

## **Voting Rights of Convicted Prisoners detained within the United Kingdom Response to a consultation produced by the Department of Constitutional Affairs March 2007**

1. This response is from the Baptist Union of Great Britain, the Methodist Church and the United Reformed Church (see footnote).
2. Before addressing specific questions asked, we wish to make a number of important observations not covered by the consultation questions, which we believe to be too narrow.
3. We believe the right to vote to be a fundamental human right rather than a privilege, as the foreword to the consultation document suggests. It should not be lightly withdrawn from any citizen. It follows that we do not support the assertion that those who commit an offence serious enough to warrant imprisonment have “cast aside that privilege”. At an earlier stage in this discussion, in October 2003, Baroness Scotland, a Home Office minister, said those sentenced to imprisonment had “lost the moral authority “ to vote; if that is the criteria for voting, there are few of us who might feel well qualified.
4. Depriving a citizen of his/her liberty is a serious punishment; for any offence, no matter how serious, that should be punishment enough.
5. The consultation document is correct when it anticipates (para.56) that the main objection to some or all of the enfranchisement options will be value-based. We appreciate that the media will present worst case scenarios but we believe policy should be formulated from a more balanced view, the reality being that notorious or infamous offenders represent only a tiny proportion of the prison population. There is some good evidence available to show that many members of the public have a wider perspective on issues relating to crime, punishment, and the importance of offender rehabilitation than is reflected by the media. See ‘*What does the public think about prison*’ and other research by the Rethinking Crime and Punishment project of the Esmée Fairbairn Foundation. <http://www.rethinking.org.uk/publications/index.shtml> . Allowing prisoners to vote could be an important element of prisoner rehabilitation.
6. The government’s submission to the European Court of Human Rights in December 2003, in the case of John Hirst, stated that the ban on voting by sentenced prisoners had two aims: the first was to prevent crime and punish offenders, and the second was to enhance civic responsibility and respect for the rule of law. Firstly, we know of no evidence to support the notion that a would-be offender would be deterred by the thought that s/he might have the right to vote removed if caught and sentenced (except in the exceptional circumstances covered by Question 5, which we will address in answer to that question). Nor will it be seen by most offenders as a punishment, but rather as a confirmation that they are part of a marginalised and socially excluded group, alienated from communities to which most will one day return. Secondly, we believe, contrary to the government’s view, that allowing sentenced prisoners the vote could enhance civic responsibility. Most offenders have a poorly developed sense of personal responsibility; that is why they offend. They are put in prison, where all responsibilities are taken away from them, and they are then expected to emerge, months or years later, as more responsible members of society. There could be no more symbolic offer of social inclusion, or invitation to embrace the notion of civic responsibility, than to be offered the opportunity to vote. We also believe, tangentially, that this would encourage elected representatives to take more interest in prison regimes and conditions.
7. Government indicates that it would have preferred to maintain the status quo – allowing no sentenced prisoner the vote - had the European Court of Human Rights not found against it, and that it is not inclined to consider the eligible length of sentence beyond “low sentence lengths, such as one year in prison”. We believe this to be against the spirit of the (unanimous) European Court Ruling.

8. The UK's current arrangements are among the harshest in Europe. Of the 41 Council of Europe countries, 18 have no restriction on prisoner voting; only 12 others, apart from the UK, have a total ban. In this matter, the UK is aligned with some of the most illiberal regimes in Europe and is at odds with almost all of its closest and nearest European partner nations.

9. The UK's minority ethnic groups are disproportionately affected by the current ban, because of their over-representation within the prison system. Figures from the Prison Reform Trust indicate that one in four of the prison population is from a minority ethnic group, compared with one in eleven of the general population.

**Question 1. Do you support the proposal that enfranchisement of detained prisoners should be determined by reference to the length of sentence they receive?**

Comments: Ideally, we would wish that all sentenced prisoners retain the right to vote, except in exceptional circumstances, referred to in our answer to Questions 5.

**Question 2. What length of sentence do you consider appropriate as the threshold above which prisoners will be disenfranchised? Please give reasons for the threshold you suggest.**

Comments: Government has indicated not beyond one year. We believe this cut off to be too low – partly because it would give the vote to – on figures from the Prison Reform Trust – only about ten per cent of the prison population, but also because logistical difficulties will mean that in practice, few of those prisoners will be able to vote. The practicalities of the operation will be most difficult for short sentence prisoners, and those sentenced to one year will expect to serve only six months. If the government does not feel able to move immediately to a position where all sentenced prisoners are allowed to vote, we would suggest five years as an appropriate cut-off. However, where a prisoner serving a long sentence is deprived of the vote, we believe there is a case for this right to be restored, as part of a pre-release rehabilitation programme, symbolising the fact that the prisoner is about to resume the responsibilities that accompany freedom.

**Question 3. Should the decision to either grant or withdraw voting rights from convicted prisoners be made by UK sentencers on a case by case basis, at the time of sentencing? Please give reasons to support your view, e.g. if you do not believe sentencers should be given a power to determine voting rights, is this because you believe it would place an**

**unjustifiable burden on sentencers?**

Comments: This has some attraction, in that it could take account of the particular circumstances of individuals. However, on balance, we do not believe that this should be a matter for judges or magistrates.

Question 4. **If the Government were to follow this approach, which variant do you favour?**

**(i) that statute should provide that convicted and sentenced prisoners should automatically lose their right to vote, but subject to the sentencing judge's right to specify that they shall be entitled to retain that right.**

Or

**(ii) that statute should remove the general rule of disenfranchisement of sentenced prisoners, but should confer on sentencing judges the right to disqualify sentenced offenders.**

Comments: The second option, as we believe this should be the norm.

Question 5. **Should offences specifically related to the electoral process automatically attract a withdrawal of the franchise? Please provide reasons to support your answer.**

Comments: Exceptionally, we believe there is a logical argument that says that this is an appropriate penalty for such an offence. The punishment would fit the crime, and it would be one which would be felt particularly by an individual with an interest in the electoral process.

Question 6. **Should any voting rights given to prisoners detained in mental hospitals be determined on the same basis as ordinary prisoners, or are there any categories (See Annex B), that should be treated exceptionally? Please list those categories and give reasons.**

Comments: We believe that those sentenced and detained in mental hospitals should be treated in the same way as sentenced prisoners.

Question 7. **If your answer to question 6 was no, do you consider that any categories of detained offenders in mental hospitals should be enfranchised?**

Comments: We do not have an observation to make on this question.

Question 8. **Should any of the circumstances covered by the statutory provisions referred to in Annex B more properly be aligned with the position of pre-conviction remand prisoners?**

Comments: We do not have an observation to make on this question.

**Please use this section to tell us about yourself**

<b>Full name</b>	Stuart Dew
<b>Job title</b> or capacity in which you are responding to this consultation exercise (eg. member of the public etc.)	Member of the Joint Public Issues Team of the Baptist Union of Great Britain, the Methodist Church and the United Reformed Church
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**If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.**

There are some 150,000 members of Baptist churches associated with the Baptist Union of Great Britain. The Methodist Church has about 295,000 members and 800,000 people are connected with the Church. The United Reformed Church comprises about 150,000 adults and 100,000 children. The three denominations are the largest of the Free Churches in Britain; all three are members of the ecumenical Churches' Criminal Justice Forum, which has previously supported the enfranchisement of convicted prisoners.

Church members will hold a variety of views on this topic and it has not been possible to consult them all. This submission is the result of consultation with those officers and committees with responsibility for speaking on issues such as this.

**How to respond**

**Please send your response by 7 March 2007 to: Chris Phillips Department for Constitutional Affairs Electoral Policy Division 6.21,**

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