

In New York, an employer cannot refuse to employ an ex-con simply on the ground that he or she has a criminal record; the employer must show that there is a connection between the nature of the job and the nature of the offense. But because most ex-cons and most potential employers are unaware of the law, jobs are often denied to those who have fully served their sentences. And of course employers can come up with other reasons to deny employment once they find out that someone has a criminal record. The spectrum among the states varies when it comes to ex-cons; many states do not allow them to vote, run for office, become lawyers-or barbers (lest they get their hands on razors). Should ex-cons be forgiven and their records ignored?

My response begins by borrowing a page from religious traditions, many of which draw a distinction between major and minor transgressions. Catholicism, for instance, distinguishes between mortal and venial sins. Judaism has 613 dos and don'ts but only three rules in relation to which a person should allow himself to be killed rather than violate the rule. In a secular adaptation of these traditions, states would treat felonies and violent crimes much more seriously-even after incarceration-than misdemeanors and nonviolent offenses.

Another, even more important, lesson we ought to draw from religious traditions is that they all make room for repentance. This is commonly understood as showing true remorse and making amends. Granted, it is not always easy to discern who is truly consumed by regret and who merely displays it for the benefit of the court or the parole board. And making amends, that is making the victim whole again, is often not practical.

Above all, one should not ignore a third, most important element of repentance, and one that is particularly relevant to this discussion: One is expected to restructure one's life (i.e., not repeat the transgression, but instead lead a virtuous life). In the secular world, this problem is known as recidivism; a large number of offenders re-offend shortly after being released from prison, and are jailed again for similar offenses. It follows that before ex-cons are fully restored to citizenship, a period of, say, 10 years should be allowed to pass in order to establish whether or not they have indeed restructured their lives.

Granted, ex-cons often need help in establishing a new way of life, including finding employment and relocation to a different community from the one in which they used to live and in which their old acquaintances are often offenders. Ex-cons and society would benefit if more resources were available for rehabilitation; success after prison is a function of both personal will and supportive public policies. However, a paucity of rehabilitation opportunities should not be treated as an excuse for ex-cons not to work at remaking their lives, and surely is no reason to deny full restoration to citizenship if they succeed under adverse conditions.

Fresh start is good public policy

In many states it is very difficult for ex-cons to regain their rights, even after serving a full term, showing true remorse and leading an exemplary life. According to this logic, once an ex-con, always an ex-con. In addition to being inhumane, this is bad public policy. Without the promise of full citizenship and full membership in the community, there is less of an incentive to lead a positive life than if there were clear conventions for civic repentance. So ex-cons tend to hang around in parts of the community and work in jobs in which being an ex-con is not considered a demerit; indeed, it is sometimes a point of honor.

If after 10 years an ex-con's record is clean, their legal rights should be automatically restored and their records sequestered (but not expunged). This would keep records from popping up every time an ex-con is screened for a job or college, but records would be available for sentencing should the ex-con be convicted again. Repeat offenders should be sentenced more severely.

The question of restoring voting rights to ex-cons has implications both for politics and for social justice. Currently there is a legal challenge to Florida's law that prohibits felons from voting. The Democratic Party would benefit from such laws, as a disproportionate number of ex-cons in Florida are African-Americans, who as a group tend to vote Democratic.

In the longer run, though, this should not be a partisan question. Ex-cons should be restored to full citizenship if they meet the necessary conditions; this will benefit them and the community by reducing recidivism.