

PUNISHMENT AND DEMOCRACY: THE DISENFRANCHISEMENT OF
NONINCARCERATED FELONS IN THE UNITED STATES

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No discussion of the current state of democracy in the United States can ignore the unique and growing impact of the disenfranchisement of felons and ex-felons.¹ Most states have laws in place restricting the voting rights of felons not only in prison but also those living in their communities on probation and/or parole, and some states disenfranchise ex-felons who have completed their sentences as well. The unprecedented growth in the felon population over the past three decades has heightened the impact of this sanction for voting rights in general, representing a partial retreat from the 150-year campaign to make the franchise universal. Estimates of the size of the disenfranchised felon population at the time of the 2000 presidential election ranged from 4.1 to 4.7 million Americans (Uggen and Manza 2002). These figures are large and historically unprecedented, the latter representing about 2.3% of the voting age population. The restrictions in place in most states are unique among democratic countries, as the U.S. stands alone in denying voting rights to large numbers of *nonincarcerated* offenders (Ewald 2002b; Rottinghaus 2003). The issues raised by felon disenfranchisement, and the growing controversy over these laws, raise fundamental questions about (1) the character of American citizenship in relation to criminal offenders; (2) the nature of democratic institutions and contemporary practice; and, (3) because of the racially disparate impact of the laws, the importance of racial politics in the origins and contemporary practice of disenfranchisement.

The appropriate citizenship status of criminal offenders in the polity has long been the subject of political, philosophical, and legal debate. The question is considered in the writings of

¹ A felony is a generic term used to distinguish more serious crimes from lesser crimes known as misdemeanors. Statutes typically define felonies as those offenses punishable by one year or more of incarceration in a penitentiary. In practice, however, many states count minor as well as the most serious offenses as felonies.

philosophers as diverse as Aristotle, Locke, Rousseau, Montesquieu, Kant, and Mill. In spite of their other differences, they all converged on the position that offenders could not (or should not) be entitled to full participation in political life (see Plannic [1987] and Pettus [2002] for overviews of classical philosophical debates). However, in modern democratic polities the view that criminal offenders cannot lose citizenship status in general has become nearly universal (Goodwin-Gill 1994), and indeed has been affirmed by the U.S. Supreme Court in various contexts.² In spite of this, neither the courts nor Congress have deemed that “one man, one vote” rules *must* be extended to criminal offenders, even for those who have served their entire sentence (Furman 1996). Consistent with Republican theories of citizenship, some defenders of disenfranchisement laws have argued that restoration or clemency procedures provide ex-offenders an avenue to prove they are worthy of political rights.³

In addition to these political and philosophical questions about citizenship, disenfranchisement can also be viewed from the perspective of individual felons in their communities. Voting is one of many “collateral consequences” of felony convictions, which restrict access to employment, educational opportunities, housing, and various forms of social provision (Demleitner 1999). Voting rights are an especially powerful symbol of inclusion in the community of law abiding citizens; their denial may carry a particular sting as felons must continue to pay taxes, abide by laws they cannot contribute to making, and uphold other responsibilities of citizenship. Among political theorists, the importance of the right to vote as a certificate of social standing and as the basis for dignity and self-confidence have been widely asserted (e.g. Rawls 1971; Shklar 1991). Some criminologists now suggest that the

² See e.g. *Afroyim v. Rusk* 387 U.S. 253 (1967); *Trop v. Dulles* 356 U.S. 86 (1958).

³ See e.g. remarks of Sen. George Allen (R-VA) in U.S. Congress (2002). For further discussion, see the outstanding contribution of Ewald (2002a), who distinguishes liberal, Republican, and race-based defenses of felon disenfranchisement.

indiscriminate use of such sanctions may pose a barrier to offender reintegration that contributes to high rates of recidivism (Mauer and Chesney-Lind 2002; Peterselia 2003; Visher and Travis 2003).

Felon disenfranchisement also has important implications for contemporary democratic and legal theory. Democratic theorists have only recently begun to pay attention to the question, (Thompson 2002, pp. 26-27; Shapiro 2002, pp. x; but cf. Ewald [2002]; Pettus [2002]). There are two sides to the question from the standpoint of institutional democratic theory. First, the apparently “settled” question of the right to vote is unsettled by the rising numbers of disenfranchised felons (Keyssar 2000, pp. 302-10). Second, there is the question of whether there is any practical political impact of disenfranchisement. As some previous analysts have suggested, without demonstrating any electoral impact disenfranchisement laws have no practical impact on democratic outcomes, whatever their other impact (e.g. *Harvard Law Review* Note, 1989, p. 1303). Demonstration of such impacts, however, raises the stakes considerably, by, among other things, reducing the representation of voting citizens whose preferences are aligned with those of disenfranchised felons (Pettus 2002).

Finally, the racial dimension of felon disenfranchisement has provided a central frame around which much of the scholarly and political controversy has been organized (Harvey 1994; Hench 1998; Fletcher 1999; Brown-Dean 2003; Rajan 2003). Although felon disenfranchisement laws are facially race-neutral, there are both historical antecedents and contemporary disparities that have driven the widespread perception that race underlies the practice. The major period of the expansion of these laws occurred after the Civil War, in the context of the implementation of the 14th and 15th Amendments. Many of the particulars of the state laws adopted in this period appeared to target crimes for which African Americans were particularly likely to be convicted.

In the South, in particular, felon voting bans must clearly be situated alongside other moves to disenfranchise black voters (Shapiro 1993). The very high proportion of disenfranchised African Americans today potentially provides a red thread back to the origins of the state laws, while also providing a painful reminder of the incomplete civil rights revolution and lingering race-based political inequalities (Klinkner and Smith 1999; Kousser 1999; Manza 2000).

In this paper, we present several lines of empirical research that bear on these questions, addressing each of the three topics (citizenship, democracy, and race) that lay at the center of the contemporary political and scholarly controversies about felon disenfranchisement. The paper is in three parts. We begin by examining the historical and legal origins of felon disenfranchisement in the United States, tracing the laws from their roots in pre-modern societies through their growing adoption or extension in the 19th and 20th Centuries by the states, and the accompanying legal controversies over disenfranchisement. The second section considers the contemporary impact of disenfranchisement on both voting rights and recent elections. The third section turns to the contemporary policy debate, discussing public opinion, international practices, and the impact of disenfranchisement on offender reintegration.

FELON DISENFRANCHISEMENT IN THE UNITED STATES

Historical Origins of Felon Disenfranchisement

In light of their large contemporary impact, it is important to ask how these laws came into existence. Criminal disenfranchisement has an extensive history in Ancient Greece and Rome, as well as in medieval Europe and the English law of attainder (cf. Ewald 2002a; Itkowitz and Oldak 1973; Pettus 2002). In Ancient Greece, for example, imposition of the status of *atimia* upon criminal offenders carried with it the loss of many citizenship rights. The related

punishment of *infamia* could be imposed by the authorities in Ancient Rome; here the principle penalties were loss of suffrage and the right to serve in the Roman legions (a desired opportunity). One key difference between Rome and Greece was that in Rome, there were gradations of citizens, and the application of *infamia* varied depending on what type of citizen and crime was involved. In medieval Europe, the legal doctrine of “civil death” developed. Like *atimia*, civil death entailed a complete loss of citizenship rights. In extreme cases, when civilly dead, the outlaw was literally exposed to injury or death, since they could be killed by anyone with impunity, and their property taken (Pettus 2002). Under English law, after conviction, the penalty of attainder could be imposed by the court, which in extreme applications escalated to include the loss of all civil rights for the most extreme punishments.

The permanent removal of civil and political rights for criminal offenders in pre-modern polities has been almost universally abandoned in the modern world (see below). In the United States, however, the development of the right to vote followed a different path in many respects (cf. Keyssar 2000). Non-propertied white men generally gained the franchise earlier in the United States than in other democratic countries, although for other segments of the population the right to vote came much later after protracted struggles (e.g. Rogers 1992; Wiebe 1995; Keyssar 2000). Most state constitutions explicitly gave their legislatures the power to pass laws disfranchising criminals. Prior to the adoption of white male suffrage and the development of state criminal justice institutions, however, they were relatively rare, and generally limited to a few specific common law offenses (Ewald 2002a). In 1840, only 4 of the then 26 states had felon disfranchisement statutes on the books (Behrens et al. 2003). From the 1840s onward, however, states began adopting and expanding their restrictions on felons and ex-felons, frequently broadening the scope of crimes covered and the proportion of offenders involved (cf. Keyssar

2000, pp. 162-63; Behrens et al. 2003). Figure 1 charts the development of state laws since 1840. It shows the proportion of states with various types of disenfranchisement laws (distinguishing states with no ban at all, states disenfranchising inmates, states disenfranchising inmates plus parolees and/or probationers, and states disenfranchising ex-felons).

FIGURE 1 HERE

The figure illustrates two noticeable waves of disenfranchisement laws in the 19th Century. The first wave of legal change, beginning in the 1840s, followed on the heels of the decline of property and other restrictions on white male suffrage. Although at least one scholar has suggested a clear link between the two (Elliott 1974, p. 43), so far as we know this era has not been systematically investigated by historians or other social scientists and thus relatively little is known about the factors that might have driven the first wave of disenfranchisement laws (cf. Keyssar 2000, pp. 62-63).

The second wave of restrictive reforms adopted by the states appeared in the period after the Civil War, and here we know quite a bit more about the factors driving disenfranchisement. In the South, both during and after Reconstruction, many states expanded their restrictions on the felon population (which for the first time began to contain large proportions of African Americans), the first step in a larger process of disenfranchising African American voters. These measures included the extension of disenfranchisement to cover a wide range of crimes not previously included among the common-law felonies (Keyssar 2000, p. 306). In the South, these extensions appeared directly targeted at crimes for which African Americans were primarily charged (this was especially true for all crimes of “moral turpitude” in the post-Civil War South) (Shapiro 1993; Ewald 2002a, pp. 1090-95). In the North, the controversial enfranchisement of

African Americans following the adoption of the 15th Amendment may have encouraged a similar if less blatant race-based pattern (Behrens et al. 2003).

In fact, our event-history analysis of the factors predicting the adoption of restrictive felon disenfranchisement measures by state governments between 1850 and 2002 finds this to be the case: states with larger proportions of nonwhites in their prison populations were more likely to pass restrictive laws, even after statistically controlling for the effects of time, region, economic competition between whites and blacks, partisan control of government, and punitiveness (Behrens et al. 2003). This research suggests a very direct connection between racial politics and felon disenfranchisement, one that drew upon widespread stereotypes about the propensity of African Americans to commit crimes (cf. Mendelberg 2001, chap. 2).

The third wave of change can be seen in the bottom line of Figure 1, the proportion of states disenfranchising ex-felons, which declines sharply after the late 1950s. Throughout the 20th Century, increasing numbers of states disfranchised some categories of felons, and many states revised their laws to cover a wider range of crimes, but there was little systematic movement in the patterning of the laws until the liberalization wave of the 1960s and 1970s, when 17 states in all repealed ballot restrictions for ex-felons (see Keyssar 2000, pp. 302-08). The period of liberalization began during the height of the civil rights movement era. The increasing importance of black voters (outside the South), and possibly black legislators as well, appears to have promoted the adoption of more liberal voting regimes for criminal offenders. In contrast, though, the proportion of African American prisoners reduces the likelihood a state would liberalize, as does Southern region (Behrens et al. 2003).

Legal Aspects of Felon Disenfranchisement

Unlike the constitutions of virtually all other democratic countries, the American Constitution does not provide for a universal right to vote for all citizens. Since the Civil War, a series of amendments have been adopted that require states to *extend* voting rights to various categories of citizens previously denied (in some or all states) the franchise.⁴ But none of these amendments explicitly extended voting rights to those citizens barred from participation due to a past or current felony conviction. A relatively obscure passage of the 14th Amendment has been of central importance. Buried alongside the famed Equal Protection and Due Process clauses of Section 1 of that Amendment, Section 2 provided for the reduction of a state’s representation in the House of Representatives in the proportion to which the state denied adult men the right to vote. However, Congress added the qualification that the provision did not apply for the exclusion of those convicted of “rebellion or other crimes.” Most legal scholars have rejected a narrow or literal reading of the 14th Amendment of this clause when applied to the broader issues raised by ex-felon voting rights as they evolved after 1868, both because of the likely intent of Congress to link “other crimes” to war-related offenses (e.g. Hench 1998) and because of the vast expansion of the criminal justice system after 1868 (Friedman 1993; Rothman 1980; Walker 1980). Yet with very few exceptions federal courts have allowed even the strictest of these bans – those on ex-felons who have finished their entire sentences – to remain in place. This has continued even in the post-Voting Rights Act era, and in the face of strong evidence that these bans have a disproportionate racial impact. The controlling case, *Richardson v. Ramirez* (418 U.S. 24 [1974]), with a majority decision written by then Associate Justice William Rehnquist,

⁴ The 14th Amendment defined a national citizenship; the 15th Amendment extended the right to vote to African American men; the 19th Amendment provided for women’s suffrage; the 23rd Amendment provided federal voting rights for residents of the District of Columbia; the 24th Amendment prohibited poll taxes; and the 26th Amendment extended the vote to 18 year olds.

upheld the constitutionality of felon disenfranchisement laws as consistent with the intent of the 14th Amendment.

Recent legal challenges have not, to date, overturned that decision, even in the face of challenges brought under the Voting Rights Act which have pointed to wide racial disparities in their implementation. Federal courts have generally upheld state felon disenfranchisement laws in recent years, following the U.S. Supreme Court's *Ramirez* decision. The primary exception was the striking down of Alabama's broad disenfranchisement law in 1985, where the Court found that the state's law was substantially motivated by racist intent in violation of Section 1 of the 14th Amendment (*Hunter v. Underwood*, 471 U.S. 222 [1985]). In this case, the court required the state to rework its law (but not eliminate its ex-felon restrictions altogether).

THE PRACTICE OF FELON DISENFRANCHISEMENT TODAY

Reflecting the absence of national standards for voting rights for criminal offenders, there is wide variation in state laws regarding voting rights for felons and ex-felons. Four basic categories of criminal offenders are distinguished by state disenfranchisement laws: (1) convicted felons who are currently incarcerated; (2) felons who have been previously incarcerated and released from prison under parole supervision; (3) felons sentenced to probation rather than prison (and thus never incarcerated); and, (4) those ex-felons who have completed their entire sentence and no longer have any official contact with the criminal justice system. At present, two states – Maine and Vermont – allow all felons to vote, including those currently in prison. At the other extreme, fourteen states bar some or all ex-felons from voting (details are in notes to Table 1).

Table 1 summarizes the types of restrictions in place in each state at the end of 2002. In between the two ends of the continuum (states that disenfranchise all ex-felons and states versus those that allow all felons to vote), a variety of intermediate restrictions exist. Fourteen states disenfranchise only currently incarcerated felons, allowing felons who are released from prison or who are never sent to prison in the first place to vote. Four states disenfranchise both felon inmates and parolees, but allow those sentenced only to probation to vote, with another sixteen states adding probation to the list of proscribed offenders.

TABLE 1 HERE

Given the wide variation in state policies regarding felon and ex-felon voting rights, determining the size and distribution of the disenfranchised felon population requires a state-by-state canvass. In other work (Uggen and Manza 2002, Manza and Uggen forthcoming), we have developed a demographic life-table analysis in order to estimate the overall distribution of disenfranchised felons in each state, taking into account each state's distinctive laws. While counts of the incarcerated, parole, and probation populations are fairly straightforward, determining the size of the disenfranchised felon population is far more complicated. Because many ex-offenders will commit further crimes (and receive further criminal justice sanctions), and others will die, there is a danger of over-counting or double-counting the ex-felon population unless appropriate adjustments are made for both recidivism and mortality.

Incorporating such adjustments, we estimate that during the 2000 presidential election, there were approximately 4.7 million disenfranchised felons prevented from voting (Uggen and Manza 2002; cf. Fellner and Mauer 1998, who estimated the disenfranchised felon population in the late 1990s at 3.9 million).⁵ Because ineligible felon citizens are nonetheless included in the

⁵ Non-citizen immigrants, representing a small but unknown percentage of disenfranchised ex-felons in the United States, are generally unable to vote regardless of their felony conviction status. Because detailed data on noncitizens

denominator used to calculate official turnout rates, the growth of felon disenfranchisement has made a significant contribution to the overall turnout decline since the 1960s (cf. McDonald and Popkin 2001).

Based on systematic head-counts of the current felon population and conservatively adjusted for recidivism and mortality for the ex-felon population, our estimates are likely to be conservative. But is there any chance they are too high? For example, it is possible that some felons are slipping through the cracks, improperly registering and voting because of poor bookkeeping practices in state voter registration systems. Indeed, in follow-up canvasses of a handful of hotly contested elections with recounts, including in Florida after the 2000 presidential elections, there is indeed evidence that a handful of these individuals may have managed to register and vote.⁶ We do not believe that such cases are likely to be of such a magnitude as to significantly reduce the overall size of the disenfranchised felon population. Based on what has been systematically documented so far, the national impact is likely to be modest. Outside of a handful of follow-up investigations, however, it is simply impossible to know from existing sources exactly how many illegal felon voters are participating in electoral contests.

But even if relatively large numbers of formally disenfranchised felons are voting – which is not proved at this point – there are still very good reasons to think that overall we have significantly *understated* the full extent of the disenfranchised population. First, we have not

in the state criminal justice system are unavailable, we can only crudely estimate the size of this population. Applying figures based on an Urban Institute report on illegal aliens in the criminal justice system (Clark and Anderson, 2000) and a U.S. Department of Justice report on *Noncitizens in the Federal Criminal Justice System* (1996a), we estimate that non-citizens could comprise approximately 3-5 percent of the ex-felon population.

⁶ See, e.g., Arthur, Doherty and Yardley (2002), Kidwell, Long and Dougherty (2000), McBride and Spice (2000), *Miami Herald* (1999). In the most detailed investigation available, the Florida 2000 case, alongside the handful of ex-felons improperly registered to vote were other non-felons improperly purged from the voting rolls. A scholarly assessment of the consequences of Florida's attempts to purge felon voters from the rolls is developed by Stuart (2002); and a popular account documenting excessive purging can be found in Palast (2001).

included unconvicted felons entangled in the criminal justice system in ways that make it difficult or impossible to vote. For example, our estimate of 4.7 million disenfranchised felons *does not* include the 275,500 jail inmates serving sentences for misdemeanor offenses, or the approximately 321,000 unconvicted pre-trial detainees held in jail on the day of recent national elections (U.S. Department of Justice 2003a). Both of these groups are practically, if not legally, disenfranchised in most states.

Further, while some felons may be improperly voting, an even greater number of eligible ex-felons may avoid the polls because they mistakenly believe they are subject to permanent disenfranchisement. In Minnesota, for example, we found high levels of misinformation in our in-depth interviews with current felons (both in and out of prison), with many unaware that their right to vote would be restored after they complete their sentences (Uggen and Manza 2004). Many former offenders who are actually eligible to vote may thus be inadvertently taking themselves out of the political process because they misunderstand the details of the laws governing voting rights in their state. Taking into account all of these points, it is likely that the *de facto* disenfranchised population is larger than our estimates assert, and that our estimates understate the full impact.

Looking at the national picture, who is actually disenfranchised? Figure 2 provides a graphical display of the results of our analysis of the composition of the disenfranchised felon population. The figure is startling: only about one-quarter of the disenfranchised felon population is currently in prison, with the other three-fourths consisting of offenders or ex-offenders living in their community. Because of the steady cumulation of their numbers over time (in those states that disenfranchise for life), more than one-third of the disenfranchised are ex-felons. The

remainder are either on probation (28%), on parole (10%), or serving felony sentences in jails (1%).

FIGURE 2 HERE

DOES THE DISENFRANCHISEMENT OF NON-INCARCERATED FELONS MATTER FOR AMERICAN POLITICS?

In view of the exceptional nature of the disenfranchisement regime, it is important to pose the question of whether the disenfranchisement of nonincarcerated felons (as opposed to all felons) has any practical impact on American electoral politics. The nature of our question in this section— how many of these felons would have voted if they had been able – is by definition a counterfactual question since they cannot participate now. In other words, we are asking *how many* of them might have voted if they had been eligible, and how they would have cast their ballots. We are hampered by the near-total lack of existing survey data that includes both information about criminal history and political behavior.

Our solution to this problem is to “match,” as closely as we can, the characteristics of the felon and ex-felon population to the rest of the electorate using existing representative national election survey data. This procedure essentially identifies two groups of otherwise similar individuals (“similar” on the social characteristics for which we have information about the felon population): one group is able to vote, the other is not. Historical changes in punishment are very relevant for thinking about this as a kind of natural experiment. For example, far more individuals today are receiving felony convictions than in the period before 1972. If the

punishment practices of that earlier era existed today, many of those currently disenfranchised would be able to vote. In other words, many disenfranchised felons have received a “treatment” that puts them in a different category than identically situated individuals in, say, 1970.

Information used to conduct this matching exercise draws on data about the social characteristics of convicted felons available from the periodic *Survey of State Prison Inmates* data series, first carried out in 1974 and every five years or so thereafter (see e.g., USDOJ 1993; 2000b). A fairly clear, if uniformly disadvantaged, portrait of criminal offenders emerges from this profile: they have low levels of education, low incomes and high unemployment rates (at the time of incarceration), they are disproportionately African American (slightly under half are African American), with a growing Hispanic presence reducing the proportion of inmates who are white.

We can use information about the felon population to develop estimates of what proportion of felons might have voted in recent elections if they had been eligible. We would predict that using sociodemographic information should both *depress* and *inflate* the impact of felon disenfranchisement. On the one hand, we would expect that felons would be far less likely to vote than the rest of the voting public, but on the other, we would also expect (given low education levels, high proportion of African Americans, and low mean incomes) relatively high levels of Democratic partisanship.

We used two datasets for this analysis: for turnout, we use data from the Current Population Survey’s (CPS) Voter Supplement module; for voting behavior, the National Election Study (NES) (see Uggen and Manza [2002] for further details). When survey respondents are asked whether they voted, they typically over-report turnout. Accordingly, after obtaining self-report estimates of turnout among the hypothetical felon population from the CPS data, we

reduce or deflate them appropriately (multiplying predicted turnout rates by the ratio of actual to reported turnout for each election).

Estimating Turnout and Voting Behavior Among “Lost” Felon Voters

Figures 3a and 3b graph the results of a series of regression analyses predicting turnout rates among disenfranchised felons, if they had been allowed to vote, in presidential elections between 1972 and 2000 (3a), and the same trends for mid-term Congressional elections between 1974 and 2000 (3b) (see Uggen and Manza [2002] for full details of these analyses). In both panels, the top line is the actual turnout rate for the entire electorate, while the bottom line is our estimate of what the turnout rate would be for disenfranchised felons if they were entitled to vote (corrected for over-reporting in the CPS data). As we would expect, we estimate significantly lower turnout rates among disenfranchised felons, with an average of approximately 35% of disenfranchised felons estimated to have voted in presidential elections in this period (compared to 52.4% of the entire electorate), and 24% of felons estimated to have voted in midterm Congressional elections.

FIGURES 3a and 3b HERE

Next, Figure 4 shows our estimates of the voting preferences for disenfranchised felons by year since 1972 (straight line), compared to the entire electorate (dashed line), again based on a logistic regression analysis that controls for sociodemographic attributes of the felon population. The figure shows voting in U.S. presidential elections, although the patterns for U.S. Senate elections are generally similar (see Uggen and Manza 2002). Figure 4 shows the converse of the picture provided in Figure 3 on turnout: there, the felon line was below that of the electorate as a whole, because we find (as expected) *lower* rates of turnout among

disenfranchised felons. In figure 4, by contrast, disenfranchised felons have a significantly higher expected level of Democratic support (the y-axis of the figure). According to our estimates, about 73 percent of the hypothetical felon voters who would have participated in these elections would have selected Democratic candidates.

FIGURE 4 HERE

Overall, these results show that, as expected, turnout among disenfranchised felon voters likely would be far lower than among the rest of the population, but levels of Democratic bias are in most elections quite pronounced. By removing those with Democratic preferences from the pool of eligible voters, then, we can conclude felon disenfranchisement has provided a small but clear advantage to Republican candidates in every presidential and senatorial election from 1972 to 2000.

Electoral Impact?

In our previous investigation (Uggen and Manza 2002), we asked the counterfactual question of whether, given estimated levels of political participation and Democratic partisanship among *all* disenfranchised felons, their votes could have altered the outcomes of recent elections. Such an analysis is appropriate to answering the general question of whether the loss of voting rights for all felons has influenced electoral outcomes, and we found evidence that seven Senate elections and two presidential elections (one a counterfactual replay of the 1960 election with current levels of disenfranchisement) were potentially influenced by felon disenfranchisement. But a politically more realistic scenario – and, as we discuss below, one consistent with international practice, recent changes in state laws and public opinion – is to consider the electoral impact of restoring voting rights to felons who are living in their communities: ex-

felons, those on probation, and those out of prison on parole. Since there is frequently a further distinction made between offenders serving out their sentence in their community (whether on parole or probation), and ex-felons, we also consider whether ex-felon disenfranchisement alone is sufficient to influence political outcomes.

Focusing first on the impact of the most controversial type of restriction, that of ex-felons, we find evidence that a handful of close elections would have had different results if ex-felons had been allowed to vote. The top and middle tier of Table 2 identifies these elections. Three Senate elections are likely to have been reversed if ex-felons had been allowed the ballot: Virginia in 1978 (Warner [R] over Miller [D]), Kentucky in 1984 (McConnell [R] over Huddleston [D]), and Kentucky again in 1998 (Bunning [R] over Baesler [D]). These estimates are based on the following procedure: (1) we applied felon voting behavior estimates (as described above, and reported in full detail in Uggen and Manza [2002]) and state-level estimates of felon turnout (taking advantage of the large sample size of the CPS to estimate turnout in those specific states with very close Senate election outcomes (repeated above). To determine the *net* Democratic votes lost to ex-felon disenfranchisement, we first multiply the number of disenfranchised felons by their estimated turnout rate (in each state), and the probability of selecting the Democratic candidate. Since some ex-felons would have chosen Republican candidates, we then deduct from this figure the number of Republican votes. For the 1978 Virginia election detailed in the top row of Table 2, for example, we estimate that 11,773 of the state's 71,788 disenfranchised ex-felons would have voted (16.4 percent). We further estimate that 9,418 of these voters would have selected Andrew Miller, the Democratic candidate (80.2 percent of 11,773), and that the remaining 19.8 percent (or 2,331) would have chosen John Warner, the Republican candidate. This results in a net total of 7,111 Miller votes lost to

disenfranchisement in that election, or some 2,300 votes more than the actual Warner victory margin of 4,721 votes. The other cases are calculated in the same way.

TABLE 2 HERE

In the middle panel of Table 2, we note that because Florida is a state that disenfranchises all ex-felons, it is certain that if ex-felons had the right to vote in that state, Al Gore would have carried the state of Florida and thus carried the election. Florida had, at the time of the 2000 election, approximately 614,000 ex-felons who were prevented from voting. We estimate that if they had been allowed to vote, some 27.2% would have turned out, and that 68.9% would have chosen the Democrat Gore. This would have resulted in a net Democratic gain of 63,079 votes, and a final Gore margin of 62,542. Even if we assume that turnout rates among the disenfranchised ex-felons were only half that of the rate projected by our estimates, Gore still would have carried Florida by more than 31,000 votes, a margin large enough to have insured victory even if all other disputed votes thought to favor the Republicans (such as overseas military personnel expected to provide more votes for Bush) had been counted.

What if in addition to ex-felons, voting rights were restored to all nonincarcerated felons, in keeping with the practice followed virtually everywhere else in the world? Not surprisingly, adding this additional group of voters produces additional electoral impacts. The bottom panel in Table 2 shows that as many as five Senate elections might have been reversed if probationers and parolees were added to the rolls. The two additional elections potentially reversed are in Texas in 1978, where Tower (R) defeated Krueger (D); and in Florida in 1988, where Mack (R) defeated MacKay (D).

Caveats

Such an analysis is subject to a number of qualifications, and we urge appropriate caution in interpreting our results. Predicting participation and vote choice from a limited amount of information about the sociodemographic attributes of offenders is a fairly crude exercise, but we simply do not have any other information available about the partisan identities, political trust, knowledge or interest, or social networks of disenfranchised felons. Further, it may also be the case that a number of unmeasured individual-level factors (such as the strength of citizenship norms or degree of social isolation among offenders) could either depress turnout or reduce Democratic partisanship in ways we cannot measure. However, a follow-up investigation using the only available data with information about *both* the criminal history and political behavior of survey respondents (the Youth Development Study, a longitudinal study following a group of public high school graduates in St. Paul, Minnesota) found that once the same sociodemographic factors used in our investigation are controlled, the differences in turnout between offenders and non-offenders are reduced to non-significance (see Uggen and Manza [2002, pp. 790-92] for details). In other words, on the basis of existing data sources it would appear that the problem of potential omitted variable bias is unlikely to threaten the basic pattern of results shown in Table 2.

Another potential objection is that our analysis makes the *ceteris paribus* assumption that electoral contests would be unaffected by the expansion of the electorate to include some or all disenfranchised felons. In other words, we are assuming that nothing else about the candidates or elections would have changed. The implications of this assumption for the distribution of votes are likely more substantial than for turnout, although the parties could also change their

strategies for mobilizing voters as well. Whether and how the vote-getting strategies of electoral campaigns of any particular campaign would change is simply impossible to know. We do, however, believe it is likely that the effects on campaign strategies would be minor at best. There are only a relatively small number of disenfranchised felon voters (even in the unlikely scenario in which all had been enfranchised). It would seem highly implausible that otherwise viable campaign strategies of either major party – especially in this era of poll-driven “crafted talk” (Jacobs and Shapiro 2000) and sophisticated campaign management – would be significantly altered because of the addition of a small group of previously excluded voters.

Finally, it is important to restate the point made above: because of the lack of systematic information about the precise neighborhoods and legislative districts where disenfranchised felons originate, we cannot easily estimate the political impact of disenfranchisement below the state-level. While many urban districts are one-sidedly Democratic, and thus mute the potential impact, it is nonetheless certain that there is a considerable impact on local, state legislative, and House elections. If the appropriate data could be generated, a systematic canvass of such elections would add considerably to our understanding of the full electoral impact of felon disenfranchisement. Certainly given the heavy concentration of felony convictions in urban areas (Clear et al. 2003), we would expect that focusing on state-level elections, or presidential elections *understates* the full electoral impact of felon disenfranchisement.

CONTEMPORARY POLICY DEBATES

The rapid growth in the size of the population disenfranchised by virtue of a felony conviction in recent years has not gone unnoticed. Because of the vast racial disparities in rates of felony conviction, the loss of voting rights has fallen particularly harshly on African American men,

some one-sixth of whom are currently disenfranchised due to a current or past felony conviction. In the face of a mounting civil rights campaign to restore voting rights for nonincarcerated felons (Coyle 2003), several states have amended their laws in recent years to expand felon voting rights. For example, in 2001, Connecticut and New Mexico both liberalized their felon disenfranchisement laws, with Connecticut now allowing probationers to vote and New Mexico now restores voting rights upon completion of sentence. In 2001, Nevada eliminated its five-year post-sentence waiting period to *apply* for the restoration of voting rights, although the restoration process for ex-felons is still not automatic. In 2002, Maryland passed legislation to automatically restore voting rights upon completion of sentence for first-time offenders (and three years after completion for non-violent recidivists). At the national level, a measure banning the states from placing any restrictions on the voting rights of ex-felons reached the floor of the Senate in February 2002, although it was ultimately defeated 63-31 (U.S. Congress 2002).

While civil and voting rights organizations are exerting pressure for the liberalization of voting laws regulating felons, a number of states have also moved to adopt more *conservative* restrictions in recent years. Since 1997, for example, Utah and Massachusetts have disenfranchised inmates and Colorado and Oregon disenfranchised federal inmates (Colorado disenfranchised federal parolees as well). Overall, a very mixed picture of policy change at the state level emerges. Since 1975, 13 states have liberalized their laws, 11 states have passed further limitations on felons, and three states have passed *both* types of laws (see Manza and Uggen forthcoming, chap. 1).

In relation to this emerging policy debate, three pieces of empirical evidence are especially important: (1) what does public opinion say about disenfranchisement laws? (2) how do U.S. laws regarding voting rights for criminal offenders compare with those in other

democratic countries? And (3) what are the implications of disenfranchisement laws for the civic reintegration of offenders?

Public Opinion

As the state and national debates unfold, what do we know about public opinion in this area? The disenfranchisement of felons and ex-felons sits at the intersection of two broad trends in public opinion since the 1950s: strong and growing support for civil liberties and civil rights for all citizens, on the one hand, and strong support for anti-crime policies including the harsh treatment of criminal offenders. In other words, public fear of crime, and a desire to punish criminal offenders in ways that will reduce their future propensity to commit crimes (e.g. Roberts and Stalans 2000), co-exists alongside broad support for basic civil liberties, democracy, and a right to due process for those accused of crimes (e.g. Smith 1990; Brooks 2000).

Two national surveys of public opinion on the question have been fielded in the last three years, which provide some valuable hints about how respondents weigh these competing objectives. Pinaire and Heumann (2003) report results of a national telephone survey of 502 Americans, with a single item measuring a gradient of support for felon disenfranchisement. In this 2001 survey, about 10 percent of respondents stated that felons should never lose their right to vote, 32 percent favored suspending voting rights while felons are incarcerated (but not while on probation or parole), 35 percent supported disenfranchisement for prisoners, probationers, and parolees, an additional 5 percent preferred disenfranchisement for parolees and probationers only, and 16 percent favored permanent restrictions on ex-felons as well as current felons (2 percent did not report a preference). Therefore, the Pinaire and Heumann study suggests that while the majority favors some restrictions on the voting rights of current prison inmates, an

even stronger majority rejects the idea of disenfranchising former offenders who have completed their sentences.

Our own national survey, employing a variety of question-wording experiments designed to tap different aspects of public attitudes on the question, was undertaken in the summer of 2002. As part of its July monthly omnibus telephone survey, HarrisInteractive asked 1000 Americans a range of questions relating to the civil liberties and rights of criminal offenders, including voting rights (see Manza, Brooks, and Uggen [2004] for full details about this survey). Overall, we found strong, but not invariant, public support for the reinfranchisement of criminal offenders not currently in prison. For example, we asked random samples of all respondents a version of a question about their attitudes towards felon voting rights (substituting “people convicted of a crime who have been released from prison on parole and are living in the community” and “people convicted of a crime who are in prison”)⁷:

There has been some discussion recently about the right to vote in this country. Some feel that people convicted of a crime who are sentenced to probation, but not prison, and are living in the community should have the right to vote. Others feel that they should not have the right to vote. What about you? Do you think people on probation should have the right to vote?

Overall, we find strong support for restoring the voting rights of all nonincarcerated felons: majorities of 80%, 68%, and 60% favor restoring voting rights to ex-felons, probationers, and parolees, respectively (see Figure 5). Nevertheless, less than a third of those survey respondents who were asked about restoring voting rights for current inmates supported that possibility. It is

⁷ One-quarter of the sample were asked about each group, although the ex-felon item was asked as part of a different question-wording experiment, that followed immediately after the question asking split samples of respondents about voting rights for felon probationers, parolees, and inmates. The exact question wording for the ex-felon item was: “Now how about people convicted of a crime who have served their entire sentence, and are now living in the community. Do you think they should have the right to vote?” For this reason, the ex-felon result is not strictly comparable.

clear from this experiment, as well as the Pinaire and Heumann (2003) study, that public support for felon voting rights does not extend to those in prison.

FIGURE 5 HERE

U.S. Voting Laws in Comparative Perspective

Surveying international practice underscores the exceptional character of the restrictions on the political rights of criminal offenders in the United States. These can be seen in two ways. First, the U.S. has the highest incarceration and conviction rates in the world. As many recent analysts have documented, the U.S. is exceptional for the rate at which it issues felony convictions (and thus removes the right to vote) and U.S. incarceration rates are some six to ten times those of the countries that are most similar to us. For example, the 2000 incarceration rate in the U.S. was 686 per 100,000 population, compared to rates of 105 in Canada, 95 in Germany, and only 45 in Japan (Walmsley 2002; U.S. Department of Justice 2003a) and similar cross-national disparities can also be found for other correctional populations (for comparative probation and parole data, see United Nations 2003, pp. 263-68).

Current levels of incarceration and criminal conviction are unprecedented not only in a comparative sense, but also historically within the United States. Incarceration and conviction rates in the U.S. were relatively stable, with some essentially trendless fluctuation, between the 1920s and early 1970s. Since then, however, incarceration and conviction rates have exploded. For example, there were fewer than 200,000 prison inmates in 1972, and over 1.4 million today (U.S. Department of Justice 2003a, p. 494-96). With jail inmates, there are now slightly over 2 million people incarcerated in the U.S. (U.S. Department of Justice 2003a, p. 478). Similar

though not quite so extreme trends can be found in the total numbers of felony probationers (U.S. Department of Justice 2002).

These are startling trends which have laid the foundation for large-scale disenfranchisement. However, it is important to note some important limitations on the full impact of the criminal punishment boom on political rights in the United States. First, most convicted felons eventually get their voting rights restored. In fact, we have estimated (with life-table demographic models adjusting for recidivism and mortality, the same approach used to estimate the disenfranchised ex-felon population) that there are now approximately 13.3 million Americans who have a felony conviction on their record (about 6.5% of the adult population) (Uggen, Thompson, and Manza 2000). Only about one-third of that group, however, is currently prevented from voting. Second, as we noted in our brief historical overview above, many states liberalized their laws in the period immediately preceding the recent boom in criminal punishment, and in its early stages. Had the 1960 status quo been locked in place, and 17 states not loosened their restrictions on ex-felon voting rights in the 1960s and 1970s, the disenfranchised felon and ex-felon populations would be far greater today, with approximately 10 million disenfranchised citizens (see Manza and Uggen forthcoming, chapter 3). Finally, states with lifetime ex-felon bans all have some procedure for the restoration of voting rights, although many of these are cumbersome and not widely used (U.S. Department of Justice 1996b). Nevertheless, even with the moderating influence of these measures, the extremely high rates of criminal conviction in the U.S. provides the basis for much higher levels of disenfranchisement.

The second source of American exceptionalism in regard to offender voting rights can be seen in the nature of the laws themselves (see Fellner and Mauer 1998; Levinson 2001; Ewald

2002b; Rottinghaus 2003). Table 3 summarizes cross-national differences in criminal voting rights, based on the comprehensive survey developed by Rottinghaus (2003). As the table shows, many countries allow all criminal offenders, including those currently incarcerated, to vote. Many European democracies have no electoral ban on incarcerated prisoners and allow them to vote, Israel, Peru, Canada and South Africa also allows current inmates to vote (the latter the result of a recent Supreme Court rulings). A group of other European countries, as well as Australia and New Zealand, disfranchise only some current inmates. In these countries, restrictions on prisoner voting are typically based on either the length of the sentence, the nature of the crime committed, or the type of election. Nine European countries bar all current prisoners from voting, and a handful provide for some restrictions on post-release offenders.

TABLE 3 HERE

The key point to draw from this comparative survey is that the United States is the only country in the democratic world that systematically disenfranchises large numbers of nonincarcerated felons (i.e. those out on probation or parole) and ex-felons (cf. Ewald 2002b). In particular, it is the only country that disenfranchises large number of ex-felons. There are only a few exceptions to this generalization, and none involve large numbers of offenders. In Germany, courts have the power to withdraw voting rights for up to five years after the completion of the prison sentence as an additional punishment, although actual use of such a sanction is very rare (Demleitner [2000, p. 759] notes that in one recent year for which she had data, it was only applied in 11 cases). In France, courts can impose restrictions on political rights that extend beyond the prison sentence, but these are part of the punishment (and hence do not apply to ex-felons). Finland and New Zealand disenfranchise some ex-felons for political offenses (Fellner and Mauer 1998). Some convicted offenders with long sentences can be disenfranchised for life

in Belgium. But the existence of a blanket ex-felon voting ban on millions of nonincarcerated citizens in the United States today is unparalleled. In fact, the closest parallels are to various pre-modern political regimes mentioned above, in which criminal offenders were precluded, once marked by legal conviction, from re-entering the polity for life (Pettus 2002).

Felon Disenfranchisement and Civic Reintegration

The policy contests over felon disenfranchisement raise important and increasingly pressing criminal justice questions that while ordinarily ignored should, we believe, be considered in this debate. A record 630,000 people were released from prison in 2002, and prisoner reentry has emerged as a central concern for research and policy on crime (Travis et al. 2001; Petersilia 2003; Visher and Travis 2003). Facing important disadvantages in the labor market (Pager 2003) and a variety of restrictions on their ability to obtain housing, receive government benefits, and enjoy other civil rights (Mauer and Chesney-Lind 2002), it is perhaps not surprising that about two-thirds of released prisoners will be rearrested within three years (U.S. Department of Justice 2003). Research on the factors promoting desistance from crime has shown it to be closely linked to successful transition to work (Sampson and Laub 1993; Uggen 2000), family (Laub, Nagin, and Sampson 1998), and community (Maruna 2001) roles. In a recent review of research on transitions from prison, Visher and Travis (2003, p. 27) suggest a plausible connection between voting rights and successful reintegration, identifying factors such as joining a community organization and becoming politically active as potential milestones in the reintegration process. Denying voting rights to ex-felons, or felons living in their communities on probation and parole, undermines their capacity to connect with the political system and may thereby increase their risk of recidivism.

CONCLUSION

The case of felon disenfranchisement is a powerful reminder that even the most basic elements of democratic governance, such as a universal right to vote, can still be threatened in a polity otherwise asserting its democratic credentials. It exemplifies how the “waves of democracy” (Markoff 1996) do not necessarily move in unilinear fashion towards greater inclusiveness (cf. Keyssar 2000). On the other hand, the emergence of the contemporary civil rights campaign to remove the most extreme state restrictions on the voting rights of nonincarcerated felons and the strength of public support for voting rights for non-incarcerated felons demonstrates the enduring importance of the ideal of democracy and the goal of an inclusive polity.

In this paper we have suggested that the introduction of a variety of sources of empirical evidence into the debate produces a different way of looking at the question. Three things stand out in relation to the questions of democracy, citizenship, and race that we posed at the outset of this paper. First, our empirical investigation of the origins of felon disenfranchisement laws, as well as their significant impact on the African American community, suggests both a causal role for race and an important set of race-related impacts. Second, the evidence we have presented about the extent of the loss of voting rights, evidence of a contemporary electoral impact, and strong public support for the re-enfranchisement of nonincarcerated felons raises vitally important issues for the practice of American democracy today. Finally, we have outlined evidence that the right to vote can be meaningfully connected to the civic reintegration of individual offenders, and have identified a sharp distinction in the citizenship status accorded nonincarcerated offenders in the U.S. relative to those in versus the rest of the democratic world.

Taken as a whole, this evidence suggests a strong case for rethinking the current practice of disenfranchisement.

REFERENCES

REFERENCES

- Arthur, Lisa, Geoff Dougherty, and William Yardley. 2002. "452 Felons Cast Votes Illegally in Broward." *Miami Herald* January 23.
- Behrens, Angela, Christopher Uggen, and Jeff Manza. 2003. "Ballot Manipulation and the 'Menace of Negro Domination': Racial Threat and Felon Disfranchisement in the United States, 1850-2000." 2003. *American Journal of Sociology* 109: 559-605.
- Brooks, Clem. 2000. "Civil Rights Liberalism and the Suppression of a Republican Political Realignment in the U.S., 1972-1996." *American Sociological Review* 65: 482-505.
- Brown-Dean, Khalilah. 2003. "The Impact of Elite Framing on Public Attitudes Toward Felon Disenfranchisement Laws." Paper presented at the 2002 Annual Meeting of the American Political Science Association, Philadelphia, August 30-September 2.
- Clark, Rebecca L. and Scott A. Anderson. 2000. *Illegal Aliens in Federal, State, and Local Criminal Justice Systems*. Washington: The Urban Institute.
- Clear, Todd R., Dina R. Rose, Elin Waring and Kristen Scully. 2003. "Coercive Mobility and Crime: a Preliminary Examination of Concentrated Incarceration and Social Disorganization," *Justice Quarterly* (in press).
- Coyle, Michael. 2003. *State Based Advocacy on Felony Disenfranchisement*. Washington D.C.: The Sentencing Project.
- Demleitner, Nora. 2000. "Continuing Payment on One's Debt to Society: The German Model of Felon Disfranchisement as an Alternative." *Minnesota Law Review* 84:753-804.
- Ewald, Alec C. 2002a. "The Ideological Paradox of Criminal Disenfranchisement Law in the United States." *University of Wisconsin Law Review* 2002:
- Ewald, Alec C. 2002b. "Of Constitutions, Politics, and Punishment: Criminal Disenfranchisement Law in Comparative Context." Paper presented at the 2002 Annual Meeting of the American Political Science Association, Boston, August 29-September 1.
- Fellner, Jamie, and Marc Mauer. 1998. *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States*. Washington, D.C.: Human Rights Watch and The Sentencing Project.
- Friedman, Lawrence M. 1993. *Crime and Punishment in American History*. New York: Basic Books.
- Furman, Jesse. 1996. "Political Illiberalism: The Paradox of Disenfranchisement and the Ambivalences of Rawlsian Justice." *Yale Law Journal* 106: 1197-1231.
- Goodwin-Gill, Guy S. 1994. *Free and Fair Elections: International Law and Practice*. Geneva: Inter-Parliamentary Union.
- Harvard Law Review* Note. 2002.

- Harvey, Alice. 1994. "Ex-Felon Disenfranchisement and Its Influence on the Black Vote: The Need for a Second Look." *University of Pennsylvania Law Review* 142:1145-89.
- Hench, Virginia E. 1998. "The Death of Voting Rights: The Legal Disenfranchisement of Minority Voters." *Case Western Law Review* 48:727-98.
- Itkowitz, Howard and Lauren Oldak. 1973. "Restoring the Ex-Offender's Right to Vote: Background and Developments." *American Criminal Law Review* 11: 721-70.
- Jacobs, Lawrence R. and Robert Y. Shapiro. 2000. *Politicians Don't Pander: Political Manipulation and the Loss of Democratic Responsiveness*. Chicago: University of Chicago Press.
- Keyssar, Alexander. 2000. *The Right to Vote: The Contested History of Democracy in the United States*. New York: Basic Books.
- Kidwell, David, Phil Long, and Geoff Dougherty. 2000. "Hundreds of Felons Cast Votes Illegally." *Miami Herald* December 1.
- Klinkner, Philip A. and Rogers M. Smith. 1999. *The Unsteady March: The Rise and Decline of Racial Equality in America*. Chicago: University of Chicago Press.
- Koussar, J. Morgan. 1999. *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction*. Chapel Hill: University of North Carolina Press.
- Laub, John H., Daniel S. Nagin, and Robert J. Sampson. 1998. "Trajectories of Change in Criminal Offending: Good Marriages and the Desistance Process." *American Sociological Review* 63: 225-38.
- Levinson, Joe. 2001. *Barred From Voting*. London: Prison Reform Trust.
- Mauer, Marc, and Meda Chesney-Lind. 2002. "Invisible Punishment: The Collateral Consequences of Mass Imprisonment." New York: New Press.
- Manza, Jeff. 2000. "Race and the Underdevelopment of the American Welfare State." *Theory and Society* 30: 819-32.
- Manza, Jeff, Clem Brooks, and Christopher Uggen. 2004. "Public Attitudes Towards Felon Disenfranchisement in the United States." *Public Opinion Quarterly* 66: in press.
- Manza, Jeff and Christopher Uggen. Forthcoming. *Locked Out: Felon Disenfranchisement and American Democracy*. New York: Oxford University Press.
- Maruna, Shadd. 2001. *Making Good. How Ex-Convicts Reform and Rebuild Their Lives*. Washington, DC: American Psychological Association.
- McBride, Jessica and Linda Spice. 2000. "Felons Turn Up On City's List of November 7 Voters: Spot Check Shows at Least 2 Appear Ineligible For Ballots." *Milwaukee Journal-Sentinel*, November 29.
- McDonald, Michael P. and Samuel L. Popkin. 2001. "The Myth of the Vanishing Voter." *American Political Science Review* 95: 963-74.
- Miami Herald*. 1998. "Special Report: Felons Vote Too – But It's a Crime." February 15.
- Pager, Devah. 2003. "The Mark of a Criminal Record." *American Journal of Sociology* 108: 937-75.
- Petersilia, Joan. 2003. *When Prisoners Come Home: Parole and Prisoner Reentry*. New York: Oxford University Press.
- Pettus, Katherine. 2002. *Felony Disenfranchisement in the Contemporary United States: An Ancient Practice in a Modern Polity*. Ph.D thesis, Department of Political Science, Columbia University.
- Pinaire, Brian, and Milton Heumann. 2003. "Barred from the Vote: Public Attitudes Toward Felon Disenfranchisement of Felons." *Fordham Urban Law Journal* 30:1519-50.

- Plannic, Zdarvko. 1987. "Should Imprisoned Criminals Have a Constitutional Right to Vote?" *Canadian Journal of Law and Society* 2: 153-64.
- Rajan, Sara. 2003. "A Modified Version of Double Jeopardy – Rehabilitated African American Felons Barred from the Voting Box." Paper presented at the 2002 Annual Meeting of the American Political Science Association, Philadelphia, August 30-September 2.
- Rawls, John. 1971. *A Theory of Justice*. Cambridge: Harvard University Press.
- Rogers, Donald W., ed. 1992. *Voting and the Spirit of American Democracy: Essays on the History of Voting and Voting Rights in America*. Urbana, IL: University of Illinois Press.
- Rothman, David J. 1980. *Conscience and Convenience: The Asylum and its Alternatives in Progressive America*. Boston: Little Brown and Company.
- Rottinghaus, Brandon. 2003. *Incarceration and Enfranchisement: International Practices, Impact, and Recommendations for Reform*. Published by the International Foundation for Election Systems. Website: http://www.ifes.org/research_comm/08_18_03_Manatt_Brandon_Rottinghaus.pdf
- Sampson, Robert, and John Laub. 1993. *Crime in the Making: Pathways and Turning Points Through Life*. Cambridge: Harvard University Press.
- Shapiro, Andrew. 1993. "Challenging Criminal Disenfranchisement Under the Voting Rights Act: A New Strategy." *Yale Law Journal* 103:537-66.
- Shklar, Judith. 1991. *American Citizenship: The Quest for Inclusion*. Cambridge: Harvard University Press.
- Smith, Tom W. 1990. "Liberal and Conservative Trends in the United States since World War II." *Public Opinion Quarterly* 54:479-507.
- Stuart, Guy. 2002. "Databases, Felons, and Voting: Bias and Partisanship of the Florida Felons' List in the 2000 Elections." Unpublished manuscript, Kennedy School of Government, Harvard University.
- Travis, Jeremy, Amy L. Solomon, and Michelle M. Waul. 2001. *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry*. Washington, DC: Urban Institute Press.
- Uggen, Christopher. 2000. "Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment, and Recidivism." *American Sociological Review* 65: 529-46.
- Uggen, Christopher, and Jeff Manza. 2002. "Democratic Contraction? The Political Consequences of Felon Disenfranchisement in the United States." *American Sociological Review* 67:777-803.
- Uggen, Christopher and Jeff Manza. 2004. "Lost Voices: The Civic and Political Views of Disfranchised Felons." Pp. xx-xx in *Imprisoning America: The Social Effects of Mass Incarceration*, edited by Mary Pattillo, David Weiman, and Bruce Western. New York: Russell Sage Foundation.
- United Nations Office on Drugs and Crime, Centre for International Crime Prevention. 2003. *The Seventh United Nations Survey on Crime Trends and the Operations of Criminal Justice Systems (1998 - 2000)*. Retrieved June 1, 2003 (http://www.unodc.org/pdf/crime/seventh_survey/7sv.pdf).
- U.S. Congress. 2002. *Congressional Record*, Vol. 148. 107th Cong., 2nd Sess. Debate on Equal Protection of Voting Rights Act of 2001, pp. S797-S809.
- U.S. Department of Justice. 1993. *Survey of State Prison Inmates, 1991*. Washington: Government Printing Office.

- 1996a. *Noncitizens in the Federal Criminal Justice System*. Washington, DC: Government Printing Office.
- 1996b. Office of the Pardon Attorney. *Civil Disabilities of Convicted Felons: A State-by-State Survey*. Washington: USGPO.
- 2001. *Census of Jails, 1999*. Washington, DC: Government Printing Office.
- 2002. *Probation and Parole in the United States, 2001*. Washington, DC: Government Printing Office.
- 2003a. *Sourcebook of Criminal Justice Statistics*. Washington: Government Printing Office.
- 2003b. *Prison and Jail Inmates at Midyear 2002*. Washington, DC: Government Printing Office.
- Visher, Christy A. and Jeremy Travis. 2003. "Transitions From Prison To Community: Understanding Individual Pathways." Forthcoming in *Annual Review of Sociology*.
- Wagner, Peter. 2002-2003. "Locked Up then Counted Out: Prisoners and the Census." *Fortune News*. (<http://www.fortunesociety.org/winter0209.htm>).
- Walker, Samuel. 1980. *Popular Justice: A History of American Criminal Justice*. New York: Oxford University Press.
- Walmsley, Roy. 2002. *World Prison Population List*, 3d ed. In *Research Findings* No. 116. London: Home Office Research, Development and Statistics Directorate.
- Wiebe, Robert H. 1995. *Self-Rule: A Cultural History of American Democracy*. Chicago: University of Chicago Press.

CASES CITED

Afroyim v. Rusk 387 U.S. 253 (1967).
Hunter v. Underwood, 471 U.S. 222 (1985).
Richardson v. Ramirez, 418 U.S. 24 (1974).
Trop v. Dulles 356 U.S. 86 (1958).
Ways v. Shively 264 Neb. 250 (2002).

Table 1. Summary of State Felon Disenfranchisement Restrictions

No restriction (2):	Inmates only (14):	Inmates & Parolees (5):	Inmates, Parolees, & Probationers (15):	Inmates, Parolees, Probationers, & Some or All Ex-felons (14):
Maine	Hawaii	California	Alaska	Alabama
Vermont	Illinois	Colorado	Arkansas	Arizona ¹
	Indiana	Connecticut*	Georgia	Delaware ²
	Louisiana	Kansas	Idaho	Florida
	Massachusetts*	New York	Minnesota	Iowa
	Michigan		Missouri	Kentucky
	Montana		New Jersey	Maryland ³
	New Hampshire		New Mexico*	Mississippi
	North Dakota		North Carolina	Nebraska ⁴
	Ohio		Oklahoma	Nevada ⁵
	Oregon		Rhode Island	Tennessee ⁶
	Pennsylvania		South Carolina	Virginia
	South Dakota		Texas	Washington ⁶
	Utah		West Virginia	Wyoming
			Wisconsin	

Notes: * indicates recent change

¹ State disenfranchises recidivists.

² State requires a five-year waiting period.

³ State disenfranchises recidivists convicted of violent crimes; all other recidivists must wait three years after completion of sentence.

⁴ Although Nebraska provides ex-felons a certificate of discharge that implies restoration of “civil rights,” they remain legally prohibited from voting unless their sentence is reversed, annulled, or they receive a warrant of discharge from the Board of Pardons (see *Ways v. Shively* 646 N.W. 2d 621 [Neb. 2002]).

⁵ State disenfranchises recidivists and those convicted of violent felonies.

⁶ State disenfranchises those convicted prior to repeal of ex-felon disenfranchisement law.