

Restoring the Right to Vote to People with Felony Convictions

by Erika Wood



This year, perhaps more than any in recent history, reminds us why the right to vote matters. Hundreds of thousands of Americans not only registered to vote but showed up at the polls on primary day. Small-donor campaign contributions are at an all-time high. And regardless of party affiliation, the real opportunity for there to be the first African American president should make all Americans proud to have a democracy that reflects not just the richness and diversity of our country, but also the decades of struggle that made this opportunity possible.

There remains, however, one last blanket barrier to the franchise. Across the country there are 5.3 million American citizens who are denied the right to vote because of a felony conviction in their past. Nearly 4 million of these people are not in prison; they live, work, pay taxes, and raise families in our communities but remain disenfranchised for years, often for decades, and sometimes for life (Manza & Uggen, 2006).

States vary widely on when and how they restore voting rights to felons. Maine and Vermont do not disenfranchise peo-

ple with convictions; even prisoners may vote there. Other states do not let people vote while in prison, but have rules allowing people on probation or parole to vote. But there are still 35 states that keep people from exercising their rights as citizens after they have been released from prison. Rules vary in severity. Kentucky and Virginia are the last two remaining states that permanently disenfranchise all people with felony convictions, unless they apply for and receive individual, discretionary clemency from the governor.

To fully appreciate how these laws compromise our democracy, it is important to understand their deep roots in the troubled history of American race relations. In the late 1800s these laws spread as part of a larger backlash against the adoption of the Reconstruction Amendments—the Thirteenth, Fourteenth, and Fifteenth Amendments of the U.S. Constitution—which ended slavery, granted equal citizenship to freed slaves, and prohibited racial discrimination in voting.

During the Jim Crow era, Southern Democrats sought to solidify their hold on the region by modifying voting laws in ways that would exclude African Americans from the polls. Despite their newfound eligibility to vote, many freed slaves

remained effectively disenfranchised. Violence and intimidation were rampant. The legal barriers employed—including literacy tests, residency requirements, grandfather clauses, and poll taxes—while race-neutral on their face, were intentional barriers to African American voting (Behrens, et al., 2003; Ewald, 2002).

Felony disenfranchisement laws were a key part of this effort. Between 1865 and 1900, 18 states adopted laws restricting the voting rights of criminal offenders. By 1900, 38 states had some type of felon voting restriction, most of which disenfranchised convicted felons until they received a pardon (Manza & Uggen, 2006). At the same time, states expanded the criminal codes to punish offenses that they believed targeted freedmen, including vagrancy, petty larceny, miscegenation, bigamy, and receiving stolen goods. Aggressive arrest and conviction efforts followed, motivated by the practice of “convict leasing,” whereby former slaves were convicted of crimes and then leased out to work the very plantations and factories from which they had ostensibly been freed (Ewald, 2002). Thus, targeted criminalization and felony disenfranchisement combined to produce both practical re-enslavement and the legal loss of voting rights, usually for life, which effectively suppressed the political power of African Americans for decades.

The disproportionate impact of felony disenfranchisement laws on people of color continues to this day. Nation-

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wide, a Sentencing Project reports that 13 percent of African American men have lost the right to vote, a rate that is seven times the national average. In eight states, more than 15 percent of African Americans cannot vote due to a felony conviction, and four of those states—Arizona, Iowa, Kentucky, and Nebraska—disenfranchise more than 20 percent of their African American voting-age population, according to Manza & Uggen.

These statistics mirror stark racial disparities in the criminal justice system. A 2008 study by the Pew Center on the States revealed that 1 in 100 Americans is now behind bars. That figure is startling enough, but the study also reports that 1 in 9 African American men between the ages of 20 and 34 is in prison.

But there is progress. Advocates, policy makers, and some unusual allies have made great strides to restore voting rights and create national momentum toward a more just and inclusive democracy.

Since 1997, sixteen states have reformed their laws to expand the franchise or to make it easier for people to restore their voting rights. Some recent reforms include an executive order signed by then-Governor Tom Vilsack in Iowa, which restored voting rights to 80,000 Iowa citizens on Independence Day, 2005. On Election Day 2006, Rhode Island voters were the first in the country to approve a state constitutional amendment authorizing automatic restoration of voting rights to people as soon as they are released from prison. The Rhode Island Department of Corrections became a voter registration agency, and now every individual is handed a voter registration form on the day he or she leaves prison. In April 2007, Florida Governor Charlie Crist issued new clemency rules ending that state's policy of permanent disenfranchisement

for all felony offenders. Also in April 2007, Maryland Governor Martin O'Malley signed a law streamlining the state's complicated restoration system by automatically restoring voting rights upon completion of sentence.

Critics of voting restoration may argue that disenfranchisement is an appropriate punishment for breaking the law. However, many law enforcement officers and criminal justice professionals have come to believe that felony disenfranchisement laws do more harm than good. Motivated primarily by their commitment to protect public

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safety, many law enforcement officials have come to recognize that bringing people into the political process makes them stakeholders, which helps steer former offenders away from future crimes. Branding people as political outsiders by barring them from the polls disrupts reentry into the community and does nothing to keep people from re-offending. There is absolutely no credible evidence showing that continuing to disenfranchise people after release from prison serves any legitimate law-enforcement purpose. Disenfranchisement has nothing to do with being "tough on crime."

While there has been significant bipartisan reform in the states, millions of U.S. citizens continue to be denied the right to vote. This year, Congress has decided to address the issue on a national level. Senator Russ Feingold and Representative John Conyers will introduce the Democracy Restoration Act, a bill that seeks to restore voting

For Further Reading

Behrens, Angela, Christopher Uggen and Jeff Manza. "Ballot Manipulation and the 'Menace of Negro Domination': Racial Threat and Felon Disenfranchisement in the United States, 1850–2002." 109 *American Journal of Sociology*, 2003.

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Pew Center on the States, One in 100: Behind Bars in 2008
<http://stage.pewcenteronthestates.org/uploadedFiles/One%20in%20100.pdf> (February 2008)

The Sentencing Project, *Felon Disenfranchisement Laws in the United States*
<http://sentencingproject.org/pdfs/1046.pdf> (April 2007).

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rights in federal elections to all Americans who have been released from prison and are living in the community.

The energy and optimism spreading across our country is palpable. There is a renewed faith among Americans that our democracy means something. Yet the promise of our democracy will never be realized if 4 million Americans who are living and working in the community remain disenfranchised. It is time to end this last blanket barrier to the ballot box. ■