

Let prisoners vote, just like other citizens.

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Prisoner voting is on the agenda again at Holyrood with the [Scottish Elections \(Franchise and Representation\) Bill](#). A key policy aim of this Government Bill is to enfranchise some convicted prisoners aged 16 and older to be eligible to vote in Scottish Parliament and local government elections in order to comply with the European Convention on Human Rights, overturning a longstanding blanket ban on prisoner voting. As a criminologist and fellow citizen, I support this Bill, while arguing that it should be amended to be braver and go further in enfranchising more prisoners than initially proposed.

Intransigence and populist politicisation of this human rights issue have meant we lag behind many European counterparts, our blanket ban putting us with Russia, Bulgaria and Hungary. Whereas Finland, Norway, Sweden, Denmark and Ireland have no electoral ban on prisoner voting – a progressive Nordic and Celtic arc of nations Scotland should join, now the power to enfranchise is devolved to Holyrood.

The Bill rightly legislates to overturn the current blanket ban on prisoner voting

The current blanket ban on prisoner voting has been opposed for years, in numerous consultations and forums, by criminologists and rights and reform advocates such as the Howard League Scotland and the Scottish Human Rights Commission. In my [written evidence to the Parliament](#) on this Bill, I advocate this ban being overturned because it is anachronistic and arbitrary. It is arbitrary in terms of when elections are held and the timing of when a person might be disenfranchised by virtue of the timing and length of their imprisonment. It is punitive, disproportionate and exclusionary. People are sentenced to prison *as* punishment (deprivation of liberty by confinement in custody), not *for* more punishment (e.g., deprivation of a human right through disenfranchisement); a position reflected in UN [standard minimum rules for the treatment of prisoners](#) (“Mandela rules”). The blanket ban does not necessarily deter crime, nor aid public protection. There is evidence that the disenfranchisement of prisoners may have negative implications for their desistance from crime (that is, the process of stopping offending), and the social, legal and moral dimensions of rehabilitation and reintegration (see Behan, 2015, [2017](#), [2018](#); Dhami, [2005](#)).

A purist sense of protecting a ‘law-abiding’ electorate as a kind of moral high ground might feel principled and may well be politically expedient for those playing to a merciless public gallery, but it is problematic. It ignores the important principles of rehabilitation and proportionality. It also ignores the fact that many people with criminal convictions are currently eligible to vote, including the thousands of Scots serving community sentences, as well as those who have been in prison (potentially having served years) but are released on parole or home detention curfew with a tag.

This binary and essentialising position between prisoners and the electorate also lacks context and nuance. Short prison sentences are imposed for a variety of offence types, with significantly varying levels of seriousness and harm. For example, [official statistics](#) show that, in the past five years, 9,020 prison sentences under 12 months were imposed for *shoplifting* in Scotland. If shoplifting is understood in context as sometimes occurring in circumstances of adversity, poverty, unemployment, benefit sanctions and/or housing instability, then political and policy discussions of prisoner voting should refrain from attenuating

around moralistic arguments that people in prison are disqualified from the right to vote on the grounds of serious criminality. It is often more complex than that, underscoring the need for nuanced, well contextualised discussions of the Bill and voting, which isn't a privilege for the "deserving", it's a right.

In overturning the blanket ban, this Bill proposes to enfranchise convicted prisoners serving 12 months or less to be eligible to vote. I argue that the Bill should be amended in its scope to enfranchise either (a) all prisoners, or, *at a minimum*, (b) those sentenced to 4 years or less (the commonly accepted delineation between short term and long-term prisoners in Scotland). The former position of enfranchising all prisoners has been recommended by the Scottish Parliament Equalities and Human Rights Committee (2018) in their [report on prisoner voting](#), as well as by HM Inspectorate of Prisons for Scotland, and the latter position of four years has been advocated by others, such as [the Faculty of Advocates](#) and [Community Justice Scotland](#).

People's lives prior to prison may influence registering to vote

The Bill deals with the practicalities of how convicted prisoners will vote in prison (postal or proxy voting) and where they will be registered to. The Electoral Commission, Scotland will need to work to ensure an accessible approach of informing prisoners about voting in elections, bearing in mind issues of low literacy and learning difficulties for some prisoners. The Bill proposes that prisoners should not be registered to the address of the prison they are in at the time. Instead, they can either register to their last previous address or the Bill has a legal provision allowing for a declaration of local connection where the most recent prior address is not appropriate. People's lives and circumstances prior to prison can influence their sense of where they are from and where they register to vote. For example, this is relevant for people who were homeless prior to imprisonment. It is also relevant to care experienced people, whose last prior address may not be the most appropriate to register to. Estimates vary, but a third of young offenders and between a quarter and half of adult prisoners in Scotland identify as care experienced (Scottish Prison Service, 2017; Who Cares? Scotland, 2019). This raises the importance of the role of the Scottish Prison Service as a corporate parent, whose responsibilities include 'providing assistance in the process of registering to vote, accessing information the young person needs in order to exercise their democratic entitlements, and casting their vote' (Connelly and Kinloch, 2014: 4).

I hope the Scottish Elections Bill passes to *finally* bring change for constituents with convictions, even if MSPs supporting the Bill have to hold their nerve through some emotive and potentially punitive populist political debate. Scotland has the opportunity to aim higher than 'minimalist compliance' with human rights laws for prisoners (von Staden, 2018). This isn't so much about criminal records disqualifying people from voting in prison, so much as it is about our democratic record as a rights-respecting nation.

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