

**AUGUST 2016**

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**G4S: VOTES  
FOR PRISONERS**

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**JUSTINE BRIAN**

**MOTION:**

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

**DEBATING MATTERS**  
**TOPIC**  
**GUIDES**

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**DEBATING** || **BEYOND**  
**MATTERS** || **BARS**

## **ABOUT DEBATING MATTERS**

Debating Matters because ideas matter. This is the premise of the Institute of Ideas Debating Matters Competition for sixth form students which emphasises substance, not just style, and the importance of taking ideas seriously. Debating Matters presents schools with an innovative and engaging approach to debating, where the real-world debates and a challenging format, including panel judges who engage with the students, appeal to students from a wide range of backgrounds, including schools with a long tradition of debating and those with none.

## **A PROJECT BY**

**Institute of Ideas**



**Debating Matters Beyond Bars takes our challenging schools debating competition format into HMP Birmingham.**

Teams of prisoners will engage each other in debate on a series of contemporary social, political, biomedical and cultural debates, encouraging inmates to think about the world around them, beyond bars.

When Debating Matters was launched in schools in 2003, it was intended as antidote to a belief that young people were unable to argue and discuss some of society's most contentious social and political questions.

Debating Matters Beyond Bars will encourage prisoners to research and argue about the ethical rights and wrongs of the big issues facing society, using reasoned, well evidenced argument which we hope it will be an important addition to Birmingham's educational work.

This project is an exciting opportunity to demonstrate that debate can flourish in unexpected places and that no idea should be beyond critical discussion or contest.

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## KEY TERMS

[Civil death](#)

[Human rights](#)

[Prison reform](#)

[The vote](#)

# INTRODUCTION

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# NOTES

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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 [Ref: [Independent](#)]. But in 2011 the issue became more than just an academic one when 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 had previously failed in his challenge to the ‘blanket ban’ on prisoner votes at the UK High Court [Ref: [National Archives](#)]. The UK government has since continued to reject the verdict of the ECHR, and in a surprise ruling last year the European court of justice ruled that a voting ban on certain categories of prisoner is justified [Ref: [Guardian](#)], reopening the debate about the rights and wrongs of current UK law. Beyond the legal debate about who makes the law on this issue - British courts or the ECHR - there lies a more profound debate about the purpose of prisons, the standing of prisoners within society, and how we balance punishment with rehabilitation. Advocates of allowing prisoners the vote, such as the Prison Reform Trust, argue “the vote of each and every citizen is a badge of dignity and personhood”, quoting a South Africa’s Constitutional Court ruling [Ref: [The Free Library](#)]. A blanket ban on prisoner votes, they contend, not only undermines fundamental human rights, but also denies the ideal of universal suffrage, upon which democracy is predicated [Ref: [Prison Reform Trust](#)]. But critics of proposed changes to the law argue that a simple moral idea is at stake: “If you break the law, should you be allowed to make the law? My answer to that is simply no” argues David Davis MP [Ref: [BBC Radio 5](#)]. So does the denial of the right to vote for prisoners demonstrate that the UK “has hardly emerged from the Jurassic period” [Ref: [Guardian](#)]? Or are there deeper moral principles associated with democracy and punishment that mean prison, “as a concept...means both loss of liberty and loss of certain liberties” [Ref: [Spectator](#)]?

# THE VOTES FOR PRISONERS DEBATE IN CONTEXT

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## 'If you break the law, you should not be allowed to make the law'

A former government spokesman, speaking about the clash between UK and ECHR law, 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 News](#)] Supporters of this view underline that the denial of the right to vote remains an important punishment, because it tells those who break the law that they have lost their right to participate in society whilst incarcerated. "Purposeful prisons where offenders are given an opportunity to reform is a noble ambition" it is argued, but there is "no empirical evidence that prisoners are less likely to reoffend if they have had the opportunity to vote." [Ref: [Spectator](#)]

Despite this, campaigners for prisoner votes suggest that the arguments used by their opponents represent an "archaic punishment" [Ref: [Prison Reform Trust](#)], and that moral thinking today supports the idea that: "Convicts are human beings, with human rights." [Ref: [Guardian](#)] From this perspective, the right to vote is therefore an indivisible one, and whilst as writer Afua Hirsch observes, imprisonment deprives inmates of their liberty while facilitating their rehabilitation, "it does not strip them of their citizenship rights." [Ref: [Guardian](#)]

## 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 and participate in the democratic process. Former government minister and convict Jonathan Aitken argues: "One of the terms for criminal is an 'outlaw', someone who puts themselves outside the law. You might say people who commit crimes serious enough to go to prison put themselves outside the law-making process" [Ref: [Guardian](#)]. However, those pressing for prisoner votes argue that such a notion is an outdated and uncivilised understanding of punishment. Paul Tidball, former president of the Prison Governors Association, argued that the ban is "out of step in a modern prison service and runs counter to resettlement work" [Ref: [Prison Reform Trust](#)], whilst others say that prisoner voting "goes to the heart of what it takes to rehabilitate someone." [Ref: [politics.co.uk](#)]

A modern prison system, they maintain, needs to embrace the idea of civic responsibility and rehabilitation, and by lifting the voting ban, the government would be engaging prisoners in civilising patterns of behaviour [Ref: [Guardian](#)]. Supporters of the right of prisoners to vote also point to the fact that in 2015 only, "47 people in UK prisons...are serving whole life sentences, meaning that the remaining 85,301 prisoners will be released into society at some point in the future. Surely, knowing this, society would want to ensure that everyone is doing everything they can to ease the reintegration of prisoners back into society, by encouraging prisoners to be good citizens" [Ref: [Inside Time](#)].

## THE VOTES FOR PRISONERS DEBATE IN CONTEXT CONTINUED...

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### Degrading the vote and democracy

For some critics, talk of rehabilitation and the rhetoric of rights for prisoners, masks the fact that there is little of democratic substance to the discussion on prisoner votes. Writer Tim Black asserts that the idea of the vote in this debate becomes debased, as its foundation - liberty, is degraded because historically, “the vote meant something: it promised self-rule; it promised sovereignty; it promised, to quote Leveller Richard Overton, freedom from ‘[dependence] upon the will of arbitrary powers’” [Ref: [spiked](#)]. From this perspective, prisoner votes make no sense, precisely because those that are detained lack the ability to exercise the freedom that voting represents, as their lives are completely controlled by arbitrary powers while incarcerated. Furthermore, others argue that we should be suspicious of those pushing for reform on behalf of prisoners, because far from demonstrating a commitment to democracy, such campaigns indicate the low esteem in which the vote is now held: “To give prisoners the vote reveals that the ECHR do not view the vote as an important right, but a political pawn which can be given away at a whim.” [Ref: [OpenDemocracy](#)] In this sense, critics claim that campaigners for prisoner votes have effectively rebranded the vote from being a means to effect social change through politics, to a socialising and civilising act in itself. However, advocates dismiss these suggestions, and instead say that far from undermining democracy, allowing prisoners the vote would deepen it. Universal suffrage, they argue, should be just that – universal. In a liberal democracy, notes blogger and former inmate Ben Gunn, all competent adults should have the inalienable right to vote, including prisoners, because: “One of the most important aspects of human rights is that they are

unearned. Being of the human species is all that is required, and for a perfectly sound reason: it is intended to prevent governments oppressing unpopular or difficult individuals or groups.” [Ref: [Guardian](#)] So, should prisoners have the vote, or is it right that those who break the law are excluded from the democratic process?

## ESSENTIAL READING

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[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

## FOR

[Law breakers should not influence law makers](#)

Glyn Gaskarth *Policy Exchange* 10 February 2015

[Prisoners shouldn't have the right to vote](#)

Tim Black *spiked* 16 February 2011

[In agreeing to enfranchise UK prisoners, we forget that voting is more than a right](#)

Suzy Dean *OpenDemocracy* 2 February 2011

[Allowing prisoners to have the vote would be criminal](#)

Jonathan Aitken *The Times* 3 November 2010

## AGAINST

[It's time to give prisoners the vote](#)

Ian Dunt *Politics.co.uk* 11 March 2015

[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

[Give prisoners the right to vote, and everybody benefits](#)

Robert Chesshyre *Independent* 12 February 2010

## BACKGROUNDERS

[Should prisoners have the right to vote?](#)

Evie Pardoe *Inside Time* May 2015

[Why some prisoners should have the right to vote](#)

Mark Thompson *New Statesman* 19 November 2012

[Why prisoners should be given the right to vote](#)

Caspar Walsh *Guardian* 5 June 2012

[Prisoners should get the vote](#)

*Prison Reform Trust* 15 February 2011

[Why deny prisoners the vote?](#)

Martin Kettle *Guardian* 21 January 2011

[Government has six months to overturn prisoners' voting ban](#)

*Prison Reform Trust* January 2011

[Prisoner voting rights are undemocratic](#)

Blair Gibb *Spectator* 2 November 2010

[Why should prisoners be denied the vote?](#)

Ben Gunn *Guardian* 19 September 2009

[Disenfranchising democracy](#)

Afua Hirsch *Guardian* 10 April 2009

[South African Constitutional Court rules on inmates' right to vote](#)

*The Free Library* 1 December 2004

[Forfeiture Act 1870](#)

*legislation.gov.uk*

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## ORGANISATIONS

[European Court of Human Rights](#)

[HM Prison Service](#)

[Ministry of Justice](#)

[Prison Reform Trust](#)

[UNLOCK](#)

## IN THE NEWS

[Voting ban on prisoners convicted of serious crimes is lawful, EU court rules](#)

*Guardian* 6 October 2015

[They've killed, raped, and violated children, but EU demands evil lags be given the vote](#)

*Express* 5 October 2015

[David Cameron: I will ignore Europe's top court on prisoner voting](#)

*Telegraph* 4 October 2015

[Jeremy Corbyn: Let prisoners have the right to vote](#)

*Telegraph* 26 August 2015

[Prisoners denied right to vote will NOT get compensation and NOT take part in election](#)

*Daily Mirror* 10 February 2015

[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

[Prisoner voting: High Court blocks compensation bid](#)

*BBC News* 18 February 2011

[Prison vote plans in disarray as MPs defy European courts](#)

*Daily Mirror* 11 February 2011

[David Davis: Prisoners 'lose right to vote'](#)

*BBC Radio 5 Live* 10 February 2011

[MPs back ban on prisoner votes](#)

*Independent* 10 February 2011

[Barred from voting: the right to vote for sentenced prisoners](#)

*Prison Reform Trust* February 2011

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## AUDIO/VISUAL

[David Davis: Prisoners 'lose right to vote'](#)

*BBC Radio 5 Live* 10 February 2011



## ADVICE FOR DEBATING MATTERS



### FOR DEBATERS

#### READ EVERYTHING .....

In the Topic Guide and in the news - not just your side of the argument either.

#### STATISTICS ARE GOOD BUT.....

Your opponents will have their own too. They'll support your points but they aren't a substitute for them.

#### BE BOLD

Get straight to the point but don't rush into things: make sure you aren't falling back on earlier assertions because interpreting a debate too narrowly might show a lack of understanding or confidence.

#### DON'T BACK DOWN

Try to take your case to its logical conclusion before trying to seem 'balanced' - your ability to challenge fundamental principles will be rewarded - even if you personally disagree with your arguments.

#### DON'T PANIC

Never assume you've lost because every question is an opportunity to explain what you know. Don't try to answer every question but don't avoid the tough ones either.

### FOR JUDGES

Judges are asked to consider whether debaters have been brave enough to address the difficult questions asked of them. Clever semantics might demonstrate an acrobatic mind but are also likely to hinder a serious discussion by changing the terms and parameters of the debate itself.

Whilst a team might demonstrate considerable knowledge and familiarity with the topic, evading difficult issues and failing to address the main substance of the debate misses the point of the competition. Judges are therefore encouraged to consider how far debaters have gone in defending their side of the motion, to what extent they have taken up the more challenging parts of the debate and how far the teams were able to respond to and challenge their opponents.

As one judge remarked *'These are not debates won simply by the rather technical rules of competitive debating. The challenge is to dig in to the real issues.'* This assessment seems to grasp the point and is worth bearing in mind when sitting on a judging panel.

**“WORLD REQUIRES  
THE CAPACITY  
TO MARSHALL  
CHALLENGING IDEAS  
AND ARGUMENTS”**

**LORD BOATENG, FORMER BRITISH HIGH  
COMMISSIONER TO SOUTH AFRICA**

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