

Youth Justice in America
Chapter 9

Felon Disenfranchisement: Where voting rights intersect with the criminal justice system

- Objective: To learn about felon disenfranchisement, including its implications on voting rights, civic participation, and racial inequality.
- Focus Questions: Should convicted felons be allowed to vote? What about those in jail, on parole or probation? What is the purpose of felony disenfranchisement, and does it actually serve that purpose?
- Relevant terms: (1) Disenfranchisement: the deprivation of some a legal right or privilege, particularly the right to vote.
- (2) Felony: a serious crime punishable by a prison sentence of more than one year (or death).
- (3) Probation: an alternative sentence to jail for a convicted offender, giving him or her freedom contingent on good/lawful behavior, and under close supervision by a probation officer.
- (4) Parole: the conditional release of a convicted offender, upon good behavior and rehabilitation in prison. The offender's parole can be revoked and he or she can be sent back to prison for poor/unlawful behavior committed during this release.
- Background: -- There is no right to vote in the Constitution. Voting is a state-granted privilege. See Const. Art. I, Section 2
- However, there are constitutional provisions that forbid discrimination based on race (15th amend.), gender (19th amend.), and economic status –poll tax – (24th amend.).
- In *Richardson v. Ramirez* (1974), the Supreme Court upheld the constitutionality of felon disenfranchisement statutes, finding that the practice did not deny equal protection to disenfranchised voters.
- However, the federal government has acknowledged that voting is a fundamental right, even if it is not explicitly mentioned in the Constitution. In 1965, Congress passed the Voting Rights Act, which eliminated the use of literacy tests and grandfather clauses – tactics used by states (particularly in the South) to disenfranchise African-Americans.
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- Disenfranchise: -- 4 states impose a life-long denial of the vote to all citizens with a felony record: Florida, Iowa, Kentucky and Virginia.
- 2 states allow all felons to vote: Vermont and Maine.
- 28 states prohibit felons who are on probation from voting.
- 32 states prohibit felons who are on parole from voting.
- In DC, felons in prison cannot vote.
- Pro-Disenfranchise: -- Felonies are serious crimes, and people who commit them are a danger to society and have broken a “social contract” with society, and have given up their right to participate in a civil society.
- Disenfranchisement is part of punishment and will serve as a deterrent to prevent future crime from being committed.
- Because voting is a privilege, felons made poor choices and do not deserve the privilege of voting or a voice in the political process.
- We don't allow felons to carry firearms or serve on federal juries. Barring felons from voting is one way society sends the message that committing a serious crime has serious consequences.
- This is not about race, it's about felons. African-Americans may be those who are most affected by disenfranchisement, but these laws target felons and not African-Americans. White felons face the same laws.
- Anti-Disenfranchise: -- There is no deterrent effect. No relation between committing crimes and fear of disenfranchisement, or recidivism and disenfranchisement.
- Has tremendous detrimental effects for African-Americans, since there is a higher percentage of felons who are African-Americans. Also, because most employers refuse to hire or discriminate against felons, without the vote, felons are punished twice and have no political voice.

-- Some claim disenfranchisement constitutes cruel and unusual punishment prohibited under the 8th amendment.

-- Disenfranchisement during probation and for life contradicts the tenets of rehabilitation and learning one's lesson. How can a felon rejoin society and become a productive member without voting and the opportunity to participate in civil society?

Exercises:

- Written --Write a short essay about felony disenfranchisement, and explain if you are in favor or against it. Be sure to explore all sides and the different types of disenfranchisement. Does your opinion change depending if disenfranchisement is for life or during parole? What about in prison?
- Oral --Role-playing/Debate. Break students into three groups: 1) pro-Disenfranchisement; 2) anti-Disenfranchisement; 3) those who advocate Disenfranchisement for only those on probation, parole, or in prison. Have these students present, argue and distinguish their sides of the issue.
--Class discussion. Depending on the class, students may want to talk generally about the subject, sharing opinions, personal experiences, etc.

Resources: The Sentencing Project has lots of info on website, http://www.sentencingproject.org/issues_03.cfm, including an excellent debate on the issue: <http://www.sentencingproject.org/pdfs/legal-affairs-debate.pdf>.

News Articles: -Mike Wynn, *The Right to Vote New Obstacles Arise in Old Fight*, AUGUSTA CHRONICLE, Aug. 7, 2005 (makes connection with Jim Crow era)
-Paul Zielbauer, *Felons Gain Voting Rights in Connecticut*, NY TIMES, May 15, 2001 (describes change in law including impact on Democratic party).
-Erin Texiera, *Felons Getting their right to vote restored*, CHICAGO SUN TIMES, June 22, 2005 (explains both sides of the issue).
-*Letter from Felon*, NY TIMES, Oct. 19, 2002 (discussing his disenfranchisement).