

Civic Re-engagement, Community & Voting Rights for Ex-Inmates: Policy Issues for the 2020 Election

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Abstract

For most people, incarceration often means a sense of loss of family, friends, community networks, and connections. Upon return, former inmates struggle to “fit in” and be accepted not just by mainstream society but also by their old neighborhood, family, and friends. Several issues immediately arise for returning inmates attempting to make a successful reentry into society: restoration of civil identity, voting rights, expungement of records (where appropriate and possible), and community acceptance. All these issues coalesce around the necessity of effective community reentry programs.

Keywords- prisoner, reentry, civic identity, public policy, public administration, voting, community

Introduction

Former inmates must consider how they will adapt to society and especially how to fit in with the outside world after incarceration (Maruna, 2001). Ex-inmates carry their incarcerated identity baggage with them when they apply for jobs, move back to their old neighborhood, and meet friends and family. Still, they also must consider and figure out how to handle their prior criminal identities, which given the high levels of recidivism, are most likely to lead them back to prison (Harris & Harding, 2019). Often to survive in prison, inmates must form alliances and create new relationships with other prisoners who may belong to gangs. These ties can and do follow them out into the real world, possibly leading to recidivism (Travis, 2005). When inmates leave prison, they only have two choices for their life: start afresh and cut off all ties with potential criminal temptations or go back to their old ways.

Among political scientists, there are several issues of concern for returning inmates to adapt successfully to society. Manza, Brooks, and Uggen (2004) found that one of the most problematic concerns for returning inmates forming a new civic identity is the barriers that prevent full political participation. An example of these barriers is state statutes that disenfranchise returning felons by imposing restrictions before they can regain and their right to vote. Many states have been working proactively on this issue through criminal justice advocacy and state prisoners' rights groups through lobbying and lawsuits in preparation for the upcoming Presidential election of 2020.

Except for Maine and Vermont, where felons never lose their right to vote, the other states have voting restrictions that disenfranchise ex-inmates ranging from less severe to more stringent prohibitions. The restoration of former inmates' voting rights continues to be an uphill battle (Travis, 2005). In sixteen states and Washington DC, felons receive automatic restoration of their voting rights after their release. In twenty-one other states, ex-inmates receive their voting rights after the end of their parole or probation or after they finish paying penalties and victim's restitution that were part of their sentence. Eleven other states have more stringent restrictions for restoring voting rights to felons that can involve the complete loss of voting rights due to certain crimes or may require a governor's pardon (NCSL 2020). As our nation becomes more divided along red and blue lines, returning felons can have a significant impact on our voting process if they were to receive restoration immediately after following their release.

Among public administration theorists, the civic identity of returning inmates is another area of concern. Federal and state laws often prohibit ex-inmates from running for office, serving on a jury, access to state and federal welfare benefits, and college loans (Travis, 2005). These rights and benefits are denied to returning inmates depending on the state they reside and the category of the crime they committed before incarceration. Narcotic sales are often the crime for which the most denial of rights and privileges occurs, which, unfortunately, often hits African-American and Latino men the hardest (Manza, Brooks & Uggen, 2004). The process of restoring these rights and privileges back to returning inmates is ongoing. Unless returning inmates can have the same rights and enjoy the same benefits as the rest of the population, they will continue to face roadblocks to re-entry, acceptance, and becoming full members of our society.

Ex-Inmates, Citizenship, and the Right to Vote

Piven and Cloward (2000) discuss the notion that ex-inmates are not “full members” of our society by writing that the common societal belief is that prisoners have broken the social contract and cannot be forgiven. In *Green v. Board of Elections*, the United States Court of Appeals for the Second Circuit found criminal disenfranchisement statutes constitutional based on Locke's social contract theory. One of the arguments used by the court to support its ruling was that “A man who breaks the laws he has authorized his agent [the state] to make for his own governance could fairly have been thought to have abandoned the right to participate fully in further administering the compact.”

The right to vote in a democracy is an essential right for every citizen. Piven and Cloward (2000) write that our right to vote is that part of our citizenship in a democracy that “makes all other political rights significant.” Although there is no explicit provision in the Constitution or the Bill of Rights establishing the right to vote, five amendments prevent the federal government and the states from denying or abridging the right to vote based on different principles. Section II of the Fourteenth Amendment threatens the states with the loss of congressional representation when they deny or abridge the right to vote to male citizens of voting age unless engaged in “rebellion or other crime.” Section I of the Fifteenth Amendment prohibits the federal and state governments from denying or abridging that the right to vote of [male] citizens on “account of race, color, or previous condition of servitude.” The Nineteenth Amendment abolished the sexual restriction on voting, the Twentieth Fourth eliminated the poll tax, and the Twentieth Sixth lowered the voting age from twenty-one to eighteenth years of age. This means that statutes relating to the right to vote of felons are a power that belongs to the states under the Tenth Amendment.¹ Therefore, the voting rights for ex-inmates change from state to state (Love, 2003). Not surprisingly, the statutes dealing with the voting rights of ex-inmates comprised of a broad spectrum. As mentioned previously, Vermont and Maine allow felons to vote while in prison, while the other forty-eight does not allow it (Maruna, 2001). The states deny the right to vote to probationers, parolees, and inmates but restore their right once sentencing is completed (Manza, Brooks & Uggen, 2004).

Why should we, as a society, care about restoring voting rights for ex-inmates? One could argue that among the many things an inmate returning to society must do, voting is likely not on their priority list. But for the 650,000 returning inmates each year, their collective value as a voting bloc is significant and should be considered in the context of a broader basket of potential voters.

¹ “The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”

Manza, Brooks, and Uggen (2004) have published research that more than four million Americans are either presently or permanently barred from voting due to a felony conviction. Unfortunately, the vast majority are African-American and Hispanic men disproportionately represented in the criminal justice system. Ultimately, voter disenfranchisement laws preventing them from voting can limit their political influence in elections (Travis, 2005). Manza, Brooks, and Uggen (2004) have estimated that from 1976 to 2000, the total population of disenfranchised ex-inmates increased from less than 1% to 2.3%.

Perhaps a few million potential voters do not matter. Supporters of disenfranchisement statutes often argue that even if full restoration took place, it would not significantly affect elections (Harvard Law Review, 1989). Travis (2005) has estimated that less than 3% of our population are prohibited from voting. Not a large sum of potential voters, the argument goes.

However, several researchers have argued that if we allowed ex-inmates to vote, it would make a difference (although small) in election outcomes. Manza, Brooks & Uggen (2004) examined more than 400 Senate elections from 1978-2002 and concluded that if ex-prisoners had voted, at least seven of those elections would have had a different winner, potentially influencing public policy at the Senate level for decades. For example, if ex-inmates had been provided the right to vote in the elections they examined, the Democrats would have been able to control the Senate in the 1990s rather than the Republicans. And President Clinton may have been able to pass more legislation with robust Democrat support (Manza, Brooks & Uggen, 2004). If it is the case that former inmates favor Democrats and their vote can tilt congressional or Senate seats in their favor, Republicans have every incentive to keep current inmate disenfranchisement statutes. There is a theory that Presidential elections would have likely had different outcomes due to former inmates voting. For example, President Kennedy won the 1960 election with just 118,550 votes and won the Electoral College with 84 votes (Travis, 2005). In 1960, there were much fewer states prohibiting ex-inmates from voting, but if there had been more, Nixon would have received 225,000 more votes, although Kennedy would have gotten the most votes in the Electoral College ((Manza, Brooks & Uggen, 2004). A much more recent example of potential election upsets would be the 2000 Presidential election. Al Gore lost Florida by just 537 votes (Travis, 2005). If ex-inmates had been allowed to vote, Gore would have prevailed, won Florida, and been our 43rd President instead of Bush. Manza, Brooks, and Uggen (2004) research used a voter prediction formula by which they would factor in and hypothesize voting patterns of citizens whose demographic profile is similar to that of ex-inmates.

Public opinion has been in favor of changing the existing laws and allowing ex-inmates to vote. In one survey, 80% of Americans felt that ex-felons who had completed their sentences should have their right to vote restored (Travis, 2005). Manza, Brooks, and Uggen (2004) found that 60% of Americans polled would allow probationers and parolees to vote. In 2003, the American Bar Association opined that ex-inmates should vote except when serving time in prison (ABA, 2004). It is well accepted and understood that there are more pervasive liberal attitudes forthcoming, especially with the recent George Floyd protests and riots. If Democrats can retain their hold on the states most affected by the current disturbances, they could amend or abolish their inmate disenfranchisement statutes.

Restoration of Rights to Returning Prisoners

An individual returning from prison has fewer rights than before incarceration (Love, 2003). Among the rights discussed previously are voting rights, educational loans, and welfare benefits. Going to prison means losing out on many of the privileges and rights that citizens enjoy in a democratic society.

There are at least three good reasons up for discussion for restoring these rights for ex-inmates. Providing public recognition to former inmates that their debt to society was paid off by serving their time and re-entering society with their rights restored (Travis, 2005). A second reason for restoring these rights is to allow for the justice system to move on and focus attention on current cases while allowing the recently released inmates to have a better integration back to society. A third reason is to provide the ex-inmates all the benefits they are currently being denied, such as federal housing, welfare benefits, etc. The social stigma attached to former inmates will be diminished, and become easier to re-integrate back into society, especially when basic housing and food needs are met. It is also possible that ex-inmates may not be as tempted to go back to their old criminal ways and remain productive citizens (Travis, 2005).

The idea of restoring rights to ex-felons is not new, nor recent. In the past 50 years, several recommendations have been made at the national stage to restore rights and privileges. In 1950, the Federal Youth Corrections Act was passed to allow juvenile offenders to have their records expunged so they could have a legitimate chance at reentry after prison (Love, 2003). However, in 1984 the Act was repealed during a conservative "tough on crime" in our nation's criminal justice history (Travis, 2005).

In 1956, at the National Conference on Parole, there was a unanimous recommendation on the repeal of laws that prohibited ex-inmates of their rights after serving their time (Legal Action Center, 2004). In 1962, under the drafting of the Model Penal Code, legislation was suggested to restore all ex-inmates' rights regardless of their age and crime (Travis, 2005).

Under the draft of the Model Penal Code, there were sentencing recommendations that would direct state and local courts to provide back all rights the ex-inmate had lost due to imprisonment. This draft proposed allowing ex-prisoners to petition the court to vacate their old judgment of conviction, depending on the type of crime they were imprisoned for (Petersilia, 2003). While a record of their sentence would still be available, the idea behind vacating a conviction would provide further evidence of repayment and society's forgiveness (Petersilia, 2003).

Political Participation and Voting Rights

There is a great deal of political activism and activity in some neighborhoods during local, state, and national elections. Voting drives, door-to-door solicitations, barbecues to meet the candidates, and other socio-political festivities and campaigning are conducted with gusto. Candidates for local office will often come to neighborhood HOA meetings and campaign for the neighborhood's votes. Other ways of political involvement include serving on juries or campaigning for local office. Often in many communities, voting and being involved with the local political landscape is a badge of pride and citizen participation (Travis, 2005).

Unfortunately, as previously discussed, a felony conviction in many states is an automatic barrier for ex-inmates to engage in local or state politics. Individuals convicted of felonies cannot serve on juries, and they must endure the restrictions imposed by disenfranchisement statutes. Some states have enacted lifetime bans on voting, which, while harming the political process in general, reinforces and diminishes ex-inmates' reentry status. This not only hurts the self-esteem of returning inmates but also creates distrust and alienation from the political and legislative process. If ex-inmates cannot vote, they will likely not attend barbecues, get-out-the-vote drives even as volunteers since, in the end, all their effort and hard work do nothing to regain them the right to vote. This alienation from the community only serves to sow more unhappiness and dissatisfaction as the former inmate has to confront the outsider stigma.

Travis (2005) found that increased stages of voter disenfranchisement among racial minority groups continue to threaten a loss of political minority power, especially for those returning inmates who are likely African-American and Hispanic men. Braman's (2002) research showed that in Alabama, Florida, Iowa, New Mexico, Virginia, and Wyoming, at least 25% of African-American men have permanently lost the right to vote. By being unable to vote in their preferred candidates, effectively, these men are shut out of the democratic process and lose out by not providing society with candidates whose policies may be more favorable for successful reentry. Notably, by taking away the ex-inmates' power to vote, entire neighborhoods are impacted, and their collective ability to make public policy changes are thereby removed. Ex-inmates' recurring stigmatization and prejudice can prevent whole communities from having full political participation (Braman, 2002; Travis, 2005).

Community as a Geographic Identity

Reentering inmates most often return to their prior home addresses and neighborhoods and reconnect with old friends, families, and neighbors (Travis, 2005). Community is also described as "a complex system of friendship and kinship networks and formal and informal association ties rooted in family life and ongoing socialization processes" (Travis, 2005). A broader definition of a community is worth considering for successful reentry as the spatial elements of geography and the relevance of neighborhood relationships and their role in reintegrating the ex-inmate back into society (Harris & Harding, 2019).

Returning prisoners are not evenly distributed in neighborhoods across the 50 states and the District of Columbia. Research conducted in 1998 found that five states accounted for 50% of all returning inmates, and sixteen states took in 75% of all returning inmates, which is heavily skewed for reentry success (Travis, 2005). Lynch and Sabol (2001) found that California prisons released 24% of all returning inmates in the United States.

When inmates leave prison, they tend to re-establish neighborhood ties in “core counties,” which are geographically located in a major city (Travis, 2005). A “core county” is defined as a geographic location located inside the center of a major city (Lynch & Sabol, 2001). From 1984 to 1996, returning ex-inmates tripled the population of core counties (Lynch & Sabol, 2001; Travis, 2005). Lynch and Sabol (2001) estimated that about 2/3 of the returning prisoners ended up in these core counties by 1996.

Internal to these core counties are even a smaller number of neighborhoods where ex-inmates return and try to re-establish networks and ties to their community. In Illinois, about 51% of former prisoners travel back to Chicago to their old communities (Travis, 2005). Within Chicago's approximately 77 suburbs and neighborhoods, just six neighborhoods accounted for 34% of the ex-inmates return to these neighborhoods (Travis, 2005).

In Maryland, it was estimated that 59% of returning inmates come back to the city of Baltimore and six neighborhoods inside Baltimore absorbed 30% of those returning inmates (Travis, 2005). In Ohio, 18% of former inmates returned to the city of Cleveland (La Vigne and Thomson, 2003). Of the approximately 36 neighborhoods and suburbs inside Cleveland, five of them had 28% of those returning inmates come back to those communities (Travis, 2005).

The state of Texas found that one in four ex-prisoners returned to Houston (Travis, 2005). Inside Houston, all 25% of former prisoners returned to just seven of the city's neighborhoods; Alief, East Houston, Third Ward, McGregor, Kashmere Gardens, East Little York/Homestead, and Trinity/Houston Gardens (Travis, 2005).

The Fabric of Community as a System of Social Networks

Social networks are among the most critical tools for returning inmates to adapt successfully back to society. Through social networks, ex-inmates can build on their social capital and leverage their contact, networks, and connections to access housing, jobs, and other benefits to have a smoother transition back to society (Travis, 2005).

All neighborhoods are not the same, but in some of the communities researched, the number of residents who knew someone in jail or prison is very high. Venkatesh (2008) found that 29% of individuals surveyed had a relative in jail in the Robert Taylor Homes in Chicago. Cadora and Swartz (1999) found that there was one admission to jail or prison for every eight men in a few neighborhoods in Brooklyn. In Tallahassee, Florida, among residents interviewed, almost 100 residents interviewed expected a relative to return from prison (Clear et al., 2003).

When neighborhoods and communities are tied into prisoner reentry, it causes tremendous damage to the individual's families and friends' psyche. These families living in the neighborhood have a social stigma placed upon them. They may cause the family to create social distance between themselves and the rest of the community (Travis, 2005). Additionally, while the family can create social distance among themselves within the rest of the neighborhood, ultimately, it harms the returning inmate because those family's ties are now weakened due to the stigma (Harris & Harding, 2019). Finally, these loosening of neighborhood ties most directly impact the family's children with increased stigma because often the children are not even told where their father or mother has gone. Families sometimes lie to children about where the missing parent is now located (Travis, 2005). This creates another layer of stress on the families and stigma in the neighborhood. It also makes it more difficult for the returning inmate to reconnect with their child and family because of the neighborhood stigma due to their incarceration.

Women, Social Stigma and Reentry

Women residents in returning offenders' neighborhoods face particularly thorny problems of adjusting and adapting to a different type of reality. In Washington D.C., researchers found a ratio of 62 men for every 100 women who existed in high incarceration neighborhoods. Yet, in communities with low incarceration neighborhoods, the ration was 94 men for every 100 women (Braman, 2002). This wide disparity in gender imbalance creates an atmosphere where women subconsciously acquiesce to men having multiple relationships with other women while already being attached to one woman. Through these multiple relationships, men may have more than one child with several women he casually has interactions with and possibly only a one-night relationship. Not only are children harmed while these multiple partner relationships are ongoing, but research also suggests long-term mental and emotional difficulties these children face growing up. The factors potentially contribute to the cycle of engaging in crime and entering prison without a reliable father figure around.

These multiple partner relationships can harm the community and injure the collective sense of societal value that united and robust families contribute to America.

Ex-inmates returning from prison may be unaware of their wife or girlfriend has moved in with another man or formed a relationship with someone else, perhaps even bearing children. Some states do not provide any warnings to families who have returning inmates. A man arriving home and finding his wife or girlfriend with another man could be a powder keg of emotions let loose in a community potentially experiencing violence. Or a female ex-inmate could return to find another woman living in her house and raising her kids. There could be all sorts of scenarios from awkward to violent as to how these scenarios could play out, but none of them are positive and best for successful reentry. These types of examples can place added pressure and tax an already stressed neighborhood.

Conclusion

Community as a public policy topic encompasses political rights, family and friends, networking, welfare and education benefits, geographical location, civic pride, and community re-engagement. These are essential needs all returning prisoners need to have successful reentry. These policy issues should be considered more rigorously, especially in light of Covid-19 and its effects on prisons and returning inmates. Returning inmates need society's support, and the community needs to be there for them.

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