

**Citizens with Convictions:
Prisoners, Political Participation and Civic Engagement**

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Abstract

This paper will consider how prisoners can connect with the political process and engage with civil society. Much has been written and debated about prisoners as citizens in the context of their right to vote which has somewhat overshadowed other aspects of citizenship. Using primary research, this paper will offer a comparative analysis between the Republic of Ireland and the United Kingdom. In the case of the former, prisoners have the right to vote, while in the latter, successive governments have resisted pressure to enfranchise prisoners. This paper will argue that even with the right to vote, prisoners remain politically and civically disenfranchised. It asks if wider areas of civic engagement are potentially more significant than access to the franchise. While not diminishing the importance of legal rights for prisoners, this paper will consider a concept of 'soft' citizenship, dealing with the opportunities for prisoners to participate in their community inside and stay connected with society outside. This might reframe the debate on prisoners and citizenship, moving from examining it exclusively in the context of the social contract (which has been used as a central argument by those who oppose prisoners' right to vote), towards considering it in the context of the social compact, the connections that bind us together as a society. This shifts the focus from examining prisoners and citizenship solely in the context of political rights and responsibilities towards ideas around civic participation and co-operation, which may encourage prisoners to re-connect with the political process and engage with civil society.

Introduction

This conference paper will examine the challenges of promoting political participation and civic engagement among prisoners. It will begin by considering if the modern ideas around citizenship can be facilitated in an institution that denies freedom and autonomy, or if the idea of ‘civil death’ still pertains with imprisonment today. It will briefly analyse the debates around enfranchisement, with particular reference to the Republic of Ireland and the United Kingdom. It will then consider the nature of the modern prison and if it is possible to allow structures and practices that enable citizenship activities behind bars. It concludes by arguing that if prisoners are to be encouraged to participate politically and civically engage this necessitates changes on a number of levels: opportunities to stay connected with their communities, reform of prison governance, removing legal impediments to participation, and encouraging social change to allow former prisoners to reintegrate into society after they have served their time.

At a time when citizens are encouraged to participate in civil society and cooperate for the collective good (Cabinet Office, 2010), I would like consider in this paper how this can be achieved within prison by examining the citizenship activities among confined citizens. Much has been written and debated about prisoners as citizens in the context of their right to vote (Behan, 2014a; Easton, 2011; Joint Committee on the Draft Voting Eligibility (Prisoners) Bill, 2013) which has somewhat overshadowed other aspects of citizenship. While not diminishing the importance of legal rights for prisoners, this paper will examine other aspects of citizenship, namely how prisoners can participate as citizens in society, despite being physically excluded from their communities.

Prisoners and Citizenship

In his seminal essay on citizenship, T. H. Marshall (1950: 28-9) described citizenship as ‘a status bestowed on those who are full members of the community. All who possess the status are equal with respect to the rights and duties with which the status is endowed.’ However, he conceded, that

there is 'no universal principle for what those rights and duties shall be'. By the early twenty first century, the concept of active citizenship has become so popular that it has 'leaped from the pages of legal and political texts into the everyday language of politicians, journalists and public servants' (Honohan, 2005: 170). Active citizenship is 'fundamentally about engagement and participation in society', focusing on the formal political sphere and the more informal community activity and volunteering (Nelson and Kerr, 2006: 12). Active citizenship has been defined as extending 'the concept of formal citizenship and democratic society from one of basic civil, political and social and economic rights to one of direct democratic participation' (Department of Social, Community and Family Affairs, 2000: 14).

The concept of citizenship, in this context defined as involving '*shared membership of a political community ... [where] citizens are political actors constituting political communities as public spaces*' (Stewart, 1995: 65; emphasis in original) is informed by ideas around inclusiveness, universality, equality and participation. Inherent in these are the right to vote, to contribute to public debate, make educated and informed choices, participate in community governance and become involved in wider civic society. This presents challenges on a number of levels, for confined citizens, and those who are tasked with running our prisons because the facilitation of activities traditionally associated with freedom necessary, for active citizenship, are problematic in prison, 'the ultimate places of social exclusion' (Stern, 2002: 138).

In a modern polity, citizenship is more than just about enjoying the legal right to vote. It is about the opportunities available to participate in, and contribute, to a democratic society. When citizenship is narrowed down to a legalistic concept with rights guaranteed by law and courts, this reduces the agency of the citizen. If legal rights of citizens are privileged, disputes can end up in courts, reducing the power of the citizen and the opportunity to participate in, and influence decisions that affect their lives. The importance

of political activity and dialogue is weakened, reducing the role of citizen as a human agent and consequently this undermines the potential of, and possibly the need for, active political participation and civic engagement (Riordan, 2004).

In prison, laws, rules and regulations predominate. This has led to the examination of prisoners as citizens in the context of their rights and the state's obligations and duties to them (see Easton, 2011; Livingstone *et al.*, 2008; van Zyl Smit and Snacken, 2009). Others have explored the opportunities for prisoners to participate as citizens and the obligations and duties that accompany their rights (Burnett and Maruna, 2006; Faulkner, 2002 and 2003; Levenson and Farrant, 2002; Pryor, 2002). However, citizenship is about more than just rights, entitlements and obligations; it is about the opportunity to participate in, and contribute to the civic life of a community.

Therefore, I would like to explore a concept which may be tentatively called 'soft' citizenship, dealing with the opportunities for prisoners to participate in community and society. I will argue in this paper that we should reframe the debate on prisoners and citizenship and move from exclusively examining it in the context of the social contract (which has been used as a central argument by those who oppose prisoners' right to vote), towards considering it in the context of the social compact. Instead of examining prisoners and citizenship in a negative framework of how prisoners have broken the social contract, it might be useful and more productive to examine it in a more positive frame of reference embracing the social compact that links society together. This shifts the focus from examining prisoners and citizenship in the context of rights, responsibilities and obligations towards ideas around participation, co-operation, inclusion and potentially, identity transformation.

Prisoner Enfranchisement

Prisoner enfranchisement remains one of the few contested electoral issues in twenty first century democracies. This paper will briefly set out the position regarding prisoner enfranchisement in both the Republic of Ireland and the United Kingdom. In 2006, prisoners in the Republic of Ireland were enfranchised without the political and judicial controversy that has accompanied the issue in the United Kingdom (Behan, 2014b). Enfranchisement in the Republic of Ireland went against the trend in the early twenty first century as ‘much prison policy strengthens the ‘criminal’ as an identity rather than an incarcerated “citizen”’ (Stern, 2002: 137). Within six months Irish prisoners went to the polls. Nevertheless, despite much optimism that enfranchisement would encourage political participation and wider civic engagement, the low level of turnout among prisoners in their first and subsequent elections indicates that enfranchisement alone will not achieve this objective (see Behan and O’Donnell, 2008). Considering the demographic of the prison population in Ireland (similar to other jurisdictions internationally), with disproportionate representation of young, urban, males, the low level of voting is perhaps unsurprising. Lijphart (1997: 1) found that representation is ‘systematically biased in favour of more privileged citizens – those with higher incomes, greater wealth, and better education - and against less advantaged citizens [...] over time, the level of voting participation and class inequality are strongly and negatively linked’.

This paper will consider empirical evidence about levels of political participation in the Republic of Ireland and reflect on the challenges if the United Kingdom introduces legislation in response to the *Hirst* judgment. In 2005 the Grand Chamber of the European Court of Human Rights found that the blanket ban on sentenced prisoners voting contravened Article 3 of Protocol no. 1 of the European Convention on Human Rights which binds countries to ‘hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature’ (*Hirst v. United Kingdom (No.2)*, 2005).

Despite numerous court cases – both domestic and European – extensive consultations and a parliamentary committee established specifically to consider the issue, successive UK governments have rejected this judgment and resisted changing the law to allow convicted prisoners access to the franchise. On coming to power in 2010, Prime Minister, David Cameron set the tone for the new government’s position: ‘It makes me physically ill even to contemplate having to give the vote to anyone who is in prison. Frankly, when people commit a crime and go to prison, they should lose their rights, including the right to vote’ (Hansard, HC Debates, 3 November 2010, Vol. 517, col. 921). In a subsequent debate on prisoner enfranchisement, the Labour Party supported the government’s approach. This was, according to Shadow Justice Spokesman, Sadiq Khan ‘not a case of our Government failing to hold free or fair elections, or an issue of massive electoral fraud; it is a case of offenders, sent to prison by judges, being denied the right and the privilege of voting, as they are denied other rights and privileges’. He believed that it should be ‘within the margin of appreciation that nation states are given by the European Court’ (Hansard, HC Debates, 22 November 2012; Vol. 553, col. 746-7). With both Conservative and Labour parties refusing to allow convicted prisoners to vote, prisoner enfranchisement seems unlikely in the short or medium term.

Even when prisoners have the legal right to vote, opportunities to participate remains circumscribed. Voting must be examined in the wider context of citizenship. Low levels of turnout as was the case among prisoners in the Republic of Ireland indicate that the objectives of enfranchisement – voting and inclusion; political participation and civic engagement – have not been achieved. While voting is ‘by a substantial margin the most common form of political activity’ (Putnam, 2000: 35), it is not the only method of participating in political and civic society. However, it is indicative of further engagement (or dis-engagement). Lijphart (1997: 10) found a ‘spillover effect’ from voting to participation in the workplace, churches and voluntary organisations and *vice versa*. Civic participation led to higher levels of voting

which, according to Putnam (2000: 35) is ‘an instructive proxy measure of broader social change’. He continued:

Compared to demographically matched non-voters, voters are more likely to be interested in politics, to give to charity, to volunteer, to serve on juries, to attend community school board meetings, to participate in public demonstrations, and to co-operate with their fellow citizens on community affairs. It is sometimes hard to tell whether voting causes community engagement or vice versa, although some recent evidence suggests that the act of voting itself encourages volunteering and other forms of good citizenship.

Prisoners and Community Engagement

In considering the process of facilitating civic and political engagement among prisoners, this paper will set out the arguments in favour of community and prisoner integration. It will argue that this also embraces the objective of rehabilitation as the process of re-integration should begin on incarceration, because the level of disconnection while they are inside can influence how well former prisoners will reintegrate when they are outside.

Those who commit crimes can be viewed as breaking the bonds of community. Imprisonment deepens that disconnection. Reconnecting and positively identifying with community and civil society is an important element in reintegration. Encouraging a citizen identity, which recognizes the importance of participation (Richardson, 1983) in this process might yield a more authentic form of change in prisoners. This would entail confined citizens’ not just desisting from criminal activity and obeying the law, but locating that law in a wider social and political context. Such an approach challenges the imprisoned to become reflective agents for change, rather than just passive law-abiding citizens.

Social capital is intrinsically linked with citizenship activities. It is built up through participation in civic activities and ‘networks of civic engagement.’ These ‘foster sturdy norms of generalized reciprocity and encourage the emergence of social trust’ (Putnam, 1995: 67). Social capital is a rather ambiguous concept, but essential to the co-operation necessary for engaging

citizens. ‘People are connected’, according to Halpern (2005: 3), ‘with one another through intermediate social structures – webs of association and shared understandings of how to behave. The social fabric greatly affects with whom, and how, we interact and co-operate. It is this everyday fabric of connection and tacit co-operation that the concept of social capital is intended to capture’.

Due to their socio-economic background, educational level, disconnectedness and in many cases, alienation (Behan, 2014a; Prison Reform Trust, 2014; Ruggiero and Ryan, 2013), prisoners generally lack social capital. By encouraging prisoners to stay connected to their local communities, and engage in wider society this paper will consider the potential to build social and human capital. Developing more positive webs of association amongst prisoners inside, by linking prisoners to their communities outside promotes reintegration with civil society.

The Prison as a Civic Space

This paper will then review the opportunities for citizens who wish to participate civically while incarcerated. While recognising the challenges of trying to engender positive civic activity in places of confinement, the paper will consider how prisoners firstly, can co-operate among themselves in civic activities and secondly, how communities can include their local prisons in collaborative activities. It will build on examples of civic activities that already exist in prisons in the Republic of Ireland, United Kingdom and internationally.

Civic engagement does not occur in a vacuum. Prison isolates and separates, not only physically from friends, family and trusted companions, but psychologically by creating regimes and discipline that do not enhance communication and co-operation, essential to active citizenship. By its very nature, the institution limits agency, freedom of choice and movement, and restricts individuals’ involvement in civic society. Incarceration excludes prisoners physically from society and takes away their ‘duties and

responsibilities’, and removes the ‘prisoner’s status and dignity as citizen’ (Faulkner, 2002: 2). Many prisoners find themselves steeped in an authoritarian structure that allows little individual responsibility and yet prison tries to instill it. In an institution that diminishes individual choice and independent action, it is difficult to encourage an individual to become an active citizen. No matter how well-intentioned governments and policy makers are, ‘it is hard to train for freedom in a cage’ because ‘the rhetoric of imprisonment and the reality of the cage are often in stark contrast’ (Morris and Rothman, 1998: x-xi). Without prisoners being allowed the space and opportunity to exercise agency, autonomy is reduced and independent thought and action discouraged. This diminishes the potential for active citizenship.

While recognising that engaging in activities traditionally associated with freedom is difficult in prison, some institutions provide opportunities for various levels of purposeful activity, programme participation and civic engagement. Activities that promote civic co-operation within prison, such as prisoner councils (Solomon and Edgar, 2004), Listener Schemes (Levenson and Farrant, 2002) and educational pursuits (Behan, 2008), to those that promote links with communities outside, such as volunteering schemes (Behan, 2014a; Burnett and Maruna, 2006), the Paws for Progress programme (Scott, 2013) and Prison Fire Camps (Goodman, 2012) will be considered in this paper. These activities demonstrate the potential of harnessing the time, energy and commitment of confined citizens. They also recognise the potential to build human and social capital inside prison.

Other ways greater engagement might be achieved is to enable prisoners to participate in their immediate communities by reform of the governance structures. The creation of meaningful inspection, monitoring and appeals mechanisms and allowing prisoner involvement in all aspects of the process is another way to promote civic engagement by prisoners within their immediate communities (see Behan, 2014a).

Individuals cannot be separated from the context in which they are located. They bring into custody with them varying (but usually low) levels of civic participation and these are generally further deflated by incarceration. Prisons as institutions do not seek to promote co-operative activity among prisoners. Quite the contrary — the individualised experience of imprisonment discourages it. Prisoners are rarely encouraged by prison authorities to engage in political activity, collective action, or participate in communicative dialogue with the outside world. To create a participative citizenship within a prison environment entails challenges on multiple levels, from reducing the political emphasis on ‘tough’ incarceration to empowering men and women who feel distanced from their fellow citizens. Prisons, like all social institutions, contain an ‘extraordinary complex set of social relations’ (Cressey, 1961: 1). When an individual enters prison, it is into a ‘complex social system with its own norms, values, and methods of control’ (Sykes, 1958: 134). In this context, encouraging co-operation, building social capital, an integral part of active citizenship is a difficult process. It is intangible, ‘for it exists in the *relations* among people’ (Coleman, 1988: 100–1). Not only do prisons physically break the connection with outside, they can frustrate attempts at forming positive social relations to engage in activities for the collective good on the inside.

Conclusion

Wider and deeper engagement by prisoners in civic society has benefits on a number of levels. It recognizes the possibilities through civic engagement for transformation of those who are sent to prison. It also encourages citizens with convictions to adopt a more pro-social attitude, away from criminal activity. A decrease in criminal activity reduces the harm to potential victims, benefits society more generally, and can help build more resilient communities.

This paper will conclude by setting out the need to consider legal and societal impediments to integrating prisoners with communities inside and particularly when they are released. In *Reducing Reoffending National Action*

Plan (Home Office, 2004), seven Pathways to Reducing Reoffending were outlined: Drugs and Alcohol; Mental and Physical Health; Education, Training and Employment; Accommodation; Finance, Benefit and Debt; Children and Families of Offenders and Attitudes, Thinking and Behaviour. These seven pathways should be re-visited and considered in the context of adding another: Citizenship. This could be developed through promoting citizenship activities while inside and by building links between prisons and communities outside. The legal and societal impediments to participation in community, both inside and outside could be examined in a wider mosaic of citizenship. By locating citizenship as a core Pathway to Reducing Reoffending we could consider how to lessen societal obstacles to reintegration by eradicating the structural barriers that impede participation, especially legal restrictions that prevent prisoners from contributing to their community while inside and hinder their reintegration into society after their release from prison.

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