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Lord Glennie of the Court of Session in Edinburgh, Scotland ruled that the blanket policy of imprinting all prisoner originated phone calls with the warning, "This call originates from a Scottish prison" violated the European Convention on Human Rights because it "inhibited (the prisoner's) social rehabilitation" and was "embarrassing." But the court opined that an individualized use of such warnings might be justified upon a prior showing of good cause.

Stewart Potter, imprisoned at Glenochil in Clackmannanshire on a 21-year term for assault and robbery, petitioned the Court of Session, Outer House for judicial review of the lawfulness of the policy of the Scottish Prison Service (SPS) and/or Governor (warden) of the prison that such a pre-recorded message should be arbitrarily attached to all outgoing prisoner-originated phone calls. He complained that when calling his children at their school, he (and they) were embarrassed to have it publicized that their father was in prison.

SPS had made the following blanket policy in regards to prisoner phone calls. (1) Prisoners may only call one of 20 numbers pre-approved by the Governor; (2) all calls are logged; (3) calls may be recorded or monitored; (4) all calls are preceded by the complained-of automated message. Potter argued that this policy violated section 6 of the Human Rights Act of 1998, which protects rights enshrined in the European Convention of Human Rights and Fundamental Freedoms of 1950. It further violated section 57(2) of the Scotland Act 1998 which provides that no member of the Scottish Executive may make subordinate legislation incompatible with Convention rights. The court focused on Article 8 of the Convention, which provides that (1) "everyone has the right to respect for his private and family life, his home and his correspondence," and (2) "there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic world-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedom of others." Lord Glennie found ample European precedent that Section 8's protection extends to phone calls.

From a humanitarian point of view, Lord Glennie agreed that the "awkwardness and embarrassment" caused by someone else in a house picking up the phone "is likely to act as a deterrent to communication with family and friends" by a prisoner. Legally, the court framed the question as "whether it is necessary in a democratic society for one or more of the objectives [set out in Article 8]."

The court relied upon precedent that the right to respect for private and family life is a civil right at common law independent from the Convention, and that no presumption will be made that Parliament meant to remove such rights unless it expressly enacted such a law. Since the rule at issue was not an enacted law, but rather a regulation devised by SPS, it did not enjoy immunity from Section 8. The court was further swayed by English law, wherein a convicted prisoner "retains all civil rights which are not taken away expressly or by necessary implication."

Lord Glennie was mindful of the concern that some prisoners might misuse their phone privilege to harass victims or commit fraud. But since they were restricted to their approved list of 20 names, this was an unlikely result. Still, an individual could prove problematic, and the Governor should retain his rightful control over him. However, a blanket policy was not reasonable, and because its punitive effect violated Article 8 and the Scotland Act 1998, it was disapproved. Parenthetically, it is a sad commentary that after the founders of the United States fled England for want of human rights, it is the former British Empire that America must look to today to save them. See; In the cause of Stewart Potter, [2007] CSOH, Opinion of Lord Glennie, P2183/06. The opinion is posted on PLN's website.