IMPACT OF FELON DISENFRANCHISEMENT ON RECIDIVISM

by

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ABSTRACT

Recidivism is costly for both individuals and society as a whole. While there are multiple causes for recidivism, one area that has not been adequately explored is felon disenfranchisement. To expand the scope of this study, recidivism will be measured by using rearrest, reconviction, and reincarceration data. Before analysis, the practice of felon disenfranchisement is explored in historical and modern-day contexts. Additionally, the practice is analyzed in light of criminological theories such as labelling theory and the theory of reintegrative shaming. Building upon two principal studies, this research seeks to help expand knowledge on the relationship between felon disenfranchisement provisions—that result in a lack of civic engagement—and recidivism rates in specific states. It is hypothesized that recidivism rates are higher in states with strict felon disenfranchisement laws. Therefore, there is potential for policy changes ensuring the enfranchisement of a presently marginalized group. However, the results of the study were not statistically significant, revealing that strict felon disenfranchisement provisions do not have a direct impact on recidivism rates.

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CHAPTER I: INTRODUCTION

In the field of criminal justice, two things worthy of additional research are felon disenfranchisement laws and recidivism rates. Independently, the impact of felon disenfranchisement on the criminal justice system is a topic left relatively unexplored. However, it warrants review because of its history rooted in racial discrimination and modern-day disproportionate effect on American minorities (Aviram et al., 2017; Chung, 2019). On the other hand, potential causes for recidivism have been nearly exhausted, with some positive findings but also many null results. However, due to recidivism's high societal impact—monetary costs, burden on the correctional system, etc.—it is critical that study into the *why* continues (Graff, 2015).

In this study, disenfranchisement is defined as "to deprive of a franchise, of a legal right, or of some privilege or immunity," specifically "to deprive of the right to vote" (Merriam-Webster n.d.). In this context, the franchise being deprived is convicted felons; however, the application of this disenfranchisement varies depending on the state (Uggen et al., 2020). Regarding recidivism, it is defined as the reoccurrence of criminal behavior, but the factors evaluated vary depending on the application and/or study (Peters & Weckerly, 2018). For this research, it is being measured by rearrest, reconviction, and/or reincarceration, because expanding the application of recidivism beyond reincarceration allows for a more in-depth study (Peters & Weckerly, 2018).

While causes for recidivism have been researched for decades, one potential variable has yet to be fully investigated, felon disenfranchisement. This leads to the

question, does a lack of civic engagement as a result of felon disenfranchisement result in increased recidivism rates? Therefore, the following hypotheses are proposed:

Research hypothesis: Recidivism rates are higher in states with strict felon disenfranchisement laws.

Null hypothesis: There is no statistically significant difference in recidivism rates between states with or without strict felon disenfranchisement provisions.

This research will begin with an exploration of the independent variable, felon disenfranchisement laws. This will include a brief analysis of the practice's history but will primarily focus on the targeted provisions of the Post-Civil War Era and the War on Drugs. The historical context sets the foundation for a review on recent literature that explores how history and challenges to the practice of felon disenfranchisement have shaped its application today. This will then be reviewed in the context of the dependent variable, recidivism rates. Finally, the methodology for this study will be explained and followed by the results, discussion, and conclusions.

History of Felon Disenfranchisement

Disenfranchisement is not a new, innovative concept. The practice is rooted in Grecian history where it was known as *atimia*, which translates to dishonor (Hamilton-Smith & Vogel, 2012). It was different than what we think of as felon disenfranchisement today; there was essentially public exile rather than just political

(Hamilton-Smith & Vogel, 2012). Those subjected to the punishment of atimia were "prohibited from petitioning their government, holding office, instituting any criminal or civil actions against citizens, fighting in the army, or receiving any sort of welfare-type public assistance" (Hamilton-Smith & Vogel, 2012, pp. 408-409). The practice of atimia was transferred into English culture under the practices of outlawry and civil death (Hamilton-Smith & Vogel, 2012). Due to this transference, settlers in the New World continued the practice (Chung, 2019; Hamilton-Smith & Vogel, 2012).

Eleven of the 13 original colonies imported the practice of civil death (Aviram et al., 2017; Chung, 2019). This common law practice revoked individuals' right to vote and was applied to offenses which were deemed "egregious violations of the moral code" (Ewald, 2002, p. 1062). The American Revolution brought change to this practice (Hamilton-Smith & Vogel, 2012). The term civil death was officially codified with explicit application to felony offenses (Chung, 2019). However, the biggest modification to the policy was following the American Civil War, when the purpose of the law was used to alienate poor and minority voters (Chung, 2018; Hamilton-Smith & Vogel, 2012).

Post-Civil War Era

Following the Civil War, states were incarcerating Blacks at higher rates than Whites, a practice that has only escalated (Kelley, 2017). The 15th Amendment was soon ratified and stated that "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" (U.S. Const. amend. XV, Section 1). As a direct result of

the 15th Amendment, 29 of the 37 states ratified felon disenfranchisement provisions that were considered permissible under the 15th Amendment (Behrens, 2006; Chung, 2019). It is also argued that these enactments were due to the elimination of the various tests known as the Black Codes that were required by potential voters (Aviram et al., 2017; Chung, 2019; Elliott, 1974). Despite the progress made in suffrage, the enactment of felon disenfranchisement laws functioned as a legal way to continue barring Blacks and poor Americans from voting (Aviram et al., 2017; Chung, 2019; Elliott, 1974).

Weaponization of felon disenfranchisement continued into the post-Reconstruction Era. In the South, states began amending these provisions to only contain offenses committed predominately by Black men. In 1860, the Mississippi Supreme Court added crimes such as theft, burglary, and arson; however, offenses such as murder or robbery were not included (Aviram et al., 2017; Chung, 2019). The actions of legislatures were championed by White communities who feared that they would "be swept way at the polls by the [B]lack vote" (Staples, 2014, para. 7). Therefore, as a result of these changes, Black men were increasingly denied the right to vote, again.

War on Drugs

The War on Drugs is another era that specifically targeted different classes and racial groups in America. According to John Ehrlichman, a former aide to President Nixon, the War aimed to marginalize Black Americans and hippies (Aviram et al., 2017). President Reagan intensified President Nixon's warpath through the Anti-Drug Abuse

Act which had multifaceted impacts on the criminal justice system that are still felt today (Aviram et al., 2017; Graff, 2015).

First, the Act provided additional funding for the building of prisons (Graff, 2015). Almost two billion dollars was granted to states for prison construction, and these facilities were put to use (Graff, 2015). The federal jail and prison population expanded by almost two million to a total incarcerated population of 2.3 million (Graff, 2015). Of these individuals, over half were serving for drug crimes stemming from the War (Graff, 2015).

Second, this act created mandatory minimums for cocaine distribution offenses (Graff, 2015). However, it was focused on the sales of crack cocaine rather than powder cocaine (Aviram et al., 2017; Graff, 2015). As Graff (2015) explains, there were equal punishments for "the sale of five grams of crack cocaine, associated with [B]lacks, and the sale of 500 grams of powder cocaine, associated with [W]hites" (p. 124). As a result, over 80% of the individuals convicted under this law were Black (Graff, 2015). Therefore, by focusing on crack instead of powder cocaine, the government and law enforcement agencies yet again implemented veiled, systematic racial discrimination.

Race and Social Class Implications

The government's actions during and after the Post-Civil War Era were racially motivated, and the War on Drugs exasperated this, leading to high racial disparities in prison populations and felony convictions due to mass incarceration (Aviram et al., 2017; Chung, 2019). Resulting from the War on Drugs, police presence was increased in

poorer areas, neighborhoods that were more likely to be composed of minorities (Aviram et al., 2017). This led to a 274% increase in the jail and prison population which greatly impacted American minorities, specifically Blacks (Graff, 2015). Therefore, while these policies were intended to take a harsh stance on drug crimes, they actually represent "stark racial disparities in policing, prosecution, and incarceration" (Aviram et al., 2017, p. 306). As a result, when analyzing those impacted by felon disenfranchisement, there is alarmingly high racial disparity.

For every 100,000 people in the United States, 2,200 Black Americans are incarcerated, while this number is only 400 for White Americans (Aviram et al., 2017). Behrens (2006) argues that, "[b]ecause felon disenfranchisement laws affect only persons convicted of a felony, the racial composition of a state's prison population is more closely related to felon disenfranchisement than is the racial makeup of a state's population" (p. 61). In Aviram et al. (2017), Baldwin further emphasizes the disproportion by questioning why America strips the right to vote from felons. The answer is clear—voter suppression through the act of preventing enfranchised Black Americans from using their political power (Aviram et al., 2017; Kelley, 2017).

CHAPTER II: LITERATURE REVIEW

Significant Challenges to Felon Disenfranchisement

An important aspect to consider when evaluating the legitimacy of felon disenfranchisement is legal challenges to the practice. Most commonly, plaintiffs have disputed their disenfranchisement under the 8th, 14th, and 15th Amendments and the Voting Rights Act of 1965. Although there have been few successes, courts have also provided alternative ways to challenge the practice.

Harper v. Virginia Board of Elections (1966)

In *Harper v. Virginia Board of Elections* (1966), the Supreme Court established the right to vote as a fundamental right (Shapiro, 1993). In 1966, Virginia resident and Black American Annie Harper was unable to register to vote in the Virginia state election as a result of being unable to pay a state poll tax (*Harper v. Virginia Board of Elections*, 1966). Therefore, she filed suit against the Virginia Board of Elections for violating her 14th Amendment right of equal protection (*Harper v. Virginia Board of Elections*, 1966). This was not the first poll tax case to reach the Supreme Court. *Harper* was decided a year after *Harman v. Forssenius* (1965) which established that federal poll taxes were unconstitutional and that they disproportionately disenfranchised Black Americans (Shapiro, 1993).

Upon hearing the case, the Court held that Virginia's poll tax on voter registration was in violation of the Equal Protection Clause of the 14th Amendment (*Harper v. Virginia Board of Elections*, 1966). The Court held that there is a violation of

the Equal Protection Clause of the 14th Amendment when an individual must pay any type of fee to register to vote (*Harper v. Virginia Board of Elections*, 1966). This meant states could not impose poll taxes as a means of disenfranchising less affluent individuals (*Harper v. Virginia Board of Elections*, 1966; Shapiro, 1993). Additionally, the Court held that the Clause "restrains the States from fixing voter qualifications which invidiously discriminate," a concept that has been used in challenging felon disenfranchisement provisions (*Harper v. Virginia Board of Elections*, 1966; ProCon.org, 2009). Furthermore, as explained by Handelsman (2004), *Harper* established that "the Constitution can be interpreted and re-interpreted as the meaning of democracy changes and progresses" when the Court said that the interpretation of the Equal Protection Clause is not "confined to historic notions of equality" (*Harper v. Virginia Board of Elections,* 1966).

Green v. Board of Elections (1967)

In *Green v. Board of Elections* (1967), Gilbert Green challenged his felon disenfranchisement status under the 8th and 14th Amendments before the Second Circuit Court. His label resulted from being convicted of conspiracy that involved "organiz[ing] the Communist Party as a group to teach and advocate the overthrow and destruction of the government by force and violence" (*Green v. Board of Elections*, 1967). After this conviction, he failed to surrender and became a fugitive for almost five years, resulting in another felony charge (*Green v. Board of Elections*, 1967).

The court held that felon disenfranchisement was not a violation of the 8th Amendment protection against cruel and unusual punishment for two reasons (*Green v. Board of Elections*, 1967; Heath, 2017). First, the level of harm inflicted is not serious enough to be considered cruel and unusual (*Green v. Board of Elections*, 1967; Heath, 2017). Second, the court quoted *Trop v. Dulles* (1958) in saying that felon disenfranchisement is a "nonpenal exercise of the power to regulate the franchise" (*Green v. Board of Elections*, 1967). The court continued to explain that if the practice was to be regarded as a punishment, felon disenfranchisement would not have been considered a violation under the argument of cruel and unusual punishment by the framers of the 8th Amendment (*Green v. Board of Elections*, 1967). However, the court in *Green v. Board of Elections* (1967) provided support for punitive justifications of the practice since the offender is punished because of their offense, not due to their status (Shapiro, 1993). By committing a crime, the offender broke the understood social contract with society; therefore, they forfeit various civil rights which includes the ability to vote (Gray, 2014; Shapiro, 1993).

Furthermore, *Green v. Board of Elections* (1967) was one of the first cases to hold that felon disenfranchisement is not a violation of Section 2 of the 14th Amendment. In his argument, Green emphasized the Equal Protection Clause of the 14th Amendment (*Green v. Board of Elections*, 1967). When attempting to establish precedent, he used court case holdings from other states, but these cases did not establish that:

> states are without power to continue their historic exclusion from the franchise of persons convicted of all or certain types of felonies. Even though the precise issue has not arisen before the Supreme Court, the propriety of excluding felons from the franchise has been so frequently recognized—indeed put forward by the Justices to illustrate what the states *may* properly do—that such expressions cannot be dismissed as unconsidered dicta. (*Green v. Board of Elections*, 1967)

Essentially, the court held that the practice of felon disenfranchisement in no way violated the Constitution's Equal Protection Clause because it was a state issue that higher courts de facto considered acceptable (*Green v. Board of Elections*, 1967).

Dillenburg v. Kramer (1972)

In *Dillenburg,* the Ninth Circuit Court explained the difficulty in clarifying felon disenfranchisement laws as they relate to state interest (*Dillenburg v. Kramer*, 1972). In 1966, Byrle Dillenburg was convicted of felony robbery in the state of Washington and sentenced accordingly (*Dillenburg v. Kramer*, 1972). After being paroled in 1970, he attempted to register to vote but was denied due to his felony conviction (*Dillenburg v. Kramer*, 1972). As a result, he filed for "declaratory and injunctive relief" claiming his disenfranchisement was a violation of Article 1, Section 9 of the Constitution and the 1st, 8th, and 14th Amendments (*Dillenburg v. Kramer*, 1972). However, the court focused on the Equal Protection Clause in their holding (*Dillenburg v. Kramer*, 1972).

The reasoning behind states' uses of felon disenfranchisement has varied greatly, ranging from the breaking of a social contract to protecting election integrity

(ProCon.org, 2009). As a result, *Dillenburg* established there is no violation of the Equal Protection Clause of the 14th Amendment because states have a genuine interest in protecting the validity of the voting process by preventing certain persons access to the ballot box (*Dillenburg v. Kramer*, 1972). However, the court also held that the application of Constitutional concepts, such as the Equal Protection Clause, should change as society's values shift (*Dillenburg v. Kramer,* 1972). This indicates that when society views a practice—such as felon disenfranchisement—as unconstitutional then Constitutional application should be reflected accordingly. Justice Marshall reflects on this idea in his dissenting opinion in *Richardson v. Ramirez* (1974).

Richardson v. Ramirez (1974)

Richardson v. Ramirez (1974) was the first felon disenfranchisement case to be granted certiorari by the Supreme Court, and it is arguably the most famous case where the practice is challenged (Powell, 2017; Your Vote, Your Voice, n.d.). When denied the ability to register to vote after completing felony sentences and parole, Abran Ramirez and others filed a class action lawsuit in three different California counties (*Richardson v. Ramirez,* 1974). The California Supreme Court held that the practice of felon disenfranchisement was a violation of the Equal Protection Clause of the 14th Amendment (*Richardson v. Ramirez,* 1974).

Overturning the state supreme court's decision, the Supreme Court held that the felon disenfranchisement laws in California were not a violation of the Equal Protection Clause of the 14th Amendment (*Richardson v. Ramirez,* 1974). In the majority opinion, it

was stated that Section 1 must be considered with Section 2 of the 14th Amendment, thereby allowing for felon disenfranchisement on the grounds of "participation in rebellion, or other crime" (*Richardson v. Ramirez,* 1974; U.S. Const. amend. XIV). Furthermore, the Court explicitly granted states permission to generally practice felon disenfranchisement, stating that it was within a state's power to enact these laws because they existed when the Constitution was drafted, so the founder's must have found the practice acceptable (Heath, 2017; *Richardson v. Ramirez,* 1974).

While the Court's opinion in *Richardson* is significant, Justice Marshall's dissenting opinion is of equal importance. Justice Marshall claimed that the Court's decision could have unintended consequences because "or other crime" was not specified and could, therefore, be applied to simple crimes, like jaywalking, under this ruling (*Richardson v. Ramirez,* 1974; Shapiro, 1993). Additionally, Justice Marshall quoted *Dillenburg v. Kramer* (1972) in his opinion reiterating that "[c]oncepts such as equal protection…must adapt to changing realities and are 'not immutable frozen like insects trapped in Devonian amber'" (*Richardson v. Ramirez,* 1974).

City of Mobile (Alabama) v. Bolden (1980)

Although the case *City of Mobile (Alabama) v. Bolden* (1980) did not directly relate to felon disenfranchisement laws, the Supreme Court's holding became critical to future challenges of the practice. In *Bolden*, Wiley Bolden and others filed a class action lawsuit claiming that the election practices unfairly diluted the Black vote under the 14th and 15th Amendments (*City of Mobile (Alabama) v. Bolden*, 1980). The Supreme Court

overturned the district court's ruling in a two-part holding (*City of Mobile (Alabama) v. Bolden*, 1980). First, the Court held that, for there to be a violation of the 15th Amendment, motivation for the provision must be racially discriminatory (*City of Mobile (Alabama) v. Bolden*, 1980). Second, the Court stated that, for the Equal Protection Clause of the 14th Amendment to be violated, discrimination must be purposeful because "[d]isproportionate effects alone are insufficient to establish a claim of unconstitutional racial vote dilution" (*City of Mobile (Alabama) v. Bolden*, 1980). This precedent—that plaintiffs must prove racially discriminatory motivation and intent—became a critical element in *Hunter v. Underwood* (1985).

Hunter v. Underwood (1985)

Victor Underwood ("a [W]hite") and Carmen Edwards ("a [B]lack") filed a class action lawsuit because they had been denied the right to vote due to felony convictions, claiming that the provisions in the Alabama Constitution were rooted in racially discriminatory intent (*Hunter v. Underwood*, 1985). The district court ruled against them, saying that the drafting of Article VIII, Section 182 at Alabama's Constitutional Convention of 1901 was not racially motivated (*Hunter v. Underwood*, 1985). However, the 11th Circuit Court of Appeals reversed the district court's ruling, stating that there was discriminatory intent because the delegates at the Convention believed "crime[s] involving moral turpitude" were more likely to be committed by Black individuals (*Hunter v. Underwood*, 1985). The Supreme Court granted certiorari and upheld the Court of Appeals' ruling, holding that Article VIII, Section 182 of the Alabama

Constitution violated the Equal Protection Clause of the 14th Amendment (*Hunter v. Underwood*, 1985).

In this opinion, the Court returned to its holding from *Richardson*, changing its approach to felon disenfranchisement provisions (Katz, 2007). In *Hunter,* the Court returned to their ruling from *Richardson* and explicitly established that felon disenfranchisement policies are a violation of the Equal Protection Clause when "both impermissible racial motivation and racially discriminatory impact are demonstrated" (*Hunter v. Underwood*, 1985; Katz, 2007). This was the first time the Court repealed a felon disenfranchisement provision because of racial discrimination (Shapiro, 1993). Overall, *Hunter* established the grounds by which a challenge to the practice of felon disenfranchisement could be successful, but it created a high burden of proof (*Hunter v. Underwood*, 1985; Katz, 2007).

Voting Rights Act of 1965

The passage of the Voting Rights Act (VRA) in 1965 signified a prominent shift in perceptions surrounding the importance of the right to vote, and it "exemplifie[d] an aspiration of universal suffrage…and the end of general population acceptance of voter disenfranchisement as an acceptable tool of American politics" (Zeitlin, 2018, p. 263). However, the practice of felon disenfranchisement has remained relatively unscathed by the VRA and its subsequent amendments (Heath, 2017; Powell, 2017). Nonetheless, there have been some changes to the application of felon disenfranchisement provisions.

The VRA set a new precedent for how felon disenfranchisement provisions are challenged (Shapiro, 1993). In *Hunter*, it was established that the plaintiff must prove racial discrimination was the intent and/or motivation behind the felon disenfranchisement law (*Hunter v. Underwood*, 1985). However, the VRA shifted the burden to the defender of the law in question upon the plaintiff claiming that the provision was enacted due to racially discriminatory intent (*Hunter v. Underwood*, 1985; Shapiro, 1993).

Additionally, the VRA overturned the holding in *City of Mobile (Alabama) v. Bolden* (1980) after recognizing that the standard created was too difficult and could not be met (Shapiro, 1993). In 1982, Congress "responded by amending [S]ection 2 of the Act in 1982 'to restore the legal standard that governed voting discrimination cases prior to the Supreme Court's decision in *Bolden*'" (Shapiro, 1993, p. 550). This led to the Congressional enactment of a test under which proving discriminatory intent and application was no longer the plaintiff's burden (Shapiro, 1993). Under the new "totality of the circumstances" test, election laws are in violation of the VRA if the provisions in question result in racially discriminatory impact (Handelsman, 2005; Shapiro, 1993; Voting Rights Act of 1965:1982 Amendment, 1982). This goal was further echoed by the Supreme Court in 1991 when it held that Section 2 should be interpreted in the broadest way to diminish laws and practices "which result in the denial or abridgement of the right to vote of any citizen who is a member of a protected class of racial and language minorities" (*Thornburg v. Gingles,* 1986). Nevertheless, it has been argued that

the VRA was never intended to prohibit felon disenfranchisement, an idea that has been consistently upheld in the court system (Gray, 2014).

Farrakhan v. Washington (2003)

In 2003, Muhammad Farrakhan and others claimed their right to vote had been unfairly denied by the state of Washington, arguing the disenfranchisement provisions were in violation of Section 2 of the VRA due to racial bias in Washington's criminal justice system (*Farrakhan v. Washington*, 2003; Powell, 2017). The Washington State Supreme Court held that Section 2 of the VRA was not applicable to felon disenfranchisement provisions (*Farrakhan v. Washington*, 2003). The plaintiffs appealed to the Ninth Circuit Court which held that Section 2 did apply (*Farrakhan v. Washington*, 2003). However, the court ruled against Farrakhan on the basis that there was no evidence of intentional racial bias in the creation and implementation of the provisions, thereby failing the totality of the circumstances test (*Farrakhan v. Washington*, 2003).

Jones v. DeSantis (2020)

In November 2018, Amendment 4 was passed in Florida with 65% of the public's support (Brennan Center for Justice, 2020). Except for individuals convicted of violent or sexual offenses, this amendment authorized the automatic restoration of voting rights for nearly 1.4 million felons in Florida that had completed the entirety of their sentences—incarceration, parole, and probation included (Brennan Center for Justice, 2020). It became active in January 2019; however, in June of the same year Florida Governor DeSantis signed a law (SB 7066) which prohibited individuals from voting if

they had not "pa[id] off all legal financial obligations (LFOs) imposed by a court pursuant to a felony conviction, including LFOs converted to civil obligations" (Brennan Center for Justice, 2020, para. 5). Lawsuits[1] were filed the same day, challenging the constitutionality of the new provision (Brennan Center for Justice, 2020).

As explained by the Campaign Legal Center (2020), the enactment of this law presents various avenues for legal challenges, the most prominent of which is paying to vote. As established in *Harper v. Virginia Board of Elections* (1966), poll taxes are unconstitutional, yet here, the requirement to pay LFOs is deemed acceptable (Campaign Legal Center, 2020). Additionally, as affirmed in *City of Mobile (Alabama) v. Bolden* (1980), in situations where "a State acts in any way to make race relevant to voter qualifications, either facially or with a discriminatory purpose" there is a violation of the 15th Amendment of the Constitution (*Jones v. DeSantis*, 2020).

In August 2019, Governor DeSantis requested a formal opinion from the Florida Supreme Court, asking them to determine whether "completion of all terms of sentence," as stated in Amendment 4, includes LFOs (Brennan Center for Justice, 2020). The court declined to define completion but held that it did include LFOs that result from a felony conviction (Brennan Center for Justice, 2020). In October 2019, a preliminary injunction was granted by the district court which permitted the plaintiffs the right to vote; however, the Secretary of State and Governor of Florida appealed

[1] These cases were consolidated under the title *Jones v. DeSantis* in June 2019 (Campaign Legal Center, 2020)

(Brennan Center for Justice, 2020). The 11th Circuit Court of Appeals affirmed the preliminary injunction of the district court (Brennan Center for Justice, 2020).

In April 2020, the official trial began in which the "evidence demonstrated the profound and discriminatory impact of [the bill] and the State's utter inability to administer it" (Brennan Center for Justice, 2020, para. 10). The district court ruling was announced in May 2020 and found the "pay-to-vote" concept unconstitutional, in part, under the 14th and 24th Amendments and the National Voter Registration Act (Brennan Center for Justice, 2020; *Jones v. DeSantis*, 2020). The ruling was appealed, and in September 2020, the 11th Circuit Court reversed and vacated the ruling of the district court (*Jones v. DeSantis*, 2020). The basis for this decision was rooted in the idea that individuals with outstanding LFOs, despite being in the community, were still subject to supervision by the criminal justice system and aligned Florida laws with those of 29 other states[2] (Campaign Legal Center, 2019). Nevertheless, this reversal allowed for the disenfranchisement of thousands of Floridians who had not paid their LFOs going into the 2020 United States presidential election.

Felon Disenfranchisement Today

Although the targeted laws of the 1800s have been amended to include a broad range of felonies, there is still clear racial disparity in the practice of felon

[2] Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Georgia, Idaho, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming

disenfranchisement (Kelley, 2017). The repercussions of these laws continue to result in a larger number of Black Americans being arrested, tried, convicted, and therefore disenfranchised (Kelley, 2017). Unfortunately, the number of disenfranchised felons will only continue to grow, continuing the cycle of systematic racism.

Presently, due to felony convictions, it is estimated that felon disenfranchisement impacts over 5.17 million individuals (Uggen et al., 2020). This number has decreased almost 15% since 2016 when there were approximately 6.11 individuals disenfranchised due to a felony conviction (Uggen et al, 2020). The decrease is likely due to changes in disenfranchisement laws and increases in the general population (Uggen et al., 2020). However, as Demleitner (2019) notes, there are approximately 19 million individuals with a felony record, so the exact number of disenfranchised felons is hard to pinpoint. Nevertheless, it is clearly a substantial problem in the criminal justice system worth addressing.

Felon Enfranchisement Restrictions by State

The extent of felon disenfranchisement varies by state, with some not restricting enfranchisement (Demleitner, 2019; Uggen et al., 2020). As of 2020, two states[3] do not restrict felons' voting rights (Uggen et al., 2020). However, 17 states[4] and Washington D.C. restrict while in prison; four states[5] restrict while in prison or on parole; and 17

[3] Maine and Vermont
[4] Colorado, Hawaii, Illinois, Indiana, Maryland, Massachusetts, Michigan, Montana, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, and Utah
[5] California, Connecticut, Louisiana, and New York

states[6] restrict while in prison or on parole or probation (Uggen et al., 2020). Strictest of all, 11 states[7] restrict while in prison, on parole or probation, and post-sentence (Uggen et al., 2020).

Recent Changes in Felon Disenfranchisement Policy

Since 2018, there have been significant changes to felon disenfranchisement laws in Florida (Uggen et al., 2020). In 2018, Floridians passed an amendment that would allow for felon's voting rights to be restored after they completed their sentence (Uggen et al., 2020). However, the Florida state legislature passed a bill saying restoration could only occur after all court fees and fines had been paid (Uggen et al., 2020). As previously discussed, the payment requirement was challenged but upheld by the 11th Circuit Court of Appeals in September 2020 (Mazzei, 2020; Uggen et al., 2020).

In Wyoming, the voting rights of first-time non-violent felons were restored in 2003 (Chung, 2019). In 2015, this was expanded to include the automatic restoration of rights for felon's meeting these criteria "who apply and receive a certificate of voting rights restoration" (Chung, 2019, p. 5). This was expanded, again, in 2017 to remove the application process, creating a true automatic restoration for first-time non-violent felons who had finished their sentence and post-incarceration supervision (Chung, 2019).

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[6] Alaska, Arkansas, Georgia, Idaho, Kansas, Louisiana, Minnesota, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, South Dakota, Texas, Washington, West Virginia, and Wisconsin

[7] Alabama, Arizona, Delaware, Florida, Iowa, Kentucky, Mississippi, Nebraska, Tennessee, Virginia, and Wyoming

In Kentucky, changes to felon disenfranchisement provisions have primarily been through the method of executive orders (Uggen et al., 2020). In 2015, former Governor S. Beshear signed an executive order that restored certain felon's voting rights (Uggen et al., 2020). However, it was rescinded during the next administration (Uggen et al., 2020). In 2019, Governor A. Beshear reinstituted an executive order, granting voting rights to felons convicted of non-violent offenses who had completed their sentences (Uggen et al., 2020).

Felon disenfranchisement actions in Iowa has been similar to the decisions made by Kentucky Governors S. Beshear and A. Beshear (Uggen et al., 2020). In 2005, former Governor Vilsack signed an executive order restoring the right to vote for felons who had completed their sentences; however, it was reversed by former Governor Branstad in 2011 (Uggen et al., 2020). In 2020, Governor Reynolds restored the right to vote for felons (other than those with homicide convictions) via executive order (Uggen et al., 2020).

California's laws changed in 2016 to end disenfranchisement for felons housed in jails (Uggen et al., 2020). However, this did not include those in prison (Uggen et al., 2020). Additionally, "officials authorized persons sentenced to prison to be released to probation rather than parole" (Uggen et al., 2020, Table 1 Note). This granted felons released on community supervision the right to vote (Uggen et al., 2020).

Virginia has been making changes to their application of felon disenfranchisement since 2000 when they began requiring ex-felons be notified of the

process for rights restoration (Chung, 2019). This was followed up in 2002 with a streamlining of the voting rights restoration process (Chung, 2019). Originally, there was a waiting period for non-violent offenders but this was decreased in 2010 and eliminated in 2013 (Chung, 2019). Additionally, in 2010, a 60-day deadline was implemented for the processing of restoration applications (Chung, 2019). In 2016, the process was simplified even more through an executive order that restored voting rights for felon at the close of their sentences (Chung, 2019). As a result of this order in 2019, Governor Northam reported over 22,000 restorations (Uggen et al., 2020).

One change in felon disenfranchisement laws across multiple states has been to enfranchise individuals on probation and/or parole (Chung, 2019). This change occurred in Maryland in 2016 (Chung, 2019). In 2018, Louisiana enfranchised individuals "who [had] not been incarcerated for five years including persons on felony probation or parole" (Chung, 2019, p. 5). In 2018, an executive order granted enfranchisement for felons on probation or parole in New York (Chung, 2019). Similarly, New Jersey provisions changed in 2019 to enfranchise felons post-incarceration (Chung, 2019).

Rates of Felon Disenfranchisement

Until 2020, there was a steady increase in the number of individuals disenfranchised due to a felony conviction (Uggen et al., 2020). In 1976, there were approximately 1.17 million individuals disenfranchised (Uggen et al., 2020). This expanded to 3.34 million in 1996 and to 5.85 million in 2010 (Uggen et al., 2020). In 2016, there was an estimated 6.11 million individuals disenfranchised; however, from

2016 to 2020, the rate has dropped almost 15% with only 5.17 million individuals disenfranchised in 2020 (Uggen et al., 2020). Unfortunately, this still means one in every 44 voter age Americans (2.27% of this population) are disenfranchised due to felon disenfranchisement provisions (Uggen et al., 2020).

Racial Disparity in Felon Disenfranchisement

Even though felon disenfranchisement provisions vary by state, Uggen et al. (2020) estimates high racial disparity among disenfranchised felons in general. Regarding Black Americans of the age to vote, one in 16 is disenfranchised; this equates to over 6.2% of the adult Black American population (Uggen et al., 2020). In comparison, only 1.7% of the non-Black American population is ineligible to vote due to felon disenfranchisement (Uggen et al., 2020). More specifically, there are seven states[8] where the disenfranchisement rate of Black Americans is significantly higher with one in seven Black Americans blocked from voting—this is twice the national average (Uggen et al., 2020).

Shift in Perspectives of Felon Disenfranchisement

As a result of societal changes, researchers have attempted to evaluate shifts in public perceptions regarding support for practice of felon disenfranchisement. During the time of enactment, disenfranchisement provisions were extensively supported by the general public and felons voiced little opposition (Aviram et al., 2017; Chung, 2018; Elliott, 1974; Miller & Agnich, 2016). Today, states' laws vary drastically in their

[8] Alabama, Florida, Kentucky, Mississippi, Tennessee, Virginia, and Wyoming

restrictions on felon enfranchisement, and action by federal and state governments has done little to clarify in what direction public opinion is currently headed (Manza et al., 2004). Pinaire et al. (2003) and Manza et al. (2004) conducted studies with the aim of clarifying public opinion on felon disenfranchisement. Therefore, in addition to stances taken by the court system, it is essential to consider the perspectives and support, or lack of, of the public on felon disenfranchisement.

Community Perspectives

Pinaire et al. (2003) and Manza et al. (2004) conducted public surveys consisting of questions created to determine whether individuals were in support of felon enfranchisement. Manza et al. (2004) also analyzed whether this support varied depending on the severity of punishment (prison, parole, and/or probation) or the crime committed. Additionally, they inquired about other civil liberties for offenders (Manza et al., 2004). Considering expectations, Pinaire et al. (2003) thought Americans' attitudes would veer in support of disenfranchisement due to 48 states maintaining felon disenfranchisement provisions of some kind; however, Manza et al. (2004) thought the opposite would occur due to recent pushes for expansions in civil liberties.

Pinaire et al. (2003) and Manza et al. (2004) discovered that most people surveyed supported enfranchisement—at some point—for ex-felons (approximately 80%) instead of disenfranchisement. When evaluating specific classes of offenders, Manza et al. (2004) found slightly less support for the enfranchisement of former sex offenders (52%) and those who were convicted of a violent crime (66%). When drug

offenses were specified, there was less but still favorable support (72%) (Manza et al., 2004).

Furthermore, Pinaire et al. (2003) noted that less than 10% of respondents stated felons should never lose the right to vote, and there was "no consensus regarding the exact time or phase within the sentence" that the right to vote should be reinstated. Manza et al. (2004) found that the public supported the enfranchisement of parolees (60%) and of felony probationers (60% for those still imprisoned, 68% for those in the community). In a similar manner, Pinaire et al. (2003) found that only 31% supported felons losing the right to vote while incarcerated, 5% supported felons losing the right to vote while on parole and/or probation, and 35% supported felons losing the right to vote only while incarcerated/on probation and/or parole. Additionally, Pinaire et al. (2003) held that almost 82% of respondents opposed the permanent disenfranchisement of felons. As a result of these surveys, it can be concluded that, despite legal trends across the United States, there is generally public support for the enfranchisement of offenders who have completed their sentences (Manza et al., 2004, Pinaire, et al., 2003).

Felon Perspectives

The perspectives of felons have rarely been considered when researching opinions on felon disenfranchisement (Aviram et al., 2017; Elliott, 1974; Miller & Agnich, 2016). However, it is crucial to evaluate these perspectives because felons' outlooks on their status directly relate to the success or failure of reintegration for many offenders.

More specifically, research on felons' perspectives reveals specific trends in ex-offenders' emotional responses, providing basis for application of specific criminological theories (Alexander, 2010; Miller & Agnich, 2016; Uggen et al., 2004).

Emotional Response to Disenfranchisement. Ex-felons expressed a large range of emotions when discussing their disenfranchisement; these included feelings of anger, embarrassment, frustration, and even fatalism (Alexander, 2010; Miller & Agnich, 2016). In an interview study by Alexander (2010), a former felon expressed frustration about their disenfranchisement status, stating "I've lost all voice or control over my government…I get mad because I can't say anything because I don't have a voice" (Alexander, 2010, p. 161). This was echoed by another interviewee who referred to the requirement to repay fines and fees as a poll tax (Alexander, 2010). This individual revealed their frustration was due to how, now, their service in Vietnam was essentially void and that they are unemployed and denied the most essential American freedom (Alexander, 2010). An ex-offender in a study by Pinkard (2013) explained how they have paid their debt for their crime and approached their disenfranchisement with a *they should "let it go* [emphasis added]" mindset (p. 142). In a similar manner, participants from Miller and Agnich's (2016) study revealed frustration or anger and questioned why they were continuing to be punished if they had served their time, pointing out the contradictions of the system and the almost laughable concept of true reintegration. On the other hand, some ex-felons responded to their disenfranchisement with feelings of

shame or embarrassment due to the inability to participate in the democratic process (Miller & Agnich, 2016).

Perhaps the most telling responses were those who responded with feelings of fatalism, conceding to the fact that they "face a life with restricted opportunities and feel that [disenfranchisement] is out of their control" (Miller & Agnich, 2016, p. 80). This is further emphasized by Uggen et al.'s (2004) interview study where ex-felons explained how they felt barred from being active members of their communities due to their felon status. In fact, one ex-felon explains how "the loss of voting rights [was] part of a larger package of restrictions that make it impossible for [them] to become a 'normal citizen'"—an idea held by many of the research participants (Uggen et al., 2004, p. 277). As a whole, these narratives reveal how the continual reinforcement of the label felon, due to disenfranchisement, results in offenders feeling ostracized, potentially increasing their likelihood of reoffending.

Criminological Theories

As seen in the interview studies conducted, criminological theories emerge. The two that will be focused on in this research are labeling theory and the theory of reintegrative shaming. By analyzing ex-felons' responses in light of these principles, theoretical cause and effect conclusions can be drawn between the practice of felon disenfranchisement and recidivism.

Labeling Theory

Labeling theory is rooted in the idea that stigmatizing an ex-offender will increase the likelihood that they reoffend (Miller & Agnich, 2016). Labeling is something imposed by societal constructs; therefore, studying how society reacts to an ex-offender during reintegration will aid in understanding the question why recidivism occurs (Lemert, 1951). The logic behind labeling theory is that "once individuals are labeled as deviant and treated as such[,] their opportunities become limited and they internalize their label further affecting their self-identity" (Miller & Agnich, 2016, p. 72). There are two methods by which labeling increases the likelihood of criminal behavior, but most relevant to this study is the concept of increased criminality due to "block[ed] access to conventional opportunities" (Vance, 2019, p. 6). Therefore, the link between disenfranchisement and labeling theory is seen through how the practice of stripping an ex-offenders' rights brands them as "irredeemably different and dangerous" (Dilts, 2014, p. 44). Essentially, this means offenders cannot truly reintegrate into a community when they are forced to maintain the identity of *felon* as imposed upon them by society.

The negatives of labeling theory can be seen in the felon interview studies by Alexander (2010). Many of the respondents felt angered or frustrated by the label they could not shake (Alexander, 2010; Miller & Agnich, 2016; Pinkard, 2013; Uggen et al., 2004). As a result of their societal status, they were being denied basic rights of citizenship further alienating them from their communities (Alexander, 2010; Miller & Agnich, 2016; Pinkard, 2013; Uggen et al., 2004). As Miller and Agnich (2016) explain,

"disenfranchisement serves as a formal reminder that former offenders are 'others'" (p. 72). Therefore, labeling theory suggests offenders' chances of recidivating is increased due to the reinforced label of *felon* and/or *other* caused by the practice of disenfranchisement (Miller & Agnich, 2016).

Theory of Reintegrative Shaming

In slight opposition to labelling theory, the theory of reintegrative shaming suggests that "for punishment to be effective, it needs to shame the individual," but more importantly, this must be "followed by gestures of reacceptance into the community" (Miller & Agnich, 2016, p. 73). Braithwaite (1989), the originator of the theory, emphasizes the difference between reintegrative and disintegrative shaming, or stigmatization, in his book *Crime, Shame, and Reintegration.* Reintegrative shaming is the processes by which the community accepts the offender back, reinstating them as a valuable member of society (Braithwaite, 1989). However, disintegrative shaming occurs when there is no clear, complete effort to fully reintegrate an offender into the community, reinforcing the status of deviant (Braithwaite, 1989).

Felon disenfranchisement is clearly a practice of disintegrative shaming, due to the failure to reintegrate ex-offenders into community customs such as voting. As a whole, the action of disintegrative shaming aids in dividing a community through the creation of stigmatized outcasts—the disenfranchised (Braithwaite, 1989; Miller & Agnich, 2016). Although there is no definitive evidence that reintegrative shaming reduces recidivism, Braithwaite (1989) makes an excellent point, supporting the

argument for the reintegration of ex-felons into the voting community, by explaining how “much effort is directed at labeling deviance, while little attention is paid to de-labeling” (p. 55; Miller & Agnich, 2016).

Felon Disenfranchisement and Recidivism Rates

By analyzing criminological theories, it is easy to see how felon disenfranchisement could have an impact on recidivism. Although felon disenfranchisement is not the sole reason for recidivating, it is most certainly a factor, as seen in studies by Hamilton-Smith and Vogel (2012) and Uggen and Manza (2004). These studies are the first to truly attempt to analyze this specific aspect of recidivism. However, while all of these studies are foundational research pieces, they have their limitations.

In one of the most inclusive studies on the relationship between felon disenfranchisement and recidivism to date, Hamilton-Smith and Vogel (2012) sought to determine more about the relationship between felon disenfranchisement and recidivism (Aviram et al., 2017). In this study, the authors used data from the Department of Justice’s 1994 study called Recidivism of Prisoners (Hamilton-Smith & Vogel, 2012). Although more recent data was available, the researchers used this data set because it was the “most comprehensible national study of recidivism in existence,” making it the most applicable for the goals of this study (Hamilton-Smith & Vogel, 2012, p. 423). Furthermore, in this study, recidivism is defined as “an individual being

r[ea]rrested within three years following [their] release from prison," thereby making rearrest the sole measurement for recidivism (Hamilton-Smith & Vogel, 2012, p. 424).

Compared to individuals in states that enfranchise ex-offenders upon release, Hamilton-Smith and Vogel (2012) found that offenders released in states that permanently disenfranchise are approximately 19% more likely to reoffend. However, it was also discovered that, when combined, individual factors—such as the offender's background (race, gender, etc.) and criminal history—and state level factors—such as unemployment rates and felon disenfranchisement laws—all have a significant effect on the probability of an offender recidivating (Hamilton-Smith & Vogel, 2012). Nevertheless, when controlling for these individual and state factors, disenfranchisement remained a significant factor in predicting future criminal behavior (Hamilton-Smith & Vogel, 2012). In fact, offenders were 10% more likely to recidivate when permanently disenfranchised than those who were enfranchised in the control model (Hamilton-Smith & Vogel, 2012).

Although the results are indicative of a relationship between felon disenfranchisement and recidivism, there are some limitations with this study (Hamilton-Smith & Vogel, 2012). The most pressing is the inability to determine whether the relationship is simply a correlation or if it is causal (Hamilton-Smith & Vogel, 2012). Additionally, it is impossible to determine if "unobserved differences in releases" of these offenders is "driving the observed variation in recidivism across states" (Hamilton-Smith & Vogel, 2012, p. 426). As also seen in Uggen and Manza's (2004) study, these

limitations are relatively standard in the analysis of felon disenfranchisement and the impact the practice has on recidivism.

In their study, Uggen and Manza (2004) took a more in-depth look at political participation and criminality, an idea they stated "ha[d] yet to be systematically addressed," by exploring the likelihood of future criminality when an ex-offender is or is not civically engaged (p. 194). The researchers analyzed multiple types of data, consisting of both secondary data and surveys (Uggen & Manza, 2004). They used the Youth Development Study, which began in 1988 in Minnesota public schools, to provide a general sample (Uggen & Manza, 2004). Uggen and Manza (2004) also used self-reported crime data (property crime and violent behavior) and arrest data from 1988-2000. Additionally, surveys were conducted in 2000 to determine political participation in the 1996 election (Uggen & Manza, 2004). Using this research, the authors aimed to discover whether voting creates pro-social behavior that reduces criminality, or if it is relative to other factors (Uggen & Manza, 2004).

They found that the correlation between voting and rearrest is weaker when controlling for other factors such as race, gender, and education (Uggen & Manza, 2004). Additionally, when considering prior antisocial behavior as a result of previous criminal activity, Uggen and Manza (2004) found that there was not a statistically significant relationship between the act of voting and preventing future offending. However, the wholistic concept of civic engagement was shown to influence recidivism,

indicating that, when combined with other methods of civic engagement, voting is a factor in reducing future criminality (Uggen & Manza, 2004).

When the results are analyzed in whole, the relationship between voting and future criminality is not statistically sound, but data surrounding the broad concept of civic engagement still suggests that a relationship, of some kind, is plausible (Uggen & Manza, 2004). Continuing, Uggen and Manza (2004) do contend that voting itself may not reduce future criminal behavior, but they explain how it is a visible sign of "the desire to participate as a law-abiding stakeholder in a larger society" (p. 213). However, the authors note that civic engagement alone is not a substantial factor; instead, it is "part of a package of prosocial behavior that is linked to desistance from crime" (Uggen & Manza, 2004, p. 214). They also explain that reducing recidivism requires a multifaceted approach and how political and educational participation are two important pieces, suggesting that civics education courses may be successful in prisons (Uggen & Manza, 2004).

As seen in the studies by Hamilton-Smith and Vogel (2012) and Uggen and Manza (2004), there is a clear relationship between the practice of felon disenfranchisement in states and increased recidivism rates, with states where permanent disenfranchisement is practiced experiencing increased recidivism rates. While these results aid in broadening understanding behind the *why* of recidivism, the relationship between the variables is not definitively correlative or causal (Hamilton-

Smith & Vogel, 2012; Uggen & Manza, 2004). Nevertheless, felon disenfranchisement is a critical part in larger conversations about and approaches to reducing recidivism.

CHAPTER III: METHODOLOGY

Variables

In this study, the independent variable will be felon disenfranchisement laws, a nominal measurement. These laws will be placed into categories depending on the type of voting rights restoration process (or lack thereof) the state maintains. The dependent variable is recidivism rates, a ratio measurement. These rates will be measured using rearrest, reconviction, and reincarceration data spanning from 2005 to 2014.

Research Design

The purpose of this experiment is to measure the impact state felon disenfranchisement laws have on state's recidivism rates. Therefore, the treatment in this study will be the action of felon disenfranchisement after release from incarceration, not including parole and/or probation. In turn, this creates a de facto control group, the states who do not restrict the right to vote ever or while in prison (as seen below in categories one and two). Therefore, the experimental group will consist of states who restrict while in prison or on parole, while in prison, on parole, and on probation, and while in prison, on parole, on probation, and post-sentence (as seen below in categories three through five). As a result, this study is a quasi-experimental design. More specifically, it is a longitudinal, repeated cross-sectional design.

Data Collection

As explained previously, the independent variable, felon disenfranchisement, will be placed into categories based on the strictness of the provision. These categories are derived from the research of Uggen et al. (2020) and are as follows:

(1) never restrict

(2) restrict while in prison

(3) restrict while in prison or on parole

(4) restrict in prison, on parole, and on probation

(5) restrict while in prison, on parole, on probation, and post-sentence

This research will utilize secondary data for the dependent variable, recidivism rates, that is collected from the *50-state Report on Public Safety: Tools and Strategies to Help States Reduce Crime, Recidivism, and Costs* (hereby "50 State Report") (Peters & Weckerly, 2018). In "Part 2, Strategy 1" of the 50 State Report, titled "Use data to drive recidivism-reduction efforts," they provide a drop-down menu of all 50 states where recidivism data (included rearrest, reconviction, and reincarceration data) can be seen (Peters & Weckerly, 2018). These are either two- or three-year rates, and unfortunately, some of the states are missing measurements (i.e., rearrest, reconviction, and/or reincarceration data).

Sampling Methods

The unit of analysis for this research is state level data, with the population and sampling frame being all 50 states within the United States of America. Additionally, the

sampling method used is purposive sampling, as this research is focused on states' recidivism rates.

CHAPTER IV: RESULTS

As shown in Table 1, the frequencies for the independent variable, felon disenfranchisement laws, are too low to allow proper comparisons. Therefore, the variables were reconfigured and condensed into states that:

(1) Never restrict or restrict while in prison

(2) Restrict on probation and/or parole

(3) Restrict post-sentence

By condensing these variables, the frequencies were increased, with the smallest variable consisting of 11 states (Table 2).

Table 1

Independent Variable Frequencies before Recoding

	Frequency	**Percent**	**Valid Percent**	**Cumulative Percent**
Never restrict	2	4.0	4.0	4.0
Restrict while in prison	17	34.0	34.0	38.0
Restrict while in prison or on parole	4	8.0	8.0	46.0
Restrict in prison, on parole, and on probation	16	32.0	32.0	78.0
Restrict while in prison, on parole, on probation, and post-sentence	11	22.0	22.0	100.0
Total	50	100.0	100.0	--

Table 2

Independent Variable Frequencies after Recoding

	Frequency	Percent	Valid Percent	Cumulative Percent
Never restrict or while in prison	19	38	38	38
Restrict on probation and or parole	20	40	40	78
Restrict post sentence	11	22	22	100
Total	50	100	100	--

Upon inputting the data for the dependent variable (recidivism rates consisting of rearrest, reconviction, and reincarceration data), it was clear that there were large gaps in reporting by states for specific rates and years. Due to a lack of data for rearrest and reconviction rates, the variable was narrowed down to include only rates of reincarceration. Furthermore, the years evaluated were narrowed down to 2008 through 2011 (see Table 3).

Table 3

Statistics for Dependent Variable from 2009 to 2011

	Rate of individuals reincarcerated in 2008	Rate of individuals reincarcerated in 2009	Rate of individuals reincarcerated in 2010	Reincarceration 2011	Reincarceration Rate 8to11
N Valid	41	41	42	41	35
Missing	9	9	8	9	15
Mean	38.83	37.44	37.71	37.78	38.7929
Median	38.00	37.00	36.50	37.00	37.7500
Mode	44	26	35[a]	26[a]	32.50
Std. Deviation	12.025	11.610	12.300	12.154	11.71922
Variance	144.595	134.802	151.282	147.726	137.340
Minimum	15	14	15	17	15.25
Maximum	68	68	68	70	68.50

a. Multiple modes exist. The smallest value is shown

Despite the focused scope, missing data was still a problem. Overall, only 35 states reported incarceration data for the whole year range of 2008-2011, resulting in 15 total missing variables. Of these 35 states, the minimum rate of reincarceration was 14 with the minimum average from 2008-2011 being 15.25. In contrast, the maximum rate of reincarceration was 70 with the average from 2008-2011 being 68.50.

Data Analysis

Given the categorical and ratio levels of measurement, an ANOVA test was used to determine statistical significance between these groups (independent variable) by comparing the means from 2008 to 2011 (descriptive measurements shown in Table 4). As seen in Table 5, the ANOVA reveals no statistical significance (value of .771). Therefore, we accept the null hypothesis because states' felon disenfranchisement provisions do not seem to have a significant impact on recidivism rates.

Table 4

Descriptive Statistics

	N	Mean	Std. Deviation	Std. Error	95% Confidence Interval for Mean		Minimum	Maximum
					Upper	Lower		
Never restrict or while in prison	14	39.9821	11.58475	3.09615	33.2933	46.6710	15.25	63.75
Restrict on probation and or parole	13	39.1154	10.15947	2.81773	32.9761	45.2547	21.75	56.00
Restrict post sentence	8	36.1875	15.16972	5.36331	23.5053	48.8697	23.00	68.50
Total	35	38.7929	11.71922	1.98091	34.7672	42.8185	15.25	68.50

Table 5

ANOVA

	Sum of Squares	**Df**	**Mean Square**	**F**	Sig.
Between Groups	75.457	2	37.729	.263	.771
Within Groups	4594.104	32	143.566	**--**	--
Total	4669.561	34	**--**	**--**	**--**

CHAPTER V: DISCUSSION

As previously discussed, some studies have indicated that the practice of felon disenfranchisement is a contributing factor to increased recidivism rates (Hamilton-Smith and Vogel, 2012; Uggen and Manza, 2004). Additionally, from community and theoretical perspectives, these provisions are lobbied as an injustice with the practical basis rooted in the idea that they increase recidivism rates (Aviram et al., 2017; Manza et al., 2004; Miller & Agnich, 2016). Labelling theory, the theory of integrative shaming, and felons' perspectives on their own disenfranchisement indicated that this form of shunning from the community increases ex-offenders' likelihoods of future criminality (Alexander, 2010; Braithwaite, 1989; Dilts, 2014; Elliot, 1974; Lemert, 1951; Miller & Agnich, 2016; Uggen et al., 2004; Vance, 2019). However, the empirical data in this study reveals otherwise, and therefore, this research supports the null hypothesis, rejecting the research hypothesis that felon disenfranchisement provisions impact recidivism rates at the state level.

The data analysis revealed that there is no statistical significance. More specifically, within the years 2008 to 2011 states' felon disenfranchisement provisions of never restrict/restrict while in prison, restrict on probation and/or parole, or restrict post-sentence had no effect of on felonious recidivism rates. So, while community and theoretical perspectives may maintain otherwise, this analysis reveals no empirical basis for the argument that strict felon disenfranchisement provisions result in higher recidivism rates.

Limitations and Future Research

Though the results do not show a significant trend, the research contains many limitations. The first and most substantial is the need for more data. Even when narrowing the dependent variable to 2008 to 2011, there were 15 states not included[9]. With only 70% of states being analyzed, the scope of the research is limited. Additionally, a lack of disaggregated, individual-level data prevents analysis that takes a more micro level look at the rates of recidivism according to race or specific crime. Second, due to a lack of cohesive data, study and measurement of recidivism is difficult—a problem not unique to this specific study but to all analysis of recidivism. Considering the first and second limitation, it is conceivable that the results could have been different had all 50 states recorded data on recidivism measured as rearrest, reconviction, and reincarceration.

Furthermore, narrowing the scope of recidivism to only include reincarceration rates is inherently flawed. As Willbach (1942) explains, of the three options to measure recidivism—rearrest, reconviction, and reincarceration—the most ideal form is reconviction. This is because rearrest does not always indicate legitimate criminal behavior, thereby overestimating recidivism rates (Willbach, 1942). On the other hand, reincarceration does not include all those reconvicted, just individuals sentenced to jail or prison, thereby underestimating recidivism rates (Willbach, 1942). Therefore,

[9] Alaska, Arizona, Connecticut, Georgia, Hawaii, Maine, Maryland, Mississippi, Montana, Nevada, New York, Oklahoma, South Carolina, Washington, and Wyoming

reconviction falls somewhere in the middle, accounting for those who were legitimately arrested and sentenced, regardless of sentencing method.

Finally, voting is not the only factor that shapes an ex-offender's re-entry into society. Other situations include, but are not limited to, finding housing, finding and maintaining employment, obtaining a driver's license, getting healthcare, re-establishing parental rights, etc., all of which are considered essential to one's wellbeing and livelihood. Therefore, the restoration of one's civil rights is likely not high priority and is actually shaped by factors such as those previously listed. Future research should consider how all of these reintegration factors impact an ex-offender's likelihood of recidivating.

Overall, these limitations indicate a need for future research to consider the gaps and how they might be overcome. One potential way to circumvent the lack of data and consider the additional factors that influence felons' reintegration is through regression analysis. This could account for factors such as limited or restricted access to welfare (SNAP) benefits, public availability of criminal history, public notification of sex-offender re-entry, and termination of parental rights. Therefore, it would be possible to see a more wholistic analysis of ex-offender alienation post-incarceration that includes disenfranchisement. Most importantly, researchers should continue to push for more substantive, complete data collection on recidivism rates for all 50 states.

Conclusion

From an empirical analysis perspective, felon disenfranchisement is relatively understudied. There could be a multitude of reasons for this—including limitations on data availability—but it does not lessen the importance of this type of research, due to the potential implication of statistically significant findings. Despite the results of this study being not significant, research should continue as states change felon disenfranchisement provisions. Additionally, while the empirical data shows that disenfranchisement does not impact recidivism rates, the practice still alienates portions of the population from being civically engaged, disproportionally blocks Black Americans from voting, and compromises the integrity of elections. Therefore, persistence in researching the impact of felon disenfranchisement is crucial to the protection of individual freedoms and democracy.

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