



Should people in prison be allowed to vote? What would happen if Bernie Sanders' dreams came true

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SALT LAKE CITY — When Lori Lloyd, 48, was sent to federal prison in Dublin, California, in June 2008, the economy was in ruins due to the global financial crisis, and Sens. John McCain and Barack Obama were competing for the presidency. That fall, Lloyd — a mother of three from Midvale, Utah — anxiously watched the 2008 election play out.

The year before, she had pleaded guilty to charges of bank fraud and identity theft, which she said she committed in order to feed a meth addiction. The economic state of the country was so bad, people told Lloyd she was lucky to be in prison where at least she was guaranteed three meals a day. But she worried about what the country was going to look like in a year when she would be released, and she was concerned about the economic future for herself and her family. She wanted to vote, but as a felon in prison, she could not.

“I was scared to death,” she said. “It was a feeling of complete powerlessness, like my voice didn’t matter.”

Only two states, Maine and Vermont, allow prisoners to vote. The other 48 states bar incarcerated people from voting, and in many cases, have complex rules that make it difficult for felons to vote even after they’re released.

Democratic presidential candidates like Vermont Sen. Bernie Sanders have revived the debate about felon voting rights in recent months as they’ve addressed the topic in interviews, town halls and op-eds. While Sanders believes voting is “an inherent American right” for all citizens, Beto O’Rourke, the former congressman from El Paso, suggests nonviolent offenders should be treated differently from violent criminals, and Sen. Elizabeth’s Warren says voting rights should be restored upon completion of the individual’s sentence.

Those who oppose giving prisoners voting rights, like National Association of Police Organizations Executive Director Bill Johnson, argue barring criminals from civic participation is an important part of exacting justice.

“By showing profound disrespect for the law, you lose your privilege to have a say in deciding what the law is,” said Johnson. He added that convicted felons should prove they have been

reformed to "earn that right back," rather than having it automatically restored upon being released from prison.

On the other hand, organizations that advocate for felon voting rights, like the [Brennan Center for Justice](#) and [the Sentencing Project](#), point to flaws in the criminal justice system, like the disproportionate incarceration rate of black Americans. These groups say voting restrictions unfairly silence the voices of millions of U.S. citizens.

Roughly 4.5 million people, both in and out of prison, are unable to vote in the United States because of felony disenfranchisement laws, Sanders wrote in an op-ed for [USA Today](#). In Iowa and Kentucky, all ex-felons are permanently barred from voting unless they petition the governor, who has the power to restore voting rights on an individual basis. The process is "onerous" and few apply, according to the Brennan Center. In other states, regaining the right to vote after incarceration may depend on the type of crime committed, whether the offender has outstanding debts to the state and whether they have completed parole and probation.

"Once someone pays their debt to society, they're out there expected to pay taxes, they're expected to abide by the law, they're expected to support themselves and their families. I think that means they've got a right to vote," Warren, from Massachusetts, said in April at the [Heartland Forum](#) in Storm Lake, Iowa.

Lloyd lives in Utah, one of 15 states where voting rights are automatically restored to both violent and non-violent offenders after they are released from prison. She currently works as an accounting specialist and has been drug free ever since she was released from prison more than a decade ago.

Laws concerning felon voting rights vary widely across the country and have changed over time. Up until 1998, even incarcerated people were allowed to vote in Utah. The reasoning behind these changes is not purely legally or morally based however, said Clark Neily, vice president for criminal justice at the Libertarian Cato Institute.

While the discussion about prison voting rights should center on what voting means for our democratic system and an individual's role in society, instead, what it really comes down to is politics and race, according to Neily.

Prisoners lose many rights, but retain others. They retain the right to practice their religion, the right to get married and the right to access a library, for example.

"For whatever reason, courts are inclined to take some rights very seriously and not others," Neily said. "The truth is, we have not been thoughtful about that question. It's a matter of historical accident that we allow the government to disenfranchise people."

Racism and Politics

Not only does the United States have some of the strictest voting controls among democratic countries, it also has the highest incarceration rate in the world. And today, black Americans are four times more likely to lose their voting rights due to a felony conviction than the average American, according to [the Sentencing Project](#).

Those who argue for prisoner voting rights say that from the beginning, felony disenfranchisement laws have been used to keep black people from voting.

Udi Ofer, director of the American Civil Liberty Union's Smart Justice campaign, told Business Insider that many state laws restricting the voting rights of convicts date back to the Jim Crow era.

When the Fourteenth Amendment, which allows each state to make its own rules when it comes to allowing criminals to vote, was passed in 1868, laws restricting prisoners from voting were based on European models and were limited to a few specific offenses, according to a study by professors at the University of Minnesota and Northwestern University. But after black people were allowed to vote, prisoner disenfranchisement laws expanded significantly, “often citing a rationale to ‘preserve the purity of the ballot box,’” the study reads.

While advocates like Ofer say these laws have always been tied to race, others say that's not the case.

“I don't think it had anything to do with race,” said Merrill Matthews, a resident scholar with the Institute for Policy Innovation, a public policy think tank in Irving, Texas. He said the American practice of barring criminals from voting comes from English common law and dates back to colonial times, before anyone was concerned about minorities voting.

In addition to racial dynamics, a perception that convicts tend to vote Democrat has also shaped voting laws, says Marc Meredith, a political scientist at the University of Pennsylvania. But research shows allowing or disallowing prisoners and ex-felons to vote has little effect on election outcomes.

Ahead of the 2016 presidential election, then-governor of Virginia Terry McAuliffe circumvented the Republican-run legislature and used his executive power to restore voting rights to more than 200,000 convicted felons who had served their prison time and finished parole or probation.

Nearly half were African-American — a core constituency of Democrats in a swing state — and McAuliffe was accused of issuing the order in an attempt to gain more votes for Hilary Clinton, The New York Times reported. McAuliffe denied playing politics and said the move was based on his concern for human rights.

“Of course, if you're looking at a big pile of votes that's going to help your side of things, what are you going to do?” said Johnson, who lives in Virginia and thinks the governor's move was politically motivated. “You don't see conservative governors granting a blanket amnesties to ex-offenders for the same reason.”

Overall, more people affected by felony voting restrictions identify as Democrats than Republicans, “although it depends on the state,” said Meredith from the University of Pennsylvania, who has analyzed data from New York, New Mexico, North Carolina, Iowa and Maine.

Demographically, the party affiliations of felons look similar to the party affiliations of non-felons; black Americans tend to be more Democrat and white people tend to be more Republican, Meredith said. More significantly, felons are less likely to be committed to either party and also less likely to vote at all.

In a study of ex-felons voting during the 2016 election in Florida, Meredith and his colleagues found that turnout did not exceed 16 percent for either Democrats or Republicans. Even in Maine and Vermont, where prisoners don't lose the right to vote while incarcerated, turnout for ex-felons is far below the national average of 60 percent for presidential elections.

There are multiple theories for why this might be the case, Meredith said. People who commit crimes may be less interested in "the common good," they may be wary of government because of their experience with the criminal justice system, or they may not know they are eligible to vote.

But even if ex-felons voted at a high rate, the political impact would be negligible, according to a 2019 study by Tilman Klumpp, an economist at the University of Alberta, Hugo Mialon of Emory University and Michael Williams of Competition Economics.

When these researchers retroactively applied new re-enfranchisement laws to 14 years of U.S. House of Representative elections — and estimated the effects using a high turnout rate — the results showed Democrats would have gained a slight but statistically insignificant number of votes.

"It's not correct to say there would be no partisan consequences of re-enfranchising some subset of felons," said Meredith. "But the consequences are not going to be enormous."

Personal impact: reclaiming a place in society

Lloyd and other ex felons — like Matthew and Ernie, both sex offenders from Utah whose last names have been withheld — acknowledge that many felons are simply not interested in voting. But while allowing inmates and ex-prisoners to vote may not make a big difference politically, it could make a big difference on a personal level.

They say the debate about prisoner voting rights is about more than politics, it's about whether the ultimate goal of the corrections system is to punish or rehabilitate people.

"When I got out, it made a big difference to be able to vote. It made me feel like a citizen again," said Matthew, who was arrested in 2000 and incarcerated for 15 years. He now lives in Salt Lake City. "And knowing that a lot of people who have been through the criminal justice system can't vote, I felt like I was casting a ballot for them too."

Ernie lives in Sandy and was incarcerated for 6 1/2 years from 2011 to 2018. When he was in prison, a class instructor told him, "you're not a citizen anymore."

"That's not true. People in prison are citizens," said Ernie. "But sometimes the treatment you get makes you feel like you are less than human."

Matthew said it's important for prisoners, who might not have much exposure to education or politics, to learn they can be involved with their government, instead of seeing the government as the enemy. He added that allowing prisoners to vote could also help spur improvements to the criminal justice system by forcing politicians to answer to a contingency voters within the system.

Saikat Chakrabarti, the chief of staff for Congresswoman Alexandria Ocasio-Cortez, D-N.Y., recently tweeted, "What's the reason NOT to let incarcerated people vote? Shouldn't the people most affected by unjust laws have some say in electing people to change them?"

Johnson of the National Association for Police Organizations disagrees.

"I would respectfully say the higher ups, the guards, the wardens, the people who live in the community around the prison, and the victims are in a much better position to say what is wrong with the system than those who are currently incarcerated."

For many victims of crime, laws allowing their attackers to vote and have a say in government could be extremely troubling.

But Katie Feifer, 62, doesn't feel that way. In 1988 when she was 31, she was raped at knife point by a man who was hired to paint her house in Oak Park, Illinois. After assaulting her, the man stole her car and left her tied up in her basement. Still, she believes her attacker should be allowed to vote.

"What that man did to me is horrendous, but he is still a human being. He is still a member of society, even though he is incarcerated. He has interests, he has family, he is affected by our country's laws and policies," said Feifer, a research director for the Voices and Faces Project, a non-profit initiative to tell the stories of survivors of gender-based violence.

Every victim of sexual assault or abuse has a different idea of what justice looks like, said Laura Palumbo, communications director for the National Sexual Violence Resource Center. "There are many occasions when survivors are spoken for in terms of what their preferences are or what would make our community safer."

A Business Insider poll says roughly 75 percent of Americans do not like Sanders' idea of enfranchising all prisoners, which would include rapists and murderers like the Boston Marathon bomber who killed three and injured several hundred in 2013. But only 24 percent of Americans believe those convicted of violent offenses should be disenfranchised permanently.

Sanders says the right to vote should be "inalienable and universal," on par with the freedom of speech and the freedom of religion. But while the right to vote is foundational to our democratic republic, it's not one of the rights that Americans care about most, as evidenced by the low voter turnout rate. Until Americans reconsider what the right to vote really means for individuals from a moral and philosophical perspective, the question of prisoner voting rights will continue to be about politics.