

POLITICAL REPORT

Disenfranchising Felons Hurts Entire Communities

By Marc Mauer

Lumumba Bandele is a teacher and guidance counselor in the Brooklyn neighborhood of Bedford Stuyvesant in New York City. As the father of two, he and his wife struggle to provide a safe and secure environment for their children in a neighborhood with overcrowded public schools, failing small businesses and little affordable housing. Bandele sees political change as the means of improving these conditions, but he's frustrated by declining voter turnout in his community.

Electoral participation is lacking across the country, but in places like Bedford Stuyvesant it takes on a particularly curious slant. With so many of his neighbors unable to vote because they are in prison or on parole, Bandele feels that he, too, has lost political influence. To change that, he is now a plaintiff in a lawsuit challenging New York State's felon disenfranchisement laws, in part because they dilute the vote in communities of color, like his own neighborhood.

"The issue of disenfranchisement is really about power," Bandele says. "As the 'prison industrial complex' grows, one of the results is an increase in the number of people of color who are not allowed to participate in the electoral process. Our communities have been and will continue to struggle for power. The big battle now is to empower our family members who have returned and who are returning home from prison."

The New York litigation is but one aspect of a growing recognition that the vast expansion of the prison apparatus over the last two decades is now hurting not only

those incarcerated and their families, but their communities as well. Increasingly, the ability of these communities to gain political representation and influence — and therefore access to public resources — is being thwarted by the American race to incarcerate. The structural racism in the system, an entrenched and often unconscious bias in law enforcement, has weakened Black political power. This affects everything, from elections for township supervisors to the president and all the policies that result.

As we celebrate the 50th anniversary of the historic *Brown v. Board of Education* Supreme Court decision, we can measure the contours of the expansion in incarceration against the background of the intervening five decades. While much attention is being focused on assessing progress in educational opportunity, the contrast with developments in the criminal justice system is quite profound.

The figures themselves are shocking even after countless news stories and government reports. On the day of the *Brown* decision in 1954, about 98,000 African Americans were incarcerated. Today, there are nine times that number, an estimated 884,000, which is nearly half of today's total incarcerated population. If current trends continue, one of every three Black males born today will be sentenced to prison at some point in his lifetime. And in recent decades, the combined impact of poverty and the war on drugs has resulted in rapidly escalating figures for Black women as well.

The ripple effects of large-scale incarceration now extend well beyond the time individuals are locked up. We can see this most directly in the way low-income

communities have lost political influence as a result of felony disenfranchisement laws. Depending on the state, a felony conviction can result in the loss of the right to vote while serving a sentence or even after completion of sentence. At present, prisoners can vote only in Maine and Vermont. In the other 48 states and the District of Columbia, persons in prison are not permitted to vote; in 33 of these states, persons on probation and/or parole cannot vote either; and in 13 states a felony conviction can result in the loss of voting rights for life.

As a combined result of the growth in incarceration and disenfranchisement practices, more than four million Americans will be unable to vote in this year's presidential election. Among African American men, an estimated 13 percent are disenfranchised as a result of a current or previous conviction. And in the states with the most restrictive laws, 30 percent to 40 percent of the next generation of Black males will lose their right to vote if current trends continue.

These dynamics are not just the unfortunate consequences of higher rates of involvement in crime among African Americans. There is documented evidence of racial disparity in criminal justice processing and in the legacy of disenfranchisement being used as a means of restricting Black voting.

In the years after Reconstruction in the South, state legislators tailored their disenfranchisement laws with the intent of reducing participation among the new Black electorate. The means by which they accomplished this was to expand disenfranchisement for crimes believed to be committed by Blacks but not for those offenses presumed to be committed by Whites. This led to the bizarre situation in Alabama whereby a man convicted of beating his wife would lose his right to vote but a man convicted of killing his wife would not.

Disenfranchisement laws directly affect the 1.4 million African American men and 245,000 women who cannot vote, but the impact goes well beyond them. The effect

on families can be particularly hard when women are incarcerated. “Almost half of all Black families are headed by women. When Black women are disengaged from the political process, the whole family is disfranchised,” says Monifa Bandele, field coordinator for the Right to Vote Campaign and wife of Lumumba Bandele. Communities with high rates of people with felony convictions have fewer votes to cast. All residents of these neighborhoods, not just those with a felony conviction, become less influential than residents of more affluent neighborhoods.

Emerging research also suggests that disenfranchisement laws may affect voter turnout in neighborhoods of high incarceration even among people who are legally eligible to vote. Since voting is essentially a communal experience — we talk about elections with our families and often go to the polls together — limitations on some members of the community translate into lower overall participation. Disenfranchisement laws now affect growing numbers of young people as well. The increasing tendency to charge juveniles with adult crimes is causing greater numbers of 16- and 17-year-olds to lose the right to vote, in some cases permanently, even before they are old enough to cast their first ballot.

While disenfranchisement policies raise serious questions about democratic inclusion, their practical effect is now of such a magnitude that it may be determining electoral outcomes. On the day of the historic Florida election fiasco in 2000 — when 537 votes in the state effectively decided the presidential election — an estimated 600,000 persons who had completed their felony sentences were unable to vote due to the state’s restrictive laws. Had these persons been eligible to vote, even a modest rate of participation could easily have altered the national outcome.

Political influence and access to resources are further hindered by the growing tendency to build prisons in rural areas. Prison officials have always sought rural

land for prison construction, primarily due to low real estate costs, and these trends have accelerated in recent years. Communities hard hit by the loss of manufacturing jobs and the decline of family farms have come to view prisons — often incorrectly, it turns out — as a recession-proof means of providing jobs. In New York State, for example, all 38 of the prisons built since 1982 have been located in upstate areas, most in rural communities.

Rural prison expansion affects urban communities of color through the mechanism of the census count. The Census Bureau’s general rule is to count people in their “usual residence”; for prisoners, this has been interpreted to mean that they should be counted at the prison where they are housed, not in their home communities. The effect of this policy is that sparsely populated rural communities are artificially enlarged through their inmate population consisting mostly of people of color from urban neighborhoods. In Florence, Arizona, for example, two-thirds of the town’s 16,000 inhabitants are prisoners, and for every dollar raised by local taxes, the town receives an additional \$1.76 from state and federal allocations based on its prison population. Says town council member Tom Rankin, without the inmate bounty, “we would have been here but wouldn’t have been going anywhere.”

The increased political clout in many areas is now quite significant. In one prison district near Albany, New York, every 93 residents enjoy the political representation that would require 100 residents in other areas of the state, according to Soros Justice Fellow Peter Wagner.

Fiscal dynamics created by the census play out in similar ways. Former Soros Senior Justice Fellow Eric Lotke (currently with the Justice Policy Institute) estimates that nationwide each prisoner brings in between \$50-\$250 a year to the local government in which he or she is housed. Thus, a new 500-bed prison may yield about \$50,000 annually in new revenue. If such facilities were located in the urban areas many inmates call home, at

least their communities would reap any financial and political benefits.

Finally, urban areas suffer from the vicious cycle set in motion by the dramatically high rates of arrest and imprisonment of members of their communities. Eric Cadora of the Open Society Institute, who tracked this geographic concentration in a publication for the Urban Institute, found that New York City taxpayers spend \$1 million to incarcerate inmates from some city blocks in Brooklyn. Suppose that this rate of incarceration could be reduced by just 10 percent; that would free up \$100,000 in savings that could be invested to provide education, health care, and job training to this distressed area.

In recent years, considerable momentum for change in disenfranchisement laws has developed nationally. Nine states have adopted reforms of their policies since 1996, resulting in a half million persons becoming eligible to vote. These changes have been bipartisan, with five of these laws signed by Republican governors and four by Democrats.

The changes represent a growing realization in the states and in Washington that restricting voting rights does not serve a crime control agenda—the goal of racial inclusion or democracy itself. At the federal level, Congressman John Conyers (D-MI) introduced legislation last year that would permit any non-incarcerated person to vote in federal elections, even if prohibited from voting in state elections. He argues that there should be uniformity in electing national leaders. “If we want former felons to become good citizens,” he said, “we must give them rights as well as responsibilities, and there is no greater responsibility than voting.” ■

Marc Mauer is the assistant director of The Sentencing Project and the author of Race to Incarcerate and co-editor of Invisible Punishment: The Collateral Consequences of Mass Imprisonment (both published by The New Press).