

# JUSTUS

THE VOICE OF PRISONERS & DETAINEES — NSW STATE ELECTION SPECIAL MARCH 2011 VOL.4 ISSUE:1

## VOTE FOR THE FUTURE

Prisoners and others in mental health institutions may well question the value of going to the effort of enrolling to vote and voting. "Makes no difference!" they might say, "nobody listens! Just another rort and they know more about you! Makes them feel legit if you participate."

This edition of *Just Us* aims to inform prisoners of their rights and eligibility to vote at the State election on 26 March 2011. We have prepared this paper for you so you will understand why it is very important for you to enrol to vote and to cast your vote on election day. This paper is paid for by Justice Action and our advertisers.

We are at a crossroads for change in NSW and those people who are most disadvantaged under the current system — you, your families and friends — must get involved to make a difference.

### Failed institutions

Prisons are now regarded as failed institutions all over the world. Two hundred years ago, recidivism in the penal colony was 1.3%. Now it is 42%. The current structure of the justice system enforces social exclusion and isolation, which in turn results in more crime.

Prisons have become an industry, with multinational corporations driving their expansion. Corrective Services of NSW is the worst failure in Australia — a 5% recidivism rate more than the national average.

Prisoners are threatened with confiscation of tobacco, forcible medication, mandatory anklets after release, not to mention being labelled "criminal" for life and the removal of their legal ability to defend themselves.

### The freedom of technology

Technology can help to free us. Just as the video camera looking into a cell could become a communication device with our lawyer or family, so could the television set in the cell become a computer connected through a server to give us access to law, education, training and email contact with families. It is already happening in the ACT, and Nowra prison is wired and ready to go.

All political parties supported computers in cells at the Community Justice Coalition Forum on February 19th (see below), and we have access to an "unlimited" number of computers offered by a charity.

We have strengths. We are human beings and have equal rights in a democracy. We have families and friends who love us. We are not bad people and we are prepared to do better in the future. We know we are costing the community a lot of money and that the tabloids use us to create fear in the community. We must be given a chance to make amends and move on. These things must change, and they will if we start exercising our rights and become active in our own defence.

Continued page 2



## PRISON REFORM FORUM



On February 19th, the Community Justice Coalition held a State pre-election forum to discuss the stance of the major political parties on pressing criminal justice matters.

### What do you think of the current perception of the prison system in New South Wales?

**ALP and Coalition:** Sentencing should incorporate a balance of punishment, deterrence and rehabilitation.

**Greens:** Prison is a tool to increase community safety by providing services to enhance the rehabilitation process.

The Community Justice Coalition supports the Greens in this perspective on the purpose of prison systems.

### Do you support the introduction of computers in prison cells?

All parties supported this proposal, though the Coalition and Minister

Costa (Corrective Services) held concerns for prison security.

### Do you feel the Bail Act 1978 (NSW) needs to be revised?

**ALP:** The Act should indeed be reformed, adding objectives to the Act and re-writing it in plain English.

**Coalition:** The Act should be re-written in plain English, though no objectives should be added. A separate consideration for minors should be added.

**Greens:** There should be a parliamentary or judicial review of the Act, juveniles should be considered, some sections removed without inquiry or review, for example section 22a.

### Does the Bail Act adequately represent the homeless population?

All parties supported the prospect of providing accommodation to homeless persons so that they could have a fixed address when applying for bail, however they remained ague about specific strategies.

**Greens:** The Coalition should not re-introduce drunk and disorderly offences that often harshly impact the indigenous and homeless population. The Coalition did not respond to this.

### Do you support a trial needle and syringe program in NSW prisons?

The ALP is contradictory; on the one hand, the Labor Health Minister is a signatory to the National HIV Strategy that supports the program, yet the ALP did not support the program in the forum.

**Coalition:** the program should be considered.

**Greens:** the program would be an effective method of reducing drug-use and illness within prisons, and supported the program.

### Should mentally ill prisoners be treated in prison or in a mental health facility?

**ALP:** Existing programs are sufficient.

**Coalition:** Smith purports that mentally ill prisoners should not be in prison, though the Party has not yet considered an alternative avenue, and instead are committed to improving existing facilities within prison.

**Greens:** support moving funds away from in-prison programs for the mentally ill, and instead propose to invest funds into the community instead.

# How I Won Back Our Voting Rights

By Vickie Roach



The Howard Government stripped detainees from the right to vote in 2006. The following year, Indigenous activist Vickie Roach appealed this decision in the High Court in *Roach v Electoral Commissioner* [2007] HCA on the grounds of it being unconstitutional. She successfully reversed the Liberal Government's stringent policy, and is now commonly dubbed the Eddie Mabo of electoral law. She once said that being a prisoner made one feel alienated from the rest of society, and not entertaining the right to vote only propagated this isolation even further. Here's how she did it in her own words.

Back in 2006, while I was serving a four-year prison sentence in Melbourne's Dame Phyllis Frost Centre Maximum Security Women's prison, the Howard Government

decided that people like me, people he deemed "undesirables", people who were sentenced to a term of imprisonment, no matter how short a sentence or for how trivial an offence, had no claim to the most fundamental, basic human rights a person has – the right to vote for the people who will govern them.

The Howard Government introduced legislation (CHECK) to prevent every single sentenced prisoner in Australia from voting, and I thought it was exclusionary, unconstitutional, undemocratic - and just plain wrong!

So, I took them all (the Commonwealth of Australia and the Australian Electoral Commission) to Court, the most powerful Court in the land, the Australian High Court in Canberra. I was not at the court in person, as I was prevented by

Corrections from attending the Court, but it all happened from my cell.

In the end, in a landmark decision handed down on 30 August 2007, in a case in which I was the Plaintiff, the High Court of Australia upheld the fundamental human right to vote, finding that the Howard Government had acted unlawfully and unconstitutionally in imposing a blanket ban denying prisoners the vote.

We won!

Once again we have the right to have our voices heard, to exist, to be included and to be counted as human beings with the same basic rights accorded to any other human being – including the right to vote.

We have our voices back – let's use them.

And let's make it LOUD!

## from page 1 — Vote for the future Prisoners and the vote

Are you aware that you may have the right to vote in the upcoming state election? Are you equally aware that this right of yours is protected in Australia through the Commonwealth Electoral Act 1918 as well as internationally via the UN Declaration of Human Rights 1948?

Knowing that such rights exist and are protected, what does this mean for you? Why is it of any relevance? How can you possibly exercise this individual civil right?

NSW prisons hold the largest percentage of prisoners nationwide and through your vote you will be able to exercise your democratic rights that not only will effect you but the larger community of which you are a member.

### What the parties say

An important aspect of voting is being aware of what each party stands for and how that might affect you.

Each of the major political parties in NSW has a number of specific policies regarding issues of law and order, as well as a broad vision for the future of

the state's criminal justice system.

The current ALP Government's policy, "More Police and Tougher Laws", focuses on increasing the strength of the NSW Police Force and lengthening prison sentences for a variety of crimes.

The Coalition is proposing a variety of policies, some of which appear to be a move towards programs focused on rehabilitation. They intend to increase technological resources currently available to the police force in apprehending offenders, while softening the stance on petty crime.

Interestingly, the Liberal spokesperson for prisons Greg Smith was reported in the SMH 27/6/2009 as saying he "would remove the former prison officer Ron Woodham from his post as Corrective Services Commissioner and pump money into rehabilitation, shown by private programs to have dramatically decreased recidivism". Smith said: "I've been consistent in my line. It's gradually becoming part of our policy".

The Greens advocate a humane justice system focused on addressing

the causes of crime as part of a holistic community-based approach as opposed to the current punitive system. They call for the repeal of the "draconian" legislation that targets young people and vulnerable minorities.

### Your vote counts

To all prisoners, we would like to reiterate that you are all part of a democracy; don't throw away your right to vote, as every one counts.

Not only does voting provide the opportunity to personally effect change within society, but it also gives inmates the option to be included in a process which has an intrinsic worth to all Australians. The Human Rights and Equal Opportunity Commission states: "enfranchisement is a powerful and positive tool to assist with social reintegration and rehabilitation of prisoners".

In our community those most likely to take a stand for prisoners' rights are the prisoners themselves. It is vital then that the incarcerated community takes to the polls on 26 March. While this is not always easy or possible where resources are lacking, the only

way for inmates to ensure that their democratic rights are upheld is to be proactive. Eligible inmates should find out for themselves and their fellow prisoners whether their institution makes available the services required to vote.

Incarcerated men and women were given the right to vote in 1983. Today, prisoners sentenced to less than twelve months' imprisonment have the right to vote in NSW State elections. Despite having these rights, in practice, many eligible inmates face barriers before they can participate in the democratic process.

Prison and mental health authorities have failed to ensure that every eligible inmate has the opportunity to vote in elections. Those in authority who are found guilty of failing to enrol eligible claimants under the Commonwealth Electoral Act (1918) can be subject to a \$1000 penalty. However, the Act in this circumstance is difficult to enforce where the parties responsible, whether Corrective Services or the Electoral Commission, love to pass the buck as to who is accountable.



Photo: Justice Action coordinator Brett Collins with JA workers

## JUST US – History and Purpose

*Just Us*, the Australian and New Zealand prisoners newspaper, was last published in November 2007 in the cause of prisoners and human rights. Its predecessor, *Framed*, existed in a similar capacity for 25 years from 1989 to 2004 as a quarterly journal of Justice Action, the community based organisation of criminal justice activists. Now

in 2011, *Just Us* has substantially expanded its scope to include the cause of youth and mental health consumers. Thus, ongoing campaigns such as the basic human right to computers in cells, the case study of the mental health consumer Saeed Dezfouli and the recent urban developments at Callan Park will be discussed.



## JUST US

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Letters may be edited for space, and content that might get you or us in trouble.

Unless otherwise indicated, authors will be identified by first name and prison only.

**JUST US** needs your support!

Help is needed with other projects.

Everyone, in or out, contact us if you want to get involved and be part of the push back. Donations used well.

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# Website for prisoners

Justice Action has developed a tool for improving the services prisoners and mental health consumers receive.

A social enterprise called Breakout DesignPrintWeb has employed ex-prisoners since 1984. As part of its social justice brief, Breakout resources Justice Action, which is a community organisation that fights for the rights of prisoners and mental health detainees

Through Justice Action, Breakout funds the *Just Us* newspaper, and assists other organisations like the Community Justice Coalition and the Women in Prison Advocacy Network (WIPAN).

Justice Action requested support to produce this paper from the industries centred on prisons and mental health consumers. We asked the large legal firms and the mental health and prison services providers to advertise in this issue or become sponsors of the issue. We approached them individually and offered them listings but they ignored us.

Prisoners and mental health detainees are powerless and poor, with few or no resources, while the industry around you is rich. A single patient or youth detainee costs

taxpayers \$200,000 a year, prisoners \$75,000 but you have no say in how this is spent.

Produced by Justice Action in 2010, the OUR PICK Report, which focused on mental health detainees, concluded that the service providers don't care, yet the funding they receive is to develop programs to help you, the prisoner and the mental health detainee. The report accused the industry of corruption and called for urgent change, a call which remains unanswered.

## Service Directory

Justice Action has now created a directory on our website to help you take back control of your own lives. You can now make judgments and submit reports directly or through your families about the services you receive as a prisoner or mental health detainee.

We will publish your reports and ratings, and report to the appropriate government bodies and also to the media. As well, any prisoners who want, can have their own page on this website, present themselves as a real person and tell their own stories.

Phone (02) 9283 0123 or email [info@justiceaction.org.au](mailto:info@justiceaction.org.au)

# History of Detainee Voting Rights

When New South Wales was settled, and the Legislative Council was formed in 1833, voting rights were reserved for landowners; of course, this originally included solely free men that owned property. Twenty years later, the British Government intervened and affirmed that all men, including prisoners, could vote provided they owned property that exceeded the value of one hundred pounds. The Commonwealth Franchise Act 1902 (Cth) eliminated the right to vote for detainees serving a sentence of more than a year. In 1938, this was expanded to include prisoners who were serving less than five years. In 1995, the Commonwealth Electoral Act again

expanded the rights for detainees to vote based on time actually served, as opposed to maximum penalties. Thousands more prisoners were able to participate in elections. The duty fell upon the Controller General of Prisons to send a list of prisoners eligible to vote to the Australian Electoral Commission.

This advancement of prisoner rights was soon reversed, and now only those imprisoned for less than three years retain the right to vote. Though we are signatory to international treaties such as the International Covenant on Civil and Political Rights, we fail to adhere to Article 25 and its prescription for all citizens to enjoy their right to vote.

# Mental Health Patients Right to Vote

The Electoral Commission, under the guidance of the Commonwealth Electoral Act 1918 (Cth) s93 subsection 8(a), prohibits persons of unsound mind from voting; those who do not fully comprehend the nature and significance of enrolment and voting. Who decides who is of unsound mind, and where do mental health patients fit into this?

The AEC ([http://www.aec.gov.au/FAQs/Enrolment.htm#unsound\\_mind](http://www.aec.gov.au/FAQs/Enrolment.htm#unsound_mind)) states that a medical practitioner must notify, in writing, to the Electoral Commission to remove all previously-

eligible persons from the electoral roll if they believe their patient to be of unsound mind. They can do this by filling out a claim to remove the elector from the electoral roll alongside their medical certificate.

Mental illness impacts on most Australians, either directly or indirectly, at some point in their lives. It is common. One in five people will experience a mental illness in any 12-month period, and approximately 14% of Australians will be affected by an anxiety disorder in the same period.

# The Offer of Hope

Every Monday since the "Offer of Hope" initiative was launched on International Human Rights Day, 10 December 2006, prisoners across the world have observed a Monday midday minute of silence to symbolise their desire to negotiate with government to end the cycle of violence.

Originally a prisoner initiative from the dungeons of the HRMU segregation unit in Goulburn Prison, this plea for help and trust demonstrates the willingness of prisoners to improve themselves and play a positive role within the community.

The reason that such a movement is so important is that cycles of violence are not only physical but also psychological. The refusal of government to treat prisoners with any dignity, the imposition of periods in isolation, and the general repressive approach to men and women requiring rehabilitation is a soul-destroying experience that leads to high rates of recidivism and a crippling inability on the part of prisoners to return

peacefully to society.

The Offer of Hope is designed to address this. It is a desperate plea for help from a segment of society that only wants acceptance by the community, access to family and friends and the tools to improve themselves. The very statement of the appeal calls for belief, trust and help — a belief in the power of change, trust in the good intentions of these men and women and help to get there.

However, despite increasing community awareness and high profile support from Peter Garrett MP and Senator Lee Rhiannon, the campaign has been rejected by governments that refuse to acknowledge the humanity of prisoners. NSW Attorney General John Hatzistergos was presented with this appeal, but his office never acknowledged it.

Justice Action calls upon all prisoners and the community in general to recognise the issue and respect the Monday midday minute of silence.

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Australian psychiatric hospitals need to repeal their cruel bans & allow involuntary patients the freedom to smoke.

The NSW Consumer Voice group supports STOPPING the cruel and unnecessary Smoking Bans in Australian Psychiatric Wards!

**For more information [www.nswcv.org.au](http://www.nswcv.org.au)**



# Socialist Alliance

Their "law and order" - not ours

**For justice VOTE 1 SOCIALIST ALLIANCE**

If the government was serious about reducing crime, it would increase funding for health, education, rehabilitation, public housing & job creation, not build more jails, impose longer jail terms, undermine the Bail Act & expand police powers. *We say: "reduce poverty to reduce crime!"*

**The Socialist Alliance stands for:**

- Funding services, rehabilitation, education & real jobs, not jails & police
- Implementing the recommendations of the royal commission into Aboriginal deaths in custody
- Free, quality legal aid for all who need it
- Award wages for working prisoners
- Decriminalising victimless crimes
- Restoring the presumption in favour of bail
- No private prisons

[www.socialist-alliance.org/nsw](http://www.socialist-alliance.org/nsw) PO Box 114, Broadway, NSW 2007

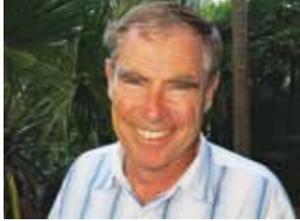
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# Vote 1 Democrat

## Arthur Chesterfield-Evans (ACE)

Here's why:

### A Proven track record



When in Parliament, ACE initiated the NSW Mental Health Inquiry, which got an extra \$320 million for mental health, and led to a better accounting system and a Federal Inquiry which put psychologists on Medicare, so mental health became more accessible. When there are no facilities, mental health patients end up in gaol.

ACE was on the Inquiry into Prisons and asked the hard questions of the Minister and the system. He hassled unsuccessfully to get in the see the SuperMax in Goulburn. Labor can talk the talk, but will not walk the walk.

ACE set up the DoCS inquiry to get a better deal for kids with problems. Everyone knows that is kids do not get a good start they are more likely to end up in gaol.

ACE lobbied to get changes to the Health Act so that the Minister did not have to approve the release of Mental Health GP Prisoners to depoliticise the issue and leave it to the Tribunal.

ACE was on the Community Justice Coalition for a better deal for prisoners. Rehabilitation, education and a job are needed, but these programs have to be set up. They can easily be funded from the savings of having less people in gaol.

Democrats have led the way on a better deal for prisoners. They will work for:

#### Decriminalisation of Drugs for personal use

Drugs should be a medical issue, not a political football for shock jocks. The 'war on drugs' is lost.

#### Independent Inspector of Prisons

If people knew what really happens in Prisons, there would be more pressure for reform.

**Human** – This means the right to be considered innocent until proven guilty, with the presumption of Bail and decent Legal Aid.

**Education** – Work for Prisoners and Accommodation on release so that there is reasonable chance of a getting a job.

# Red Cross making a difference

Red Cross is committed to making a difference in the lives of people and their families who are involved in the criminal justice system.

For instance, save-a-mate (SAM) provides training and education for young people in juvenile detention centres and jails, to help them prevent, recognise and respond to alcohol and other drug related emergencies.

For more information about the work of Red Cross in the justice area go to [redcross.org/justice.htm](http://redcross.org/justice.htm)



[www.redcross.org.au](http://www.redcross.org.au)

CRISIS CARE COMMITMENT



# The Greens take the stand for justice and human rights

While the other parties compete in their law & order auctions The Greens stand up for human rights.

Liberal and Labor have used bail laws as a political football. The Greens will restore the presumption in favour of bail and repeal s22A.

NSW gaols children at four times the rate of VIC. The Greens will implement justice reinvestment and redirect money from gaoling juveniles to building communities.

The Greens want prisoners with mental health issues treated within mental health facilities not prisons.

# Real change, for a change Vote **1** The Greens

