

Prisoners' Rights

Every citizen in the United Kingdom is entitled to certain rights, including those held at Her Majesty's Pleasure (prisoners). Generally speaking, prisoners (including those who are detained but have not been convicted of a criminal offence) are entitled to be treated with humanity, dignity and respect. Although this would seem a plausible way to work alongside some of society's most complex and vulnerable people, the very notion that 'wrongdoers' have rights similar (but by no means equal) to that of 'law-abiding' citizens has been a point of contention for many years, most commonly deliberated and vilified by the mass media. Although some believe that all people should have access to certain rights, regardless of who they are and what they have done, others have argued that anyone found guilty of a crime should have their rights revoked. Whatever the perspective, there are human rights that every individual are entitled to under the European Convention of Human Rights (ECHR); a treaty that is designed to protect basic human rights so that people are able to lead free and dignified lives.

On 2nd October 2000, the Human Rights Act (HRA) 1998 was implemented, incorporating the ECHR into English Law. The ECHR contains many articles that are particularly relevant to prison life suggesting that no one should be subject to torture, inhumane treatment, punishment or forced labour. Everyone should have the right to life, liberty, security and a fair trial as well as freedom of association and the right to marry (Loucks, 2000). These rights allow prisoners, amongst other things, the right to food and water; education, a solicitor and private legal counsel, freedom from discrimination and harassment, good healthcare, communication with those outside prison, freedom of religion and the right to start a family. Under the HRA 1998, all primary legislation and existing procedures and practices of public authorities, including public and private prisons, must be compatible with the principles of the ECHR (Scott and Flynn, 2014).

Although a seemingly positive development, very little has changed in penal policy and practice since the introduction of the HRA 1998. Prisoners continue to have fewer rights in comparison to their 'law-abiding' counterparts and, of the few rights that they do hold onto, they are commonly (re)defined and promoted as a privilege; something that can be earned rather than a fundamental human right. Recent media coverage on issues such as prisoners' right to vote, the introduction of smoke free prisons and the treatment of transgender prisoners (to name just a few) not only illustrates the complex and contested nature of the debate which surrounds prisoners' rights, but demonstrates how the prison estate is a place of controversy, pain and suffering rather than a place where individuals are naturally treated with humanity and dignity.

The interplay between a prisoners' rights and staff / institutional discretion shapes one's experience of imprisonment. The authority of penal administrators is derived largely, but not exclusively, from the Prison Act 1952, a statutory framework that confers a substantial amount of discretionary power upon penal officials, and the Prison Rules 1999 (Scott and Flynn, 2014). Although such frameworks are designed to protect prisoners and staff, many of the rules and regulations which govern penal environments and those within them are not designed to be legally enforceable. Rather, they are directory and therefore not intended to create legally enforceable rights. The protection of an individual's rights are an important responsibility of the state which need to be reflected in the exercise of the state's functions. The prioritisation

of an individual's rights offers a way in which to challenge social exclusion and prisoner invisibility; recognising them as equal in status as opposed to a second class citizen (Easton, 2011). However, the ability of the state to design and deliver a rights-orientated approach, whereby every member of society is considered to be equal before the law and treated with dignity, respect and humanity, is questionable given the damming effects and stigmatising properties of the prison place and indeed the wider Criminal 'Justice' System.

References

Easton, S. (2011) *Prisoners' Rights. Principles and Practices*. Oxton: Routledge.

Loucks, N. (2000) *Prison Rules. A Working Guide*. Prison Reform Trust. Available online at: <http://www.prisonreformtrust.org.uk/portals/0/documents/prisonrulesworkingguide.pdf>

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