

# What is prison for?



## Background

Prison systems have evolved over centuries into their current form. Societies have always required means of protecting citizens from those who have caused harm or who pose a threat, as well as ways of communicating what is considered wrongful conduct through punishment. However, using imprisonment as a punishment is a relatively recent development. In the UK during the 16th and 17th centuries, the sentence handed down for many crimes was the death penalty. Transportation to the (then) colonies also became an option as the British Empire grew. During this time, prison was used mainly as a place for criminals to be held while they awaited trial and then, if found guilty, while they awaited execution. Prisons were also used for debtors, who were held until their debts were settled. Since the abolition of capital punishment in the UK (though it persists in many other countries, including in parts of the United States – see [SCCJR 'Capital Punishment'](#) for further information on this), a sentence of life imprisonment is the most severe form of punishment that can be handed down by courts.

See the [Howard League for Penal Reform's website](#) for more on the history of the prison system.

There is debate over how best to conceive of the precise purposes of imprisonment in modern society. Four of the key reasons commonly given for imprisoning people who have offended are:

- to protect the public by removing offenders from communities (incapacitation)
- to punish the offender – delivering retribution in a serious but proportionate way where a serious crime has been committed
- to serve as a deterrent to the offender and/or to others
- to rehabilitate the offender

While these reasons are often given for imprisoning people, there is disagreement among academics, policy-makers and wider society about the relative importance that the prison service should place on each of the four functions – and about how effectively it can deliver them.

In a written submission to the Scottish Prisons Commission (2008) which was set up to consider how imprisonment is used in Scotland, Alec Spencer, former Director of Rehabilitation and Care for the Scottish Prison Service, reflected on the development and purpose of imprisonment in contemporary Scotland. Spencer noted that the prison service which emerged when the death penalty was abolished and when convicted offenders stopped being transported overseas was one that focused on punishment (retribution), incapacitation and deterrence. Modern prisons also “*appear to meet a modern social purpose*”. Spencer describes a process of reform in the prison service in Scotland since the 1990s resulting in prisons aiming to help with addictions, literacy, employability and through programmes to reduce reoffending – in other words, supporting rehabilitation (see [SCCJR ‘The penal system: reducing reoffending?’](#) for more information about rehabilitation). He also notes that “*there are dangerous offenders, those perpetrating murder and violence, sexual offenders, terrorists and those responsible for serious organised crime for whom prison is an appropriate response in order to protect the public from their brand of menace and reduce potential victimisation. It is a legitimate use of custody to ‘incapacitate’ those who would otherwise continue to seriously harm the public*”.

The first two recommendations of the Scottish Prisons Commission’s (2008) report, [Scotland’s Choice: Report of the Scottish Prisons Commission](#), were as follows:

“1. *To target imprisonment better and make it more effective, the Commission recommends that imprisonment should be reserved for people whose offences are so serious that no other form of punishment will do and for those who pose a threat of serious harm to the public.*

2. *To move beyond our reliance on imprisonment as a means of punishing offenders, the Commission recommends that paying back in the community should become the default position in dealing with less serious offenders.*”

(See [SCCJR ‘Penal system – community sentences and financial penalties’](#) for more on community sentences.)

A 2010 UK Government policy-paper, [Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders](#), stated that “*what really matters*” is “*improved public safety through more effective punishments that reduce the prospect*

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*of criminals reoffending time and time again*", indicating that prison system should serve to both punish and rehabilitate those who end up there.

## Remand

The prison population also includes significant numbers of people who are awaiting trial in the criminal courts. For more information about remand and about reforming the use of imprisonment in Scotland, see:

<http://www.sccjr.ac.uk/publications/prisons-and-sentencing-reform/>

## Issue: Prisoners' Voting Rights

There has been some controversy in recent years over the issue of voting rights of prisoners in the UK. The European Court of Human Rights (ECtHR) has ruled on several occasions that the UK's blanket ban on prisoners voting in local, national and international elections is unlawful. These rulings have been criticised by the UK Government and some parts of the media, while other groups have welcomed the rulings. Most recently, in February 2015 the court noted that the UK's ban continues to violate the European Convention on Human Rights (ECHR).

The right to vote is seen by some as a privilege of law-abiding citizens which should be removed along with liberty (by imprisonment) if someone is found guilty of a serious crime. For others, voting in a democratic country is a fundamental right which no lawmaker has the right to remove and/or which is not *necessarily* removed just because someone is imprisoned. Postal voting, for example, would be an obvious way to allow prisoners to retain and exercise this right. Being deprived of the ability to vote in elections can be viewed as a further punishment for offenders who have been imprisoned. This might be welcomed by those who believe prison should be a deliberately punishing experience, and one that necessitates the removal of certain rights that prisoners would have enjoyed if they were not imprisoned. However, this argument would be rejected by those who argue that 'the loss of liberty is punishment in itself' and that everything that happens from the point of imprisonment should then seek to rehabilitate inmates.

There exists a fundamental tension, then, between the perspective that prison should serve to punish offenders and the view that prisons should serve to rehabilitate inmates. It would be claimed by some that taking part in the democratic process, through voting, is an important part of the rehabilitation process, as it is an appropriate way to prepare prisoners for re-joining society.

The table below highlights some of the arguments relating to prisoners' voting rights.

If you are interested in finding out more about this issue, more detailed arguments can be found using the following sources:

- [Joint Committee on the Draft Voting Eligibility \(Prisoners\) Bill - First Report](#)
- [Liberty's Response to the Department for Constitutional Affairs' Consultation on the Voting Rights of Convicted Prisoners](#)
- [Howard League Scotland](#)
- [Prison Reform Trust Barred From Voting: The Right to Vote for Sentenced Prisoners](#)

| Prisoners should be allowed to vote  | Prisoners should not be allowed to vote   |
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| <ul style="list-style-type: none"> <li>• Denying the vote to prisoners is viewed by some as essentially an additional punishment that does not contribute towards the prisoners' reformation and social rehabilitation.</li> <li>• It has been claimed that disenfranchisement is a "degrading punishment" which can have a dehumanising impact on prisoners, reinforcing prisoners' social exclusion. This could lead to continued social exclusion when they leave prison, causing further negative consequences for society.</li> <li>• It is argued by some that reinstating prisoners' right to vote could be a powerful tool for rehabilitation. The theory is that prison could be a successful way of introducing offenders to the democratic process, which they would continue to engage with upon their release.</li> <li>• Voting is believed by some to be a fundamental right, which should be granted to all citizens, including those</li> </ul> | <ul style="list-style-type: none"> <li>• A commonly-held view is that those who have committed a crime for which they are imprisoned have broken their 'social contract' (the unwritten agreement between individuals and society), as coined by philosopher Rousseau. One of the consequences of this breach of contract is that offenders will be deprived of some of their rights, including the right to vote.</li> <li>• It has been the position of the UK Government that prisoners convicted of a crime serious enough to warrant imprisonment have lost the "moral authority" to vote.</li> <li>• The government has drawn attention to various practical issues, including cost and the administrative burden on prison services, the accessibility of any new courses offered to prisoners,</li> </ul> |

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| <p>who have been imprisoned. The effects of voting (the creation of governments) have both direct and indirect impacts on all citizens, even those ‘cast out’, (in most cases temporarily) from society who are accommodated in prison. In short, prisoners’ lives are impacted by political decisions too (e.g. prisoners’ book ban in England and Wales; the removal of automatic early release in Scotland).</p> <ul style="list-style-type: none"> <li>• The ECtHR has been particularly concerned by the <b>indiscriminate</b> way in which all prisoners are disenfranchised in the UK. The ban on voting applies to all sentenced prisoners irrespective of the length of their sentence or the nature or the seriousness of their crime.</li> </ul> | <p>and establishing criteria for re-enfranchisement.</p> <ul style="list-style-type: none"> <li>• It has been argued that the disenfranchisement of convicted prisoners serves as a “symbolic” act, which enhances civic responsibility and reflects the consequences of failure to respect the laws made by the community as a whole. (See <a href="#">SCCJR ‘Scottish criminal justice system’</a> and <a href="#">SCCJR ‘What is crime?’</a> for more detailed discussion of the relationship between societal norms and defining which acts are deemed ‘crimes’</li> </ul> |
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**Indiscriminate:** this means that no distinction is made between the differences that exist between different people. In this case, the ban on voting does not discriminate between someone who is serving a sentence for a relatively minor offence and another person who has committed a more serious crime.

## Further Reading

Howard League of Penal Reform (2015) *History of the Prison System* [Online]  
Available from: <http://www.howardleague.org/history-of-prison-system/>

Howard League Scotland (2015) *Prisoner Voting*. [Online] Available from:  
<http://howardleaguescotland.org.uk/policy/prisoner-voting>

Joint Committee on the Draft Voting Eligibility (Prisoners) Bill (2013) *Draft Voting Eligibility (Prisoners) Bill*, HL Paper 103 HC 924, London: The Stationary Office Limited. Available from:  
[www.publications.parliament.uk/pa/jt201314/jtselect/jtdraftvoting/103/10302.htm](http://www.publications.parliament.uk/pa/jt201314/jtselect/jtdraftvoting/103/10302.htm)

Liberty (2007) *Liberty’s Response to the Department for Constitutional Affairs’s Consultation on the Voting Rights of Convicted Prisoners Detailed within the United*

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Kingdom. Available from: <https://www.liberty-human-rights.org.uk/sites/default/files/prisoners-voting-rights.pdf>

Prison Reform Trust (2010) *Barred From Voting: The Right to Vote for Sentenced Prisoners*. Available from: <http://www.prisonreformtrust.org.uk/Portals/0/Documents/barred%20from%20voting%20Feb%202010.pdf>

Scottish Prisons Commission (2008) *Scotland's Choice: Report of the Scottish Prisons Commission*. Available from: [www.gov.scot/Resource/Doc/230180/0062359.pdf](http://www.gov.scot/Resource/Doc/230180/0062359.pdf)

Spencer, A. (2007) *Rethinking Imprisonment in Scotland: The Dilemma for Prison Reform and the Challenges Beyond*. Available from: <http://www.gov.scot/resource/doc/1102/0056826.pdf>

UK Ministry of Justice (2010) *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*. Available from: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/186345/breaking-the-cycle-government-response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186345/breaking-the-cycle-government-response.pdf)