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**VOTES FOR
PRISONERS**

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**DEBATING MATTERS
TOPIC
GUIDES**

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MOTION:

**“NO PRISONER
SHOULD HAVE
THE VOTE”**

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KEY TERMS

Civil death

European Union

Human rights

National sovereignty

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INTRODUCTION

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“The question ‘should prisoners have the vote?’ reads like one of those hypothetical motions beloved of sixth form debating clubs – a lively issue to kick around, but far removed from the real world”, said journalist Robert Chesshyre. But in 2011 the issue became more than just an academic one. In April after several years of legal wrangling the UK government lost its final appeal against giving prisoners the right to vote, following a ruling by the European Court of Human Rights (ECHR) [Ref: [Guardian](#)]. The case had been brought to the court by convicted murderer John Hirst, with the support of the Prison Reform Trust and other campaign groups, after he failed in his challenge to the ‘blanket ban’ on prisoner votes at the UK High Court. The ECHR has now given the government six months to introduce reforms.

Advocates such as the Prison Reform Trust argue, quoting the South African Constitutional Court, that “the vote of each and every citizen is a badge of dignity and personhood”. A blanket ban on prisoner votes not only undermines fundamental human rights, but also denies the ideal of universal suffrage, upon which democracy is predicated. But critics warn that we must not be seduced by the ‘highfalutin’ language of rights. What is at stake is a very simple moral idea, says David Davis MP: ‘If you break the law’ you should not ‘be allowed to make the law’. Does the denial of the right to vote for prisoners demonstrate, in the words of one writer, that the UK ‘has hardly emerged from the Jurassic period’? Or are there deeper moral principles associated with democracy, punishment, and parliamentary sovereignty than accusations of ‘stick in the mud old tories’ suggest?



‘If you break the law, you should not be allowed to make the law’

Announcing that it would be appealing against the decision of the ECHR in 2005, a spokesman of the former government remarked: “It has been the view of successive governments... that persons who have committed crimes serious enough to warrant a custodial sentence should forfeit the right to have a say in how the country is governed while they are detained” [Ref: [BBC](#)]. Critics underline that voting is a right that prisoners give up by virtue of the crime that they have committed against society [Ref: [Spectator](#)] and that denial of this right remains an important punishment, because it tells those who break the law that they have lost their right to participate in democracy whilst incarcerated. But campaigners for prisoner votes argue that the moral arguments used by their opponents are archaic and redundant. Moral thinking today, they suggest, supports the idea that human rights, including the right to vote, are fundamental to all human beings. The right to vote is therefore an indivisible one, and whilst as writer Afua Hirsch suggests, imprisonment deprives inmates of their liberty while facilitating their rehabilitation, “it does not strip them of their citizenship rights.”

Rehabilitation

The Forfeiture Act of 1870 enshrined the principle of ‘civic death’ in law, a punishment that involves the withdrawal of citizenship rights and deems those serving a prison term ‘incapable ... of exercising any right of suffrage’ [Ref: [legislation.gov.uk](#)]. Having broken their obligations to keep to the laws of society, it is argued that society is then entitled to impose a penalty on lawbreakers that withdraws not only their freedom, but also

one of the most important privileges of freedom — the right to vote. Those pressing for reform argue that such a notion is an outdated and uncivilised philosophy of punishment. A modern prison system, they argue, needs to embrace the idea of civic responsibility and rehabilitation. By lifting the voting ban the government would be encouraging prisoners in civilising patterns of behaviour, and help to incorporate socially excluded groups and individuals within the political process [Ref: [Guardian](#)]. As it stands, says Paul Tidball of the Prison Governors Association, the ban is “out of step in a modern prison service and runs counter to resettlement work”.

Degrading the vote and democracy

But some critics argue that talk of rehabilitation and the rhetoric of rights masks the fact that there is little of democratic substance to the discussion on prisoner votes. Indeed, says writer Tim Black, the idea of the vote becomes debased as its foundation, liberty, is degraded [Ref: [spiked](#)]. From the Levellers through to the Suffragettes, the struggle for enfranchisement promised self-rule and ‘freedom from arbitrary powers’. In this context, prisoner votes make no sense, precisely because those that are detained lack the ability to exercise the freedom that they represent. From this standpoint, some argue that we should be suspicious of those pushing for reform on behalf of prisoners. Far from demonstrating a commitment to democracy, such campaigns indicate the low esteem in which the vote is now held, as campaigners such as the Prison Reform Trust rebrand the vote from being a means to effect social change to a socialising and civilising act in itself. But advocates of the vote argue that far from undermining democracy, allowing

DEBATE IN CONTEXT CONTINUED...

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prisoners the vote deepens it. Universal suffrage, they argue, should be just that – universal. In a liberal democracy, says blogger and inmate Ben Gunn, all competent adults should have the right to vote. That right is inalienable and must remain so if the individual is to be free from overbearing and dangerous government. [Ref: [Guardian](#)]

Sovereignty

It has been well documented that until the ECHR became involved, the issue of prisoner votes had inspired little interest in British Politics. However, as the dispute has unfolded the debate has broadened itself out to incorporate arguments about parliamentary sovereignty, European interference, and the universalism of human rights. Some warn that bowing to the Strasbourg based court sets a dangerous precedent, whereby an unaccountable court is able to override the electorate, the Government and the British judiciary. This, they argue, is not democratic. But others counter that the debate around prisoner votes has become a vehicle for anti-European populism, and that claims that ‘alien institutions’ are making decisions that override parliamentary democracy are both overblown and imprecise. Resisting the ECHR on this simple moral question not only keeps the UK in the ‘Jurassic period’ in relation to prison reform, but threatens to undermine our commitment to the universalism of human rights, demonstrated by our compliance with the ECHR [Ref: [Economist](#)].



ESSENTIAL READING

The conversation: Should prisoners be allowed to vote?
Jonathan Aitken and Frances Cook *Guardian* 23 April 2011

Q&A: UK prisoners' right to vote
BBC News 20 January 2011

Should Prisoners have the right to vote?
Juliet Lyons and David Green *The Times* 12 March 2010

FOR

Prisoners shouldn't have the right to vote
Tim Black *spiked* 16 February 2011

Today's vote on prisoners' rights is an historic opportunity to draw a line in the sand
David Davis *David Davis For Freedom Blog* 10 February 2011

Votes for prisoners: Will MPs have the courage to vote for liberty?
David Green *Telegraph* 8 February 2011

In agreeing to enfranchise UK prisoners, we forget that voting is more than a right
Suzy Dean *openDemocracy* 2 February 2011

Prisoner voting rights are undemocratic
Blair Gibb *Spectator* 2 November 2010

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AGAINST

Stop prisoners from voting? That's criminal
Kevin McKenna *Observer* 3 April 2011

Prisoner voting: Convicts are human beings, with human rights
Thomas Hammarberg *Guardian* 4 February 2011

Why deny prisoners the vote?
Martin Kettle *Guardian* 21 January 2011

Give prisoners the right to vote, and everybody benefits
Robert Chesshyre *Independent* 12 February 2010

Disenfranchising democracy
Afua Hirsch *Guardian* 10 April 2009

IN DEPTH

Prisoners of their own self-importance
Jon Holbrook *spiked* 16 February 2011

Prisoners' voting rights: Britain's mounting fury over sovereignty
Bagehot's Notebook *Economist* 10 February 2011

The Vote to Make Votes Matter: How we risk a Great British Disenfranchisement
Carolina Bracken *Civitas* 8 February 2011

Why should prisoners be denied the vote?
Ben Gunn *Guardian* 19 September 2009

Voting rights of convicted prisoners detained within the United Kingdom
Consultation *Ministry of Justice* September 2009



BACKGROUNDERS

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Prison Votes and the Constitutional Crisis in the United Kingdom

Richard Edwards *Jurist* 10 April 2011

Human Rights Act good, meddling judges bad

Jack Straw *The Times* 10 February 2011

Barred from voting: the right to vote for sentenced prisoners

Prison Reform Trust February 2011

Bringing rights back home: Making human rights compatible with parliamentary democracy in the UK

Michael Pinto-Duschinsky *Policy Exchange* 2011

Court of appeal rejects prison vote plea, government announces plans

Adam Wagner *UK Human Rights Blog* 17 December 2010

House of Lords Main Chamber Debate on Prisoners: Voting

Hansard 20 April 2009

South African Constitutional Court rules on inmates' right to vote

The Free Library 1 December 2004

Voting for Prisoners (Barred from Voting)

UNLOCK

Forfeiture Act 1870

legislation.gov.uk

ORGANISATIONS

European Court of Human Rights

HM Prison Service

Ministry of Justice

Prison Reform Trust

UNLOCK



IN THE NEWS

Dumfries prisoner McGeoch continues vote legal bid

BBC News 19 April 2011

Prisoners' voting rights: government loses final appeal in European court

Guardian 12 April 2011

Denying prisoners the vote makes them 'non people' says human rights chief

Telegraph 1 April 2011

MPs begin historic debate over whether to take a stand against Europe and overturn ruling

Daily Mail 18 February 2011

Prisoner voting: High Court blocks compensation bid

BBC News 18 February 2011

Court rules out prison vote compensation

Financial Times 18 February 2011

Prison vote plans in disarray as MPs defy European courts

Mirror 11 February 2011

Ministers mull prisoner vote options after MPs back ban

BBC News 11 February 2011

David Davis: Prisoners 'lose right to vote'

BBC Radio 5 Live 10 February 2011

Prison vote: MPs say no, yet Clarke insists yes

Express 10 February 2011

MPs reject prisoner votes plan

BBC News 10 February 2011

MPs decide to keep blanket ban on prisoners' vote

Guardian 10 February 2011

MPs back ban on prisoner votes

Independent 10 February 2011

David Cameron backs prison vote rebels

Telegraph 10 February 2011

David Cameron hopes MPs will oppose court ruling on prisoners' votes

Guardian 9 February 2011

Cameron challenges court on votes for prisoners

Financial Times 9 February 2011

UK may be forced to give prisoners the vote in time for May elections

Guardian 1 February 2011

Senior Conservative calls for prison vote debate

BBC News 5 November 2010

Government set to concede defeat over prison voting

Independent 2 November 2010

Prisoners to get the right to vote

Guardian 2 November 2010

Prisoners to get the vote for the first time

Telegraph 1 November 2010

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THINKING DEEPLY
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IAN GRANT, CEO, BRITANNICA

