

Voting rights denied to 3.9 million Americans due to criminal convictions

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As the US elections were under way November 7, an estimated 3.9 million Americans, or one in fifty adults, were denied the right to vote due to felony and other criminal convictions. In many cases these individuals have been permanently stripped of their voting rights. Of these 3.9 million people, 1.4 million have already completed their sentences and another 1.4 million are on probation or parole.

This disenfranchisement of voting rights disproportionately affects African American men. Thirteen percent, or 1.4 million, of black adult males are denied the right to vote based on criminal convictions. This amounts to more than one-third of the total disenfranchised voters. In 10 states more than one in five adult black men are denied the right to vote on this basis; in seven states, one-quarter of black men are disenfranchised. Southern and western states comprise the bulk of states with the most restrictive and punitive disenfranchisement laws.

Human Rights Watch (HRW) reports that no other Western country denies as many people—either in absolute or proportional terms—the right to vote because of felony convictions. The US also has the largest documented prison population—2 million—of any country, and this burgeoning rate of incarceration provides the basis for states to deny voting rights to growing numbers of citizens.

A recent HRW report predicts that, given the current rates of incarceration, in those states with the most restrictive voting laws 40 percent of African American men are likely to be permanently disenfranchised during their lifetimes.

Disenfranchisement laws in the United States are a vestige of medieval times in Europe, when criminal offenders were banished from the community and suffered “civil death.” Such individuals were deprived

of property rights and could even be subject to injury or death without consequence. In England, ex-offenders could be stripped of their property, denied the right to bequeath or inherit property, and barred from bringing suit or performing other legal functions. English colonists brought many of these conceptions with them to North America.

The Fifteenth Amendment to the US Constitution, enacted in 1870 following the Civil War and the Emancipation Proclamation that declared slaves free men, declared: “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

However, in the late nineteenth century, southern states adopted restrictive voting rights in an effort to deny the franchise to blacks and find a way around the Fifteenth Amendment. While laws excluding ex-offenders had been on the books in these states all along, between 1890 and 1910 southern state legislatures sought to tailor them to increase their effect on blacks.

As with many other laws in the United States, legislation denying voting rights to convicted felons and other offenders varies widely from state to state. Until recently, four states—Maine, Massachusetts, Utah and Vermont—allowed convicted felons, including those still incarcerated, to vote. In 1998, 80 percent of the Utah electorate voted to deny prisoners the right to vote. An amendment to the Massachusetts constitution was on the ballot in the current election to strip inmates of their voting rights.

In 14 states, all in the South and West, ex-offenders who have fully served their sentences are still denied the right to vote. In 10 of these states—Alabama, Delaware, Florida, Iowa, Kentucky, Mississippi,

Nevada, New Mexico, Virginia and Wyoming—these individuals are disenfranchised for life.

In a number of states, ex-offenders can be denied the right to vote for minor crimes or even for crimes for which they served no prison time. In Mississippi, Sanford McLaughlin lost his right to vote permanently after pleading guilty to the misdemeanor of passing a bad \$150 check. In California, Abran Ramirez was permanently disenfranchised after serving a three-month sentence for robbery and successfully completing 10 years of parole.

While in many states ex-offenders can technically regain their right to vote following completion of their sentences or parole, this possibility is more often than not illusory. In eight states a pardon or order from the governor is required to regain voting rights; in two states ex-offenders need approval from the state parole or pardons board.

According to Human Rights Watch: “Released ex-felons are not routinely informed about the steps necessary to regain the vote and often believe—incorrectly—that they can never vote again. Moreover, even if they seek to have the vote restored, few have the financial and political resources needed to succeed.”

In Mississippi, for example, in order to regain voting rights an ex-convict must either secure an executive order from the governor or get a state legislator to introduce a bill on his or her behalf. Two-thirds of each house of the state legislature must then vote for it, and the governor then sign it. In practice, such protracted and costly mechanisms are reserved for the wealthiest and most influential ex-felons.

Attorney Andrew Shapiro, who has studied criminal disenfranchisement, commented: “An eighteen-year-old first-time offender who trades a guilty plea for a lenient non-prison sentence (as almost all first-timers do, whether or not they are guilty) may unwittingly sacrifice forever his right to vote.”

In the late eighteenth century in the newly independent United States, suffrage was denied to women, slaves, illiterates, and people without property. In the first national elections of the twenty-first century, 3.9 million adults, or approximately 2 percent of eligible voters, are being punitively and arbitrarily denied this democratic right.



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