

PRISONERS SHOULD BE ALLOWED TO VOTE BECAUSE

"In A Democracy Everybody Counts"

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Eight years ago now when David Cameron said it made him "physically ill" to be forced to give prisoners the vote, he revealed a shocking disregard of democracy, human rights and put quite simply, justice itself.

Following his remarks I was invited onto various news programmes and asked to explain why it was that I thought David Cameron was so wrong.

"Are you suggesting Mark that the likes of Ian Huntley should be given the vote?" asked one interviewer; "rapists and paedophiles should really be able to vote then should they?" asked another, while a third laughed at my suggestion that in all honesty the public were actually more interested in why prisoners shouldn't vote, than prisoners were as to why they should; but it was true nonetheless.

And to come straight to the point, yes 'the likes of' Ian Huntley should be allowed to vote - and for the record so too should 'the likes' of paedophiles, rapists, murderers, robbers, drug addicts and thieves.

Why?

That's easy.

For the very simple reason that we live in a democracy and the one thing that marks out a democracy, from a dictatorship, is that in a democracy everybody counts; man, woman, black, white, tall, small, fat, thin, gay, straight, good, bad and, yes, even very bad too - everybody, every single person, 'counts'.

Let's be clear I am not saying that every prisoner should be allowed to vote, only that where we remove or suspend the right to vote it has to be based on reason not rhetoric - in short there has to be a clear connection between the crime committed, and the sentence passed for it.

Look, take the case of a man who goes out on Friday night, gets drunks, gets involved in an argument that descends into a fight, is arrested for assault and appears in court on Monday morning - when I ask politicians whether a man in this position should lose his driving licence, every single one says the loss of his driving licence should not be a part of the sentence "because he had not committed a motoring offence".

Quite so.

So why do we remove the right to vote from prisoners who have not been convicted of any electoral offence?

If the right to vote is removed because someone, whatever their crime, has been sent to prison, why not also remove their right to marry, access healthcare, choose and practice a religion, speak to a solicitor, have a fair trial, or lodge an appeal?

You cannot remove one right on the basis of a prison sentence without explaining why other equally basic civil rights are not relinquished for the same basic reason too.

Where someone has been convicted of electoral fraud then removal of the right to participate in elections for a fixed period absolutely should be a sentence open to the courts, imposed by a judge and subject to appeal - what it should not be is a stick wielded by politicians for ulterior, selfish and irrational motives.

And there is another basic objection that I have to removing the prisoners' general right to vote - and this has nothing to do with crime, indeed it is much more fundamental than that- it is that all politicians have a vested interest in this subject.

We would not allow the man who had his house burgled to sit on the jury of the man charged with the offence, people would say he could not be independent and they'd probably be right, yet we allow

politicians, whose career, livelihood, salary and future promotion prospects depend on votes, to decide who can vote in an election - and far more importantly, who can't.

I don't object at all to the question as to whether prisoners should be able to vote actually being asked, or debated, on the contrary I welcome transparency - I simply say that there are basic inalienable civil rights that we all enjoy unless they are explicitly removed as a part of a sentence by a Judge, not a politician with vested interests.

And it is not as if the UK view of prisoner voting has widespread support in other countries; it doesn't.

Many nations, including Denmark, Sweden and Switzerland, have no form of electoral ban for imprisoned offenders at all. In others, however, severe restrictions make it very difficult in practice for offenders to vote.

In Cyprus, for example, an inmate must happen to be out of prison on the day of the elections, which is perhaps the basis for David Lidington's recent exploration as to whether this can be used to comply with the 12 year old ECHR ruling that the UK is in breach of the Convention.

Lidington's plan to restrict the right to vote to those serving less than one year, who are in an open prison, and cleared for ROTL, in effect means they want to do the least possible to comply with the law - but if enacted as planned it may still fall short of what is required in terms of compliance; see the case of *Frodl v Austria* explained below.

In Slovakia, prisoners can legally vote but no provision is made to allow them to do so.

Closer to home, the Republic of Ireland lifted its ban in 2006, passing legislation enabling all prisoners to vote by post in the constituency where they would ordinarily live.

And the first thing they did in South Africa after the release of Nelson Mandela was to give every single prisoner the right to vote because they had spent too long living with societal apartheid to allow it to continue to infect their electoral system; and electoral apartheid is what we have in the UK as long as we say one section of the community- prisoners - cannot vote whatever their crime.

In 13 European countries, electoral disqualification depends on the crime committed or the length of the sentence. Italy, Malta and Poland, for example, ban those deemed to have committed serious crimes. In Greece, anyone sentenced to life receives a permanent voting ban. Germany's law actually urges prisons to encourage their inmates to vote, although it does ban those whose crimes undermine "democratic order", such as political insurgents.

You see Germany, with its chequered human rights history (like that of South Africa) 'gets it' where Lidington doesn't.

Germany 'gets it' that there is a risk that by excluding people from taking part in the very essence of a democratic process by voting, they will accept that exclusion and not only become disengaged, but then they'll stick two fingers up to your society by starting their own way of doing things which results in gang culture, crime and lawlessness.

Germany is not alone.

A point David Lidington might like to remember is that until the 2005 case of [Frodl](#), Austria banned all those sentenced to more than one year. However *Frodl*, a convicted murderer challenged this and won, meaning that Austria now allows the vote in all cases except where the offence is particularly relevant - such as electoral fraud. The court in *Frodl* effectively ruled that the disenfranchisement of prisoners could only happen on rare occasions: namely, where a prisoner was detained as a result of the abuse of a public position or a threat to undermine the rule of law or democratic foundations.

Frodl is not the only case either, the UK has twice been found (in the case of *Hirst*) to be acting unlawfully in banning all prisoners from voting and this was again made clear in the 2013 case of *Söyler* where it was held that Turkey's automatic and indiscriminate ban on prisoners' voting rights was unlawful.

The *Söyler* case concerned a complaint brought by a businessman convicted for unpaid cheques that he was not allowed to vote in the 2007 Turkish general elections while he was being detained in prison or in the 2011 general elections after his conditional release. The Court found in particular that the ban

on convicted prisoners' voting rights in Turkey was automatic and indiscriminate and did not take into account the nature or gravity of the offence, the length of the prison sentence or the prisoner's individual conduct or circumstances. The application of such a harsh measure on a vitally important Convention right had to be seen as falling outside of any acceptable room for manoeuvre of a State to decide on such matters as the electoral rights of convicted prisoners.

Other than the UK, the only other European countries with an outright ban on prisoners voting are Russia, Armenia, Bulgaria, Czech Republic, Estonia, Hungary, Luxembourg and Romania; hardly countries leading the way in human rights and political thinking.

The UK Government need to realise the European Convention on Human Rights is not some 'a la carte' menu in a restaurant, where you can pick and choose what rights you want to enforce and those you wish to ignore, all the rights protected by the Convention are enforceable - and let us not forget the UK signed up to this Convention half a century ago.

The UK led the way in post-war Europe and drove this historical treaty forward - fifty years later if anything should make anyone 'physically ill' it is not the prospect of giving prisoners the vote, but the shameful way we now seek to walk over hard-won rights and freedoms that our ancestors considered so vital to any democracy that they fought and died for them – and did so in their millions.

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