

Disfranchising Felons: The Desecration of Human Dignity and Civic Voice

A Rational Approach to Enfranchising Felons

Natalie J. Purser

University of North Georgia

Abstract

The right of the franchise is the cornerstone of both democratic expression and American citizenry. Suffrage is not a mere means of formal representation, but also denotes a citizen's civic worth. Accordingly, any restrictions on this right should be heavily considered. This paper will deliberate on the specific restrictions placed on felons, both historically and currently, and their disproportionate effects on people of color. With the historic context of disenfranchisement presented, I will employ the rationalism model to assess policy alternatives which will increase enfranchisement and equity while reducing administrative costs. After a thorough evaluation of the possible costs and benefits of each alternative, this paper identifies automatic restoration of voting rights upon release from prison as the best policy alternative. This alternative will not only swiftly and efficiently reintroduce felons to civic engagement, but will also eliminate interstate policy inconsistencies and the administrative costs associated with the continued usage of absentee ballots.

Introduction

The right of suffrage is not only an integral component of democratic governance, but also a significant means of political expression. Thurgood Marshall, the first African-American Supreme Court justice, pronounced voting "...the essence of a democratic society—and any restriction on that right strikes at the heart of representative government." (as cited in Pinkard, 2013, p.). Voting is a communicative medium through which a citizen can express desires, fears, and values. Thus if we relegate the right of the franchise to an increasingly parochial electorate, we constrain the voice of the American people. In the case of restricting felon enfranchisement, state laws disproportionately constrain the voice of racial minorities and other historically disadvantaged communities. According to The Sentencing Project, a research center

which advocates criminal justice reform, “felony disenfranchisement is an obstacle to participation in democratic life which is exacerbated by racial disparities in the criminal justice system, resulting in 1 of every 13 African Americans unable to vote” (The Sentencing Project, 2012). Furthermore, rather than promoting a rehabilitative attitude towards felons who have served their sentences, disenfranchisement extends the punitive measures of incarceration into lifelong civic inhibition. On the surface, felon disenfranchisement has the semblance of a justifiable and racially-neutral punishment. In order to assess the inequity of current laws and develop appropriate policy alternatives for felon disenfranchisement; one must first understand the evolution and historical context of minority voting rights. As Holloway notes, “Suffrage has historically been both a product and an indicator of social status. This right, though, conveys privilege only to the extent that some are denied it. If all exercised the rights of citizenship through truly universal suffrage, then suffrage would not offer evidence of elevated social status...” (Holloway, 2014, p. 15). When analyzed as a historic means of voter suppression, the inequitable consequences of felon disenfranchisement become increasingly apparent.

Issacharoff’s work explains that political agency of African-Americans was virtually non-existent before the 13th amendment declared slavery illegal. After the Civil War, the 14th and 15th amendments of the Constitution were instituted to serve as protective measures for the newly liberated African-American population (Issacharoff et. al, 2012). However, one small caveat within the 14th amendment paved the way for more subtly discriminatory legislation: “But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislative thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, *except for*

participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State” (Issacharoff et. al, 2012). The general intent of the fourteenth amendment was an increased franchise for African-American males. Yet, that stipulation referring to “rebellion or other crime” was sufficiently ambiguous to allow Southern states legislative leeway.

In the aftermath of the Civil War, African-Americans faced a precarious political situation: while they had gained new formal freedoms, there was a lack of infrastructure to support and enforce them. As Thomas Dye notes, “White majority opinion has followed civil rights policy rather than inspired it. That is, public policy has shaped white opinion rather than white opinion shaping public policy” (Dye, 2013, p. 293). Although the post-war Reconstruction era afforded African-Americans some victories (such as their first elected mayor and House Representative); white conservatives quickly prepared a “counterrevolution” to curb their political efficacy. Brown and Clemons note that some of the Southern conservatives’ counterrevolution tactics included threats of physical violence, poll taxes, literacy tests, and grandfather clauses (Brown & Clemons, 2015, p. 4). Issacharoff explains that after decades of deliberate Southern resistance and the Civil Rights protests, President Lyndon B. Johnson acknowledged the need for a federal mandate by signing The Voting Rights Act of 1965 (Issacharoff, Karlan, & Pildes, 2012). The law made provisions for both current and future laws by delineating two remedies: “the suspension of literary tests and similar voting qualifications from the last occurrence of substantial voting discrimination...and the suspension of all new voting regulations pending review by federal authorities to determine whether their use would perpetuate voting discrimination” (Issacharoff et. al, 2012, p. 565). Though the law effectively

obstructed the South's racist *intent* behind infringements on voting rights, it was not prescient enough to prevent the inequitable *effects* of "colorblind" felon disenfranchisement laws (Issacharoff et. al, 2012, p. 565).

Disenfranchisement is often deemed a "collateral consequence" of felony-level crimes. The Sentencing Project defines collateral consequences as "the hidden ramifications of convictions for inmates and for those who have already served their time — including a host of "invisible punishments," from disenfranchisement and disqualification from public housing, welfare benefits, and job training, to greatly increased exposure to fatal diseases" (Chung, 2016). Unlike the more explicitly punitive measures such as jail time, probation, and fines; these damages are often less perceptible to the unaffected citizen's view.

Hale's research notes that six million people; around 2.5% of the American voting population, are disenfranchised because of felony convictions (Hale, 2015). There is a visible paradox in conservative criminal policies—as the claims of "tough on crime" attitudes increase, the amount of incarcerated individuals continues to rise. This surge became even more dramatic during the boom of drug criminalization legislation in the 70's and 80's, which punished African-American crack abusers more than their Caucasian, powder-abusing counterparts (Hale, 2015). As the incarceration rate among African Americans is five to six times higher than that of whites, African-Americans have quickly become one of the most disenfranchised groups in the country. As Brown and Clemons' research depicts, the gap is especially conspicuous in young men, with African American men of ages 18 and 19 being more than nine times more likely to be incarcerated than their white counterparts (Brown and Clemons, 2015). As the prison population continues to grow, there is little reason to think these disparities will be mitigated with time. Jean Chung of The Sentencing Project predicts that "If current trends continue, one of every three

black American males born today can expect to go to prison in his lifetime, as can one of every six Latino males—compared to one of every seventeen white males” (Chung, 2016).

Though these laws have a visibly disproportionate effect on African-Americans, many attempts at contesting their constitutionality have been thwarted by the precedent set in the U.S. Supreme Court’s 1974 decision in *Richardson v. Ramirez*. In this case, the plaintiff represented a group of California felons. He stated that the provisions of the 2nd section in the 14th amendment were motivated by partisan political issues of the 1800’s, not an intent to permanently deprive felons of political franchise. For instance, “rebellion” and “crimes” could pertain to crimes perpetuated to aid Southern secession. However, the Supreme Court sided with the California state defendants and upheld the state law of disenfranchising felons beyond their prison sentence and parole time (Holloway, 2014). This verdict was principally reached because of a literal interpretation of Section 2 of the 14th amendment.

Description of Problematic Situation

The current state of felon disfranchisement laws depict a variety of opinions on the purpose of our criminal justice systems. These differing attitudes provide continuous conflict on when, or if, convicted felons should have civic participation rights. Dye divides these attitudes into four classifications: justice, deterrence, incapacitation, and rehabilitation. Dye explains justice as an ideology guided by “the ancient Judeo-Christian idea of holding individuals responsible for their guilty acts and compelling them to pay a debt to society. Retribution is an expression of society’s moral outrage” (Dye, 2013, p. 132). This view does not regard felon disfranchisement as an issue, but a justified consequence. Clegg, Conway, and Lee state that “disfranchisement has traditionally been deemed a part of a punishment for committing a crime. Criminal punishment can be meted out in various ways, including imprisonment, fines,

probation, and, yes, the withdrawal of certain rights and privileges. In the American system, it has long been established that the States possess primary authority for defining and enforcing the criminal law” (Clegg, Conway, & Lee, 2006, p. 23). Dye’s second and third philosophies towards criminal justice reflect a desire to both strongly discourage future instances of crime (deterrence) and protect the public through isolating the offender (incapacitation). Yet only one addresses the humanity and equity of the perpetrator; the potential for reintegration: rehabilitation. This acknowledges the social context within the criminal justice system in a way that other attitudes fail to. A monolithic approach to all citizens often ignores the societal imbalances which perpetuate criminal justice inequities (Dye, 2013, p. 132). Clegg et. al (2006) acknowledge that there are indeed racial disparities in this disenfranchisement. However, they assert that “While society can be sensitive to such concerns, it is not a sufficient reason to abolish longstanding and justifiable laws in the attempt to achieve some form of racial balance...the real solution is to deter and prevent the crimes from being committed, not to create loopholes and exceptions for punishments” (Clegg et. al, 2006, p. 24).

Though deterring crime is a valid desire for the criminal justice system; it might be lagging behind rehabilitation in popularity. Many states have taken action for felon enfranchisement within the last decade, suggesting that public opinion is shifting towards prioritizing felon reintegration. As Eisenberg notes, “...case studies demonstrate that the arguments that ultimately proved successful in enacting reforms did not revolve around the 2000 election or the need for fair national elections generally. Rather, winning arguments reflected a focus on the rights of ex-felons themselves and the local benefits of reintegrating ex-felons into society as full citizens” (Eisenberg, 2012, p. 574). Discerning which kinds of conduct are

acceptable for political participation, even in the criminal realm, seems to deviate from the American values of freedom and equity under the law.

Beyond the ideological deliberations of felon disenfranchisement, there are logistical concerns as well. If a state wishes to pursue felon enfranchisement; at what point and through which method should they begin the process of restoring voting rights? Even if there's an administrative infrastructure to accommodate new enfranchisement policies (such as a streamlined database of felon convictions), the political viability of the policy alternative is critical as well. Depending on the criminal justice ideology that's prevalent within a state, voters may not be inclined to support rehabilitative policies. As Blessett observes, "In this regard, discrimination is sanctioned under the guise of states' rights, race-neutral policies, and a public discourse and policy processes that perpetuates "othering"...in other words, the political leanings of state legislatures have the potential to deny basic civil rights to minority groups, such that the states which typically identify as conservative or "red states" often are more restrictive in the allocation of benefits to those groups deemed as deviant or dependent" (Blessett, 2015, p. 11-12).

Although felon enfranchisement reforms have gained traction on both sides of the aisle; the lack of congruence between states still produces conflicts for felons seeking to vote.

No restrictions (2)	Automatic Reentry After Prison (14)	Reentry After Prison & Parole (4)	Reentry After Prison, parole, & probation (21)	Prison, parole, probation, & post-sentence (9)
Maine	Hawaii	California	Alaska	Alabama
Vermont	Illinois	Colorado	Arkansas	Arizona
	Indiana	Connecticut	Georgia	Wyoming
	Massachusetts	New York	Idaho	Florida
	Maryland		Kansas	Iowa
	Michigan		Louisiana	Kentucky
	Montana		Minnesota	Mississippi
	New Hampshire		Missouri	Nevada
	North Dakota		New Jersey	Virginia
	Ohio		New Mexico	

	Oregon		North Carolina	
	Pennsylvania		Oklahoma	
	Rhode Island		South Carolina	
	DC		South Dakota	
			Texas	
			Washington	
			West Virginia	
			Wisconsin	
			Delaware	
			Tennessee	
			Nebraska	

Source: National Conference of State Legislatures, 29 Sept. 2016.

The chart depicted above categorizes the promptness of felon enfranchisement upon release from prison (with the exception of the two states in which felons never lose the right to vote). According to Hale, many of the lighter restrictions are a product of the last two decades. “Since 2000, approximately half the states have enacted provisions that relaxed or removed restrictions on disenfranchisement and/or rights restoration, resulting in an additional 800,000 individuals who regained the franchise” (Hale, 2015, p. 164). Some of these provisions not only enfranchise felons, but take extra measures to reengage them civically (through measures like mandatory notification of enfranchisement for offenders who have completed their sentence, probation, or parole (Hale, 2015, p. 164). However, as felons remain disfranchised for extensive post-incarceration periods in nine states, some of which have enacted increased restrictions recently, there still seems to be a lack of consensus.

With interstate inconsistencies in regards to the length of the disfranchisement period; this can cause increased stress for both administrative officials and the felon population. Preuhs explains, “Felon disenfranchisement laws are applied to felons residing in a particular state regardless of the state in which they were convicted. Hence, the right to participate in political activity can change when an ex-felon moves from one state to another. For instance, if one is convicted of a felony in New York, where no restrictions on electoral participation are imposed

after the sentence is completed, serves one's sentence and subsequently moves to Florida, one loses the right to vote simply by way of changing residence" (Preuhs, 2001, p. 735). If enfranchising felons restores a sense of dignity, stripping it away *again* due to geographic technicalities might negate the sense of pride that comes with "paying your dues". At what point should punitive measures cease for prisoners, and at what point do they begin to infringe on civil rights? Brown and Clemons note, "Nationally, an estimated 2.2 million African Americans are deprived of the right to vote due to their involvement with the criminal justice system, and of these, more than 40 percent have satisfied their sentences" (Brown & Clemons, 2015, p. 47). These are statistics to consider when evaluating the ethics imposed by such policies.

Minnesota serves as a helpful case study in evaluating restrictive felon enfranchisement laws. Minnesota automatically permits felon voter reentry upon completion of sentencing, parole, and probation terms. Haase explains that although Minnesota retains a relatively low incarceration rate compared to other states, its probation rates remain disproportionately high. Thus, their laws disenfranchise a significant portion of their population. The variety of crimes classified as felonies in Minnesota have increased as well (Haase, 2015, p. 1920). According to Haase, "A great increase in criminally defined conduct has been seen throughout the country, Minnesota not excepted. In the 1860s, there were approximately seventy-five felony level crimes in Minnesota statutes. Today there are over 375" (Haase, 2015, p. 1920). These crimes have grown to include not only violent offenses (murder, assault, rape), but also multiple DUI's, drug possession and distribution, and theft.

A major factor affecting lengths and rates of felony sentencing is the modern "war on drugs". In the case of Minnesota, Haase explains, "An individual convicted of possession with intent to sell thirteen grams of powder cocaine in 1981 would have received a twelve month stayed

sentence, but by 1998, that same individual could have a presumptive sentence of 158 months in prison....the increase in disenfranchisement during the same time period shows the impact of these policies. In 1974, the percentage of Minnesota's voting age population disenfranchised was 0.35% percent. It more than quadrupled by 2011, when it had increased to 1.5%" (Haase, 2015, p. 1922). While perhaps the original intent of these laws was neither prejudicial nor dramatic in scope; increases in felony-level crimes, incarceration rates, and drug abuse prevalence (especially among low-income and minority groups) should prompt consideration of their equitable effects.

Identification and Ranking of Evaluation Criterion

Patton et. al (2013) list numerous factors as considerations for policy alternative evaluation; from economic feasibility to institutional commitment to a policy's success (Patton et. al, 2013, p. 456). As there are very few fiscal costs incurred through felon enfranchisement; I will prioritize administrative ease, equity, and political acceptability. My evaluation of benefits will principally pertain to the amount of people disfranchised rather than economic reimbursements, except in the instances where any economic gain or loss is produced. However, there is little to no data reflecting significant costs associated with enfranchisement.

Patton et. al (2013) define administrative ease as a measure of "how possible it is to actually implement the proposed policy or program within the political, social, and most important, administrative context. Is the staffing available, will employees cooperate in delivering the service, do we have the physical facilities necessary, and can it be done on time?" (Patton et. al, 2013, p. 195). As many of the state reforms discussed in this paper reinstate someone's right to vote automatically; it is not hyperbole to assume that it is a promising process.

According to Miller and Spillane's account of Florida felon laws, automatic reinstatement served as a sufficiently administratively operable policy (Miller and Spillane, 2012, p. 414). In Florida, Governor Charlie Crist revised the rights restoration process simply by cutting mandatory board meetings for non-violent offenders, effectively enfranchising over 150,000 felon citizens (though these reforms were later cut following an administration change—an indication of the malleability of felon rights). Miller and Spillane explain, "Those who were convicted of a nonviolent felony became eligible for 'automatic' rights restoration. This process requires the Florida Department of Corrections (DOC) to send the names of nonviolent first-time felons to the Florida Parole Commission (FPC) to assess their case for eligibility. The DOC estimates that they send about 4000 names per month to the FPC. The DOC estimated that this consists of approximately 2000 inmates being released into the community, and 2000 former offenders terminating their supervision, such as probation or parole" (Miller and Spillane, 2012, p. 415). As long as the eligibility requirements are met (namely, having completed all civic sentencings and paid off court fines), the felon is effectively enfranchised. Though this system still presents drawbacks to the felon as it disadvantages felons who cannot afford to pay court fees, it is administratively simple and enfranchises significant numbers of felons.

The concept of vertical equity, as a subgroup of equity evaluations, is an important consideration as well. As Patton et. al notes, "Equity questions are in the domain of philosophy, sociology, psychology, politics, and ethics. The basic principle related to equal and nondiscriminatory treatment, then, is that people should be treated similarly except when there is good reason that they should be treated with differentiation" (Patton et. al, 2013, p. 192). What constitutes a good reason remains highly subjective; which explains the variety of felon disfranchisement policies. Vertical equity evaluates policies based on the distribution of goods

and services to those in unequal circumstances (Patton et. al, 2013, p. 192). In the case of felon disenfranchisement, this is an arena in which we could explore disproportionate effects of these policies on low-income and minority communities. Some of my previously presented information reflected a wide gap between the white and black possession of political franchise, but in states with especially stringent policies such as Florida, these gaps are extreme. As Brown and Clemons note, “In 2014, 7.7 percent of African American adults had their right to vote revoked—a rate that is four times that of non-African Americans. The racial disparity is amplified in the states of Florida (23%), Kentucky (22%), and Virginia (20%)...” (Brown & Clemons, 2015, p. 47). These disparities must be taken into consideration in evaluation of policy alternative equity.

Political acceptability may be the largest reform roadblock in existence. Many voters could be unaware of, or apathetic towards, the historic and social context of felon disenfranchisement. Though politicians might be aware of these laws’ perpetuation of inequity, they could be reluctant to provoke the wrath of their constituents and risk losing reelection. Previously stated research has shown a general increase in felon rights’ interest; but it is a mistake to assume that every state’s priorities will follow this trend. If a state’s voting ideology prioritizes the aforementioned “incapacitating” or “justice” components of criminal justice, then a substantive shift in public opinion might be necessary to enact any reforms.

Approach to Analysis

This paper will employ the rationalism policymaking approach when evaluating criterion and alternatives. Patton, Sawicki, and Clark (2013) employ Thomas Athey’s method of alternative formulation as a means of rationalism-based policymaking. Athey draws from four categories: keep the existing system (status quo), modify the existing system, use a prepackaged

design, or create a new system design (Patton, et. al, 2013, p. 219). Of these, the policy alternatives I discuss will present a status quo, systemic modification, and prepackaged design.

Dye explains that rationalism prioritizes “maximum social gain” with two parameters for assessment: the cost must exceed the benefits for the policy to be worth considering, and the policy should choose the alternative with the greatest benefit over cost (Dye, 2013, p. 18). While enfranchising felons may not be a pressing fiscal concern, Dye also notes the importance of considering criterion beyond financial costs and benefits, including costs measured in equity.

Each category of policy alternative derivation has strengths and weaknesses. As complete systemic upheavals can be costly, politically unfeasible, and inefficient; small modifications often draw support. Prepackaged designs can be drawn up quickly and implemented unilaterally, but sometimes lack the nuance necessary for specialized situations. If enough research is written concerning the shortcomings of the status quo, the current system may no longer be viable.

As an increasingly enfranchised society creates a more politically representative governance, the chosen policy should enfranchise significant portions of convicted felons and create a greater sense of equity within criminal justice and civic participation. In addition, the policy’s objectives should include political attainability and administrative efficiency. These factors in conjunction will enable a more diverse and accurate political representation, appease various ideological attitudes towards criminal justice, and retain a pragmatic understanding of administrative capabilities.

Policy Alternatives and Consequences

No Change

Introduction. This policy alternative would keep the existing system in place, essentially preserving current state legislation as is. Given the ideological stalemate in current American politics; this may be the most feasible option. As many states have already initiated felon franchise development, this would allow state flexibility and independence in choosing which enfranchisement measures would be politically acceptable and necessary due to their specific constituencies. However, Haase acknowledges that former distinctions between conservative and liberal attitudes towards felon disenfranchisement are beginning to blur. Haase notes, “Once the leaders of the tough on crime movement, conservatives are reconsidering the results of that movement through a conservative lens...they are criticizing America’s criminal justice system as wasteful of both taxpayer dollars and human potential, and leading reforms around the country primarily to reduce incarceration. Although this group has not weighed in specifically on voting disenfranchisement, the new approach has opened the door for a strongly bipartisan critique of the current system and its consequences in the entirety, including felony disenfranchisement” (Haase, 2015, p. 1931). There is reason to speculate that over time, the parties will begin to align in advocating for felon enfranchisement.

Consequences. Regardless of hopes for political cohesion, millions of disenfranchised individuals will continue to be excluded from the political process. In considering the administrative efficiency, it is worth noting that absentee ballots will continue to be provided to incarcerated felons in Maine and Vermont, incurring costs as long as these elections are state-mandated. There could also be indelible social consequences in how minority systems view American criminal justice systems and electoral processes. Preuhs states, “Not only are the laws

themselves perceived as unfair, but a prohibition on electoral means to change such laws after one serves one's sentence underscores the perceived illegitimacy of the legal system... The potential for a cycle of decreasing electoral participation by minorities and the coinciding decline of perceived legitimacy does not bode well for the future of democratic inclusion in the United States (Preuhs, 2001, p. 746). In order to maintain the American commitment to democratic inclusion of all peoples, more immediate action with felon enfranchisement could be necessary. A politically withdrawn minority detracts from the American pledge to equity. Furthermore, states which have made progress in felon enfranchisement are not guaranteed to retain this progress.

Streamline Franchise Restoration Process

Introduction. This policy alternative would modify the existing system without necessitating structural changes. In evaluating political accessibility, this alternative could plausibly appease both sides of the aisle. There are no ideological reconstructions necessary—one does not have transition from a “justice” oriented individual to a “rehabilitation” focused individual. Streamlining and political efficiency are terms that will appeal to a variety of ideological standpoints. According to Jean Chung of The Sentencing Project (2016), “the Tennessee legislature amended the country’s most complex restoration system by greatly simplifying the procedure. All persons convicted of a felony (except electoral or serious violent offenses) are now eligible to have their right to vote restored upon completion of sentencing and application for a “certificate of restoration” from the Board of Probation and Parole” (Chung, 2016). Through a simplification of the process, felons will not be confronted with obstacle after obstacle to reengage civically.

Consequences. A potential drawback is that initially, this policy will involve some administrative costs (computer specialists, software programmers, and increased department sizes); and the streamlining of the process in itself will not restore the rights that are withheld indefinitely in some states such as Florida or Kentucky. Though there will be increased enfranchisement with a clearer system to navigate, this will only assist people who are already towards the end of their criminal punitive measures. However, this will eliminate a significant portion of the confusion that inhibits felon civic participation.

Automatic Restoration of Voting Rights upon Release from Prison

Introduction. This would fall under Athey's proposition for a pre-packaged design. Rather than have dozens of divergent state policies that force felons to reconsider their state of residence; automatic restoration of voting rights sends a positive message to felons: now that you have served your time, your civic contributions are welcome and your voice is valuable. Furthermore, we can infer some positive benefits from the Floridian reforms which enabled thousands of voters to be enfranchised in an administratively simple manner. Not only did it make the system more efficient and less prone to discrepancies (such as variation between types of felonies' waiting requirements post-probation), but it encouraged a more optimistic and humane view of criminals. This kind of policy could transfer to changes within housing regulations, employment opportunities, and other obstacles felons face on their path to reintegration.

Consequences. The fourteen states (including DC) which have implemented this policy alternative have enfranchised up to hundreds of thousands of convicted felons. In addition, a unilateral reinstatement of voting rights is unlikely to incur any costs beyond what criminal justice systems currently sustain. This provides a strong defense for the benefits of automatic

voter reentry. Gerber, Huber, Meredith, et. al (2015) have researched the efficacy of notifying these automatically reinstated felons of their voting rights; with successful reintegration as the result. “Another implication of our research concerns efforts to understand the link between participation and recidivism. Other scholars have argued that the low political engagement of released felons may increase their risk of subsequent criminal behavior because individuals disconnected from civic life may see less to lose in violating social norms about appropriate behavior or view the state as less legitimate (Gerber, et. al, 2015, p. 925). By reassuring convicted felons that their political participation still has merit (and that they have regained that right, to begin with), there is a potential to improve community-felon relations on a national scale.

Selecting an Alternative

Although felon disenfranchisement affects a limited number of American citizens, a rationalism-model policy must provide optimization of welfare for *all* of society. Thus, it is important to consider the factors which affect felons (their right to franchise and equity), as well as the right of everyday citizens to not be economically or politically disadvantaged with the admission of these new rights. It is with these criterion in consideration that I propose automatic reentry of felons into the voting system, upon serving their preliminary sentence, as an appropriate reform. Given the current legal inequities minorities face under felon disenfranchisement laws, efficient and swift change is necessary. As Preuhs notes, “Laws that exclude ex-felons from voting place additional weight on the already disproportionate burden that minorities shoulder under the current criminal policy regime” (Preuhs, 2001, p. 733). Furthermore, this system would eliminate the many interstate discrepancies and variations of

felon reform that make it difficult for felons to reengage civically, while keeping administrative costs low and eliminating the need for absentee ballot provisions.

Conclusions

Rationalism's objectives mandate that a policy alternative addresses the issue at hand effectively, and provides the maximized net benefit to society.

In the case of felon disfranchisement, only automatic reinstatement of voting rights upon sentence completion addresses the core inequities in criminal rehabilitation and provides a groundwork for more accurate and diverse representation. With this policy alternative implemented; minorities can rebuild faith in their personhood and enthusiasm for their civic responsibility. Furthermore, as this policy is already implemented on a wide level, there are plenty of precedents to structure a national standard around.

Although initial support for the policy may be lacking, especially among non-minority voters who espouse the "justice" role in criminal justice; Dye was correct to assert that the majority's opinion need not be "sufficiently progressive" for a law to be enacted—and in most cases, the policy predates the progressivism.

Some administrative costs will need to be sustained in order to track the extent of the enfranchisement and to ensure that each state enforces the new standard. However, the newfound lack of interstate discrepancies and confusion will alleviate stresses from felons as well as election/law enforcement officials. If the federal government tracks the percentages of convicted felons who reengage in the political process due to this policy; they are sure to notice substantive increases in felon political involvement. In addition, minority communities will be encouraged by the national commitment to equity symbolized in these laws. If, in conjunction with the automatic reentry, there is an effort to engage convicted felons (through letters, phone calls, or

other contact); it will serve as an affirmation of America's obligation to represent everyone equitably. Over time; the conservative and liberal coalitions that have already begun forming will strengthen as felon civic engagement becomes normalized. With these criterion met, there can be an effective transition from the insidiously prejudiced policies of the past to a more transparent future for criminal justice.

References

- Blessett, B. (2015). Disenfranchisement: Historical Underpinnings and Contemporary Manifestations. *Public Administration Quarterly*, 39(1), 3.
- Brown, D.L, and Clemons, M. (2015) *Voting Rights under Fire: The Continuing Struggle for People of Color*. Santa Barbara, CA: Praeger. Print.
- Chung, Jean (2016) Collateral Consequences. *The Sentencing Project*. The Sentencing Project, 10 May 2016. Web.
- Clegg, R., Conway, G., & Lee, K. (2006). The Bullet and the Ballot? The Case for Felon Disenfranchisement Statutes. *American University Journal Of Gender, Social Policy & The Law*, 1.
- Dye, Thomas R. (2013). *Understanding Public Policy*. 14th ed. Englewood Cliffs, NJ: Prentice-Hall. Print.
- Eisenberg, L. (2012). States as Laboratories for Federal Reform: Case Studies in Felon Disenfranchisement Law. *New York University Journal Of Legislation & Public Policy*, 15(2), 539.
- Gerber, A. S., Huber, G. A., Meredith, M., Biggers, D. R., & Hendry, D. J. (2015). Can Incarcerated Felons Be (Re)integrated into the Political System? Results from a Field Experiment. *American Journal Of Political Science*, 59(4), 912-926.
doi:10.1111/ajps.12166
- Haase, M. (2015). Civil Death in Modern Times: Reconsidering Felony Disenfranchisement in Minnesota. *Minnesota Law Review*, 99(5), 1913-1933.
- Hale, Kathleen (2015). *Administering Elections: How American Elections Work*. New York, NY: Palgrave Macmillan. Print.

- Holloway, Pippa (2014). *Living in Infamy: Felon Disfranchisement and the History of American Citizenship*. Oxford: Oxford UP. Print.
- Issacharoff, Samuel, Pamela S. Karlan, and Richard H. Pildes (1998). *The Law of Democracy: Legal Structure of the Political Process*. Westbury, NY: Foundation. Print.
- Miller, B. L., & Spillane, J. F. (2012). Governing the restoration of civil rights for ex-felons: an evaluation of the Executive Clemency Board in Florida. *Contemporary Justice Review*, 15(4), 413-434.
- National Conference of State Legislatures (2016). Felon Voting Rights. *NCSL*. 29 Sept. 2016. Web.
- Patton, C., Sawicki, D., & Clark, J. (2013). *Basic Methods of Policy Analysis and Planning (3rd ed.)*. Prentice Hall Ptr, New York, NY. Print.
- Pinkard, J. E. (2013). *African American Felon Disenfranchisement : Case Studies in Modern Racism and Political Exclusion*. El Paso: LFB Scholarly Publishing LLC.
- Preuhs, R. R. (2001). State Felon Disenfranchisement Policy. *Social Science Quarterly (Wiley-Blackwell)*, 82(4), 733.
- Uggen, C., Shannon, S., Manza, J. (2012) "State-level Estimates of Felon Disfranchisement in the United States". Washington, D.C: The Sentencing Project, 2012.
http://www.sentencingproject.org/doc/publications/fd_State_Level_Estimates_of_Felon_Disen_2010.pdf