

**Felon Disenfranchisement:
An Attack on Democracy in the United States**

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The founders of the American republic granted citizens the fundamental right to participate in their governance as a course of action to ensure lawful democratic freedom. Suffrage, the right to vote in political elections in the United States, remains a universal right for citizens over eighteen but is subject to limitations. Section II of the Fourteenth Amendment of the United States Constitution eliminates the right to vote for those guilty of “participation in rebellion or other crime” (U.S. Const. amend. XIV). Over five million Americans are currently disenfranchised, meaning they have lost their right to vote due to felony convictions. (ACLU (B), 2022). The United States holds the highest disenfranchisement rate out of every democratic nation worldwide and maintains the most stringent range of disciplines regarding those policies (Grady, 2012). The disenfranchisement of previously convicted felons creates a dramatic disparity in voter representation, subsequently challenging the integrity of the fundamental principle of democracy. Voting establishes a representative democracy, validates fair elections, and creates a national identity. Automatic felon disenfranchisement and harsh re-enfranchisement policies eliminate the fundamental rights of millions of Americans. Felon disenfranchisement has created such a significant disruption in the democratic process that the United States cannot claim to be a free representative state until state governments create equitable policies for felons re-obtaining their fundamental rights upon completion of their incarceration.

Background

The practice of criminal disenfranchisement was first introduced to the United States by European lawmakers. English colonists had coined the term “civil death” to establish their early laws that relieved criminals of their property and possessions once they were found guilty of

illegal activity or behaviors (Grady, 2012). Civil death was a deterrent to law-breaking behaviors due to the humiliation associated with the loss of civil rights (Grady, 2012). The offender would find themselves second-class citizens, and their families would inherit the humiliation within their communities (Grady, 2012). In these early colonies, individuals who had faced civil death were found to be “dead in law,” which later evolved into criminal disenfranchisement (Grady, 2012). Civil death was firmly instituted into early American law and later evolves into the laws and regulations today known as criminal disenfranchisement. In 1702, Connecticut disenfranchised an individual who had committed scandalous behavior, but did reinstate the right to vote upon proof of “good behavior” (Grady, 2012). Several colonies abided by similar laws and regulations, but rarely would an individual permanently lose their right to vote, an alarming difference from present-day disenfranchisement in the United States (Grady, 2012).

Voting History

The first presidential election in the United States was held in 1789, with the unanimous decision to elect George Washington as the first President of the United States (Voting Rights, 2013). The election of Washington was the first documentation of political democracy in the United States, yet the idea of representative democracy was not established legally until the 1970s. In early American law, the only individuals eligible to vote on political matters were white, land-owning men (Voting Rights, 2013). In 1868, the Fourteenth Amendment was ratified, which declared citizenship to all individuals “born or naturalized in the United States” (U.S. Const. amend. XIV). The Fourteenth Amendment included the Equal Protection Clause, which addressed equal protection under the law. These equal protections were created to safeguard against government partiality due to factors such as race (Baugh, 2016). During the Reconstruction period, the consideration of African Americans as citizens and what rights they

were guaranteed as “naturalized” citizens was initiated. It was not until the ratification of the Fifteenth Amendment in 1870 that voter discrimination based on race, skin color, and previous servitude was eradicated (Voting Rights, 2013). The battle for the right of women to participate in political elections was initiated in 1848 by Susan B. Anthony and Elizabeth Cady Stanton, who co-founded the National Women’s Suffrage Association (Bryant, 2014). The efforts made by this association subsequently compelled Congress to ratify the Nineteenth Amendment in 1920, which granted women the right to vote (Bryant, 2014). On November 2, 1920, an estimated eight million women swarmed the polls for their first opportunity to participate in democracy (History.com (B), 2022).

Despite significant changes in legislation granting men and women of all races the right to participate in elections, voter suppression methods emerged and disproportionately targeted women and people of color. States instituted laws requiring unattainable voting standards for those of different races and socioeconomic classes. Literacy tests targeted women and people of color, as attaining an education was primarily for wealthy, white males. Several states required the payment of poll taxes to exercise the right to vote, which significantly disadvantaged those in lower socioeconomic classes who were primarily people of color at the time. In *Breedlove v. Suttles*, the Court upheld the constitutionality of poll tax requirements (*Breedlove v. Suttles*, 1937.). These strict laws created legal loopholes for predominantly white males to retain the majority in elections. In response to these inequitable and unfair voting requirements, the Court ratified the Twenty-Fourth Amendment in 1964, which eliminated poll taxes but did not address literacy tests and other discriminatory practices (Smith, 2021). The Voting Rights Act of 1965 later eliminated all voting discrimination practices, including literacy tests (Douglas, 2016).

Harper v. Virginia State Board of Elections (1966) overturned the precedent established in *Suttles*, which confirmed Virginia's poll tax requirement as unconstitutional.

Disenfranchisement History

While most Americans enjoyed the benefits of recent legislation allowing for the right to vote without discrimination, felon disenfranchisement was overlooked and often disregarded by courts. Felon suffrage began as critics of disenfranchisement felt that the policies directly attacked the resocialization and rehabilitation of felons who had completed their sentences (Grady, 2012). In 1974, the first attempt at challenging the constitutionality of felon disenfranchisement was *Richardson v. Ramirez*, in which the Court denied the plaintiff's claim of Fourteenth Amendment violations. The plaintiff, a disenfranchised felon, argued that California's policies at the time violated the Equal Protection Clause outlined in the Fourteenth Amendment. The Court disagreed with the accusation and concluded that the State of California was within its legal rights to deny enfranchisement to felons. The Court also confirmed that an individual's criminal record was a factor that the state could consider when outlining its voter requirements (*Richardson v. Ramirez*, 1974). The precedent in *Ramirez* allocated the power to the states in creating disenfranchisement policies, leading to several states disproportionately applying their policies. For example, in 2013, the United States Supreme Court readdressed elements of the Voting Rights Act in *Shelby County v. Holder* (*The Shelby County Decision*, 2013). The Court found that some constraints on states' ability to regulate voting procedures were in violation of Tenth Amendment protections (*The Shelby County Decision*, 2013). This decision allowed for states to limit their voter access by passing strict requirements such as limits on early-voting, mail-in votes, and identification requirements.

The first successful challenge of felon disenfranchisement was in *Hunter v. Underwood*, which addressed discriminatory practices within the policies. The Court held that states could not discriminate in enforcing disenfranchisement policies based on protected groups in the Fifteenth and Nineteenth Amendments (*Hunter v. Underwood*, 1985). Under the precedent set in *Underwood*, several other attempts at challenging the constitutionality of disenfranchisement policies under the Equal Protection Clause were later made to the Court, but unfortunately did not succeed (Grady, 2012).

Analysis

The right to vote remains the core principle that differentiates free democratic states from their counterparts (Parvin, 2017). The United States has historically prided itself on this political scheme instituted from the origination of the country. Representative democracy differs from other political schemes in that it allows citizens to participate in the institution of laws and regulations by which they must abide. Democratic ideologies firmly state that individuals are only “free” if they live under the regulations and institutions that those individuals have a part in creating (Parvin, 2017). The United States identifies as a free democratic state, yet over five million citizens are excluded from participating in democratic processes due to felony convictions (Uggen et al., 2022). If broken down by state, significant percentages of state voter populations arise. Mississippi maintains 10.55% of its eligible voter population disenfranchised, with Tennessee following closely with 9.09% of its voter population disenfranchised all due to felony convictions (Procon.org, 2021). Alabama maintains its disenfranchised voter population at 8.94%, with Florida following closely with 7.69% of its voter population disenfranchised due to felony convictions (Procon.org, 2021). These alarmingly high percentages of ineligible voters have led to lawmakers being elected and legislation passed with significant differences in voter

representation. Due to the excessive practice of disenfranchisement, United States elections have been void of the core principle of democracy, representation, due to the elimination of a high percentage of the voter population.

Voter Requirements

Considering the significance of the right to vote in a functioning and nondiscriminatory representative democracy, it is crucial that a democratic state can explicitly identify who should retain the right to vote. The Tenth Amendment states that the federal government cannot regulate the powers held by the state unless granted by the Constitution (U.S. Const. amend. X). The United States Supreme Court's decision in *Richardson v. Ramirez* solidified state sovereignty in deciding state voter qualifications, leading to the extensive range of disenfranchisement policies today (*Richardson v. Ramirez*, 1974). Federal voting requirements state that an individual must be a citizen of the United States, be of eighteen years of age, be registered to vote within their jurisdiction, and meet the state's requirements in which they reside (USA Gov, 2022). Beyond those requirements, a state lawfully maintains the power to regulate voters as it sees fit.

Permanent Disenfranchisement

As of 2022, eleven states permanently disenfranchise felons convicted of specific crimes, with the exception of those pardoned by the government (Kelley et al., 2017). Offenders in Alabama with felony convictions concerning moral turpitude can apply to have their rights restored upon completion of incarceration, parole, probationary terms, and fines, but those charged with murder, rape, treason, and crimes involving children are permanently barred from voting (Kelley et al., 2017). Several states follow the outline of re-enfranchisement in Alabama, with most felons able to restore their rights upon completion of their sentence but exclude specific crimes. In Arizona, after an individual has been convicted of more than one felony, they

are permanently disenfranchised unless pardoned by the government (A.R.S. § 13-906, 2022). Delaware permanently disenfranchises felons convicted of murder, bribery, and sexual offenses (Del. C. § 6102-6107, 2022). Delaware extends their restrictions with mandatory ten year disenfranchisement periods for individuals charged with felony election offenses (Del. C. § 6102-6107, 2022). As of 2016, Maryland automatically restores the right to vote for felons upon release from imprisonment, but permanently disenfranchises those convicted of election offenses (Elections, 2022). Mississippi state law bars twenty-three felony crimes from possible re-enfranchisement. Those twenty-three exceptions include felony offenses such as murder, rape, arson, fraud, etc. (Kelley et al., 2017). Unless pardoned by the government for one of those crimes listed, an individual in Mississippi cannot have their right restored (Kelley et al., 2017). In Missouri, upon completion of confinement, probation, and parole, an individual convicted of felonies aside from election-related offenses, automatically have their rights restored (*Elections and Voting*, 2022). In Ohio, felons convicted more than once of election law violations are permanently disenfranchised. Other than multiple election offenses, a felon in Ohio is automatically re-enfranchised upon release from prison (Kelley et al., 2017). Tennessee maintains the strictest disenfranchisement policies in the country. The right to vote for a felon is not restored until all terms of the sentence are completed, including fines and restitution payments (Kelley et al., 2017). In addition to those requirements, felons with outstanding child support payments must be up to date on those before they can apply for restoration (Kelley et al., 2017). Tennessee permanently disenfranchises felons convicted of murder, rape, bribery, and several other crimes (Kelley et al., 2017).

Florida. Florida's recent amendment to its state Constitution has received backlash from critics of disenfranchisement for the strict requirements it imposes. In 2018, Florida executed

Amendment Four which enfranchised 1.4 million voters except those convicted of murder or sexual offenses (Wager, 2022). In 2019, Governor Ron DeSantis signed Senate Bill 7066, preventing eligible felons from enfranchisement until all mandated legal fees, such as fines and restitution, are paid (Fla. Stat. § 98.0751, 2022). Including fines and restitution payments as a requirement for re-enfranchisement redefined what was considered “time served.” This revision disproportionately halted those felons who faced financial instability and created a system coined “pay-to-vote” (Wager, 2022). Concerns of Twenty-Fourth Amendment violations were raised, as the payment requirement created a “poll tax” for felons with financial obligations (Wager, 2022). Critics of this amendment state that this requirement has created a legal loophole for restricting voters of lower socioeconomic classes, an explicit protection outlined in the Constitution. In the most severe cases, court fines and restitution payments can take up to twenty years for an individual released from incarceration to pay off, as most jobs available to the individual pay minimum wage (*Restitution Process*, 2020). Once taken to court, the payment requirement was deemed partially unconstitutional, but was later abandoned by the Eleventh Circuit, and the policy continues to be enforced today (Wager, 2022).

The 2000 presidential election between democratic nominee George W. Bush and the republican nominee Al Gore was decided on a difference of 537 votes (Batton, 2010). Florida’s rate of voter disenfranchisement in 2000 was nearly one thousand times the difference of that election (Batton, 2010). The issue of felon disenfranchisement extends beyond an individual vote, as 1.4 million voters could have changed Florida’s representation which subsequently could have impacted the United State’s national identity.

Kentucky, Iowa, and Virginia. Kentucky, Iowa and Virginia remain the only states not to amend their original state constitutions regarding felon disenfranchisement. These state

constitutions still permanently disenfranchise all citizens with past felony convictions but grant the sitting state governor discretion in allocating re-enfranchisement. In 2019, Governor Andy Beshear signed an executive order to automatically restore the right to vote for citizens with past non-violent felonies upon completion of incarceration, probation, and parole (*Commonwealth of Kentucky Department of Corrections, 2021*). Governor Kim Reynolds of Iowa, signed an executive order in 2020 that automatically restores the right for felons upon completion of incarceration, probation, parole, or any other terms of their sentence (*Voting Rights Restoration, 2022*). Felony homicide offenses are the only crimes exempt from Iowa's new re-enfranchisement policy (*Voting Rights Restoration, 2022*). Governor Ralph Northam of Virginia signed an executive in 2021 which reinstated the right to vote for citizens convicted of felonies who are not currently in confinement (*Secretary of the Commonwealth, 2022*). As of 2021, citizens of Virginia who are serving the terms of probation or parole are eligible to vote (*Secretary of the Commonwealth, 2022*). Contrary to Kentucky and Iowa, Virginia elected a new governor the following year of that executive order. Current Governor Glenn Youngkin of Virginia took office in 2022 and has since continued this re-enfranchisement practice (Kelley et al., 2017). Kentucky, Iowa, and Virginia's new state policies are both retrospective and prospective, meaning past, present, and future felons who are eligible can have their rights restored, unless abandoned by future governors (Kelley et al., 2017).

Wyoming. For felons convicted of first-time, non-violent offenses in Wyoming, the restoration of voting rights is automatic upon completion of their sentence, including parole and probation, if completed before January 1, 2010. For those first-time, non-violent offenders who completed the conditions of their sentence after that date, an application is required and a court must approve their request before their rights are restored. People convicted of violent felonies or

who have more than one felony conviction are permanently disenfranchised in Wyoming unless pardoned by the governor.

Re-enfranchisement Upon Completion of Sentence

As of 2022, fifteen states automatically restore a felon's right to vote upon completion of confinement, parole, and probation, for all felony convictions (Kelley et al., 2017). States without any limitations beyond the completion of all terms of a sentence are Alaska, Arkansas, Georgia, Idaho, Kansas, Minnesota, New Mexico, South Carolina, South Dakota, Texas, West Virginia, and Wisconsin (Kelley et al., 2017). Nebraska automatically restores the right to vote two years after the completion of confinement, probation, and parole (Kelley et al., 2017). Individuals convicted of treason in Nebraska can only have their rights restored upon review by the court (Kelley et al., 2017). In Oklahoma, felons receive individual disenfranchisement periods within their sentences and upon the expiration of that time, that individual has their right automatically restored (Kelley et al., 2017).

Louisiana

In Louisiana, disenfranchised felons currently serving the terms of their probation and parole can apply for the restoration of their rights only if they have not been incarcerated within the last five years (Kelley et al., 2017). Statistically speaking, for the state of Louisiana, this policy allows for a large majority of felons on probation or parole voting eligibility (Kelley et al., 2017).

Re-enfranchisement Upon Release from Prison

As of 2022, twenty-two states currently re-enfranchise felons upon release from prison. Alongside Ohio and Virginia, California, Colorado, Connecticut, Hawaii, Illinois, Indiana, Massachusetts, Michigan, Montana, Nevada, New Hampshire, New Jersey, North Carolina,

North Dakota, Oregon, Pennsylvania, Rhode Island, Utah, and Washington re-enfranchise felons upon completion of their terms of incarceration (Kelley et al., 2017).

North Carolina. As of July 27, 2022, the North Carolina trial court granted felons on probation and parole the right to vote (Kelley et al., 2017). Unfortunately, that result was challenged and has been appealed to the North Carolina Supreme Court where it sits today waiting for a decision (Kelley et al., 2017). Until the courts decide whether to overturn the order, people on probation and parole can continue to register to vote (Kelley et al., 2017).

New York. The state of New York not only re-enfranchises felons upon release from prison, but they aid the individuals in restoring their rights (N.Y. Stat., § 75, 2021). The New York Department of Corrections is responsible for notifying an individual prior to their release that their voting rights will be restored upon release and provide that individual with a form of application for voter registration (N.Y. Stat., § 75, 2021).

Zero Disenfranchisement

The most lenient policies regarding felon disenfranchisement are currently enacted in the states of Vermont and Maine, and within the jurisdiction of the District of Columbia. These areas allow individuals to retain their right to vote, irrespective of their criminal or sentencing status. As of 2022, Vermont allows for a person convicted of a felony, or any other crime, to not only retain the right to vote but to vote via absentee ballot while serving time in confinement (Public Institutions and Corrections, 2022). Maine and the District of Columbia similarly allow this level of suffrage for individuals convicted of crimes. These policies do not extend to individuals who violate any other law provision that eliminates the right to vote and does not meet the federal requirements.

Critics of these policies argue that increasing voters currently excluded from society leads to insensible election results (Nguyen & White, 2020). Many politicians have stated that felon re-enfranchisement is an attempt for the Democratic party to hold the majority in elections (Nguyen & White, 2020). This argument mistakes a correlation for causation, as re-enfranchised individuals are not required to side with a political party solely due to their criminal history. Professor of Political Science at Massachusetts Institute of Technology Dr. Ariel White and Avery Nguyen, a research fellow, conducted a study undermining the argument that felon voters significantly impact election results. Prison records merged with voting results revealed that less than 8% of felons voted in the 2018 elections in Vermont, with Maine's felon voting percentage even lower (Nguyen & White, 2020). In Maine, the percentage of incarcerated voters was not significantly different from those recently released, revealing a low incentive for felons to go to the polls, subsequently having limited effect on the outcome of elections. This study concludes that the right to vote and an individual's responsibility to exercise that right are two different arguments.

Racial Disparities in Parole and Probation

United States citizens' conviction and parole rates have been significantly disproportionate when measured by biologically determining factors such as race and gender. These discrepancies have been regarded as modern-day voter suppression tactics within legal boundaries (Moyd, 2022). Black men in the United States are seven times more likely to be disenfranchised than their white counterparts (Disenfranchisement of Felons, 2008). Black people in the United States only make up twelve percent of the overall population, yet account for forty percent of the disenfranchised population (ACLU (A), 2022). If broken down, one in

every nineteen Black Americans is disenfranchised due to a felony conviction (Uggen et al., 2022).

Bias in Risk Assessment Tools

Aside from disproportionate conviction rates, once incarcerated, Black offenders are significantly less likely to be granted parole or probation (Moyd, 2022). The distribution of parole and probationary periods have been regarded by critics as a disintegrated system bound by the remains of racist practices initiated by Jim Crow laws (Moyd, 2022). Jim Crow laws, introduced following the ratification of the Thirteenth Amendment, were statutes that legalized the separation and discrimination based on race (History.com (A), 2022). Parole boards facilitate risk assessment tools when considering a candidate for parole. Some find these tools effective in creating transparency in the decision-making process, stating it creates an objective view (Moyd, 2022). Other claims that these assessment tools focus heavily on the offender's past criminal convictions rather than assessing their current state of rehabilitation (Moyd, 2022). Despite the tools' uniformity within the decision-making process, the tests have significantly disadvantaged Black offenders seeking parole (Moyd, 2022). The standards of risk and assessment tools are derived from data reflecting institutional racism from the very origination of the court system (Moyd, 2022). Between the discretion of parole boards coupled with outdated assessment tools, parole decisions are vulnerable to inherent biases. The Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) tool analyzes statistical data to predict and identify individuals with potentially high recidivism rates, or the likelihood of re-offending (Moyd, 2022). The COMPAS tool revealed a higher false-positive rate for Blacks than their white counterparts (Moyd, 2022). Black offenders were found more likely to be misclassified as medium or high risk for re-offending. Risk assessment scores are the primary consideration for

those seeking parole (Moyd, 2022). Once classified as medium or high risk for recidivism, the chances of a parole consideration are essentially eliminated.

The increased misclassification of Black offenders subsequently eliminating their opportunity to vote has attributed to the dramatic disparities of voter populations by race in several states. In Wyoming, 36.22% of Black Americans of voting age are disenfranchised due to felony convictions (Procon.org, 2021). In Wyoming, an individual's right to vote is not reinstated until the completion of probation or parole. Tennessee retains 21.48% of its Black voter population disenfranchised due to felony convictions (Procon.org, 2021). Tennessee state law requires the completion of all terms of a sentence before the restoration of voting votes can be requested by an individual. In Mississippi, 15.96% of Black voters are disenfranchised due to felony convictions (Procon.org, 2021). Re-enfranchisement policies in Mississippi rely upon the completion of incarceration, probation, and parole. As discussed previously, a majority of state re-enfranchisement policies revolve around the completion or current status of a felons' probationary or parole terms. Until underlying racial biases in the assessment tools for distributing parole are addressed, the re-enfranchisement of a felon's right to vote cannot be reliant upon parole status.

Mental Capacity Debate

Surrounding the debate of felon disenfranchisement is the mental capacity standard an individual must hold to retain the right to make decisions in government elections. Individuals who suffer from psychological disabilities are often found "non compos mentis," not the master of one's mind, by the court to hold the capacity to vote in elections (Mathis et al., 2020). Often, the rights of these individuals are denied, and the same argument is used when discussing felons' ability to vote. Currently, thirteen states have laws barring individuals under guardianship or in

the care of psychiatric facilities from voting until they can prove they have the capacity (Mathis et al., 2020). Prior to 2020, New Jersey denied absentee ballots of individuals who resided within psychiatric hospitals, stating that the right to vote was limited to those with the mental and physical capabilities to make conscious and fair-minded decisions (Mathis et al., 2020). In the most severe cases of mental illness in which the individual is unaware of their surroundings, this practice is entirely reasonable (Mathis et al., 2020). However, this is not the case for the entirety of that group. That understanding later led the Superior Court of New Jersey Appellate Division to find this practice unconstitutional (Mathis et al., 2020). Laws regarding the right to vote for individuals with psychological disabilities have progressed significantly, with many of those individuals now having their rights reinstated by the court.

Felons seeking re-enfranchisement are often scrutinized under the same standards as psychiatric patients, yet do not find themselves similar success in court. One of the most pressing concerns regarding felons' right to vote is their mental capacity to make reliable decisions regarding government elections. Many critics of felon re-enfranchisement state that an individual who acts in such an evil and heinous manner cannot be capable of making electoral decisions (Dawson-Edwards, 2014). The conviction of an offender requires evidence proving the individual had the mental capacity to understand the extent of the crimes committed. In less than 1% of felony cases, the insanity defense is successful, deeming the offender unable to determine right from wrong (Mental Health America, Inc., 2022). In those cases, that individual should be held to the same standard as those who reside within a mental institution. As for the other 99% of felons released from prison found to be cognizant of their actions, this mental capacity standard cannot be used in determining the reinstatement of their fundamental right to vote. However, that same capacity hypocritically strips that individual of their right to vote due to the nature of the

decision made. The morality of an individual's decision is irrespective of their overall mental capacity, completely undermining the argument of felons not retaining the psychological standards to vote.

Recommendations

Uniformity in Exercising Policies

Considering the significance of voting in a function representative democracy, allocation of the right must be clearly defined. As protected in by the Tenth Amendment, state governments hold the power to regulate voter requirements as seen fit. Despite this sovereign power, there must be uniformity within aspects of re-enfranchisement policies. Historically, disenfranchisement policies have been inequitable and unevenly distributed, requiring the need for further reform. A federal law outlining the definition of a "completion of a sentence" and what crimes must be excluded is necessary in achieving balanced policies. Several attempts at defining the completion of sentence as solely periods of incarceration have been challenged in court and even reside in the House of Representative today, yet little success has been made. One difference that would eliminate any worry or doubt considering these "dangerous criminals" would be to establish this completion of a sentence as incarceration only for those convicted of non-violent felonies. If this were to be written into law, it would not eliminate the entire issue, but it would begin to chip away at the discriminatory policies present today. Many supporters of criminal disenfranchisement argue that individuals who willingly commit heinous and evil crimes should not have the right to make decisions regarding criminal laws and regulations. This new law specifically regarding non-violent felons would appease those concerned with violent felons voting while creating significant reform for those supporting re-enfranchisement.

Eliminating Biases in Parole Distribution

Given the weight of parole status on re-enfranchisement, parole boards need to reconsider current practices in regard to racial inequities. This slight reconstruction of the parole system begins with mandated educational programs that emphasize the history of racial discrimination within the criminal justice system. The decision-making process must examine the rehabilitation progress of the individual as heavily as they do their criminal history, if not more. Race as a factor in parole must be eliminated completely. This can be accomplished by parole boards receiving detailed profiles of the individual which include their criminal history, their current sentence status, and any efforts for rehabilitation while incarcerated, without recording the race of the individual. Upon initial review of the profile, the parole board must decide before interviewing the individual. If the parole board were to overturn their original ruling upon completion of an in-person interview, they must be able to articulate their reasoning and have it reviewed by an objective party.

No Taxation Without Representation

Felons released from incarceration and living among society are not exempt from paying taxes and contribute significantly to the nation's economy. The universally accepted concept of "no taxation without representation" has held successfully in courts and remains a deeply rooted principle in United States history. As of October 31, 2019, a bill regarding the requirement to pay federal income tax for residents in the District of Columbia currently sits in the House of Representatives (H.R.4895, 2019). The residents of the District of Columbia are challenging their requirement to pay federal income taxes since they do not have individualized representation in voting (H.R.4895, 2019). If this bill were to be passed or the District of Columbia were to be granted voter representation, this would create a precedent challengeable in court for felons seeking re-enfranchisement. Following the history and democratic principles of

the United States, felons should either be exempt from taxation until their right to vote is restored or their rights are restored upon release when they are required to pay taxes.

Social Implications

Positive Implications

Voting remains the fundamental principle of democracy and is the determining factor in a functioning society. Within the past fifty years, our government has found itself stagnant in certain areas of legislation. Public discontent and discourse have created an unviable system of democracy. In recent years, studies have shown that a significant percent of Americans support the restoration of voting rights for felons who have completed the terms of their sentence, yet legislation has not entirely caught up with the public's view. A democratic government is supposed to reflect the attitudes of the people living in that nation, yet government policies in the past years have not amounted to that standard.

Rights of Millions Restores

The principle of democracy and integrity of the United States' governmental elections will be restored if felons are granted re-enfranchisement. Not only will the representation of national voters significantly improve, but the individual rights of Americans will also be restored. Millions of Americans will be able to see themselves as a member of representative democracy, the right they are promised, not privileged, as citizens.

Reduced Disparities

Disenfranchisement laws originated in a time period where it was legal to discriminate against an individual based on race, over fifty percent of the population could not vote, and marriage was solely between a man and a woman. Our government has succeeded in the elimination discriminatory practices of racial discrimination, the ratifying of women's right to

vote, and the right to marriage, yet the laws directing our democratic processes have not been amended. These laws and policies are archaic and rooted in institutional racism but remain in practice today. Disenfranchisement has disproportionately affected people of different races and socioeconomic classes, facilitating a clear discriminatory practice. If the definition of the completion of a sentence were to rely solely on the terms of incarceration, once released, re-enfranchisement policies would become equitable and eliminate these dramatic disparities.

Civic Participation Reduces Recidivism

Felony disenfranchisement laws do not have any rehabilitative value or create an effective deterrent to criminal behavior. An empirical study was conducted using voter profiles and criminal records to show that restoring the right to vote for felons living in communities decreased recidivism rates and positively impacted that community (Uggen & Manza, 2004). Researchers found that ex-felon voters were fifty-percent less likely to re-offend than felons who did not vote (Uggen & Manza, 2004). The right to vote in political matters is crucial in the rehabilitation process of an individual. The participation in civic life creates an individual identify and association with that community (Uggen & Manza, 2004). Once an attachment has been made to a community, an individual is less likely to commit a crime against an individual or institution within that community (Uggen & Manza, 2004). Psychological and socioeconomic factors all impact recidivism rates, but this study has deduced voting and participation in democracy as an attribute to reduced recidivism rates.

The core principle of our correctional system is rehabilitation. At their core, prisons were established in order to correct the unwanted behavior of individuals in a community. As time has passed, this idea of rehabilitation often gets lost in discussions about over-population and over-criminalization. Despite the dramatic changes in our prison system, rehabilitation still remains

viable for those offenders who choose to better themselves while serving time. For those individuals, they may have become a model citizen within their prison, but once released back into society, they are automatically seen as second class citizens which creates additional negative stigmas around an individual. While factors outside of voting impact an offender's likelihood to re-offend, voting must be brought into the discussion. The sense of importance and having a role within one's community validates that individual's work they put into themselves while in incarceration. This is crucial in an individual maintaining that positive and rehabilitative mindset.

Decriminalized Debt

Several states require the payment of all fines, fees, or restitution to be complete before the restoration of voting rights. This practice must be eliminated, as each felon's financial status differs significantly. Felons of lower socioeconomic classes require significantly more time in completing these payments which extends the period of disenfranchisement once released. This practice of payments as requirements for the restoration of the right to vote not only spark Twenty-Fourth Amendment violation concerns, but it criminalizes an individual's. Upon completion of incarceration, an individual is living among society free yet find themselves further criminalized by disenfranchisement due to their inability to pay their fines or restitution payments in full. Eliminating this requirement creates equitable opportunities for re-enfranchisement upon release from incarceration.

Unintended Implications

The reason for the failure of several past attempts at re-enfranchisement reform have been rooted in Tenth Amendment violations. While this law would mandate each state to revise their re-enfranchisement policies for non-violent felons, some may argue that the federal

government is overreaching the power granted to them by the Constitution. In addition to possible constitutional violations, the overall knowledge of an individual to make well-minded decisions regarding elections often raises concerns with supported of disenfranchisement. Critics of re-enfranchisement reform are often concerned with the individual's ability to make conscientious decisions on societal issues despite living within confinement for the past several years. While this is a viable concern, the isolation prisoners face does not include the knowledge of national or worldwide events. These individuals are not kept in the dark about the outside world, as their overall goal is to be able to return to society as a fully functioning and contributing member. Several arguments against any reform are rooted in the idea that those who commit disobey the law should not partake in making future laws. There have not been any studies that have shown that non-violent felons are more likely to vote against criminally restrictive policies. Given the lack of empirical evidence for that argument, it can not be concluded nor denied and must be considered. By redefining the completion of a sentence as strictly time served, the requirement of fines and restitution payments may create leniency in those being completed. The right to vote may have acted as an incentive to complete those payments and by eliminating it, victims and courts may suffer financially.

Conclusion

Criminal disenfranchisement has a deep rooted history in United States law and continues to be exercised today. As society has progressed and the rates of dis-enfranchisement have increased, racial disparities and inequities within the policies have been revealed and begun to be challenged in court. Over five million Americans find themselves currently disenfranchised due to felony convicted. As for every political matter in a bipartisan government, there are two sides to every argument. Individuals in support of criminal disenfranchisement have Section II of the

Fourteenth Amendment backing their reasoning. Critics of disenfranchisement have begun to argue the validity of laws and regulations introduced in a time where racial discrimination was legal and women did not have the right to vote and there purpose in today's progressive society.

Thomas Jefferson, a Founding Father of the American republic and contributor to the Declaration of Independence, wrote a letter to James Madison, the fourth President of the United States, regarding his interpretation of the law. Written in 1789, Jefferson expresses his concern for the generational differences in attitudes that could affect the interpretation of the laws and regulations previously established (*To James Madison from Thomas Jefferson, 1789*). Jefferson explains his understanding of generational differences regarding laws and states that each generation should have the right to alter the regulations and legislation they are required to live by as they see fit for the current attitude of the nation (*To James Madison from Thomas Jefferson, 1789*). This idea is not far from the principles of democracy discussed previously. The laws of a nation must be representative of the individuals living in the democratic state in order in to succeed. Previously, the United States has altered outdated laws that legalized racial discrimination and women were granted the right to vote, yet criminal disenfranchisement remains untouched. In accordance with Thomas Jefferson, the change in attitude around criminal disenfranchisement elicits a need for reform that appeases the needs of the generations present.

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