

Book Review: James M. Binnall, *Twenty Million Angry Men: The Case for Including Convicted Felons in Our Jury System*. University of California Press. 2021. ISBN: 9780520379176 (Paperback). 288 Pages. \$29.95.

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In his book, *Twenty Million Angry Men: The Case for Including Convicted Felons in Our Jury System*, James Binnall discusses whether or not there is sound empirical evidence that proves that ex-convicts should be barred from participating in jury duty. Currently, most states in the United States permanently forbid those with a felony conviction from serving as a juror while some states allow convicted felons to serve only after their entire sentence (including parole and probation) is completed; Maine is the only state that has no restrictions whatsoever. Binnall himself has a felony conviction and is also a practicing attorney in California as well as teaches at California State University, Long Beach, so he is unbiased and can see the issue from both sides. Clearly, he is now an upstanding citizen who did his time and completed his sentence many years ago, but he is still discriminated against because of his prior conviction. In *Twenty Million Angry Men*, Binnall discusses the multiple reasons why policymakers and citizens believe that ex-convicts should not participate in jury service and why their reasons are merely assumptions with no empirical basis; he reviews the study that he conducted and the results of it, and he provides solid evidence from his study as to why ex-felons should not be so heavily discriminated against when it comes to serving as a potential juror.

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Chapter One of *Twenty Million Angry Men* sets the tone for the book by giving a brief history lesson of juror inclusion/ exclusion; women and African Americans are groups of people who have also struggled with juror discrimination. Binnall then talks about which states do and do not allow convicted felons to serve as a juror and their justifications for doing so. He also claims that the subject of felon-juror exclusion has been heavily ignored by researchers which then in turn means there is hardly any empirical evidence on the subject.

Chapter Two goes into detail about courts' justifications for banning felons as potential jurors, more specifically, the probity rationale, and the arguments within the rationale. Chapter Three continues to go into detail about the second primary justification for banishment- the inherent bias rationale and its arguments.

Chapter Four emphasizes the importance and significance of diverse juries, and then discusses Binnall's mock jury experiment. This chapter also analyzes the technical results of the experiment while Chapter Five analyzes the more personal parts of the experiment; like actual conversations that occurred between the jurors. The experiment itself compared how convicted felons and non-felons performed as jurors and tested to see if the reasonings for barring felons from participating as jurors holds any empirical weight.

The next two chapters explore how including felons as potential jurors can provide positive benefits that continue even when felon jurors leave the courthouse, like criminal desistance for example. Binnall also uses data from Maine, the only state that has no restrictions on felon jurors, to explore these benefits.

The final chapter of *Twenty Million Angry Men* deliberates the public's view of convicted felons pertaining to the rights they should still keep whenever they leave incarceration (like whether or not they should be allowed to act as a juror) and how influential the media is in formulating the public's opinion.

Convicted felons are not the only group of individuals who have been (and still are) discriminated against in the court jury process. The court has had a history of directly and indirectly discriminating against women and persons of color, as well as those with a poor socioeconomic status. After the Jury Selection and Service Act of 1968 was passed, most states started to pull potential juror names from voter registration lists, "lists that consistently lacked representation of racial minorities and the poor" (Cascino, 2018). While women and persons of color now have the opportunity to participate as jurors, convicted felons are permanently banned from participating in twenty-six states, some states bar convicted

felons temporarily, some states use a hybrid model, and only the state of Maine has no restrictions. The states that implement restrictions use any possible reason they can to ban felons from serving.

Binnall states that a primary justification courts use to exclude jurors from serving is the probity rationale, a rationale that “suggests that convicted felons lack the “character” to serve as jurors” (30). Courts claim that allowing convicted felons to serve will ruin the integrity of the jury because those who commit felonious crimes are permanently bad persons and will always be devoid of character; it is not possible for them to redeem themselves. That claim is assuming that all felons are the same and that they can never repent from their actions and become upstanding members of society with good character. Felon exclusion is supposed to be effective at keeping out “bad apples” from participating as jurors, but courts seem to forget that there are many non-felons with bad character who still get to serve, therefore destroying the probity of the jury (Scott, 2018).

The other felon exclusion justification that courts use is the inherent bias rationale. The inherent bias rationale believes that because of their experiences within the system, convicted felons are sympathetic to all defendants and are “biased” against the criminal justice system as a whole; they are supposedly much more inclined to automatically not find a defendant guilty. However, every single potential juror, felon or non-felon, is prone to having at least *some* sort of bias, whether conscious or unconscious. Those who politically identify as conservative are more prone to having heavily punitive attitudes towards ex-offenders (and offenders in general) while those who identify as liberal have less punitive attitudes towards ex-offenders; those who have been personally victimized or those who have a family member who has been victimized also tend to have more punitive attitudes towards ex-offenders, yet these groups of people are not legally barred from participating as potential jurors (Atkin and Cramer, 2012). In his studies, Binnall finds that convicted felons have similar pretrial biases as law students in that they have generally *slightly* pro-defense and anti-prosecution biases. He also finds that “law enforcement personnel possess a prosecution/antidefense bias as severe as the prodefense/antiprossecution pretrial bias characteristic of convicted felons” (55). If all three groups of individuals have the same level of bias but for opposite biases, why are convicted felons the ones that are so heavily discriminated against? No law forbids any law student from potentially serving as a juror and the majority of jurisdictions allow law enforcement to become part of a venire. Unlike Binnall’s studies and experiment, legislation does not have solid

evidence that proves that convicted felons are a major threat to the service of jury duty.

Throughout *Twenty Million Angry Men*, Binnall emphasizes the importance of jury diversity. Not only is diversity important and greatly encouraged, it is needed in order to have an impartial jury, which is the law. It is proven that having diverse juries “increases the quality of verdicts and provides more just results” (Sánchez, 2019). This certainly helps make a jury impartial. If juries are properly diverse, then each juror will have vastly different life experiences that can help fellow jurors understand the human dynamics of a case; diversity also helps prevent fellow jurors’ biases from coming out and heavily encourages solely basing arguments on the evidence instead of internal biases (Golash, 1992). Binnall conducted a mock jury experiment that included eligible jurors without a felony conviction and otherwise eligible jurors who did possess a felony conviction. There were a total of nineteen mock juries with some juries exclusively having non-felon jurors and some having both non-felon jurors and felon-jurors. The experiment itself involved the participants watching “a video reenactment of an actual criminal trial” (67). His study aims to compare “diverse juries and homogeneous juries” (69). Basically, Binnall wishes to see if having felon-jurors on a (mock) jury negatively effects the process, deliberations, and the outcome of a case. For the deliberations, each of the nineteen juries needed a spokesperson, and in four of them (almost one-fifth of the juries), a felon-juror actually *volunteered* and served as spokesperson. Overall, there were a few positive findings concerning felon-jurors within the deliberation process- during the deliberation process, felon-jurors on average spoke slightly longer than non-felon-jurors, thus contributing slightly more to the process. Concerning the coverage of case facts, felon-jurors had a slightly higher average of stating novel case facts than their non-felon-juror counterparts. These findings indicate that felon-jurors can positively affect juries. These findings also heavily contradict the justifications that jurisdictions use to ban convicted felons from serving; the felon-jurors in no way disrupted the process, they actually seemed eager to be involved in jury service. One fear that jurisdictions have is that felon-jurors will be extra biased against the prosecution and greatly sympathetic towards the defendant, but that was not the case in this experiment. While the felon-jurors immensely emphasized basing a verdict off of the proven evidence (which is how verdicts should be based anyway), the felon-jurors were in no way overly sympathetic toward the mock defendant.

Binnall mentions that there are positive benefits from allowing convicted felons to serve as jurors; positive benefits that stay once the juror leaves the courthouse. Serving on a jury as well as other forms of civic engagement can promote criminal desistance, which can help convicted felons effectively reenter society. The Supreme Court itself believes that aside from voting, participating in jury duty is a citizen's "most significant opportunity to participate in the democratic process", so by simply being included in the process encourages convicted felons to be more positively engaged within the community (Gastil and Weiser, 2006). Criminal desistance is referred to as "a cessation of offending activity among those who have offended in the past", or it can be considered an "absence of offending" (Brame, Bushway, and Paternoster, 2003). Basically, offenders choose to quit offending whether it is temporarily for a short or long time, or even permanently. Binnall conducted a study in Maine to understand convicted felons' perspectives on jury service and how it may affect them. When specifically asked about reentry, the participants stated that "interpersonal prejudice and discrimination hindered their efforts to rebuild their lives" (99). Once released, offenders are labelled as "felons" or "ex-criminals", so it is hard for them to reenter society; there is a harsh stigma that follows them everywhere they go, and they are all quite aware of that label. If convicted felons are able to participate in community engagement (such as jury service), then criminal desistance is more easily achieved by helping convicted felons eliminate their criminal "label". In the study, Binnall's interviewees who participated in jury service took their role seriously and were even looking forward to being able to serve. By being included on a jury, Binnall's findings show that convicted felons feel accepted and trusted by the state, feel important and that their opinions matter, validated and less like an outcast, less stigmatized, and that they "paid their debt to society" (110). While some participants felt like their participation on the jury was not that significant, the majority of them did. Even if they were not summoned but still eligible to serve, they still felt validated and important. For the most part, felon-jurors felt nothing but positivity from being included, so being able to participate in jury service will only positively help them outside of the court in successful reintegration.

At the end of his book, Binnall discusses how influential the media is when it comes to the public's opinion of crime. The media is indeed known for setting their own agenda. Whenever a high-profile crime is committed, the media exceedingly covers it, like, for example, a crime that involves a black man with prior convictions targeting an innocent,

white, middle-class college girl. Over-reported crimes such as these can cause a moral panic. Moral panics generally flare up at first for a short while and then quickly dimmish once the media reports another dangerous topic, but some issues continue to be a hot topic and stay in the back of the minds of most civilians (Fox, 2013). Aside from media influence, Binnall states that natural characteristics such as political affiliation, race, and gender all play a role in shaping one's attitude towards offenders. Those who do not have much contact with offenders also tend to have more harsh opinions of them. If that is the case, then shouldn't non-offending citizens be more gently exposed to citizens who have offended? Including felons in jury service would be an excellent way to safely expose non-offending citizens to convicted offenders; therefore they would not have such a negative perspective of them.

Twenty Million Angry Men is an excellent book on the issue of convicted felons serving as jurors. Binnall states multiple times how there is no empirical evidence that proves that convicted felons should not have the opportunity to serve, and he actually provides empirical evidence that proves the opposite. All justifications for excluding convicted felons from serving are based only on assumptions and feelings; convicted felons are not overly biased against prosecution and overly sympathetic towards the defendant and it is incorrect to assume that all felons are the same in that they all have bad character and will disrupt the integrity of the jury. Binnall's mock jury experiment proves that felons can be neutral and impartial in jury deliberations as well as bring good perspectives to the process. Specifically in Maine, felon-jurors also appreciate and feel valued for simply being eligible to serve. Including felons in jury service can help with their reentry into society, so all of the positive benefits of allowing felons to serve immensely outweigh all of the *possible* and *unproven* negative downsides. If legislators take the time to read Binnall's research, then future policies can be beneficially changed for the better instead of continuing to be unreasonably based on feelings and assumptions.

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Kennedy Ratcliff

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