Disenfranchisement laws across the country exclude many people involved in the justice system from the democratic process. New York State laws are not as restrictive as in many other U.S. states, but many individuals involved in the justice system are still legally excluded.

In New York State:

- More than 90,000 individuals in prison (47,506) and on parole (44,562) for a felony conviction were ineligible to vote in 2016.
- 2.0% of adult black citizens are among those disenfranchised, compared to 0.6% of all adult citizens.

**VOTING, INCARCERATION, AND RACE**

Voting is the most direct way for citizens to exercise membership in a democratic society, and it increases the likelihood that governments and legislators will take their perspectives into account. Voting is also a prosocial behavior that can help formerly incarcerated people transition back into their communities. Research has suggested that restoring voting rights may actually contribute to public safety by reducing recidivism.

While voter restrictions for justice-involved individuals exist in other countries (e.g., the United Kingdom, Australia), the United States has some of the harshest restrictions on voting rights for formerly incarcerated individuals compared to other democratic countries, and these practices disproportionately impact communities of color. The denial of the right to vote in the United States for people involved in the justice system is a practice tied to the country’s legacy of slavery—many states first created or expanded their felon disenfranchisement laws in response to black men being granted the right to vote during the Reconstruction period following the Civil War. Felon disenfranchisement laws systematically weaken the political power of minority communities by temporarily or permanently excluding many people from participating in the political process. Due to the disproportionate impact of mass incarceration on black Americans, their disenfranchisement rate is four times higher than among the non-black population, with one in 13 unable to vote.

**DISENFRANCHISEMENT IN NEW YORK STATE**

People involved in the justice system face barriers to voting due to both legal and de facto, unofficial, disenfranchisement. Legal disenfranchisement in New York falls in the middle of the state spectrum: individuals who are serving sentences for felonies or who are on parole are legally barred from voting, although in some cases, individuals on parole who have only one felony conviction may apply for restored voting rights. The recent NYS Assembly Bill A7634 and a similar bill in the State Senate aimed to restore voting rights to people on parole, but neither have moved forward.

De facto disenfranchisement occurs when people are unofficially excluded from the democratic process due to complicated or vague voting laws or to the spread of misinformation, among other barriers. For individuals with felony convictions in New York, voting rights are automatically restored to those who have served full sentences, have been discharged from parole, or have been pardoned, but they must re-register upon release, during a period when other reentry needs, such as food, shelter, and employment, may take priority. Individuals who are in jail due to a misdemeanor conviction or to await trial are allowed to vote, but they must do so by obtaining an absentee ballot by writing to the county board of elections or downloading a form online, both of which are challenging for those in detention.

Election officials sometimes intentionally or unintentionally perpetuate the spread of misinformation about voting rights of the formerly incarcerated or individuals on probation: a 2006 study of 63 NYS election boards found that more than one-third either incorrectly informed individuals on probation that they were not allowed to vote or requested hard-to-find documentation from registrants with criminal convictions that was not actually required for registration.
CASE STUDY: ENDING PRISON-BASED GERRYMANDERING IN NEW YORK STATE

Although individuals in prison are not allowed to vote in most states, the Census Bureau statistically counts them as residents of the district where they are incarcerated rather than of their home district. This practice, widely referred to as prison-based gerrymandering, is controversial because it increases political clout in districts with prisons while decreasing power in the districts incarcerated people are from. States can override this practice through local legislation. In New York State, for example, advocates challenged the prison-based gerrymandering that had shifted political power from districts with large minority populations to rural, white districts; as a result of their efforts, in 2010, New York State passed a bill that counts incarcerated people as residents of their home communities rather than of the districts where they are incarcerated. A group of NYS senators challenged the new law in 2011, but it was upheld in New York Supreme Court in December 2011.

DISENFRANCHISEMENT ACROSS THE COUNTRY

Disenfranchisement laws and their impact on racial and ethnic minorities vary considerably by state. Maine and Vermont, the two states with the largest percentages of white residents, are the only two states where there is no voter disenfranchisement related to criminal conviction. Florida, Iowa, and Kentucky, conversely, permanently bar individuals with felony convictions from voting unless the state government approves individual rights restoration.

According to a 2016 Sentencing Project report, more than 6 million Americans are disenfranchised due to a felony conviction. This is, perhaps, most noticeable in Florida, which in 2016 had the highest total (1,686,318) and per capita (10.4%) disenfranchised population of all 50 states; 21.4% of the state’s black adult population was banned from voting due to a felony conviction. In fact, approximately one in four disenfranchised U.S. citizens lives in Florida.

The federal Democracy Restoration Act of 2015 proposed limiting disenfranchisement nationwide to include only individuals in prison for a felony conviction at the time of an election, which would expand the electorate in about two-thirds of U.S. states. The bill was introduced in both the House and the Senate but did not move forward.

CASE STUDY: ALABAMA CLARIFIES VOTING LAWS

An example of de facto disenfranchisement is Alabama’s recently amended felon disenfranchisement law, which previously stated that only those whose felony convictions involved “crimes of moral turpitude” were permanently excluded from voting. This vague policy allowed local registrars excessive discretion in deciding which Alabamians with felony convictions should be included in the democratic process. In May 2017, Alabama passed the Definition of Moral Turpitude Act, specifically defining the 42 felonies that bar citizens from voting. The ruling clarified the disenfranchisement law, effectively restored voting rights for thousands of citizens, and it prompted advocate Pastor Kenneth Glasgow to initiate a statewide voter registration strategy to register eligible individuals with felony convictions before the December 2017 special election.

The Equality Indicators is a project of the Institute for State and Local Governance (ISLG) of the City University of New York. The project measures progress towards greater equality across six themes related to Economy, Education, Health, Housing, Justice, and Services using 96 indicators. Each indicator is scored from 1 to 100, where 1 represents the most inequality and 100 the least inequality. For more information please visit our website at equalityindicators.org and follow us on twitter @equalityISLG.