

Felon Disenfranchisement

In 2017, Brianna Ross, at the age of 53, voted in her first election.¹ Ross, a resident of Virginia, had lost her right to vote after being convicted of a felony when she was 19. But recently, she had this right restored by then-Governor Terry McAulliffe, as did more than 168,000 other Virginian ex-felons.

Nationwide, more than 6 million American citizens cannot vote because of their criminal records.² Voting rights for convicted criminals vary dramatically from state to state. While even prison inmates are allowed to vote in Vermont and Maine, other states prohibit this. Many states add further restrictions, such as requiring that ex-prisoners first complete years of probation or parole before regaining their right to vote. In some states, citizens with a felony conviction permanently lose the right to vote unless those rights are restored by the Governor—as happened in Virginia.

Critics of these so-called “felon disenfranchisement” laws argue that these policies are anti-democratic, relegating millions of people to second-class citizenship. These citizens have no say in how laws are made and are thus less likely to be adequately represented by their government. Like Ross, such citizens often see themselves as “unimportant and invisible” because of their inability to vote. Additionally, many critics argue that laws that disenfranchise ex-convicts are unjust forms of punishment. According to this line of argument, once someone has completed their sentence we should not continue to punish them by denying them their basic political rights. Moreover, some critics add, stripping offenders of their political voice is potentially counterproductive and might discourage some offenders from being more civically-minded.

Defenders of these laws insist that felons have failed to uphold their responsibilities as democratic citizens and thus deserve to lose their political rights, at least temporarily. First, some argue that those who engage in certain types of criminal behavior—murder, assault, robbery, and fraud, for example—have demonstrated that they cannot be trusted to act in the public interest. If so, we cannot expect them to exercise their vote responsibly, and in ways that promote the public good. Second, if someone willfully breaks the law, they shouldn’t then be allowed to help make the laws that other citizens are then expected to obey.

Finally, regardless of whether felon disenfranchisement laws can be justified in the abstract, some critics argue that these laws are unjust in practice. Critics routinely point out that nationwide, African Americans lose their voting rights at four times the rate of non-African Americans (7.4% compared to 1.8%). In Florida, Kentucky, and Tennessee, more than 20% of adult African Americans have lost their voting rights. Such extreme disparities, critics argue, establish that these laws are seriously racially unjust.

STUDY QUESTIONS

1. Why is the right to vote important or valuable?
2. What qualities are important for voting responsibly? Should political rights be contingent on the expectation that those rights will be exercised responsibly? Why or why not?
3. How, if at all, do racial disparities in felon disenfranchisement laws influence the justifiability of these laws?

¹ https://www.huffingtonpost.com/entry/virginia-restoration-of-voting-rights-us_5a026556e4b092053058cd0e

² <https://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/>