

Institution: BRUNEL UNIVERSITY (H0113)
Unit of Assessment: 20 Law
Title of case study: Voting Rights for Prisoners
<p>1. Summary of the impact (indicative maximum 100 words)</p> <p>Easton's research on prisoners' rights has contributed to the policy debate on prisoners' voting rights and has been used as evidence by lobby groups which are seeking policy change in this area.</p> <p>The European Court of Human Rights ruled in 2005 that the UK's laws disenfranchising most sentenced prisoners serving their sentences at the time of the election breached the right to vote under the European Convention on Human Rights (<i>Hirst v UK</i>). A change in the law would affect more than 87,000 prisoners in English and Welsh prisons. Easton contributed responses to both government consultations on the issue and her research has been used by groups calling for change. Easton's research has also been cited in the Parliamentary briefing paper on prisoners' voting rights and her work on this topic has also been used to provide information to the Joint Committee currently reviewing the Draft Voting Eligibility Bill and possible options for change.</p>
<p>2. Underpinning research (indicative maximum 500 words)</p> <p>Easton's research addresses the problem of the civil and social death of prisoners and the benefits of treating prisoners as citizens. Given the record numbers of prisoners in the UK, the high incarceration rate relative to other European societies, and the profile of the prison population which is marked by social exclusion, Easton's research examines ways of combating social exclusion, as recognising prisoners' civil and social rights may promote the social inclusion of prisoners. In this context Easton's research has focused specifically on the question of prisoners' right to vote, examining in detail the justifications for disenfranchisement, and the case for re-enfranchisement.</p> <p>Easton's research examines the practicalities and feasibility of change and the form it might take and examines the experience of other jurisdictions, to see if prisoners could vote from within prison without undermining the purity of the ballot box. The research has challenged the key justifications of denial of the vote, including the arguments that prisoners do not deserve voting rights, that it is a legitimate element of punishment and that disenfranchisement encourages civic responsibility. In favour of enfranchisement Easton has argued that treating prisoners as citizens by giving them the vote may encourage them to reflect on their civic obligations and this may ultimately have an influence on re-offending. It would also add to the legitimacy of the prison system and mean that the UK is fulfilling its obligations under international law</p> <p>A change in the law to allow prisoners to vote would be significant because it would reverse a process of exclusion that is deeply rooted in English law, of treating the prisoner as socially dead. It would recognise that, despite their wrongdoing, prisoners still remain members of society and in challenging social exclusion, it would promote the re-integration and rehabilitation of prisoners into society, which would have implications for re-offending. It would also give prisoners an opportunity to contribute to the democratic process as voters rather than mere constituents, which could assist their efforts to improve prison conditions. A change in the law would also affect large numbers of prisoners, as the numbers of prisoners currently disenfranchised are substantial.</p> <p>Easton has sought to influence the debate on this question, through research which has been published in peer reviewed journals and a research monograph published in the last few years. Easton responded to the two Consultation Papers on this issue and noted that in the second paper the government's position had shifted more towards change. In addition she has responded to the proposals in the Draft Bill and has participated in a Round Table discussion with the relevant Parliamentary Committee.</p> <p>Easton's research has been widely cited in academic and other works, examples of which are; <i>Disenfranchisement News</i>, The Sentencing Project, Washington, DC, November 1 2006, www.sentencingproject.org; <i>Disenfranchisement News</i>, The Sentencing Project, Washington, DC, November 25 2009; C. Hamilton and U. Kilkelly (2008) 'Human rights in Irish prisons', <i>Judicial</i></p>

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Studies Institute Journal, 2, 58-85; D. van zyl Smit and Sonja Snacken (2009), *Principles of European Prison Law and Policy*, OUP (at 256); C. Hamilton and R. Lines (2009) 'The Campaign for Prisoner Voting Rights in Ireland', in Hamilton and Lines (eds) *Criminal Disenfranchisement in An International Perspective*, Cambridge, Cambridge University Press. pp205-250; C. Murray (2012) 'A Perfect Storm: Parliament and Prisoner Disenfranchisement', *Parliamentary Affairs*, 24 January 2012; **Liberty**, *Response to the Ministry of Justice's Second Stage Consultation on the Voting Rights of Convicted Prisoners Detained in the UK* London, Liberty September 2009. <http://www.liberty-human-rights.org.uk/pdfs/policy09/liberty-s-response-to-the-prisoner-voting-consultation-2.pdf>. White *Prisoners' voting rights*, House of Commons Library standard note, September 2011 and April 2011 briefing papers for MPs.

Timeline:

- 2005-06 - research on disenfranchisement as punishment which led to *Modern Law Review* paper.
- 2007-2007- research on citizenship and imprisonment which led to *Journal of Social Welfare and Family Law*
- 2008 research on disenfranchisement and civic responsibility, published in paper for *Probation Journal*.
- 2009-10 research on voting in other jurisdictions and feasibility of change, published in chapter 8 of *Prisoners' Rights*.
- 2011 – research for 3rd edition of *Sentencing and Punishment* published by OUP in 2012.
- 2012/13 contribution to debate through written evidence to Joint Committee on the Draft Voting Eligibility (Prisoners) Bill, published on the Parliament webpage (21 June 2013), participation in Round Table informal discussion with Committee (by invitation), discussions in the media, and participation in debate in *Criminal Justice Matters*.

3. References to the research (indicative maximum of six references)

- 'Electing the Electorate: the Problem of Prisoner Disenfranchisement', S.M. Easton *Modern Law Review* (2006) **69** 443-61. DOI: 10.1111/j.1468-2230.2006.00591.x.
- *Sentencing and Punishment: The Quest for Justice* (2012) 3rd edition, Oxford University Press, S. Easton and C. Piper.
- *Prisoners' Rights: Principles and Practice* (2011) S. Easton Routledge, 279 pp (chapter 8). (REF 2).
- 'The prisoner's right to vote and civic responsibility', S.M. Easton *Probation Journal* (2009) **56** 224-37. DOI: 10.1177/0264550509337455.
- 'Constructing citizenship: making room for prisoners' rights', S.M. Easton *Journal of Social Welfare and Family Law* (2008) **30** pp 127-146. (REF 2).
- 'Should prisoners be allowed to vote', S. Easton, T. Black and M.K. Dhimi *Criminal Justice Matters* **90** (2012) 43-44. DOI:10.1080/09627251.2012.751247.

4. Details of the impact (indicative maximum 750 words)

The estimated impact of the possible changes, based on the number of total sentenced prisoners in February 2009, at the time the second consultation paper was published, was approximately 28,800 prisoners, if the vote were given to all prisoners serving a sentence of under 4 years. The prison population has risen considerably since then, reaching over 87,000 in the autumn of 2011 so the numbers potentially benefiting from a change are now much greater.

The first consultation on prisoners' voting rights took place during 2006-7. The second consultation was published in April 2009 and included Easton's suggestion in her response to the first consultation, on using a prisoner's last address to avoid block voting concerns, in Question 5 where "The government proposes that prisoners should be entitled to register and vote on the basis of their previous or intended address ...". The second consultation paper also appeared to

have taken account of Easton's suggestion that the decision to grant or withdraw voting rights for convicted prisoners should not be left to those passing sentences, as it would constitute an additional burden for them, as this issue became only one of the options to be considered, rather than the greater role contemplated in the first consultation.

In September 2009, *Liberty* published its response to the second consultation and cited Easton's work to support their argument that "for principled and practical reasons a sentence of any term of imprisonment should not lead to the loss of the right to vote". Liberty also cites Easton in these words:

As Susan Easton has argued: 'To further punish prisoners by disenfranchisement is excessive and irrational and in most cases, bears no relation to the nature of the offence. Denial of the right to vote undermines respect for the law, and the principles of equality and inclusion. Conversely, allowing prisoners to vote affirms the legitimacy of the values of democratic society. The right is not a privilege but a fundamental civil right... Voting would give prisoners a much-needed voice in the democratic process.'

Also in 2009, UNLOCK circulated Easton's 2006 Modern Law Review paper to its members as part of its *Voting for Prisoners Campaign*.

Easton discussed the issue in an article in *The Guardian* in February 9 2011; this article was reproduced on other news sites, including *Ekklesia*, and was cited by the Criminal Justice Alliance <http://criminaljusticealliance.org/11-02-18.htm#11> The article itself generated over two hundred comments from the public.

Easton has also been interviewed by Channel 4 News <http://www.channel4.com/news/echr-judges-rule-on-thorny-issue-of-criminal-voting-rights> and <http://www.channel4.com/news/uk-must-allow-prisoners-to-vote-european-court-rules> and has participated in a debate on LBC radio on this issue.

On 11 April 2011, the ECtHR gave the UK government six months to introduce legislative proposals. However, an extension was granted in August 2011 which allowed the government six months from the publication of the judgement in the *Scoppola v Italy* (No 3) case. The hearing took place on 2 November 2011. In response to the *Scoppola* decision a draft bill has been produced which is under review and its options include restoring the vote to selected groups of prisoners. The Committee has been taking evidence from interested parties and will be reporting to Parliament in the autumn of 2013.

Easton's work, specifically the *Probation Journal* article, is also cited in the briefing paper Standard Note SN/PC/01764, dated 7 September 2011 given to MPs in support of their parliamentary duties. It was also given to members of the Joint Parliamentary Committee to read prior to the Round Table held at Westminster in June 2013 on the issues raised by the Bill which Dr Easton was invited to attend. She was questioned by the Committee on the arguments and evidence offered in her paper and asked to consider the implications of the options in the draft Bill. She informed the Committee of the advantages of allowing some prisoners to vote. The Chair of the Committee has said that he is hoping to reach a compromise on the issue.

Easton has also submitted a written response to Draft Voting Eligibility (Prisoners) Bill <http://data.parliament.uk/writtenevidence/WrittenEvidence.svc/EvidencePdf/966> published on the Parliamentary website on 21 June 2013.

5. Sources to corroborate the impact (indicative maximum of 10 references)

- Department of Constitutional Affairs (2006) Consultation Paper. *Voting Rights of Convicted Prisoners Detained in the UK*, London, DCA.
- Ministry of Justice (2009) *Voting Rights of Convicted Prisoners Detained within the United Kingdom, Second Stage Consultation*, London, Ministry of Justice.
- Liberty, *Response to the Ministry of Justice's Second Stage Consultation on the Voting Rights of Convicted Prisoners Detained in the UK* London, Liberty, September 2009:

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<http://www.liberty-human-rights.org.uk/pdfs/policy09/liberty-s-response-to-the-prisoner-voting-consultation-2.pdf>.

- <http://www.guardian.co.uk/law/2011/feb/10/opposition-prisoner-voting-rights-hostility>.
- I. White (7 September 2011) Prisoners voting rights, House of Commons, Parliament and Constitution Centre. – cites *Probation Journal* paper.
- Minutes of Parliamentary Committee noting attendance at Round Table discussion with experts on Wednesday 5th June 2013.
- [http://www.parliament.uk/documents/joint-committees/Draft%20Voting%20Eligibility%20\(Prisoners\)%20Bill/Formal%20Minutes%20Volume.pdf](http://www.parliament.uk/documents/joint-committees/Draft%20Voting%20Eligibility%20(Prisoners)%20Bill/Formal%20Minutes%20Volume.pdf).