



COVID-19, PRISONS  
AND LEGAL  
ACTIVISM

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# Covid-19 in Prisons in Context – limits of policy

Government experts advised that somewhere between 15,000-20,000 prisoners of the then 83,000 prison population in England and Wales should be released to avoid a potential humanitarian catastrophe of up to 3,000 prisoner deaths.

## **Radical reduction in prison numbers (not on the current agenda)**

- Shielding , Cohorting, Expanding capacity for single cell occupancy
- **Lockdown** - over 23 ½ hours each day in their cell for months at and end.
- **SECOND WAVE and law and order ideology**
- End of October 2020 -total number of prison deaths 32
- Prisons were placed under a highly restrictive regime during spring, which was slowly but not completely unwound across the summer and autumn.
- Social visits had been reintroduced to all jails in England and Wales and were not suspended again until November as the second national lockdown was imposed.

# Spread of disease -Why Prisons are Epidemiological Pumps

- 70% of prisons in England and Wales are overcrowded, (84 of the 121 prisons), with nearly 18,700 people held in overcrowded accommodation (PRT, 2020)
- Prison buildings rat infested and in poor overall state of repair (NAO, 2020)
- HMP Pentonville (HMCIP, 2017:5) “continuing poor state of many cell windows”
- Prison cells are cramped spaces – not too dissimilar to size of bathroom (HMP Pentonville and HMP Nottingham for example contravene basic international standards for cell space - UN Standards and Minimum Rules, 1977; IMB, 2019)
- There are still prisons, such as HMP Coldingley and HMP Long Lartin, which house prisoners in cells without any integral sanitation (i.e. toilets) (IMB, 2019)
- **7<sup>th</sup> April** *The Guardian* reported that prisoners at HMP Coldingley in Surrey were left to defecate and urinate in plastic bags after an automated computer system to give prisoners access to toilets malfunctioned. (Allison and Pegg, 2020)
- There are also cases, such as at HMP Exeter in 2019, when the integral sanitation (i.e. toilets) failed and leading to seepages of urine and excrement into prisoner cells (IMB, 2019)
- HMCIP in found that 2018-19 failed infection control compliance and cleanliness tests

# Legal Activism: Abolitionist Expert Witness

- *Roy Davis and High Court Case* – QC Leslie Thomas [Leslie Thomas \(barrister\) - Wikipedia](#)
- *R v Secretary of State for Justice (ex parte Davis)* Queens Court Division, April 2020 – only legal case on prisons and covid-19 in UK
- case called for a judicial review of the decision to deny a prisoner in HMP Stocken who was terminally ill with bladder cancer (and was estimated to have only between 3-18 months to live) compassionate release under the provisions of Paragraph 12.1 of Chapter 12 to Prison Service Order 6000 and Section 248 of the *Criminal Justice Act* (2003)
- Although a number of experts were approached only two expert witnesses who submitted reports were Joe Sim and David Scott (2 joint reports) –on historical context, limits of policy and potential spread of covid-19 (see previous two slides for indication of the position we took on policy and contagion)
- Edward Cornmell – Deputy Director and Covid-19 Prison Response
- Only allowed to give statements of fact to inform the court – attempt to discredit our testimony by 3 QCs (Sir James Eadie QC) – report seemed like it was cut and paste from policy docs – the government had made **reasonable adjustments** to policy
- The case was halted when the QC for the secretary of state suggested that there was the possibility of ROTL
- August 2020 Roy Davis was released on compassionate grounds

# Further Reading / Resources

- Scott, D. and J. Sim (2020a) “Legal petition (affidavit) to the High Court on the dangers of the coronavirus COVID19) to the prison population of England and Wales” official submission of evidence to High Court, on request of Kushal Sood, Nottingham Law Centre, 22<sup>nd</sup> March 2020, in preparation for the case of *R v Secretary of State (ex parte Davis)*  
[https://www.academia.edu/43285593/Affidavit\\_statemnt\\_Admin\\_Court\\_April\\_2020\\_R\\_v\\_Secretary\\_of\\_State\\_for\\_Justice\\_ex\\_parte\\_Davis](https://www.academia.edu/43285593/Affidavit_statemnt_Admin_Court_April_2020_R_v_Secretary_of_State_for_Justice_ex_parte_Davis)
- Scott, D. and J. Sim (2020b) *Report for the High Court of Justice (Queens Bench Division) Administrative Court for the case of R v Secretary of State (ex parte Davis)* official submission of evidence to High Court, on request of Kushal Sood, Nottingham Law Centre, 12<sup>th</sup> April  
[https://www.academia.edu/43285430/Davis\\_Report\\_for\\_High\\_Court\\_by\\_Scott\\_and\\_Sim\\_12\\_April\\_2020](https://www.academia.edu/43285430/Davis_Report_for_High_Court_by_Scott_and_Sim_12_April_2020)
- Scott, D. and J. Sim (2020c) *Claim No: CO/1389/2020 - Supplementary Report for the High Court of Justice (Queens Bench Division) Administrative Court*, official submission of evidence to High Court, on request of Kushal Sood, Nottingham Law Centre, 23<sup>rd</sup> April  
[https://www.academia.edu/43286192/Scott\\_and\\_Sim\\_supplementary\\_report\\_22nd\\_April\\_2020](https://www.academia.edu/43286192/Scott_and_Sim_supplementary_report_22nd_April_2020)

# Further Reading / Resources

Scott, D. (2020a) “The enemy is not just the virus: COVID-19, prisons and socialist ethics” talk for Momentum 7<sup>th</sup> April 2020 <https://www.youtube.com/watch?v=IB7Zlg9ZfVM&feature=youtu.be>

Scott, D. (2020b) “Prison lockdown: breaking minds and destroying lives” *Centre for Crime and Justice Studies* 28<sup>th</sup> October 2020 <https://www.crimeandjustice.org.uk/resources/prison-lockdown-breaking-minds-and-destroying-lives>

Scott, D (2020c), *For Abolition: Essays on Prisons and Socialist Ethics*, Winchester: Waterside Press

<https://www.watersidepress.co.uk/acatalog/For-Abolition-David-Scott-9781909976825.html>

Scott, D. and J. Sim (2020d) “Coronavirus and prisons: radical alternatives “ in *New Socialist* 25<sup>th</sup> March 2020 (also published by HERC/CCSE on 26<sup>th</sup> March) <https://newsocialist.org.uk/coronavirus-and-prisons-need-radical-alternatives/>

Scott, D. and J. Sim (2020e) “The coronavirus pandemic and prison policy” with Joe Sim, *Open Learn: Research in time of Covid-19* 12<sup>th</sup> May 2020 [with Joe Sim (50% contribution)

<http://fass.open.ac.uk/schools/school-social-sciences-global-studies/blogs/covid-19>