

Do Felony Disenfranchisement Laws (De-)Mobilize? A Case of Surrogate Participation

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Abstract

Recent studies provide conflicting accounts of whether indirect contact with the American carceral state mobilizes or not. We revisit this controversy, using a large national survey of African Americans that includes a novel measure of social connections to people with felony convictions to examine spillover dynamics. We find that while ties to the carceral state are widespread, the impact of these connections on participation is moderated by the severity of state-level felony disenfranchisement laws. In states with the most severe disenfranchisement policies, close ties to people with felony convictions increase both voting and non-voting participation, but there is no effect in states with more moderate laws. The findings suggest surrogate participation may be at work, whereby formally removing the rights of one group in a way that seems extreme or unjust mobilizes those close to them, and highlight the importance of policy context on political behavior.

Keywords: political participation, felony disenfranchisement, policy spillover, proximal contact, surrogate mobilization

Supplementary material for this article is available in the appendix in the online edition. Replication files are available in the JOP Data Archive on Dataverse (<http://thedata.harvard.edu/dvn/dv/jop>). This study was conducted in compliance with relevant laws and was approved by the IRB at Stanford University.

For the last fifty years, the United States has engaged in a unique state building exercise. Rather than growing the welfare state as many other industrialized democracies have done (Mettler 2011), the U.S. has built a carceral state unprecedented in its capacity to punish, surveil, and imprison (Soss and Weaver 2017). Like all governmental institutions, the interconnected agencies that comprise the carceral state teach individuals about the political system, transforming orientations of those directly affected and spilling over to the attitudes and behaviors of friends and family. Seminal work documents the negative participatory consequences of direct carceral contact (Lerman and Weaver 2014), but scholars continue to debate the direction of indirect contact.¹ Some argue that communities disproportionately burdened by felony convictions exhibit aggregate declines in participation due to the diffusion of low political trust and efficacy, the destruction of social connections, and depressed economic resources (Burch 2013; McLeod, White and Gavin 2003). Others argue that proximal carceral contact can increase the salience of politics but with less social stigma and material deprivation than accompanies direct contact, and as a result, create mobilization (Lawless and Fox 2001; Owens 2014; Walker 2014; Walker and García-Castañón 2017).

We propose a theoretical mechanism that clarifies the circumstances under which mobilization or demobilization occurs. We argue that felony disenfranchisement laws—which range in their severity and target the most fundamental democratic right—moderate the effect of carceral state ties on participation. Specifically, we hypothesize that those whose close social ties have felony convictions will mobilize, but only in states that disenfranchise after sentence completion. In these contexts, the political voice of people with convictions is removed and we expect to observe a case of surrogate mobilization, where friends and family feel an obligation to speak politically for their loved ones. Well-theorized in the representation literature and documented empirically in a few foreign and local policy cases (Mansbridge 2003; Rubenstein 2007; Wilson and Ellis 2014), surrogate mobilization occurs when those with political power represent the needs of others who lack power, often prompted by a social or emotional tie.

A surrogate mobilization hypothesis suggests that rather than universal effects, mobilization

¹Foundational works show that direct contact with punitive institutions reduces political involvement (Lerman and Weaver 2014; Stoudt, Fine and Fox 2011) but some recent scholarship challenges this claim (Gerber et al. 2017; Owens and Walker 2018).

will be more likely in states where disenfranchisement occurs. In enfranchising states, there is less need for surrogate participation as people with felony convictions are able to vote, at least upon sentence completion.

To test this hypothesis, we use a national survey of Black Americans that includes a measure of social connections to people with felony convictions. We find evidence of surrogate mobilization. In disenfranchising states, those with close social connections to people with convictions are more likely to participate than those without such connections; in enfranchising states, there is no effect. In line with previous scholarship, we find that felony disenfranchisement laws may lower Black political participation, on average (McLeod, White and Gavin 2003; Burch 2014), but that those with intimate social ties to people with convictions are mobilized (Walker 2014). The results underscore the countervailing forces that shape political participation, especially in minority communities (Harris, Sinclair-Chapman and McKenzie 2006). While increased involvement among those with social ties to the disenfranchised may counteract legal disenfranchisement—a promising sign for democracy—the result may be a net-neutral effect on overall involvement.

Study Design

Previous scholarship on proximal carceral contact has faced data limitations. Lacking measures of social connections in national surveys, scholars have focused on either single or similar states, or relied on proxies for social connectedness like race and geography (Burch 2013; 2014; Walker 2014; McLeod, White and Gavin 2003). In contrast, we use original national survey data that includes a unique measure of social connection to people with felony conviction, state level indicators of felony disenfranchisement policy, and a wide range of participatory measures. Our data comes from a national omnibus online survey of Black American adults conducted by Latino Decisions in Fall 2014 (N = 1200).² We focus our study on Black Americans for substantive and methodological reasons: substantively, Black

²We quota sample on gender, education, state, and voter registration. We construct a weight from the Current Population Survey on complete cases of income, age, education, and gender. 1200 respondents were interviewed, but the data includes 184 incomplete cases with respect to either weighting variables or our primary variables of interest; another 239 were eliminated due to inclusion restrictions (see appendix Table 15), bringing our N down to 777 in models. The appendix includes a robustness check with the weight constructed after all missing cases are removed; the results hold.

Americans are most affected by the carceral state, and methodologically, they are the group most likely to have sufficient social ties to leverage variation (Uggen, Shannon and Manza 2012; Western 2006; Lee et al. 2015). Although we did not sample on disenfranchisement policy, we have sufficient variation: 229 respondents without a felony conviction live in “disenfranchising” states compared to 755 in “enfranchising” states.³

We use a measure of carceral state social ties adapted from the General Social Survey (McPherson, Smith-Lovin and Brashears 2006). We ask respondents how many people in their “closest network of friends and family...have ever been convicted of a felony.” This ego-centric measure gauges ties from the respondent’s viewpoint (Straits 2000; Marsden 1990), and requires respondents have knowledge of their social ties’ experiences. Considering the stigmatizing nature of a felony conviction, we focus our question on intimate connections—people with whom the respondent has regular interactions and for whom it would be difficult to hide a life-altering experience like a felony conviction.

Scholarship on the participatory effects of proximal carceral contact focuses largely on voter turnout (but see Walker, 2014), but the heightened sense of injustice associated with the disenfranchisement of loved ones may encourage more sustained modes of political action. Thus, we measure both self-reported voting and participation in four additional non-voting political acts: writing a government official, signing a petition, attending a rally or protest, and volunteering for a political campaign. These behaviors are combined additively into a single 0 to 4 index.

We use data from *The Sentencing Project* (2014) to code states with post-sentence disenfranchisement laws as “disenfranchised” and the remaining states as “enfranchised.”⁴ We also

³Across the two policy regimes, income, education, and social ties are equivalent. We remove respondents from Washington, DC and those with felony convictions as our focus is on proximal carceral contact. Including these respondents does not alter our findings. Please see appendix Tables 1 and 2 for descriptive statistics of the sample, and Tables 4 and 5 for analysis including respondents with felony convictions.

⁴In 2014, four states had total post-sentence disenfranchisement (FL, IA, KY, VA) and another eight had some form of post-sentence disenfranchisement (AL, AZ, DE, MS, NE, NV, TN, WY). These states are coded as disenfranchised and the remaining 38 as enfranchised. However, we do not have respondents from the two states that never disenfranchise—Maine and Vermont—due to their small Black populations. Thus, our comparison is between states that disenfranchise at least while in jail or prison (and possibly during probation or parole as well) and those that continue disenfranchisement post-sentence. We match state policies to our respondents, not to their network connections. However, intimate social ties are generally geographically proximate: 72% of Blacks’

control for a range of individual- and state-level variables known to affect political involvement that may co-vary with punitive carceral policy or with the conviction status of social ties. These include the restrictiveness of voter identification laws, income, gender, ideology, and racial linked fate. Finally, we include two carceral-state related controls to ensure we capture the effect of disenfranchisement rather than other punitive elements: a measure of the 2013 punishment rate in each state⁵ and a measure of individual carceral contact, or how frequently the respondent says they are stopped by police.

Results

Descriptive analyses confirm that proximal carceral state contact is widespread among Black Americans (Lee et al. 2015): 36% have at least one social connection with a conviction. Most of these (24% of the sample) have between one and two such connections, but an estimated 12% of respondents have three or more. To test our hypothesis, we regress participation on the social ties variable, with and without an interaction term for state disenfranchisement policy. We collapse our measure of social ties into a binary variable with zero representing no social connections with convictions and one representing one or two social ties with convictions as a way of controlling for network size.⁶ Table 1 reports regression results predicting voting and non-voting participation with controls.⁷

The results clarify the circumstances under which mobilization and demobilization occur. Model 1 shows that those with intimate connections to people with felony convictions are more likely to vote than those without such ties when the policy interaction is excluded. In this model, going from zero to one or two social ties with a conviction significantly increases predicted voting by 10 percentage points. The interaction models, however, highlight the importance of the punitiveness of the state. While there is a negative effect of disenfranchisement on voting in Model 2, proximal contact within disenfranchising states is associated with increases in voting (interaction $p=0.01$). Similarly, Model 4 shows a positive, although marginally significant, effect on non-voting involvement (interaction $p=0.09$). By contrast,

intimate social relationships lived within 50 miles of the respondent (Hampton et al. 2009).

⁵Drawing from *Pew* (2016), Punishment Rate is a ratio measure of inmates to crime rate.

⁶We exclude respondents with three or more ties due to the small number of respondents in this category (12%), particularly within disenfranchising states (26 respondents). Appendix Table 6 includes all connections.

⁷We use OLS for ease of interpretation (Hellevik 2009). Appendix Table 9 shows results of logistic and ordered logistic regression.

Table 1: Interaction of State Policy and Social Connections Predicting Participation

	1: Voting Participation		2: Voting Participation		3: Non-Voting Participation		4: Non-Voting Participation	
Disenfranchise	-0.03	(0.04)	-0.08	(0.04) [†]	0.09	(0.07)	0.03	(0.08)
Social Ties	0.10	(0.03)*	0.05	(0.04)	0.10	(0.07)	0.04	(0.08)
Disenfranchise* <i>Ties</i>			0.20	(0.08)*			0.25	(0.15) [†]
(Intercept)	0.66	(0.09)*	0.67	(0.09)*	0.27	(0.17)	0.28	(0.17)
Controls	✓		✓		✓		✓	
R ²	0.08		0.09		0.03		0.03	
Adj. R ²	0.07		0.08		0.02		0.02	
Num. obs.	777		777		777		777	
RMSE	0.40		0.40		0.77		0.77	

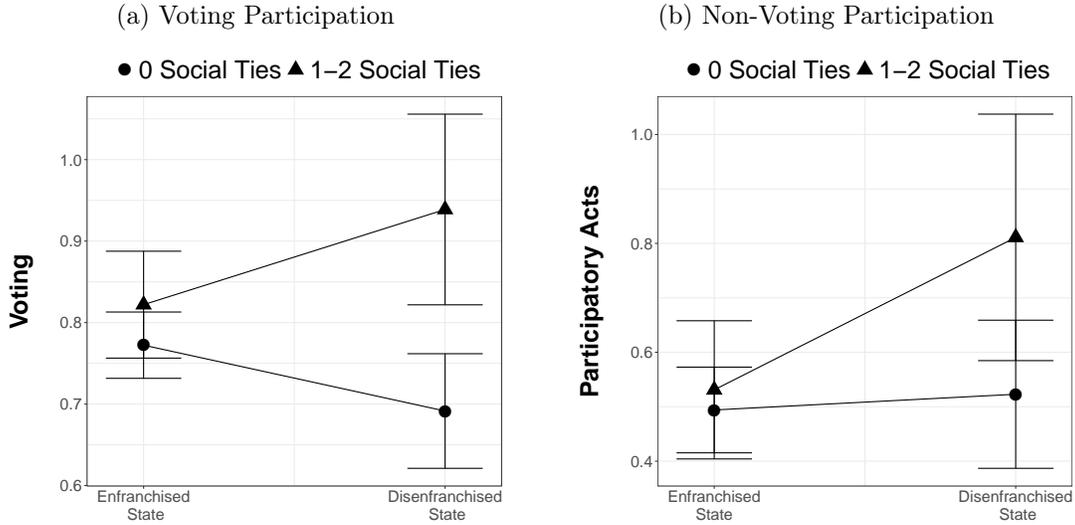
Controls for income, education, gender, racial linked fate, ideology, the frequency with which the respondent has been stopped by the police, voter ID laws, and punishment rate. Education is positive and significant, ideology is negative and significant in the voting models. Income and racial linked fate are positive and significant in the participation models. Full results available in Appendix Table 3. [†] $p < 0.10$, * $p < 0.05$

there is no significant difference in voting or non-voting participation between those with and without social ties in enfranchising states.

Figure 1 plots the predicted marginal effects of social ties on participation across policy context with 95% intervals. In states that disenfranchise, the increase in voting between individuals with one or two social ties compared to those with zero is an estimated 25 percentage points—a striking effect when compared to traditional predictors of voting. For non-voting participation, the increase is 0.29, or roughly one-third a political act. An analysis of each non-voting political act separately, available in Tables 7 and 8 in the online appendix, shows that the mobilizing effect of social ties in disenfranchising states spans both grassroots behaviors like political protests (+13 percentage points, interaction $p=0.02$) and traditional partisan acts like volunteering for a campaign (+10 percentage points, interaction $p=0.01$).

The findings establish the critical importance of policy moderation in participation dynamics and provide evidence that surrogate mobilization occurs in states that disenfranchise post-sentence. The observational nature of our data, however, requires a consideration of endogeneity. Readers may worry that those already politically active in disenfranchising states are more likely to meet and become friends with people with felony convictions. While endogeneity is a constant concern with observational data, our measure is designed to capture

Figure 1: Predicted Effect of State Policy and Network Connections on Participation



close relationships that span many years. Findings from the General Social Survey show that 86% of respondents report talking with these kinds of ties more than 52 days a year and 89% had known these associates for more than 4.5 years (McPherson, Smith-Lovin and Brashears 2006). The lengthy, intimate nature of these relationships makes it unlikely that casual acquaintances from political events focused on felony disenfranchisement would be included in this set of ties. Furthermore, respondents living in disenfranchising states are no more likely to report social connections to people with felony convictions than respondents in enfranchising states (Appendix Table 17). However, we concede that observational analyses like this can never fully engage all potential sources of endogeneity.

Finally, robustness tests show that surrogate mobilization may be confined to the South.⁸ We suspect insignificant results on tests limited to non-Southern cases are a product of power, but it is possible the legacy of political mobilization in response to social, economic, and political oppression is different in Southern states than in other regions. We suggest future research interrogate regional differences in surrogate mobilization, but remind readers that our results provide clear evidence that this phenomenon occurs among most Black Americans.

⁸Appendix Tables 10-12 provide estimates with regional controls and separately for the South and non-South. The five non-Southern disenfranchising states (AZ, IA, NE, NV, WY) have small Black populations, yielding us only 15 respondents. We interpret the results not as evidence that the relationship is restricted to the South, but that our estimate of non-Southern states is unreliable due to sample size.

Discussion

Felony disenfranchisement prevents nearly 6 million citizens and an estimated one-in-thirteen voting-age Black Americans from casting a ballot (Uggen, Shannon and Manza 2012). Scholars have argued that these policies, along with the larger set of carceral institutions, may shape political representation even more broadly by either mobilizing or demobilizing those with social contacts to punitive institutions. We show that rather than proximal contact having universally mobilizing or demobilizing effects, an important interaction is at work. Maintaining intimate social connections to people with felony convictions increases both voting and non-voting political participation, but only in states with the most punitive disenfranchisement laws. However, any mobilization that occurs may be cancelled out by the large number of citizens removed from the electorate in these states through direct disenfranchisement and incarceration.

Furthermore, our findings gesture toward a mechanism that may be at work in other policy contexts. Surrogate participation might help explain political mobilization among immigrant communities in environments hostile to immigrants, for instance (Pantoja, Ramirez and Segura 2001; White 2016), or apply to the families of people with disabilities (Schur, Shields and Schriener 2003). Future work should consider both how policy regime moderates surrogate mobilization in these other areas and also whether our findings generalize to non-Black populations.

As much as federal policies have contributed to mass incarceration, punitive institutions remain largely under the jurisdiction of state and local governments. The result is wide variation in the severity of punitive policies which create not a singular carceral state but rather many carceral *states*, each with its own policy environment. Our findings suggest the intensity of these policy environments dramatically affects the direction of proximal mobilization—especially when that policy removes political voice from a group of people. Felony disenfranchisement seems to mobilize, but only under the worst of circumstances.

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