



# POLITICS BEHIND BARS

THE EFFECT OF POLITICAL  
ENGAGEMENT ON PRISONERS

REPORT COMPILED BY CHARLIE BISHOP  
PUBLISHED 2/28/2014



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THE EFFECT OF POLITICAL ENGAGEMENT ON PRISONERS

THIS REPORT WAS COORDINATED & COMPILED BY CHARLIE BISHOP  
IT WAS PUBLISHED ON 2/28/2014.

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# POLITICS BEHIND BARS

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# DO OUR PRISONS NEED REFORM?

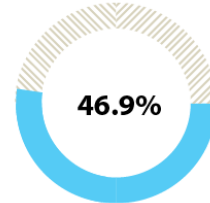
## UK Statistics



This infographic accompanies a full report. Read it at [www.oxpolicy.co.uk](http://www.oxpolicy.co.uk).

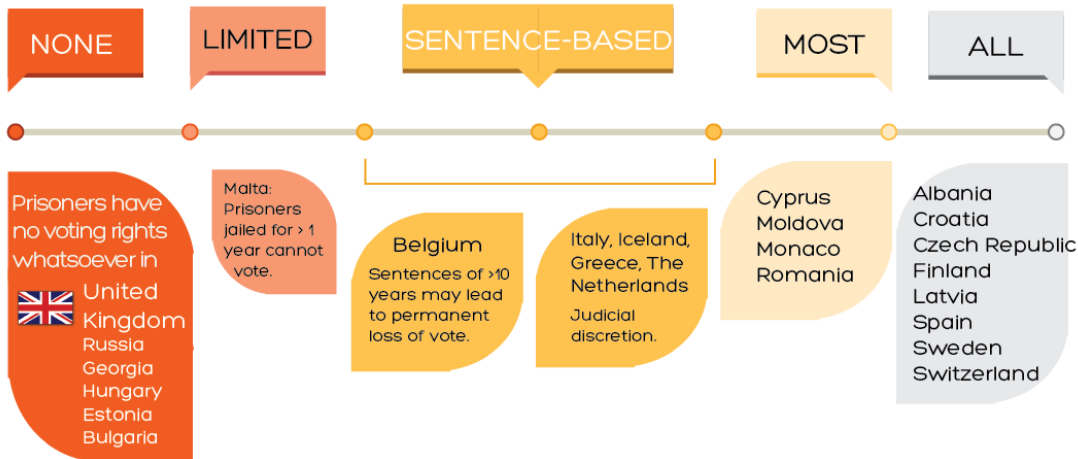
Hilary 2014

Source: "Ministry of Justice Weekly Population Bulletin" from Friday 7th February 2014, accessed on 11 Feb '14.



## Voting Rights

Adults reconvicted within one year of being released



## Draft Bill: Options

Parliament is considering a Draft Voting Eligibility (Prisoners) Bill. These are the options presented in the Bill. Which option do you want?



Based on June 2012 data from "Prison Population Statistics" by Gavin Berman & Aliyah Dar (July 2013), accessed on 9 Feb '14.

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## EXECUTIVE SUMMARY

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There is a growing consensus in criminal justice policy that the most effective way to prevent reoffending is to focus on rehabilitating prisoners, rather than simply imposing harsher penalties on them. Rehabilitation programs often focus on training prisoners so that they can look for employment, which is usually inspired by the old saying that “idle hands are the devil’s tools”. However, it is evident that a potentially significant cause of reoffending is that criminals and prisoners feel alienated, to the extent that they do not feel a sense of attachment to the very society they harm through their criminal conduct. Our report focuses on one candidate method of fostering a sense of belonging to society: by introducing prisoners to the political dialogue in modern Britain.

This topic has become significantly more controversial in the past decade because of the European Court of Human Rights ruling that the current blanket ban on prisoner voting rights is illegal. In light of that, we assessed whether giving prisoners the right to vote may assist in their rehabilitation. We looked at the prison system in the UK as compared against the systems in four other countries: France, Ireland, Sweden and the USA. These countries were selected for their varying degrees of enfranchisement. We assessed each country’s prison system and voting rules, and looked at the effects these have on prisoners. Where relevant, we also looked at other ways that prisons encourage political participation.

**International comparisons and evidence from the USA suggest there is a negative correlation between political participation and criminal behaviour.** Although we stopped short of concluding that enfranchisement is what makes a prison system effective, it seems clear that enfranchisement does not undermine the efforts of successful prison policy and may indeed further them. **However, we recommend that further study should ascertain whether or not this correlation reflects a causal link between political participation and criminality.**

**Improved political education in prisons might help prisoners feel more connected with society.** Registration rates and turnout in prisons in countries where prisoners can vote are significantly lower than in the general population. However, interviews with prisoners in England and Wales suggest they care deeply about political issues and strongly desire the ability to express their views democratically. However, it is clear from evidence in France that training and employment programs are likely to have a much more significant effect. **We therefore think that prison reform aimed at employment programmes should be a higher priority than political engagement.**

**We should engage in prison reform that is much broader than political engagement.** Our research is limited: there is scope for further international assessment as well as a more rigorous assessment of current prisoner attitudes towards politics. But it is important to acknowledge that having a sense of community is not a barrier to becoming a criminal; there are many factors that contribute towards reoffending. Furthermore, our research must be taken in the context that the population at large is becoming increasingly apathetic in any event.

Nevertheless, refusing to give prisoners the right to vote constitutes further alienation above and beyond what prisoners already get from being imprisoned. Although prisoners may in some cases be unlikely to exercise such a right, what matters to them is the recognition by society that they are entitled to the same basic rights as other human beings, and that their autonomy and dignity should be respected in light of that. **Given that there does not appear to be any negative consequences of giving prisoners the right to vote, in our view it thus seems strange to exacerbate this alienation when there is significant potential for political engagement to have at least some beneficial effect on prisoners.**

## INTRODUCTION

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The disenfranchisement of prisoners is one of the most controversial topics in politics at present. For the most part, debate centres on the European Court of Human Rights' (ECtHR) ruling that a blanket ban on prisoner voting rights is illegal (see Appendix One for more details on this). Rhetoric concentrates not on the merits of a particular prison policy, but rather on whether we should bow down to the European ruling. Nevertheless, a critical part of that ruling, and one of the most prominent arguments in favour of enfranchising prisoners, is the assertion that it assists in the rehabilitation of prisoners. Contemporary prison policy has focused much of its efforts on preventing reoffending at least ever since Tony Blair declared that we should be "tough on crime; tough on the causes of crime". We now recognise that alienation from society, poor education and mental health problems have a significant effect on the propensity of a person to commit crime.

We want to test the claim that disenfranchising prisoners exacerbates their alienation, and that if we encouraged them to vote we could help them to see themselves as responsible citizens in society. This claim has never been empirically tested. What we do not know is whether encouraging political engagement would help stop prisoners from reoffending, or whether the same reasons why prisoners do not engage in politics also explain why they committed crime in the first place.

While we are not in a position to be able to seek to answer that question definitively, our aim is to reassess the suggestion that engaging prisoners in politics does help rehabilitate them. It is OxPolicy's firm belief that policy should be made on the basis of sound evidence, rather than on blind assertion. If policy makers wish to use the rehabilitation argument to give prisoners the right to vote, it is important for them to know whether or not it is factually sound.

To that end, we have looked at what the potential effects may be of encouraging prisoners to engage in politics. In Section One, we look at the prison system in England and Wales and analyse prisoners' attitudes towards politics. We also look at the current provision for political education. In the sections that follow thereafter, we look at the prison systems in four other countries: France, Ireland, Sweden and the USA. These countries were selected because of how their voting rules vary. For example, Sweden, on the one hand, has had full enfranchisement for over 75 years, whereas in almost all states in the USA all prisoners are banned from voting, and in some states some criminals are banned from voting even after their release from prison. We look at each country's voting rules and assess the effects they have on prisoners and the success of their criminal justice policy, with an aim towards highlighting any significant relationships between political engagement and rehabilitation.

The conclusion we reach is tentative, and must be considered within the broader context of a general decline in political engagement in the wider population. In all areas of prison policy, and especially when international comparisons are being made, it is difficult to distinguish between causal and correlative factors. Nevertheless, the evidence here is useful in drawing attention to some of the benefits political engagement may be able to bring in reintegrating prisoners into society.

## SECTION ONE | PRISONS IN ENGLAND AND WALES

**1.1 PRISON POPULATION<sup>1</sup>**

The current prison population is 85,389.<sup>2</sup> This is up from 84,424 prisoners 12 months ago.<sup>3</sup> This is an imprisonment rate of 149 prisoners per 100,000 people.<sup>4</sup> 4.6% of prisoners are female and 95.4% are male.<sup>5</sup> Prisons are operating at 99% operational capacity. 1% of prisoners are under the age of 18.<sup>6</sup> Table 1 below shows the age profile of prisoners as at June 2013.

*Table 1: Age profile of prisoners*

Age range	% of prisoners
15-17	1
18-20	7
21-24	15
25-29	18
30-39	28
40-49	18
50-59	8
60 or over	4

*Source: Gavin Berman and Aliyah Dar, "Prison Population Statistics", Parliament, July 2013, accessed 9th February 2014, [www.parliament.uk/briefing-papers/sn04334.pdf](http://www.parliament.uk/briefing-papers/sn04334.pdf)*

**1.2 REOFFENDING**

46.9% of adults are reconvicted within one year of being released. If they are serving a sentence of less than 12 months this increases to 58.5%. There is little variation between sexes. 58% of young people (aged 18-20) are reconvicted within one year. This figure is higher again for children (aged 10-17) at 72.3%.<sup>7</sup>

**1.3 VOTING RULES*****Current position***

Any prisoner serving a custodial sentence may not vote in any election in the UK under section 3 of the Representation of the People Act 1983. This ban was first imposed under the Forfeiture Act 1870.

***Reform***

The European Court of Human Rights (ECtHR) held in *Hirst v UK (No. 2)*<sup>8</sup> that this ban contravenes human rights laws (see Appendix One for the full timeline). The government has

<sup>1</sup> Substantive research for this section was undertaken by Holly Anderson.

<sup>2</sup> "Ministry of Justice Weekly Population Bulletin", GOV.UK, accessed 21<sup>st</sup> February 2014, <https://www.gov.uk/government/publications/prison-population-figures-2014>

<sup>3</sup> Ibid.

<sup>4</sup> "United Kingdom: England and Wales", International Centre for Prison Studies, January 2014, accessed 2<sup>nd</sup> February 2014, <http://www.prisonstudies.org/country/united-kingdom-england-wales>

<sup>5</sup> Ministry of Justice Weekly Population Bulletin *op. cit.*

<sup>6</sup> Gavin Berman and Aliyah Dar, "Prison Population Statistics", Parliament, July 2013, accessed 9<sup>th</sup> February 2014, [www.parliament.uk/briefing-papers/sn04334.pdf](http://www.parliament.uk/briefing-papers/sn04334.pdf)

<sup>7</sup> "Prison Reform Trust: Prison Factfile", Prison Reform Trust, Autumn 2013, accessed 8<sup>th</sup> February 2014, <http://www.prisonreformtrust.org.uk/Publications/Factfile>

<sup>8</sup> [2005] ECHR 681

presented the Draft Voting Eligibility (Prisoners) Bill before a Joint Committee of the House of Commons and the House of Lords. It has three options for reform<sup>9</sup>:

1. A ban for prisoners sentenced to 4 years or more.
2. A ban for prisoners sentenced to more than 6 months.
3. A ban for all convicted prisoners – a restatement of the existing ban.

The Bill is still in its pre-legislative stage and is yet to be debated in the House of Commons. The Joint Committee in its report recommended that the government should proceed with a fourth option, which would ban all prisoners sentenced to more than 12 months.<sup>10</sup>

#### 1.4 PUBLIC OPINION<sup>11</sup>

In 2012, YouGov conducted a poll of public views on current political issues.<sup>12</sup> They asked: “Currently convicted prisoners in the UK are not allowed to vote in elections. The European Court of Human Rights has ruled that it is illegal for Britain to ban all prisoners from voting. Which of the following best reflects your view?” Table 2 below shows the results.

*Table 2: Public views on giving prisoners the right to vote depending on their sentence length*

How far the right should be extended	% agree
All prisoners should be allowed to vote at elections	8
Prisoners serving sentences of less than 4 years should be allowed to vote	9
Prisoners serving sentences of less than 6 months should be allowed to vote	15
No prisoners should be allowed to vote at elections	63
Don't know	5

Source: “YouGov/Sunday Times Survey Results”, YouGov, 25<sup>th</sup> Nov 2012, accessed 27<sup>th</sup> Feb 2014, [http://d25d2506sfb94s.cloudfront.net/cumulus\\_uploads/document/lmlmhdqllh/YG-Archives-Pol-ST-results%20-%2023-251112.pdf](http://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/lmlmhdqllh/YG-Archives-Pol-ST-results%20-%2023-251112.pdf)

The strong implication is that if prisoners are to be given the right to vote, it will be done with considerable opposition from the public. This gives us reason to doubt whether enfranchisement would actually help prisoners feel less alienated: enfranchisement may, in fact, have the opposite effect, causing prisoners to feel even more resented by society.

#### 1.5 PRISONER ATTITUDES TOWARDS VOTING<sup>13</sup>

A number of reports have conducted interviews with prisoners to ascertain their views on the matter<sup>14</sup>. The Joint Committee on the Draft Voting Eligibility (Prisoners) Bill interviewed nine male prisoners at HMP High Down.<sup>15</sup> They found they felt alienated simply because they could not vote, regardless of whether or not they would exercise it. They also acknowledged

<sup>9</sup> Draft Voting Eligibility (Prisoners) Bill, available at <http://www.justice.gov.uk/downloads/legislation/bills-acts/voting-eligibility-prisoners/voting-eligibility-prisoners-command-paper.pdf>

<sup>10</sup> Joint Committee on the Draft Voting Eligibility (Prisoners) Bill, *Draft Voting Eligibility (Prisoners) Bill Report*. HC 924, 2013, p.67.

<sup>11</sup> Substantive research for this section was undertaken by Max Young.

<sup>12</sup> “YouGov/Sunday Times Survey Results”, YouGov, 25<sup>th</sup> Nov 2012, accessed 27<sup>th</sup> Feb 2014, [http://d25d2506sfb94s.cloudfront.net/cumulus\\_uploads/document/lmlmhdqllh/YG-Archives-Pol-ST-results%20-%2023-251112.pdf](http://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/lmlmhdqllh/YG-Archives-Pol-ST-results%20-%2023-251112.pdf)

<sup>13</sup> Substantive research for this section was undertaken by Katie McMahon and Max Young.

<sup>14</sup> Unfortunately, because of time constraints, we were not able to conduct our own interviews.

<sup>15</sup> Joint Committee on the Draft Voting Eligibility (Prisoners) Bill, *Draft Voting Eligibility (Prisoners) Bill Report*. HC 924, 2013, Appendix 5.



rehabilitative possibilities. It was found that they unanimously thought there should be universal suffrage, unless someone was mentally unfit to exercise their vote (although a small number accepted those serving life sentences perhaps should lose that right). There was criticism of the behaviour of MPs in opposing prisoners' votes in 2011, with this being construed as indicative of the fact that MPs "didn't like prisoners". Interestingly, and perhaps surprisingly, many of these prisoners did not care about voting prior to their convictions, but felt that the education they received in prison led to their being politically engaged for the first time.

The Joint Committee also interviewed a group of 16 female prisoners from HMP Downview. The prisoners "saw their disenfranchisement as an extra punishment tantamount to being judged twice". They felt they should have the right to vote, and were likely to exercise it given that they had children and families outside of the prison and wanted to vote on their behalf. They said this view was what the majority of prisoners felt. In particular, they were concerned about the impact of spending cuts and tax decisions (especially as prisoners continue to pay tax while in prison), as well as the effects of policies on families. One Scottish prisoner wanted to be able to vote in the forthcoming independence referendum because it was an issue that would have a permanent effect on her. There was some suggestion that the right to vote could be earned through a course in citizenship, although others thought this was patronising because other British citizens do not need to take such a course in order to vote.

The report also notes that Mark Johnson of User Voice, a charity that helps prisoners in setting up prison councils, has referred to research showing that those engaged in such democratic processes as prison council elections had a greater interest in using their vote upon release.<sup>16</sup>

Mandeep Dhani and Paula Cruise conducted a survey in 2013 on the public and prisoner attitude to voting.<sup>17</sup> The sample size was 128 male prisoners and 107 members of the public (of whom 30.1% were male). The findings are summarised in Table 3 below:

*Table 3: Prisoner views on removal of voting rights for specific types of offenses*

Offence	% agree with statement: "should not be allowed to vote"
Violent offence	15.63
Sexual offence	61.72
Robbery	14.84
Burglary/Theft	15.63
Fraud/Forgery	21.09
Criminal damage	11.72
Drugs offence	15.63
Motoring offence	9.36

Source: Mandeep Dhani and Paula Cruise, "Prisoner Disenfranchisement: Prisoner and Public Views of an Invisible Punishment". *Analyses of Social Issues and Public Policy* 13, no. 1 (2013): 211--227

It is notable that a large majority of prisoners believe that those guilty of sexual offences should not be allowed to vote during their imprisonment.

Although this study provides a useful and contemporary analysis of prisoner attitudes, there are some important caveats. First, the sample is only 30.1% male, whereas the prison population is

<sup>16</sup> Ibid., p.41

<sup>17</sup> Mandeep Dhani and Paula Cruise, "Prisoner Disenfranchisement: Prisoner and Public Views of an Invisible Punishment". *Analyses of Social Issues and Public Policy* 13, no. 1 (2013): 211--227

over 90% male. Given that approaches to prisoner voting seem to vary somewhat between genders (as highlighted by the Joint Committee's research), this undermines the usefulness of the data. Secondly, the sample size is relatively small.

### 1.6 TREATING ENFRANCHISEMENT AS A PRIVILEGE RATHER THAN A RIGHT<sup>18</sup>

It is important, when discussing giving prisoners the right to vote, to consider the more philosophical and normative context in which this policy issue is located. Enfranchisement has historically been considered a privilege. In the nineteenth century in the UK, the right to vote depended on property ownership, whilst women did not receive equal suffrage until 1928.<sup>19</sup> Susan Easton argues against the idea of reducing prisoners to a state of "social death" and against the notion that rights can belong exclusively to "deserving" citizens.<sup>20</sup> Her arguments are supported by Liberty, a British organisation promoting civil liberties and human rights, which argues that "[a]t one time the kind of civic death currently experienced by prisoners was experienced far more widely - by Roman Catholics, women and the poor."<sup>21</sup> Liberty views human rights in accordance with the United Nations definition: "rights inherent to all human beings".<sup>22</sup>

In her 2002 Reith Lecture on "A Question of Trust", philosopher Baroness O'Neill contests the view that rights apply indiscriminately to all. O'Neill argues that the "underlying difficulty of any Declaration of Rights is that it assumes a passive view of human life and citizenship". She contends that given humans are inherently active, people have a "duty" to earn their rights, maintaining that "Duties are the business end of justice: they formulate the requirements to which Declarations of Rights merely gesture; they speak to all of us whose action is vital for real, respected rights." Thus, for Baroness O'Neill, responsibility must precede rights in order for them to be meaningful.<sup>23</sup>

In the context of prisoner voting rights, it is consequently possible to argue that prisoners have forfeited the right to vote because they have neglected their civic duties. Likewise we should perhaps be hesitant to endorse any absolute ruling regarding who is "deserving" of rights, such as the blanket ban on prisoners voting in the UK. Liberty's paper expressed particular concern that this ban applies "equally to those citizens who have made a conscious moral choice to breach the criminal law and go to prison", meaning that disenfranchisement would deprive such people of "the prospect of influencing the majority by the exercise of his/her vote".<sup>24</sup>

Easton has remarked that, in prisons, "The Government has generally favoured granting privileges awarded for good behaviour, rather than rights...as privileges are not legally enforceable. Privileges can be used as a method of control to maintain order and discipline,

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<sup>18</sup> Substantive research for this section was undertaken by Elizabeth Pugh.

<sup>19</sup> Representation of the People (Equal Franchise) Act 1928

<sup>20</sup> Susan Easton, "The prisoner's right to vote and civic responsibility: Reaffirming the social contract?" *Probation Journal* 56 (2009): 224, 229-30

<sup>21</sup> "Liberty's Response to the Department for Constitutional Affairs' Consultation on the Voting Rights of Convicted Prisoners Detained within the United Kingdom", Liberty, March 2007, p. 4, available at <http://www.liberty-human-rights.org.uk/pdfs/policy07/prisoners-voting-rights.pdf>

<sup>22</sup> "What are Human Rights", United Nations, accessed 20<sup>th</sup> February 2014, <http://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>

<sup>23</sup> Baroness O'Neill, "A Question of Trust", *Reith Lectures* 2002, Lecture 2: Trust and Terror, available at <http://www.bbc.co.uk/radio4/reith2002/lecture2.shtml>

<sup>24</sup> Liberty *op. cit.*, p.6

whereas rights incur costs in defending alleged breaches and, if they entail a rise in prison standards, in meeting the courts' demands."<sup>25</sup> They are thus easier to control than rights.

In October 2013, the government revised the Incentives and Earned Privileges (IEP) Scheme. When the scheme was introduced in 1995 the idea was that prisoners could gain privileges through displaying good behaviour and through productive work or other activity. The revised scheme emphasises the need for prisoners to "work towards their own rehabilitation, behave well and help others to earn privileges".<sup>26</sup>

Alison Liebling evaluated the success of the IEP scheme in 2008, prior to the revised scheme. Liebling undertook a survey of 1022 prisoners and 565 staff in 5 prisons (maximum-security, training, local, women's, and young offenders' institutions). Her findings were largely critical of the system. She found that prison staff considered the IEP scheme helpful, but that they often mismanaged the system: "We found a low level of accountability for decision-making and little management control. Systems for monitoring were not very effective, and none of the establishments had an IEP Review Board in the form envisaged by the Instruction to Governors. Appeals procedures were under-developed."<sup>27</sup>

Liebling commented that the scheme, at its most effective, could unite staff from across the board and "require them to communicate effectively." However, there were notable disparities in the implementation of the scheme, even between wings within some prisons. For example, of prisoners in the D wing of one maximum security prison, 1% were on the Basic IEP scheme, 35% were on the Standard scheme, and 64% were on the Enhanced scheme. Prisoners in this wing were classified as part of the Sex Offender Treatment Programme and Vulnerable Prisoner Unit. By contrast, of the prisoners in the F wing of the prison, 13% were on the Basic scheme, 62% were on the Standard scheme, and 25% were on the Enhanced scheme. These prisoners were classified as Dispersal.<sup>28</sup> This shows considerable variety in the implementation of the scheme between wings in the same prison. However, given the difference in the nature of the offenders and the offences, it is perhaps not so significant that there are such divergences in the percentage of prisoners on different levels of the scheme. Moreover, this prison may not be representative of all prisons.

The "arbitrariness" of staff operating the IEP scheme, according to Liebling, meant that prisoners "were often especially sensitive to injustices and to feelings of defiance and resentment", which could lead to collective protests, such as the "damaging the furniture and fabric of their cells". Liebling comments that in particular, "Prisoners felt very strongly about the inclusion of family contact in the list of 'key earnables': the prospect of differential quality of contact being linked to perceived behaviour was extremely threatening."<sup>29</sup>

Enfranchisement may not be considered a particularly desirable right by many prisoners, especially when compared to family visits, which appear to be the main incentive in the scheme. Moreover, the threat of the right to vote being revoked in an arbitrary system may discourage rather than promote political engagement. It does seem, however, that whilst the right to vote could potentially be used as a privilege, it would be incompatible with the current Incentives and Earned Privileges Scheme.

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<sup>25</sup> Easton *op. cit.*

<sup>26</sup> National Offender Management Service, *Incentive and Earned Privileges*, PSI 30/2013, 2013, p. 5, available at <https://www.justice.gov.uk/downloads/offenders/psipso/psi-2013/psi-30-2013.doc>

<sup>27</sup> Alison Liebling, "Incentives and Earned Privileges Revisited: Fairness, Discretion, and the Quality of Prison Life", *Journal of Scandinavian Studies in Criminology and Crime Prevention* (2011), p.1, 9

<sup>28</sup> *Ibid.*, p. 11

<sup>29</sup> *Ibid.*, p. 10

### 1.7 POLITICAL EDUCATION<sup>30</sup>

The skills and ideals encouraged by political education may be valuable in reducing reoffending, but education of this nature is not yet available for offenders. Education in prisons is often available, but is focused on basic literacy and vocational skills; it also cannot always be easily pursued due to difficulties in placement and economic disincentives. Though volunteerism and other active citizenship schemes in prisons may have helped reduce recidivism rates, educational focus will likely remain on basic educational attainment and skills for work placements.

Poor education, bad attitude and a lack of self-control are included in the top reasons for reoffending in prisoners.<sup>31</sup> The capacity to contribute positively to a community has been found to relate directly to the exercise of personal responsibility<sup>32</sup>, but personal choice is not a large factor in prison life.<sup>33</sup>

Political education for the wider public in England is lacking and inconsistent, so it is unclear how much citizenship knowledge prisoners possess prior to serving time. Citizenship is a compulsory subject from ages eleven to sixteen, but because so much flexibility is given to schools in how they wish to teach it, this education can vary from dedicated citizenship lessons to encouraged community service and extracurricular activities.<sup>34</sup> There is no set minimum on how many hours must be spent teaching students about governmental workings and how they may participate in their democratic society, so there is large variability in that area as well.<sup>35</sup>

The situation for many prisoners is even worse because they tend to have received a poor education and lack the fundamental skills to be able to engage with political literature. 80% of prisoners have writing skills at or below the level of an average 11-year-old child. That figure is 65% for numeracy skills, and 50% for reading skills.<sup>36</sup> Offenders are also over 20 times more likely than the general population to have been excluded from school.<sup>37</sup> If prisoners are not consistently attending or achieving in school, the likelihood that they gained a proficient education in citizenship and politics is low.

Because of prisoners' comparative lack of basic education, courses in prison focus on literacy and vocational skills. These skills are essential for the majority of jobs, and raising general education and skill levels can also improve self-esteem and motivation while increasing employability.<sup>38</sup> Recidivism rates were reduced by 5-8% for offenders who received an

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<sup>30</sup> Substantive research for this section was undertaken by Kelsey Mollura.

<sup>31</sup> Social Exclusion Unit, *Reducing re-offending by ex-prisoners*, 2012, available at [http://www.thelearningjourney.co.uk/reducing\\_report.pdf/at\\_download/file](http://www.thelearningjourney.co.uk/reducing_report.pdf/at_download/file)

<sup>32</sup> Kimmitt Edgar, Jessica Jacobson and Kathy Biggar, "Time Well Spent: A practical guide to active citizenship and volunteering in prison", Prison Reform Trust, 2011, available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Time%20Well%20Spent%20report%20lo.pdf>

<sup>33</sup> "Time To Learn", Prison Reform Trust, 2003, available at [http://www.prisonreformtrust.org.uk/uploads/documents/Time\\_to\\_LearnBook.pdf](http://www.prisonreformtrust.org.uk/uploads/documents/Time_to_LearnBook.pdf)

<sup>34</sup> Paul O'Hare and Oonagh Gay, "The Political Process and Citizenship Education", House of Commons Library, 2006, available at <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-04125.pdf>

<sup>35</sup> "Citizenship education in Europe", Eurydice, 2012, available at [http://ec.europa.eu/citizenship/pdf/citizenship\\_education\\_in\\_europe\\_en.pdf](http://ec.europa.eu/citizenship/pdf/citizenship_education_in_europe_en.pdf)

<sup>36</sup> Social Exclusion Unit *op. cit*

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

education grant from the Prisoners Education Trust, which seems to suggest a causal link between education and rehabilitation.<sup>39</sup>

However, obtaining placement in educational programs is often complicated and in some ways unattractive to prisoners. Placement and progress in a course may be lost upon transfer to another prison; availability may be limited to a strict number of students where only the most likely to pass the course are selected; and placement in education may result in foregoing gym time or better-paid work.<sup>40</sup> Many prisoners value education because it allows them to spend time productively, make positive life changes, and improve employment prospects, but ultimately only approximately one third have access.<sup>41</sup>

Citizenship courses, then, are unlikely to be offered to offenders in significant and effective numbers. It is plausible that citizenship classes would encourage prisoners to have a greater sense of responsibility, which in turn will help foster a sense of self-esteem. These seem to be the important factors behind what makes employment classes desirable to prisoners.

### 1.8 OTHER MODES OF POLITICAL ENGAGEMENT

There are other political engagement opportunities that exist outside of the classroom. Peer support schemes encourage prisoners to listen to one another, build a rapport, and learn how to overcome personal struggles. Community work schemes allow volunteering for the community, including programs like ROTL (Release on Temporary License) that serve communities and develop vocational skills. Restorative justice programs allow prisoners to acknowledge their wrongs and then begin making amends. Democratic participation in prison life through voted representatives helps provide a means for improvement and demonstrate how they can actively participate in communities upon release.<sup>42</sup>

As a result of engaging in these sorts of programs, prisoners feel more responsible, accountable, skilled, and trusted. This transformation from passively existing in a prison setting to actively contributing to the society they live in is a key component of a study exploring how ex-offenders reintegrate into society more successfully, noting that if they care about others instead of being predominantly self-centered, the likelihood they will reoffend is lowered.<sup>43</sup> Many participants in programs such as peer support schemes describe their experience as a personal transformation that will allow them to better cope with life upon release, but there is also much fatalism concerning employment and other citizens' reactions, which may hinder their recovery.<sup>44</sup>

Though active citizenship programs are helpful, not many prisoners are participating. One study suggests that despite over one third of prisons offering community volunteering to prisoners, only 1% were actually involved.<sup>45</sup> Though some prisoners do believe that participation in educational programs will help them get a job and resettle outside of prison life, pessimism about opportunities available to convicted criminals threaten any personal or professional progress they may have made behind bars.<sup>46</sup>

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<sup>39</sup> Ministry of Justice, *Justice Data Lab Statistics*, 2014, available at <https://www.gov.uk/government/publications/justice-data-lab-statistics-april-to-december-2013>

<sup>40</sup> Prison Reform Trust (2003) *op. cit.*

<sup>41</sup> *Ibid.*

<sup>42</sup> Prison Reform Trust (2011) *op. cit.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> Social Exclusion Unit *op. cit.*

<sup>46</sup> Prison Reform Trust (2003) *op. cit.*

We tried to conduct research into the political engagement of prisoners prior to their incarceration, but there has been no primary research conducted in this area<sup>47</sup>.

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<sup>47</sup> We searched on JSTOR, google and google books for articles containing variant combinations of “prisoners”, “political engagement”, “England and Wales”, “Representation of the People Act 1983”, “right to vote”, “prior to incarceration”, “criminals”, “election”, “turnout”, “voted” and “conviction”. No results were found that had focused on this analysis of the data in England and Wales.

SECTION TWO | PRISONS IN FRANCE<sup>48</sup>**2.1 PRISON POPULATION**

As of 1 February 2014, 67,820 people were imprisoned in France.<sup>49</sup> 3.3% are female and 96.7% are male.<sup>50</sup> 1.1% are minors, aged 10-18.<sup>51</sup> In January 2012, 82.4% of prisoners were French nationals and 6% were European nationals.

Overcrowding is becoming a problem in France. On 1 January 2013, 991 prisoners were sleeping on a mattress placed directly on the floor. It was also estimated that the number of people kept in prisons exceeded prison capacity by 12,887 people.<sup>52</sup>

**2.2 REOFFENDING**

In 2010, 11.1% of prisoners were there for committing an offence identical or very similar to one they had already committed within five years previously.<sup>53</sup> This is a sharp increase from 4.4% in 2000. A study commissioned by the Ministry of Justice, and conducted by Annie Kensey and Abdelmalik Benaouda in 2011<sup>54</sup>, looked into these figures more closely with the objective of trying to point out the factors leading to recidivism, and the factors of its rising frequency. The study sample was initially composed of 6,910 prisoners liberated between 1 July and 31 December 2002, based on their criminal records. The study revealed correlations between recidivism and:

1. **Gender:** men were found to be twice as likely as women to be re-incarcerated within five years of liberation.
2. **Age when arrested:** 75% of all prisoners below 18 of age at the time of their arrests reoffended, against 58% of all prisoners above 18, within five years of liberation.
3. **Age when liberated:** 78% of all prisoners below the age of 18 at the time of their liberation reoffended within five years; 63% of all prisoners between 18 and 29 years old; 55% of all prisoners between 30 and 49; and 29% for all prisoners aged 50 and above.
4. **Marital status:** only 38% of prisoners married at the time or after liberation reoffended, while 61% of the “others” have reoffended.
5. **Employment:** 61% of the prisoners who were unemployed when they were imprisoned reoffended, against 55% of prisoners who had a stable occupation.
6. **Nationality:** 64% of French prisoners reoffended within five years of liberation; and 44% of foreign nationals.
7. **Previous sentences:** 34% of all prisoners with only one previous sentence reoffended within five years of liberation; this rate grows to 70% for all prisoners who have had at least two previous sentences.

<sup>48</sup> Substantive research for this section was undertaken by Florence Wang.

<sup>49</sup> Direction de l'Administration Pénitentiaire, *Statistiques mensuelles de la population détenue et écrouée*, 2014, p. 4, available at [http://www.justice.gouv.fr/art\\_pix/mensuelle\\_fevrier\\_2014.pdf](http://www.justice.gouv.fr/art_pix/mensuelle_fevrier_2014.pdf)

<sup>50</sup> *Ibid.*, p. 18.

<sup>51</sup> *Ibid.*, p. 31.

<sup>52</sup> “Population Carcérale”, Carceropolis.fr, accessed at 21<sup>st</sup> February 2014, <http://www.carceropolis.fr/images/population.png>

<sup>53</sup> “Infographie: Tout ce qu'il faut savoir sur la récidence”, Le Nouvel Observateur et Rue 89, accessed 21<sup>st</sup> February 2014, <http://rue89.nouvelobs.com/2012/09/12/infographie-ce-qu'il-faut-savoir-sur-la-recidive-235100>

<sup>54</sup> Annie Kensey and Abdelmalik Benaouda, “Les risques de récidence des sortants de prison. Une nouvelle évaluation”, *Cahiers d'études pénitentiaires et criminologiques* 36 (2011), available at [http://www.justice.gouv.fr/art\\_pix/cahierd'etude36.pdf](http://www.justice.gouv.fr/art_pix/cahierd'etude36.pdf)

8. **The nature of imprisonment and rehabilitation processes:** prisoners who can benefit from re-insertion programs and help are less likely to reoffend within five years of liberation than prisoners who are left to integrate society on their own.

This study does not show a causal link between these factors, but does suggest a notable correlation. The significant size of the sample and the attention given to the detailed examination of each criminal record, constitute this study's strengths, although not every possible factor was included: education, especially literacy and civic knowledge, was unfortunately excluded.

The figures are substantially higher for reoffending where the second offence is not necessarily similar to the first offence. Within five years of liberation from prison, 63% of all freed prisoners are convicted for any kind of crime, while this rate drops to 23% for all prisoners who used to be placed under electronic surveillance (electronic bracelet, for example).<sup>55</sup> This might not be a causal link: this lower rate may be related to other factors, such as the nature of the crime (least severe crimes lead to lighter forms of punishment, such as the electronic surveillance).

### 2.3 VOTING RULES

French nationals imprisoned after 1 March 1994 do not automatically lose their civic rights, as was the case before 1994.<sup>56</sup> If one is to be disenfranchised, it has to be specified by special court order, and it forms part of the sentence. However, the loss of civic rights of those convicted before 1994 is not revoked.

The most severe crimes (including murder, assassination, terrorism and rape<sup>57</sup>) can be punishable with up to ten years of electoral incapacity. This limit decreases to five years for less severe offenses (such as theft, involuntary manslaughter and sexual aggression without rape). Although it is applied during the imprisonment, the deprivation of civic rights only starts after liberation has taken place. In other words, a man sentenced to three years in jail and five years without civic rights, for example, is in fact deprived from the right to vote for a total of eight (and not five) years.<sup>58</sup>

Prisoners who maintain their right to vote can participate in any elections, be they municipal, national or European. In order to exercise their right, they must be registered to do so. Depending on the kind of elections and the nature of the penal institution, prisoners can either:

1. Request a one-day release to go to the local polling station, only applicable to those sentenced up to five years in prison; and those who have served at least half of their sentence if the latter exceeds five years.
2. Give proxy to someone on in the same district.<sup>59</sup>

Inhabitants of French overseas departments and territories are generally French citizens. As such, they have the same rights as French nationals living in France.

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<sup>55</sup> Ibid.

<sup>56</sup> "La privation des droits civiques, civils et de famille", Ban Public, accessed 21<sup>st</sup> February 2014, <http://prison.eu.org/spip.php?article14031>

<sup>57</sup> "Quelles sont les différences entre une contravention, un délit et un crime?", Service Public, accessed 21<sup>st</sup> February 2014, <http://vosdroits.service-public.fr/particuliers/F1157.xhtml#blocEntete>

<sup>58</sup> Ban Public, *op. cit.*

<sup>59</sup> "Une personne détenue a-t-elle le droit de voter?", Official website of the French administration, accessed 21<sup>st</sup> February 2014, <http://vosdroits.service-public.fr/particuliers/F1227.xhtml>



European nationals in France are only allowed to participate in municipal and European elections. Beyond this distinction, the law mentioned above is similarly applicable to European and French nationals.<sup>60</sup>

Other foreign nationals are denied the right to vote in any kind of elections taking place in France.

## 2.4 PRISONERS' USE OF THE VOTE

The proportion of prisoners who can - and do - vote is negligible.<sup>61</sup> In 2012, only 2.5% of the 49,918 prisoners with the right to vote exercised it in the legislative elections. 82% voted by proxy and 18% voted with a one-day release permit. This turnout rate appears to be lower than the 2007 presidential election.<sup>62</sup>

### *Reasons for low turnout*

Many prisoners are unaware of their voting rights. Indeed, it is still commonly believed in the prison population that incarceration automatically leads to the loss of civic rights. Additionally, voting in itself can be a tough process. Prisoners often need to be reminded that they must be registered to vote. There are also problems with helping prisoners with the actual act of voting. This is particularly difficult since letters have to be written to many administrative representatives to designate a proxy, or express a request for a one-day release. The consequence of the way voting in prisons is currently administered in France is thus that it disqualifies those who have had a poor education. Indeed, one of the female prisoners contacted by Marie Quenet during her survey of voting conditions in prisons declared that she had to “fight” when she first voted in 2012.<sup>63</sup> The absence of a voting system within prison walls forces prisoners to try to make their voices heard at the closest local ballot station. This has proven to be highly inefficient and troublesome.

Non-governmental organisations, such as Robin des Lois and the International Observatory of Prisons – French section, have been fighting to make political life more accessible to prisoners. Robin des Lois is a particularly active association, initially founded by François Korber, liberated in 2009 after twenty years of imprisonment. It aims to improve the living standards of prisoners, as well as their intellectual development, of which political engagement seems to be a significant part. The association recently observed that political parties had very little interest in securing the votes of prisoners because of their relatively low numbers and turnout rates. In light of this, the association works in prisons to raise awareness by organising workshops, to teach prisoners their own rights and encourage them to take on their democratic responsibilities whenever possible. The association works to help create polling stations in each Penitentiary Establishment.<sup>64</sup>

In 2011, 46% of all prisoners in France had no diplomas (including the “Brevet des Collèges”, French equivalent of the GCSE), while only 8% of them possessed a Baccalaureate (equivalent of the A-Levels). Generally speaking, 85% of the total population of French prisons had no

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<sup>60</sup> “Elections: droit de vote d’un citoyen européen”, Official website of the French administration, accessed 21<sup>st</sup> February 2014, <http://vosdroits.service-public.fr/particuliers/F1937.xhtml>

<sup>61</sup> Marie Quenet, “A quand les urnes en détention?”, *Le Journal du dimanche* 3497 (2014) available pp.10-11, available at [http://robindeslois.org/wp-content/uploads/2014/01/jdd.19.janv\\_.prisons.pdf](http://robindeslois.org/wp-content/uploads/2014/01/jdd.19.janv_.prisons.pdf)

<sup>62</sup> While we do not have the figures for how many prisoners were eligible to vote in 2007, we know that 2,697 of them voted compared with 1,609 in 2012.

<sup>63</sup> Marie Quenet, *op. cit.*, p. 10

<sup>64</sup> “Le nouveau combat de RDL: des bureaux de vote dans les prisons”, Le blog de Robin des lois, accessed 21<sup>st</sup> February 2014, <http://robindeslois.org/?p=5230>

qualifications equivalent or above a two-year technical training, i.e. CAP. Illiteracy hinders the comprehension of political leaflets and tracts. It also can make communication with other prisoners difficult, which is amplified by the high proportion of foreign national prisoners. This in turn may lead to mental illnesses and/or violence related to frustration. In 2010, only 24.6% of all prisoners took classes and lessons, of which 63.3% were concerned with illiteracy and the preparation of a “Certificat de Formation Générale” (“Certificate of General training”, concerning basic skills in French, mathematics and communicational skills, with expectations below those of the “Brevet des Collèges”).

New measures have been implemented in order to reduce reoffending by attempting to encourage prisoners to see themselves as responsible citizens. Citizenship internships have been offered since 2004, and in some cases these are even alternatives to incarceration. By January 1, 2013, 858 people were already under this scheme. An informative documentary produced by the Ministry of Justice in 2010 reveals very well the activities, objectives, speakers and reactions triggered by these internships.<sup>65</sup> Fourteen young adults (18 to 25 years old) were gathered for three days by the SPIP in the Yvelines. Invited to speak to intervening representatives of various governmental institutions (notably the police forces), these young adults were given the opportunity to question their assumptions about their own rights, and to express their feelings of being too soon and too quickly categorised by society and discriminated against. Guest speakers also attempted to teach them the significance of citizenship and to give them a renewed, positive, vision of their roles in society. As the video shows, the experience was beneficial for both parties. Although the video addresses a very limited sample of young adults, for whom the citizenship workshops were originally designed, it enables outsiders to understand better the pathways of thought of offenders and criminals. This is a way of spotting their needs and fears in order to lead them to social integration.

## 2.5 CONCLUSIONS

Although the right to vote may be important for more normative reasons, there are more pressing policy issues that should have priority, namely high rates of suicide and self-harm, as well as low levels of qualification. If political engagement may act positively upon either of these factors, it cannot be denied that better education would be necessary in order to facilitate any meaningful engagement. Consequently, it would be beneficial if it were provided in a greater quantity and to a greater extent. Moreover, a lack of empirical studies showing the clear causal links between political engagement and the rates of recidivism suggests that caution must be taken before drawing any definitive conclusions.

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<sup>65</sup> “Stage de citoyenneté”, Ministère de la Justice, accessed 21<sup>st</sup> February 2014, <http://www.justice.gouv.fr/actualite-du-ministere-10030/les-editions-11230/stage-de-citoyennete-19274.html>

SECTION THREE | PRISONS IN IRELAND<sup>66</sup>**3.1 PRISON POPULATION**

The current prison population is 3,955.<sup>67</sup> The rate of imprisonment is 96 per 100,000.<sup>68</sup> As of 30 November 2013, 3.6% of prisoners were female and 96.4% were male.<sup>69</sup> 0.23% were under the age of 18, and 6.1% were aged 18-21.<sup>70</sup> 89.3% of prisoners are Irish and 7.3% are from the EU.<sup>71</sup>

**3.2 REOFFENDING**

55.3% of prisoners released during 2007 reoffended at some point over the next three years. For the 2008 cohort, the rate fell to 51.0%.<sup>72</sup> The reoffending rate is highest for those under 21, of whom 56.8% reoffended in the 2008 cohort. By comparison, only 23.1% of those aged over 61 reoffended in the 2008 cohort. Over 64.6% of reoffenders committed their second offence within the first six months of official release from custody.

**3.3 VOTING RULES**

The Electoral (Amendment) Act 2006 lifted the ban on prisoner voting rights in Ireland, permitting all prisoners to register for a postal vote for the consistency in which they resided prior to their imprisonment. It is notable that this Act was passed with very little controversy – indeed, only one article was written about the issue in the three Irish broadsheet daily papers during the legislation’s three-month passage.<sup>73</sup> Part of the reasoning behind lifting the ban was to encourage the rehabilitation of prisoners.<sup>74</sup>

**3.4 PRISONERS’ USE OF THE VOTE**

Efforts have been made to ensure all prisoners are aware of their voting rights. On arriving at any prison, prisoners are provided with a poster detailing the arrangement of a postal vote and an explanation of their entitlements under the 2006 Act.<sup>75</sup> Nevertheless, there have been low levels of voter registration (and subsequently turnout) among prisoners. The percentage who

<sup>66</sup> Substantive research for this section was undertaken by Katie McMahon.

<sup>67</sup> “Prisoner Population on Monday 13<sup>th</sup> January 2014”, Irish Prison Service, accessed 21<sup>st</sup> February 2014, [http://www.irishprisons.ie/images/dailynumbers/13\\_jan\\_2014.pdf](http://www.irishprisons.ie/images/dailynumbers/13_jan_2014.pdf)

<sup>68</sup> “Facts & Figures”, Irish Penal Reform Trust, accessed 21<sup>st</sup> February 2014, <http://www.iprt.ie/prison-facts-2>

<sup>69</sup> “Irish Prison Service Monthly Information Note – November 2013”, Irish Prison Service, accessed 21<sup>st</sup> February 2014, [http://www.irishprisons.ie/images/monthlyinfonote/nov\\_note.pdf](http://www.irishprisons.ie/images/monthlyinfonote/nov_note.pdf)

<sup>70</sup> Ibid.

<sup>71</sup> “Nationality of Sentenced Prisoners on comparable day each year 2007 to 2012”, Irish Prison Service, accessed 21<sup>st</sup> February 2014, <http://www.irishprisons.ie/images/pdf/snapshotnationality12.pdf>

<sup>72</sup> “Prison Recidivism: 2008 cohort”, Central Statistics Office, 2013, accessed 21<sup>st</sup> February 2014, <http://www.cso.ie/en/media/csoie/releasespublications/documents/crimejustice/2008/prisonrecidivism2008.pdf>

<sup>73</sup> Cormac Behan and Ian O’Donnell, “Prisoners Politics and the Polls: Enfranchisement and the Burden of Responsibility”, *British Journal of Criminology* 48 (2008), p. 328

<sup>74</sup> See, in particular, the speech of Fergus O’Dowd, Dail Debates, 2006, Vol. 624, col. 1983.

<sup>75</sup> Tom Brady, “Only 191 prisoners out of 4,500 register to vote in jail”, *The Irish Independent*, 8<sup>th</sup> February 2011, accessed 21<sup>st</sup> February 2014 <http://www.independent.ie/irish-news/elections/only-191-prisoners-out-of-4500-register-to-vote-in-jail-26663811.html>

registered to vote in 2007 was 14% (of those registered, 71.4% consequently voted)<sup>76</sup>, while in 2007 4% registered.<sup>77</sup>

There has been large variation in the numbers of prisoners voting depending in which prison they reside. In the 2011 election, the three prisons with the highest voter registration were Training Unit (19%), Portlaoise (18%) and Wheatfield (13%). Meanwhile, 5 prisons had no prisoners registered.<sup>78</sup> One posited reason for this variation is that particular prisons will be more likely to hold prisoners with particular sentence lengths. Arbour Hill had a high registration rate of almost 40% for the 2007 election,<sup>79</sup> while over 60% of its prisoners are serving sentences of 7 years or more.<sup>80</sup>

One potential cause of the low registration is the low levels of literacy among Irish prisoners. This puts them in a demographic of people who are less likely to vote. In a scale of levels of literacy, 1 being the lowest and 5 the highest, it has been found that 53% of Irish prisoners have Level 1 or pre-Level 1 literacy.<sup>81</sup>

### 3.5 CONCLUSIONS

The example of Ireland can inform discussion in two ways. First, it provides an example of avoiding the logistical difficulty of having a large prison within one constituency and the subsequent influx of votes were prisoners' votes to become legal. Second, it shows how introducing legislation may not engage prisoners. With low levels of education among the prison population, often they come from a demographic that fails to be greatly politically engaged.

As the Electoral (Amendment) Act 2006 giving prisoners the right to vote was passed quite recently, data relating to recidivism rates following its implementation are pretty much non-existent (the most recent report relating to recidivism rates dates back to those released in 2008, only one year after the first election in which Irish prisoners could vote). However, considering the low percentage of Irish prisoners who used their new voting rights, this information wouldn't necessarily be too important (as the right to vote will not have necessarily impacted on those who did not exercise that right).

It is difficult to draw any conclusions from reoffending rates. They do not cover a long enough time period since the 2007 implementation of prisoners' votes to show any consistent relationship, and the low levels of prisoner registration would make it harder to discern any impact on the overall prison population. However, it is notable that the group that reoffends the most is the under 21 category: as this group corresponds with the age group least likely to vote in the general population, it is unlikely that conferring on them the right to vote would have any substantial effect.

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<sup>76</sup> Cormac Behan and Ian O'Donnell, *op. cit.*

<sup>77</sup> Cormac O'Keefe, "Just 4% of prisoners have registered to vote", *The Irish Examiner*, 23<sup>rd</sup> February 2011, accessed 21<sup>st</sup> February 2014, <http://www.irishexaminer.com/ireland/election-2011/just-4-of-prisoners-have-registered-to-vote-146234.html>

<sup>78</sup> *Ibid.*

<sup>79</sup> Cormac Behan and Ian O'Donnell, *op. cit.*, p.329

<sup>80</sup> Arbour Hill Visiting Committee, *Annual Report 2005*, 2006, available at [www.justice.ie/en/JELR/ArbourVCRpt05en.pdf/Files/ArbourVCRpt05en.pdf](http://www.justice.ie/en/JELR/ArbourVCRpt05en.pdf/Files/ArbourVCRpt05en.pdf)

<sup>81</sup> Mark Morgan and Mary Kett, "The Prison Adult Literacy Survey: Results and Implications", Irish Prison Service, June 2003, available at [http://www.epea.org/uploads/media/Adult\\_Literacy\\_Survey.pdf](http://www.epea.org/uploads/media/Adult_Literacy_Survey.pdf)

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## SECTION FOUR | PRISONS IN SWEDEN<sup>82</sup>

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### 4.1 PRISON POPULATION

Sweden's prisons have a worldwide reputation for being humane and successful at rehabilitation, known as "models of decency and humanity". Their prison system is liberal and progressive.

The prison population as at 1 October 2013 was 4,377.<sup>83</sup> Between 2011 and 2012 there was a 6% drop in the prison population, and Sweden is now considering closing prisons.<sup>84</sup>

### 4.2 REOFFENDING

Between 30-40% of released prisoners reoffended over three years.<sup>85</sup> One reason why this is such a low figure is that the age of criminal responsibility is set at 15, which cuts down the number of young people put in prisons. Furthermore, no one under 21 can be sentenced to life imprisonment.

### 4.3 VOTING RULES

All prisoners have the right to vote, and have done since 1937<sup>86</sup>. There are no restrictions in place. Prisoners also have the right to form committees within prisons to discuss prison issues. This is based on the principle that the loss of freedom from imprisonment is the punishment, and no further loss of liberty is necessary. Prisoners in detention are allowed to vote via proxy or at an advance voting place.<sup>87</sup>

There is little research on the effect of enfranchisement of prisoners in Sweden. Research in to rehabilitation tended to focus on the conditions of prisons, the work of probation officers and the work done to put prisoners in a position to work when they leave prison through education and employment in the prison. As prisoners have had the right to vote for over 75 years, there was less recent research in to the subject. Furthermore, as Scandinavian prisons are fairly similar some research grouped the countries together rather than provided data specifically about Sweden.

### 4.4 CONCLUSIONS

Despite the lack of empirical research in this area, the effectiveness of the Swedish prison system cannot be denied, and we have found no reason to suggest that Sweden's enfranchisement of prisoners goes against the parts of its penal system that are so effective. It is reasonable to assume that prisoner enfranchisement may form part of a successful rehabilitative prison program.

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<sup>82</sup> Substantive research for this section was undertaken by Olivia Phelan.

<sup>83</sup> "Statistik fängelse", Kriminalvården, accessed 21<sup>st</sup> February 2014, <http://www.kriminalvarden.se/sv/Statistik/Fangelse/Statistik-fangelse/>

<sup>84</sup> Erwin James, "Why is Sweden Closing its Prisons?", *Guardian*, 1<sup>st</sup> December 2013, accessed 21<sup>st</sup> February 2014, <http://www.theguardian.com/society/2013/dec/01/why-sweden-closing-prisons>

<sup>85</sup> Ibid.

<sup>86</sup> Directorate-General for Internal Policies Policy Department, *Franchise and Electoral Participation of Third Country Citizens Residing in the European Union and of European Union Citizens Residing in Third Countries*, 2013, p.104, available at

[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474441/IPOL-AFCO\\_ET\(2013\)474441\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474441/IPOL-AFCO_ET(2013)474441_EN.pdf)

<sup>87</sup> Ibid.

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## SECTION FIVE | PRISONS IN THE USA<sup>88</sup>

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### 5.1 PRISON POPULATION

The American system of incarceration leads to one of the highest incarceration rates in the world, with 707 people per group of 100,000 imprisoned.<sup>89</sup> The prison population as at 20 February 2014 was 215,030.<sup>90</sup> A tiny fraction of those are under 18, as youth offenders are dealt with separately by the US justice system. 25.1% of prisoners are not US citizens. 50.1% of prisoners are convicted for drug offences, while 10.6% are convicted for immigration offences, and 6.1% are convicted for sex offences.

### 5.2 REOFFENDING

Despite the high levels of incarceration, crime rates are very high. This illustrates the American attitude towards crime-prevention to be one of punishment, rather than rehabilitation. Consequently, prisoner rehabilitation facilities are not as well-funded or utilised as some European criminal systems, and reoffending is high. Among nearly 300,000 prisoners released in 15 states in 1994, 67.5% were rearrested within 3 years.<sup>91</sup> This is an increase from the estimated 62.5% of those released in 1983 who were rearrested within 3 years.

Adams and colleagues (1994) found that education within the prison is only effective at reducing recidivism when the prison population has very little education to begin with, and when this population receives at least 200 hours of educational services.<sup>92</sup>

### 5.3 VOTING RULES

All prisoners are banned from voting during their incarceration, apart from those in Maine and Vermont who never lose the right. Many also continue to lose the right to vote even after they have been released from prison, making the USA have some of the most punitive disenfranchisement laws in the world. Table 4 below provides a summary of state disenfranchising laws, distinguishing states with no ban, states disenfranchising inmates, states disenfranchising inmates plus parolees and/or probationers, and states disenfranchising ex-felons.

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<sup>88</sup> Substantive research for this section was undertaken by Cindy Yu.

<sup>89</sup> "United States of America", International Centre for Prison Studies, January 2014, accessed 2<sup>nd</sup> February 2014, <http://www.prisonstudies.org/country/united-states-america>

<sup>90</sup> "BOP: Population Statistics", Federal Bureau of Prisons, accessed 21<sup>st</sup> February 2014, [http://www.bop.gov/about/statistics/population\\_statistics.jsp](http://www.bop.gov/about/statistics/population_statistics.jsp)

<sup>91</sup> "Bureau of Justice Statistics – Recidivism", Office of Justice Programmes, accessed 21<sup>st</sup> February 2014, <http://www.bjs.gov/index.cfm?ty=tp&tid=17>

<sup>92</sup> K. Adam, K. J. Bennett, T. J. Flanagan, J. W. Marquart, J.R. Cuvelier, J. G. Fritsch, D. R. Longmire, & V. S. Burton, "A large scale multidimensional test of the effect of prison education programs on offenders' behavior" *The Prison Journal* 74 (1994) p. 433-451.

*Table 4: Summary of state felony disenfranchisement laws*

No ban (2 states)	Inmates only (13 states)	Inmates & parolees (4 states)	Inmates, parolees & probationers (20 states)	Inmates, paroles, probationers & some or all ex-felons (11 states)
Maine Vermont	Hawaii Illinois Indiana Massachusetts Michigan Montana New Hampshire North Dakota Ohio Oregon Pennsylvania Rhode Island Utah	California Colorado Connecticut New York	Alaska Arkansas Georgia Idaho Kansas Louisiana Maryland Minnesota Missouri Nebraska New Jersey New Mexico North Carolina Oklahoma South Carolina South Dakota Texas Washington West Virginia Wisconsin	Alabama Arizona Delaware Florida Iowa Kentucky Mississippi Nevada Tennessee Virginia Wyoming

Source: “State Felon Voting Laws”, ProCon.org, accessed 22<sup>nd</sup> February 2014, <http://felonvoting.procon.org/view.resource.php?resourceID=000286>

#### 5.4 PRISONER ATTITUDES TOWARDS VOTING

##### **Minnesota**

In “*Locked Out: Felon Disenfranchisement and American Democracy*”, Manza & Uggen use the Youth Development Study (YDS) as a comparison between offenders and nonoffenders to make generalisations about the political attitudes and consequent participation of criminals.<sup>93</sup> The YDS is a longitudinal study set of former state school students in St Paul, Minnesota, one of twenty states that allow prisoner re-enfranchisement after the end of probation.<sup>94</sup>

Before they begin, they draw attention to the low turnout rates of the general American population in national elections, concluding that the low levels of political participation by offenders may not be so uncharacteristic of the American citizenry. Similarly, low levels of political awareness amongst prisoners seems to be typical of the general American population. “*Many – often most – citizens are ignorant of rather basic facts...the data suggest massive public ignorance.*”<sup>95</sup> Low levels of trust in politicians amongst criminals are also reflective of the general public disillusionment with the US government. Thus, the authors conclude that political apathy for prisoners is hardly a feeling unique to their own demography.

<sup>93</sup> J. Manza and C. Uggen, *Locked Out: Felon Disenfranchisement and American Democracy* (Oxford: Oxford University Press, 2006).

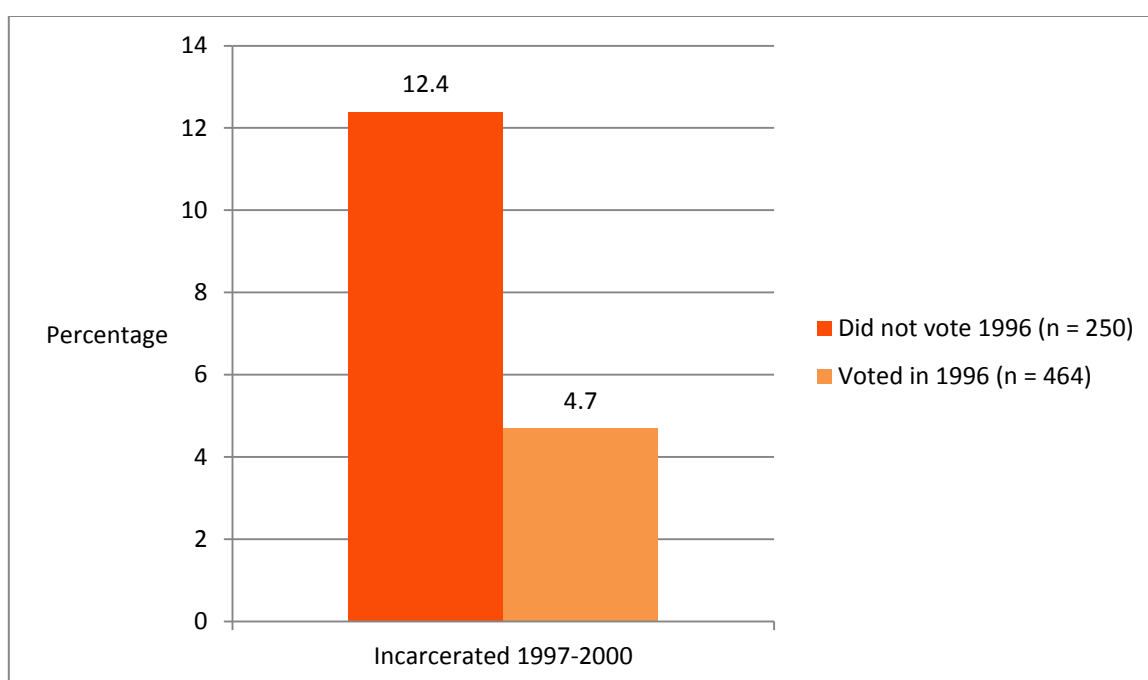
<sup>94</sup> *Ibid.*, p. 114

<sup>95</sup> Carroll J. Glynn, Susan Herbst, Garrett J. O’Keefe and Robert Y. Shapiro, *Public Opinion* (Boulder: Westview Press, 1999).

Manza & Uggen measure criminal behavior using self-reported and arrest data from the YDS. Figure 1 shows that 12.4% of nonvoters were sent to prison between 1997 and 2000, whereas only 4.7% of those who voted were sent to prison. This makes no distinction between those who were and were not sent to prison (and thus were disenfranchised) prior to 1997.

Approximately 80% of the respondents had no prior arrests at the time of the 1996 election.<sup>96</sup> Figure 2 shows that, among those who had been arrested before they could vote in the 1996 election, 27% of those who did not vote were arrested again, whereas only 12% of those who did vote were arrested. At the very least this shows a negative correlation between voting in the 1996 election and the likelihood of reoffending of those who were arrested. It may be the case that the reason why nonvoters are more likely to be sent to reoffend is not because the act of voting itself reduces the likelihood of reoffending, but rather that the same factor might be causing *both* criminal behavior *and* lower political engagement.

Figure 1: Percentage incarcerated of those who did and did not vote in the 1996 election

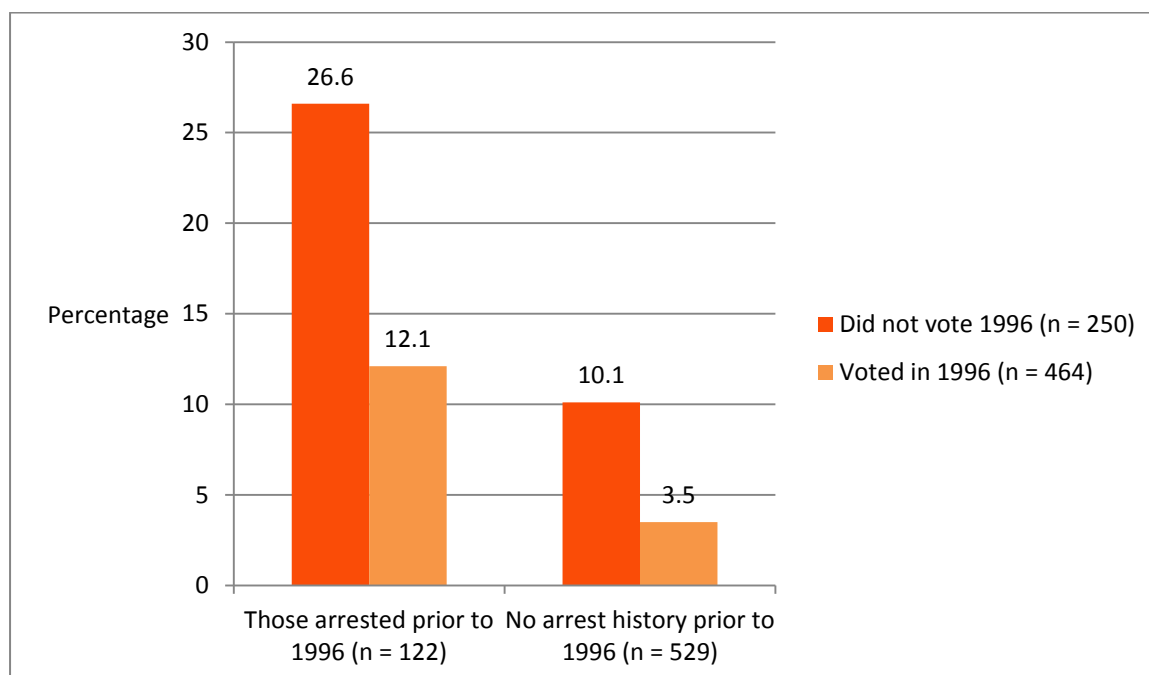


Source: J. Manza and C. Uggen, *Locked Out: Felon Disenfranchisement and American Democracy* (Oxford: Oxford University Press, 2006), p. 132

<sup>96</sup> Ibid., p. 131



Figure 2: Percentage arrested of those who did not and did vote in the 1996 election divided by arrest history



Source: J. Manza and C. Uggen, *Locked Out: Felon Disenfranchisement and American Democracy* (Oxford: Oxford University Press, 2006), p. 132

There are several limitations to the usefulness of this study. First, since the data is from a collection of at most 757 people from Minnesota, this cannot be regarded as a fully reliable sample size.<sup>97</sup> Secondly, the demography of the area in which YDS gathered data is exceptional.<sup>98</sup> Minnesota may be an inaccurate representation of the whole country: it has one of the highest turnout rates in the country; it has a strong Democratic-Farmer-Labor (DFL) party tradition; and it has one of the lowest incarceration and school dropout rates in the USA. The state is relatively homogeneous – almost 90% of the population is white. This is disproportional to the racial demography within the rest of the country's prisons. Thirdly, the data in figure 2 is about those who were *arrested*, rather than *convicted and incarcerated*. It is therefore only useful as a guidance. Fourthly, there are some limitations that apply to all measures of reoffending, which are that many crimes go unreported and so official arrest data may be inaccurate.

Nevertheless, the study does provide a clear suggestion that there is, at least for this particular sample, a link between participating in elections and the likelihood of reoffending. However, it remains unclear whether this is a causal link or whether the two are both caused by the same problem. Indeed, the authors are quick to note that prisoners have long been undereducated, underemployed, relatively poor, and disproportionately nonwhite.

### **Connecticut<sup>99</sup>**

Alan S. Gerber, Gregory A. Huber, Marc Meredith, Daniel R. Biggers and David J. Henry considered how incarceration affects patterns of political engagement.<sup>100</sup> They conducted and analysed the results from a field experiment in Connecticut. Some of the notable findings are:

<sup>97</sup> Ibid., p. 118

<sup>98</sup> As recognised by the authors at p. 114.

<sup>99</sup> Substantive research for this section was undertaken by Emmeline Skinner Cassidy.

1. Criminals vote at low rates before they are convicted of a crime.<sup>101</sup>
2. It is unknown whether low rates of participation reflect the effects of being incarcerated or the pre-existing characteristics of individuals who are later incarcerated. The prison system itself may impose a negative view of the state, disinclining criminals from voting.<sup>102</sup>
3. On the other hand, one possibility why former criminals might participate less in elections is not because they have been convicted of a crime, but rather because the same choices they made and circumstances they were in that led them to a commit a crime may also explain reduced levels of political participation.<sup>103</sup>
4. The research method used indicated a novel way of encouraging political participation in former prisoners. The researchers asked the Secretary of State to notify released prisoners by a letter that they were eligible to register to vote in the election, compared with a controlled sample that could also register but were not notified. Relative to that control group, those sent a letter were about 30% (6% of the control group were registered, compared with 7.7% of the uncontrolled group) more likely to register in the 2012 election.<sup>104</sup> The data thus suggests that using methods to encourage political participation can be effective.
5. In 2008, 22.8% of the control group had registered to vote and 5% turned out to vote. In 2012, 6% were registered and 3.3% turned out to vote.<sup>105</sup>
6. There was variation among the offenders, with those who had voted previously being the most responsive to outreach efforts.<sup>106</sup>

While this report is not useful for looking at whether enfranchisement may help to reduce reoffending, it is useful for considering how voting is linked to criminal behavior. The clear conclusion is that prisoners generally are not likely to be registered to vote or turn out in elections when compared with the general population. Point 6 above suggests that those who voted before being incarcerated are more likely to vote after being incarcerated. The consequence of this is that disenfranchisement seems not to have a disruptive effect on the proportion of those incarcerated who vote. This suggests that the connection between criminal behavior and political engagement may not be causal, but rather that they may both be caused by the same factors.

## 5.5 CONCLUSIONS

There is very weak evidence that the level of recidivism is affected by political participation. Statistics showing a lower rate of crime amongst the more politically active do not prove that a change in the level of political engagement affects prisoner recidivism. This weak correlation is itself dependent upon many factors, such as the level of political awareness, education, and the social and economic backgrounds of the prisoner. The consequence is that we cannot be certain what the causes of recidivism may be in relation to enfranchisement. Some empirical evidence suggests that the link may not be causal at all, although there is a lack of conclusive study

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<sup>100</sup> Alan S. Gerber, Gregory A. Huber, Marc Meredith, Daniel R. Biggers and David J. Henry, "Can Incarcerated Felons Be (Re)integrated into the Political System? Results from a Field Experiment" (Unpublished: 2014) available at [http://www.davidhendry.net/research-supplemental/gerberetal2014/gerberetal2014-ctfelons\\_fieldexperiment.pdf](http://www.davidhendry.net/research-supplemental/gerberetal2014/gerberetal2014-ctfelons_fieldexperiment.pdf)

<sup>101</sup> Ibid., p. 2

<sup>102</sup> Ibid., p. 4

<sup>103</sup> Ibid., p. 5

<sup>104</sup> Ibid., p. 3

<sup>105</sup> Ibid., p. 15

<sup>106</sup> Ibid., p. 17

focusing on this particular area<sup>107</sup>. What is evident is that disenfranchisement does not appear to have any *positive* influence on prison policy in the USA. Given the high rates of recidivism and imprisonment, and comparing this example with Sweden, it may reasonably be assumed that disenfranchisement does not make poor prison policy any better.

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<sup>107</sup> Most studies have focused on the effect on the political landscape rather than on its effect on prisoners. See, for example, J. Manza and C. Uggen, "Democratic Contraction? Political Consequences of Felon Disenfranchisement in the United States" *American Sociological Review* 67, no. 6 (2002), pp. 777-803

## CONCLUSION

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While there may be significant weight behind the suggestion that engaging prisoners in politics assists in their rehabilitation, we have not been able to find any evidence that proves this conclusively, or even to any high degree of certainty. However, we have also not been able to find any evidence that bears on the opposite conclusion: that engaging prisoners in politics may have a negative effect on rehabilitation. The broad impression from our findings is that there is some negative correlation between engaging prisoners in politics and reoffending. This has been made clear by an analysis of two conflicting prison policies in Sweden and the USA, as well as by evaluation of voter turnout data in the USA and from interviews given by prisoners in the UK.

**We think that, rather than focusing on political engagement, the focus of prison policy should be targeted towards education and training.** The relationship between political engagement and reoffending does not appear to be strong. Evidence from France suggests that there are much stronger relationships, particularly between education and reoffending. The likelihood is that better education will have far more of a positive effect than enfranchising prisoners. Education in prisons should focus more on what will help prisoners become employable than what will help them understand the political system better. But the consequence of that better education is that prisoners are likely to feel more responsible as citizens and thus are more likely to engage with the political community in any event.

**We believe that more empirical study should be conducted in this area to inquire into the nature of the relationship between political engagement and reoffending.** We recognise that much of our study has not focused on English and Welsh prisoners themselves, and we think the literature would benefit from a more rigorous assessment of their attitudes towards politics. It would be beneficial for there to be a survey of political views *before* prisoners commit their crimes. Moreover, there is scope for further international comparative research, in particular within the European system where there are a number of varying enfranchisement rules (the details of which are outlined in our infographic).

**Nevertheless, we think that the current disenfranchisement of prisoners makes little sense: on the best interpretation of our evidence it deprives our prison policy of significant benefits and on the worst interpretation it actually undermines the rehabilitative goal of prisons.** The most certain of our findings is that that refusing to give prisoners the right to vote constitutes further alienation above and beyond what prisoners already get from being imprisoned. Although prisoners may be unlikely to exercise such a right, this is not what is relevant to them. It is the principle of having the same basic human rights as others that matters most to prisoners. Given that our evidence suggests that political engagement does not *increase* reoffending, it thus seems strange to exacerbate this alienation when there is significant potential for political engagement to have at least some beneficial effect on prisoners.

## APPENDIX ONE | RIGHT TO VOTE LEGAL CHALLENGE TIMELINE

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- **6 October 2005:** *Hirst v UK (No. 2)*<sup>108</sup>: Grand Chamber of the European Court of Human Rights holds twelve to five that the blanket ban preventing all convicted prisoners from voting, irrespective of the nature or gravity of their offences, constituted a violation of Article 3 of Protocol No. 1 (right to free elections) of the European Convention of Human Rights. No detailed guidance as to compliance was given.
- **23 November 2010:** *Greens and MT v UK*<sup>109</sup>: European Court of Human Rights holds again that there is a violation of A3P1 and the UK had failed to amend legislation. Government must bring forward legislative proposals and enact legislation within a time-frame decided by the Committee of Ministers.
- **1 March 2011:** government refers *Greens and MT* to Grand Chamber – effectively an appeal in the European Court system.
- **11 April 2011:** request for appeal dismissed. Deadline of 6 months imposed to introduce legislative proposals.
- **6 September 2011:** government requests extension to the deadline pending proceedings before ECtHR Grand Chamber in *Scoppola v Italy (No. 3)*, an Italian case dealing with the same prisoner voting rights issue. Extension granted of 6 months from date of *Scoppola* judgment.
- **22 May 2012:** *Scoppola* judgment announced<sup>110</sup>, upholding the earlier *Hirst* decision. 6 month deadline begins.
- **22 Nov 2012:** government publishes draft bill for the Houses of Parliament including three legislative proposals:
  1. Ban from voting those sentenced to four years' imprisonment or more
  2. Ban from voting those sentenced to more than six month
  3. Ban from voting all prisoners – status quo option
- **16 October 2013:** *R (Chester) v SSJ*; *R (McGeoch) v SSJ* handed down by Supreme Court of the UK<sup>111</sup>. Dismissed appeals by prisoners, holding that the blanket ban was compatible with **EU law**, but noted government must comply with ECtHR ruling.
- **18 December 2013:** joint committee of both Houses publishes report. Recommend that government should introduce legislation to allow all prisoners serving sentences of 12 months or less to vote in elections

**NB:** The ECtHR ruling in *Hirst v UK* is about the government's obligations under the **European Convention on Human Rights** – a convention of the **Council of Europe**. This takes effect in UK law under the Human Rights Act 1998. The *Chester and McGeoch* case is about **European Union law**, which is completely separate from the **Council of Europe**. The EU has 28 members but the Council of Europe has 47. So, despite popular belief (including that held by the media), the **European Union** is not trying to give prisoners the right to vote. The **European Court of Human Rights**, a body of the **Council of Europe**, is.

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<sup>108</sup> [2005] ECHR 681

<sup>109</sup> [2010] ECHR 1826

<sup>110</sup> [2012] ECHR 868

<sup>111</sup> [2013] UKSC 63