

The Boston Globe

MONDAY, MARCH 1, 2021

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Gerrymandering of prisoners robs their home communities of power

In a series of cases in the 1960s, the Supreme Court articulated a principle that fundamentally changed American democracy: one person, one vote. The creed, which is considered constitutional law and has never been overturned, meant that legislative districts had to be apportioned to have roughly equal populations. Before then, rural districts were significantly overrepresented in state legislatures, and in some cases, state senators from rural areas had just about 10,000 constituents while their urban counterparts had millions. Yet in spite of the Supreme Court's many rulings on the issue, American democracy still does not adhere to "one person, one vote" in practice — and not only when it comes to the completely lopsided apportionment of the US Senate or the Electoral College.

Across the country, there are legislative districts that use prison inmates to artificially boost their population, a practice known as prison gerrymandering. By counting inmates as residents of their prisons rather than of their homes, elected officials from counties with large prison populations have fewer voting constituents. In effect, that boosts the voting power of people who happen to live near prisons, and dilutes the voting power of the communities that prisoners come from.

In some cases, prisoners

make up the majority of a legislative district. And because incarcerated people are barred from voting in all but two states and Washington, D.C., representatives from those districts feel compelled to cater to the needs of only a minority of their constituents if they wish to be re-elected. Prisoners seldom hear from their local elected officials, and in many cases don't even know who they are as a result. This is not because these repre-

the "one person, one vote" principle. According to a study by the US Census Bureau, rural areas house a disproportionate share of the nation's inmates even though the vast majority of incarcerated people come from urban areas. The result is an artificially inflated rural population and an undercounted urban population, which bolsters the voting power of rural residents.

This makes American de-

When states count inmates as residents of their prison, it increases the voting power of the often white, rural people who happen to live near the facilities.

sentatives are inherently sinister actors — though not responding to the needs of incarcerated constituents is a failure of leadership and the duty to serve a district in its entirety — but because the system encourages elected officials to ignore their prison populations.

This wasn't a major issue prior to the 1980s because the prison population was small enough that it didn't distort district lines. But in the era of mass incarceration — with the US prison population topping 2 million people — counting inmates as residents of their prisons rather than of their homes skews political power in favor of rural districts again and violates

democracy less fair for everyone. "Every single person has less access to representatives than the folks who live in the most prison-gerrymandered districts," said Aleks Kajstura, the legal director of the Prison Policy Initiative. "It also impacts people who live in high-incarceration communities even more than everybody else because they're losing representation from their communities as their members are counted elsewhere." Because the culture of overcriminalization has disproportionately targeted Black and brown people, and because rural areas tend to be whiter than their prison populations, prison gerrymandering gives white voters more power

while diminishing the voting power of communities of color.

Only nine states have passed legislation to ban prison gerrymandering. And though the Massachusetts Legislature addressed this problem after the 2010 Census, it was not a permanent measure. As the Commonwealth prepares for a new redistricting cycle based on the 2020 Census, the state should ensure that prisons don't meaningfully distort where district lines are drawn. One simple way to do that in the short term, which wouldn't require action from the Legislature, is to remove prisons from redistricting data prior to creating new legislative maps at the local level. In the long term, the Census Bureau should end the practice of prison gerrymandering for good by counting incarcerated people as residents of their homes rather than the correctional buildings that temporarily house them.

In one of the cases that cemented the principle of "one person, one vote" as a central tenet of representative democracy in the United States, Chief Justice Earl Warren wrote, "Legislators represent people, not trees or acres." It should be said they don't represent buildings either.

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