.²⁰⁸ Rule 26.8 emphasizes the protection of inmates' interests over financial profit,²⁰⁹ alongside other safeguards such as health and safety,²¹⁰ injury compensation,²¹¹ and working hours.²¹² Additionally, Rule 26.9 allows private contractors to engage in prison work programs.²¹³ EPR further enhances the protection of prison labor by ensuring inmates receive "equitable remuneration" for their work, as well as social security benefits.²¹⁴ This shift is supported by two theoretical frameworks: the capability approach and the productive work approach.

The capability approach emphasizes that, when it comes to reintegrating inmates into society after their release, we should

206. See discussion *supra* Part II.B.

207. See Lin, *supra* note 23, at 739–41.

208. *European Prison Rules*, Council of Europe, Rec(2006)2 (Jan. 11, 2006), <https://rm.coe.int/european-prison-rules-978-92-871-5982-3/16806ab9ae> [<https://perma.cc/3JXC-YS69>].

209. *Id.*, r. 26.8; see also *Nelson Mandela Rules*, *supra* note 194, rr. 97.3 & 99.2.

210. *European Prison Rules*, *supra* note 208, r. 26.13; see also *Nelson Mandela Rules*, *supra* note 194, r. 101.1.

211. *European Prison Rules*, *supra* note 208, r. 26.14; see also *Nelson Mandela Rules*, *supra* note 194, r. 101.2.

212. *European Prison Rules*, *supra* note 208, r. 26.15; see also *Nelson Mandela Rules*, *supra* note 194, r. 102.

213. *European Prison Rules*, *supra* note 208, r. 26.9; cf. *Nelson Mandela Rules*, *supra* note 194, r. 100.

214. *European Prison Rules*, *supra* note 208, rr. 26.10 & 26.17; see also *Nelson Mandela Rules*, *supra* note 194, r. 103.

exclude jobs that offer no value to their reentry process.²¹⁵ Instead, we should focus on providing inmates with productive and meaningful work that enhances their abilities to take advantage of the evolving job market,²¹⁶ what is known as decent work.²¹⁷ The International Labor Organization (ILO) also advocates for increased investment in human capabilities, work institutions, and decent, sustainable jobs,²¹⁸ including for those incarcerated.²¹⁹ By reconceptualizing prison labor as decent work that fosters inmates' capabilities, the capability approach suggests that working conditions in prisons should mirror those in the outside world as closely as possible, as recommended by SMR²²⁰ and EPR.²²¹ Ensuring equitable wages and labor benefits for inmates as free workers is crucial to determining whether the work is decent.²²² Furthermore, as inmates' wages and benefits align more closely with those of free workers, the risk of unfair competition diminishes.²²³

On the other hand, the productive work approach posits that prison labor serves not only a rehabilitative purpose but also has an economic aspect, as prisons (the potential employers) benefit economically from inmates' labor, either by selling the products and services produced or by reducing the need to hire external workers. Therefore, inmates should be compensated fairly for their work.²²⁴ This approach is created through several court rulings in the United States.²²⁵ In *Watson v. Graves*, for example, the majority opinion argues that the contractor benefits economically from using prison labor instead of hiring free workers, and as a

215. Andrea Sitzia & Benoît Lopez, *Prison Labour, Customs Preference Schemes and Decent Work: Critical Analysis and Outlook*, 162 (2) INT'L LAB. REV. 305, 321 (2023).

216. See *id.*; see also INT'L LABOUR ORG., *ILO Centenary Declaration for the Future of Work*, at 3, ILC108-PR6A (June 20, 2019), <https://www.ilo.org/media/217791/download> [https://perma.cc/2QN9-C2DJ].

217. Sitzia & Lopez, *supra* note 215, at 319.

218. See INT'L LABOUR ORG., *WORK FOR A BRIGHTER FUTURE: GLOBAL COMMISSION ON THE FUTURE OF WORK* 13 (2019), <https://www.ilo.org/media/410956/download> [https://perma.cc/3YJ8-F8SM].

219. Sitzia & Lopez, *supra* note 215, at 319–20.

220. *Nelson Mandela Rules*, *supra* note 194, r. 99.1.

221. *European Prison Rules*, *supra* note 208, r. 26.7.

222. Sitzia & Lopez, *supra* note 215, at 319.

223. *Id.* at 322.

224. Noah D. Zatz, *Working at the Boundaries of Markets: Prison Labor and the Economic Dimension of Employment Relationships*, 61 (3) VAND. L. REV. 857, 883 (2008).

225. *Id.* at 892–97.

result, inmates are entitled to protections under the Fair Labor Standards Act, including the right to a minimum wage.²²⁶ In *Gilbreath v. Cutter Biological, Inc.*, although the court ruled against the inmates, Judge Nelson argued in dissent that the location of production is immaterial because prison labor contributes to the economic impact of cheap labor regardless of whether it occurs inside or outside prison facilities.²²⁷ In *Hale v. Arizona*, also decided ultimately against the inmates, Judge Norris explains in the dissenting opinion that “[t]he economic reality is that [the inmates] are working. Their labor produces goods and services that are sold in commercial markets. And [the prison] compensates them for their efforts.”²²⁸ Later in *Villarreal v. Woodham*, despite ruling against the inmates as well, the decision specifically acknowledged the economic nature of prison labor, explaining that “[i]n general, work is considered employment when there is an expectation of in-kind benefits in return for services.”²²⁹ Thus, if adopting the productive work approach, inmates should be compensated fairly for the economic value of their labor.

Therefore, both the capability approach and the productive work approach support the idea that inmates should be entitled to the same protections for their wages and social security benefits as free workers in the outside world. As the protection of inmates’ rights and benefits becomes more comprehensive, the exploitative nature of in-prison work programs, driven by the use of cheap inmate labor, will be eventually eliminated.

CONCLUSION

By examining in-prison work programs in Taiwan as a case study, this Article addresses the enduring question of why criminal legal system reforms are so difficult to achieve: in this case, the reform of in-prison work programs in Taiwan. Through the theoretical framework of institutional logics and empirical data collected from interviews and a focus group discussion, this Article first identifies four dominant institutional logics shaped by the

226. *Watson v. Graves*, 909 F.2d 1549 (5th Cir. 1990).

227. *Gilbreath v. Cutter Biological, Inc.*, 931 F.2d 1320, 1334 (9th Cir. 1991) (Nelson, J., dissenting).

228. *Hale v. Arizona*, 993 F.2d 1387, 1403 (9th Cir. 1993) (Norris, J., dissenting).

229. *Villareal v. Woodham*, 113 F.3d 202, 205 (11th Cir. 1997).

structure of in-prison work programs: security and management,²³⁰ bureaucracy,²³¹ accounting requirements,²³² and competitive disadvantages.²³³ It further reveals that these four logics share a common characteristic: resistance to change.²³⁴

This Article also highlights that in-prison work programs are rooted in two conflicting ideologies: the market-driven ideology and the state-driven ideology.²³⁵ The four institutional logics align with these opposing frameworks: accounting requirements and competitive disadvantages align with the market-driven ideology,²³⁶ while security and management, along with bureaucracy, correspond to the state-driven ideology.²³⁷ Based on these findings, this Article argues that previous reform efforts for in-prison work programs have failed because they were neutralized through the strategic use of these four institutional logics.²³⁸

Having identified the root cause of the persistence of in-prison work programs, this Article proposes tackling the issue by redefining labor as an opportunity for inmates rather than a mandatory obligation, thus removing the coercive elements of existing in-prison work programs.²³⁹ Additionally, by recognizing inmates as free workers and safeguarding their labor rights, this approach aims to dismantle the exploitative structure of current in-prison work systems.²⁴⁰ This human rights approach, endorsed by SMR and EPR, would incentivize prisons to reform the coercive and exploitative nature of in-prison work programs. This approach can help align labor with the goals of correction and rehabilitation while also meeting the requirement of self-sufficiency. Moreover, it could help overcome the resistance to change from the four institutional logics.

230. See discussion *supra* Part III.A.

231. See discussion *supra* Part III.B.

232. See discussion *supra* Part III.C.

233. See discussion *supra* Part III.D.

234. *Id.*

235. See discussion *supra* Part IV.

236. See discussion *supra* Part IV.A.

237. See discussion *supra* Part IV.B.

238. *Id.*

239. See discussion *supra* Part V.A.

240. See discussion *supra* Part V.B.

Theoretically, the findings of this Article align with key features of institutional logics theory identified in previous studies, including the presence of multiple institutional logics within an organization, the strategic responses of organizations to institutional reforms, and the role of institutional logics in obstructing anticipated organizational change.²⁴¹ Furthermore, this Article reveals that multiple institutional logics can be both conflicting (the market-driven ideology vs. the state-driven ideology) and cooperative (sharing a common resistance to change) simultaneously. This Janus-faced nature of institutional logics in Taiwan's in-prison work programs highlights an overlooked dimension of the theory and invites further scholarly exploration.

This Article also has met certain limitations in its research. For instance, the eight selected prisons house only male inmates, and the prison staff and firm representatives interviewed are also predominantly male. It would be interesting to explore whether gender-based factors influence the institutional logics of in-prison work programs. Additionally, while this Article focuses on identifying and categorizing the four institutional logics into two clusters—the market and the state—it does not address how these logics might be challenged or transformed. Furthermore, this Article does not examine other institutions within Taiwan's criminal legal system or their reform efforts. Comparing the institutional logics of different criminal legal institutions could offer valuable insights into the broader question of how to enact successful systematic change. These are compelling topics with significant research potential, warranting further investigation.

241. See discussion *supra* Part I.

APPENDIX: METHODOLOGY AND DATA

This Article employs semi-structured interviews and a focus group discussion to provide a focused and theoretically informed analysis of its central question. The study selects eight prisons out of fifty-one prisons and jails for interviews. These prisons were chosen based on their geographic distribution (two in the northern region, two in the central region, three in the southern region, and one in the eastern region) to account for potential regional differences. Collectively, the selected prisons house more than half of Taiwan's total prison population, making them a reasonably representative sample of the entire prison system of Taiwan. The study has undergone and met all IRB requirements.

To gather insights into frontline staff and cooperating firms' perspectives on in-prison work programs and reform efforts, this Article conducted ten interviews with prison staff responsible for work programs and nine interviews with firm representatives who have contractual relationships with the prisons. Additionally, six inmates with the experience of in-prison work programs were also interviewed. The prisons selected and invited the participants. All interviews were conducted inside the eight prisons between May 2022 and August 2022. Each interview lasted approximately one hour and was conducted in Chinese. The interviews were designed with high flexibility to accommodate the interviewees' thought processes. During the interviews, the research team restated or summarized key points and then asked follow-up questions to enhance the accuracy of responses. A key potential limitation of the interviews is whether participants were genuinely willing to take part in the study. To ensure voluntariness, informed consent was obtained before the interviews, and participants' identities are fully protected to maintain confidentiality.

Additionally, a focus group discussion was held in August 2022 to conduct a more in-depth investigation of in-prison work programs. The discussion included three former inmates and two government officials, one from AOC and the other from MOL. The three former inmates were selected and invited by the research team based on specific criteria: they must have participated in in-prison work programs and currently hold an ordinary job in the free world. These criteria ensure that their experiences with in-prison work programs can be meaningfully compared to their real-world employment, highlighting the uniqueness of institutional

logics within the prison system. The two government officials were chosen because AOC oversees all prisons in Taiwan, while MOL is responsible for vocational training. High-ranking officials from these agencies provided broader insights that complemented the perspectives of frontline prison staff. The focus group discussion took place in a community setting and was conducted in Chinese. It lasted approximately two and a half hours and was designed with flexibility to accommodate participants' thought processes. Informed consent was obtained before the discussion began.

The central focus of the interviews and the focus group discussion revolved around in-prison work programs, including the challenges they face, the solutions previously implemented, the anticipated changes, and the outcomes of past reform efforts. All interviews and the focus group discussion were audio-recorded and transcribed verbatim by the research team. The transcriptions were then cross-checked by the author to ensure accuracy. The research team maintained an independent position, with no affiliations to any of the prisons or participants. To uphold anonymity, participants were assigned coded identifiers, and their personal characteristics are not disclosed. This Article employs a thematic analysis to examine the data in both descriptive and interpretative ways, aligning with the central inquiry of the study. To identify the factors influencing responses to reform attempts, an inductive coding approach was adopted, and the author systematically reviewed the transcriptions, categorizing responses into clusters.