PRICE V UK: THE IMPORTANCE OF HUMAN RIGHTS PRINCIPLES IN PROMOTING THE RIGHTS OF DISABLED PRISONERS IN THE UNITED KINGDOM

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There has been a significant change in the position of prisoners with disabilities in the United Kingdom (UK) during the first decade of the twenty-first century, much of which can be attributed to the influence of human rights principles on UK law. It is indeed no coincidence that this change has coincided with the passage of the Human Rights Act 1998 which, when it came into force on 2nd October 2000, was Bringing Rights Home\(^1\) by incorporating the majority of the articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (ECHR) into domestic law. Perhaps, however, a more significant contribution to the promotion of the rights of disabled prisoners occurred in international law, under the jurisdiction of the European Court of Human Rights (ECtHR) in Price v UK,\(^2\) when Article 3 of the ECHR was mobilised to gain recognition for the needs of prisoners with disabilities at a time when the existing law left this group of human beings without civil protection. Subsequent changes to the Disability Discrimination Act 1995 through the Disability Discrimination Act 1995 (Amendment), Regulations 2003 and the Disability Discrimination Act 2005 will probably ensure that such a case remains unique in UK jurisprudence. Price v UK’s importance, however, will remain undiminished as a demonstration of the legal potential of a human rights approach as a vehicle for promoting the rights of people with disabilities, who otherwise might have found themselves outside the protection of the law.

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\(^1\) “Before the General Election the Labour Party published a consultation document, Bringing Rights Home, setting out in some detail the case for incorporation, and its preliminary proposals for the way this should be done.” Rights Brought Home: The Human Rights Bill Government White Paper Cm3782, 1997, introduction and summary, para 2.

The aim of this chapter is to provide an analysis of the effect of a human rights approach on the treatment of disabled prisoners in the UK and to explore its potential for promoting the legal rights of disabled people. The chapter opens with an examination of Price v UK, in which it is argued that the case demonstrates the effective mobilisation of human rights principles in case law to promote the rights of disabled prisoners. This theme is developed through an examination of cases brought before the ECtHR since 2001, involving prisoners with disabilities and medical conditions, which have further developed the jurisprudence of human rights and disability. This is followed by a discussion of the recent inclusion of disabled prisoners in UK disability legislation and their gradual acquisition of equality of treatment in the domestic law of the United Kingdom, since Price v UK. It is argued that these changes can be attributed to a change in the rights paradigm – from acceptance of the legal exclusion of disabled prisoners to a positive duty to include and promote their human rights to dignity and equality – a change in fact from a civil to a human rights approach.

**Price v UK: Mobilising Human Rights Law**

Though judgment in Price v UK was not given until 10th July 2001, the period of imprisonment which gave rise to this action in the ECtHR was, in fact, three days in January 1995. Coincidentally, this occurred during the same year as the enactment of the Disability Discrimination Act 1995, the first statute in the UK to grant civil rights to people with disabilities. On 23rd July 1996, Ms Adele Ursula Price lodged her application against the United Kingdom of Great Britain and Northern Ireland with the European Commission of Human Rights under former Article 25 of the ECHR alleging that, “her committal to prison and her treatment in detention violated Article 3 of that Convention.”

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4 Now Article 34 of the ECHR as amended by Protocol No. 11 of 1998: “The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.”
5 Price v UK, supra note 3, para 1.
6 Ibid., para 3.