

CHAPTER 11

DISENFRANCHISEMENT, REENFRANCHISEMENT, AND CRIME

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ABSTRACT

Purpose – This chapter reviews the evidence on disenfranchisement, reenfranchisement, and crime, while also challenging the notion that the franchise should be conditional on its capacity to prevent or control criminal behavior.

Methodology/approach – First, we introduce the question of voting rights for people with felony convictions. We briefly review theories of crime and democratic participation and present evidence on the link between voting and subsequent crime. Second, we argue that the question itself is the problem and argue for severing the link between the right to vote and past or subsequent criminal behavior.

Findings – Empirical research has not reached a firm consensus on the relationship between felony voting bans and subsequent crime, suggesting that strong causal claims are likely premature. But we also question the question, asking whether to view disenfranchisement through the lens of crime control or the lens of civic inclusion and democratic participation.

Originality/value – This chapter challenges the notion that the franchise should rest upon its capacity to prevent or control crime.

Keywords: Democracy; voting; recidivism; disenfranchisement; crime; law

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INTRODUCTION: DISENFRANCHISEMENT 101

The practice of stripping lawbreakers of citizenship rights has ancient roots, with penalties such as *atimia* and *infamia* dating to ancient Greece and Rome, respectively (see, e.g., Manza & Uggen, 2006; Pettus, 2013). The medieval European notion of “civil death” has since been carried forward to modern criminal laws governing the potential loss of civil liberties, including voting rights (Ewald, 2002). Today, however, the United States stands as an international outlier among democracies in the scope and impact of its voting restrictions for people convicted of crime. Most of the world’s nations either do not deny voting rights to any non-incarcerated populations or only do so in relatively narrow and rare circumstances, such as election-related offenses (Chowdhury, 2017; Porter et al., 2024; Uggen et al., 2009).

Felony disenfranchisement, past and present, has been closely tied to racial conflict in the United States (Behrens et al., 2003), which helps account for both the Reconstruction-era timing of many broad disenfranchisement laws and their outsized impacts during the mass incarceration era that began in the 1970s (Uggen & Manza, 2002). Two interconnected trends – expansion of criminal laws targeting Black residents and the disenfranchisement of citizens with felony convictions – laid the foundation for the large-scale disenfranchisement seen in the United States today. Many felony voting bans were passed in the late 1860s and 1870s, when implementation of the Fifteenth Amendment and its extension of voting rights to African Americans met with great resistance (Behrens et al., 2003). In recent years, states have increasingly restored voting rights to people who have completed their sentences, as well as those serving sentences on probation and parole, although citizens incarcerated in prison are only eligible to vote in 2 of the 50 states (Uggen et al., 2024). As of 2022, these laws affected an estimated 4.6 million US citizens, representing about 1.9% of the voting eligible population and 5.3% of the Black voting eligible population (Uggen et al., 2022).

Public safety has often taken center stage in debates around disenfranchisement and the restoration of voting rights to people with criminal records. Those favoring restoration often argue that restoring rights to people on supervision is “good for public safety” as well as democracy (California Assemblyman Kevin McCarty, quoted in McGreevy, 2020). Some legislators, such as New Jersey Senator Cory Booker, consider disenfranchisement among the “fundamental barriers to re-entry” and to criminal justice reform (cited in Cunningham, 2019). Those who oppose reenfranchisement, however, have been skeptical of these reintegrative claims, shifting the focus from the rights of the disenfranchised to the victims of heinous crimes. For example, as Minnesota moved to restore voting rights, legislator Andrew Mathews argued that people convicted of murder have “permanently taken away their victims’ right to vote” (Burness, 2023). In California, Congressman Doug LaMalfa similarly identified “violent felons convicted of murder or rape” in a letter to constituents about proposed legislation (Nichols, 2021). This chapter takes up the research question at the heart of such debates, reviewing the evidence on disenfranchisement and crime while also challenging the notion that the franchise should be conditional on its capacity to prevent or control criminal behavior.

THE QUESTION OF VOTING AND RECIDIVISM

Theories Linking Crime and Democratic Participation

The ability to participate in democratic practices such as voting has long been thought to reaffirm an identity with the broader democratic society (Schuessler, 2000; Uggen, Manza, & Behrens, 2013; Winkler, 1993). John Stuart Mill ([1861] 1977) and Alexis de Tocqueville ([1840] 1990) emphasize the “educative” or “constitutive” aspects of voting, in which participation in political life helps mold knowledgeable and virtuous citizens. To the extent that this is the case, democratic participation may thus encourage or hasten desistance from crime. Unfortunately, contact with the criminal legal system appears to undermine rather than foster political participation, such that those who are arrested, convicted, and incarcerated become increasingly less likely to vote (Weaver & Lerman, 2010).

Theories of crime also predict a relationship between civic inclusion and desistance from crime. In Sampson and Laub (1993) theory of age-graded social controls, ties to work, family, and military service (Bouffard & Laub, 2013; Sampson & Laub, 1996) are thought to hasten desistance from crime by increasing informal controls in adulthood. Voting, and civic participation more generally, is in part an expression of such adult social bonds. Symbolic interactionist theories similarly hypothesize a link between voting and desistance. Uggen et al. (2013) suggest that as people with felony records develop work, family and civic role commitments, the salience of their identities as law-abiding citizens rises and the salience of their identities as “felons” recedes. With this shift in the identity salience hierarchy, their behaviors will more consistently meet the expectations of the “law-abiding citizen” role and subsequent crime becomes less likely. As scholars such as Miller and Stuart (2017) have pointed out, however, such boundaries are difficult to traverse, as the broad reach of the criminal justice system has fundamentally recast the notion of citizenship, resulting in a rising number of “carceral citizens” (see also, Lerman & Weaver, 2020).

There are also many reasons for skepticism that the extension of voting rights or the act of voting could reduce criminal behavior. Although several studies have observed a strong negative association between voting and subsequent crime, it has been difficult to establish a causal relationship. Individuals can self-select into both voting and criminal or law-abiding behavior, and many of the factors that positively predict voter turnout, such as residential stability and education, are negatively associated with criminal convictions (Uggen & Manza, 2002, 2004a, 2004b). Absent random assignment, it has been difficult to firmly establish the causes of desistance from crime. For example, there are decades of research linking marriage and desistance (Sampson & Laub, 1993) and employment and desistance (Uggen, 2000), yet recent research raises important questions about the causal sequencing of life course transitions and desistance, suggesting that transitions to adult social roles follow rather than precede desistance from crime (Skardhamar & Savolainen, 2016; see also Nguyen et al., 2023).

We next review the research evidence on the link between crime and voting, before proceeding to a broader discussion of disenfranchisement, democracy, and the exclusion and “othering” of citizens.

Research Evidence on the Crime-voting Link

In the past two decades, a small but growing literature on the relationship between voting and crime has now developed in criminology, sociology, law, and political science. Although we cannot review each study in detail, Table 11.1 summarizes the approaches and evidence of several key studies on this question. Taking this evidence as a whole, several qualitative studies show a deep connection between political inclusion and successful reintegration, with justice-impacted populations expressing a strong desire to vote and participate in political life (Cossyleon & Flores, 2020; Miller & Spillane, 2012; Smith, 2021).

Quantitatively there is also a strong negative correlation between voting and subsequent self-reported crime and arrest. In one Minnesota study, approximately 16% of nonvoters in 1996 were arrested during the following three years, relative to 5% of 1996 voters (Manza & Uggen, 2006). This relationship also holds when prior criminal history is accounted for, and when using self-report crime data in place of official arrest records, though it is partially explained by preexisting differences between voters and nonvoters. Using an elegant instrumental variables design better suited to causal inference (exploiting changes in Florida clemency rules), Hoover (2021) finds that the restoration of voting rights is associated with a 16–18% decrease in recidivism in the following three years. Despite this work, however, other studies cast doubt upon the causal significance of voting rights and voting. Using data from the National Corrections Reporting Program and a difference-in-differences design comparing results from Florida with Georgia and South Carolina, Tolhurst (2019) finds no overall effect of rights restoration on recidivism but some evidence of lower subsequent crime among Black residents.

Other evidence also suggests potential racial differences in the significance and impact of political inclusion. Remster and Kramer (2018) find that active civic engagement is “partially racialized,” with formerly incarcerated men of color being more likely to volunteer than white men. Nevertheless, they observe that low-level system involvement is associated with activism regardless of race (Remster & Kramer, 2018). In a qualitative study of Black and Latino men, David Knight (2024) distinguishes between prison “continuers” and “returners” who cycle in and out of institutions, suggesting that the latter group is less likely than the former to develop the critical political consciousness that drives later activist work.

The causal relationship remains unsettled, which is evident in quantitative studies such as Sohoni (2013) that find no significant relationship between state disenfranchisement laws and Hamilton-Smith and Vogel (2012) who find a negative relationship. Hamilton-Smith and Vogel hypothesize that the felon label can create a permanent status that impacts the way individuals view themselves as separate from society, which in turn affects their participation in democracy. Miller and Spillane (2012) conduct qualitative interviews to examine the personal effects of having the right to vote withheld, finding that participants at least expressed a desire to be able to vote. Other qualitative studies by Cossyleon and Flores (2020) and Smith (2021) similarly emphasize the desire to participate in the community and its relationship to reentry success. To the extent that the ability or

Table 11.1 Selected Research Studies on Links Between Voting and Desistance from Crime.

Authors	Year	Data	Methods	Findings
Uggen and Manza	2004a	Minnesota youth development study	<i>T</i> -tests; multiple regression	Voters in 1996 had significantly lower rates of subsequent arrest and incarceration in 1997–2000. The correlation is reduced but not eliminated after adjusting for prior crime and background
Weaver and Lerman	2010	Fragile families and child well-being study; add health study	Propensity score matching	Observe a large, negative effect of criminal justice contact for voting, involvement in civic groups, and trusting the government, net of SES and criminality
Miller and Spillane	2012	Interview data	54 semi-structured interviews with people who had lost the right to vote	The loss of voting rights poses an obstacle to successful reintegration
Hamilton-Smith and Vogel	2012	Recidivism data	Multilevel logistic regression models to estimate the effect of state voting restrictions on recidivism	Rearrest rates were higher for permanent disenfranchisement compared to non-permanent disenfranchisement
Sohoni	2013	Quantitative study of state felon voting laws and recidivism	Comparison of US state laws and recidivism rates	Found no significant association between state recidivism rates and the severity of state felony voting laws
Gerber, Huber, Meredith, Biggers, and Hendry Smith	2017	Administrative data on voting and justice contact in Pennsylvania	Models sample selection into voting and incarceration using three statistical techniques	Concludes that spending time in prison reduces subsequent voting by approximately 5 percentage points
	2019	In-depth interviews with nine formerly incarcerated advocates and activists in Michigan	Describes forms of (1) helping others (2) participation in activism, and (3) asks how these actions affect the formerly incarcerated	Describes how participating in the community (e.g., volunteering) is an integral part of reentry. Formerly incarcerated people work toward destigmatization and redemption by helping others
Tolhurst	2019	National Crime Reporting Program in Florida, Georgia, and South Carolina	Difference-in-differences comparison	No significant overall effect of expansion of voting rights on recidivism, but some reduction observed for Black residents

(Continued)

Table 11.1 (Continued)

Authors	Year	Data	Methods	Findings
Cossyleon and Flores	2020	FORCE Data (Fighting to Overcome Records and Create Equality)	18 months of ethnographic research with members of a civic group led by returning citizens	“Bonding and bridging social belonging enabled FORCE leaders, who faced constant social exclusion in society, to experience much needed kinship, recognition, and power”
Shineman	2020	Field experiment within panel survey in Ohio and Virginia	Field experiment assisted applicants restore their voting rights	Those getting assistance reported stronger trust in government and the justice system and greater willingness to cooperate with law enforcement
Haslett	2021	US disenfranchisement laws and recidivism rates, 2008–2011	ANOVA comparison of state voting restrictions and recidivism	Observes no statistically significant relationship at the state level
Hoover	2021	Changes in rules of executive clemency in Florida	Instrumental variables approach using changes in clemency rules as instruments	Restoring an individual’s civil rights reduces their likelihood of recidivism by 18 percentage points
Budd and Monazzam	2023	Policy brief	Literature review	Concludes that the right to vote is “part of a package of prosocial behaviors” linked to public safety.

inability to vote impacts how individuals view themselves, it may also affect how they participate within society. In this regard, Shineman (2020) conducted a field experiment that assisted people in restoring their voting rights, finding that those receiving such assistance reported greater trust in government and the justice system. Nevertheless, research on actual voting behavior by (voting eligible) people with felony records generally shows participation rates well below those of the general population (Burch, 2011; Uggen & Manza, 2002).

In short, although some studies show a reduction in crime after voting or restoration of civil rights, many others do not suggest a clear causal relationship. Although it is unclear whether abolishing disenfranchisement would ultimately reduce crime (see Gerber et al., 2017), there is certainly no evidence that restoring the vote to people with criminal records would somehow lead to *greater* crime. This raises an important question regarding the burden of proof. Must proponents of voting rights restoration firmly establish that voting is a cause of reduced crime, or is it enough for them to show that extending this fundamental right would serve other reintegrative goals? On this point, there is much evidence that participation in civic life – like participation in work and family life – is part of a broader “package of prosocial behaviors” that serves society well (Budd & Monazzam, 2023) while fostering success after conviction and incarceration (National Academies of Sciences, Engineering, and Medicine, 2022).

THE QUESTION IS THE PROBLEM

After decades of advocacy work, 11 US states have expanded voting rights to people with felony convictions: California (parole), Connecticut (parole), Iowa (post-sentence, with exception for homicide), Minnesota (probation and parole), Nebraska (elimination of a 2-year post-sentence waiting period), New Jersey (probation and parole), New Mexico (probation and parole), New York (parole), North Carolina (probation and parole), Virginia (post-prison), and Washington (post-prison) (Uggen et al., 2024). The recent attention to the topic has enhanced interest the recidivism question: Does reenfranchisement reduce crime? This is a reasonable scientific and policy question, but also a potential trap for advocates of voting rights. It has been exceedingly difficult to establish bulletproof scientific evidence that *anything* (including police and prisons, as well as work and marriage) consistently lowers crime rates. This raises a larger question about democracy: what are the legitimate grounds for disenfranchisement or voting eligibility? Should voting rights for any social group hinge on definitive proof that other desired social outcomes will be achieved?

The public safety and punishment perspectives of disenfranchisement are centered on ideas of societal function, but what does a healthy democracy look like? Perhaps the most clear and concise recent representation of an ideal democratic process is provided by Robert Dahl (1982, 1989). These include criteria or principles such as equality in voting, effective participation, and inclusion, which bear directly on disenfranchisement of people with criminal records, as well as enlightened understanding and control over the agenda (Dahl, 1982). Voting equality

simply means that all must have a real opportunity to vote and that every vote counts equally. For there to be effective participation, he argues, everyone in a democracy must have the ability to participate effectively and be given the opportunity to express their views. The inclusion principle argues that all permanent adult residents should be given the full rights afforded other citizens.

More recently, Jacob Grumbach (2023) has included felony disenfranchisement as a “democracy contracting” indicator in his State Democracy Index of relative democratic health. With the diffused power of the federal government to the states, he notes that some states have expanded democratic participation, while others have made it increasingly difficult to vote and routinely exclude groups of people such as those convicted of crime (see also Whitt, 2017).

It is noteworthy that earlier US extensions of the right to vote for Black men (in 1870 with the Fifteenth Amendment), women (in 1920 with the Nineteenth Amendment), and 18-year-olds (with the Twenty-Sixth Amendment in 1971) faced many of the challenges confronted by people with criminal records today. As McCammon et al. (2001) note regarding women’s suffrage, organizers “faced pushback” when arguing that women deserved equal political rights to men because it violated the dominant protective ideology (McCammon et al., 2001, p. 58). Similarly, when the voting age was lowered from 21 to 18, opponents such as Representative Emanuel Celler of the House Judiciary Committee argued that young people lacked “the good judgement” required for good citizenship (De Schweinitz, 2015). In all three cases (despite some recent backsliding), however, societal changes and a commitment to democratic norms have generally resulted in the extension of voting rights to a greater share of the citizenry.

People with criminal records have long been stigmatized and separated from other citizens. This is done physically through prisons and jails, of course, but also perpetuated through diminished employment opportunities and access to housing. The recent extension of voting rights to this group (Uggen et al., 2024) is thus part of a much longer expansion of democracy beyond propertied white males in the United States and elsewhere. The right to vote should not hinge on a demonstrated capacity to reduce crime any more than the extension of the vote to women should have hinged on their subsequent behavior as wives or mothers.

CONCLUSION

While disenfranchisement and denial of the right to participate in democracy may indeed increase crime, it almost certainly undermines the democratic principles of equality, participation, and inclusion. Severing the link between voting rights and recidivism will ultimately require challenging the idea that democratic participation must be earned via redemption or good behavior – as well as the notion that avoiding crime is the best or only measure of success for people with criminal records (National Academies of Science, Engineering, and Medicine, 2022). The foregoing review of literature cannot answer the question of whether people with felony convictions should have the right to vote, but it can give us some idea of the “ledger” of potential harms and benefits of extending voting rights. And, in

doing so, that ledger must weigh the societal cost of disenfranchisement to the health of American democracy.

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