

## **Dominic Bryan – written evidence (CIC0424)**

### **House of Lords Constitution Committee**

### **Inquiry into the Constitutional Implications of COVID-19**

#### **The Coronavirus Act 2020**

1. I do not believe a sufficient balance has been struck between powers for the Executive and parliamentary scrutiny with respect to this bill. The nature of the emergency this act has sought to address – a viral contagion – has placed physical restrictions on the operation of parliament without a remedy or alternative mechanism to facilitate, in any meaningful way, the function of parliamentary scrutiny.
2. As Lord Sumption has highlighted, in many newspaper articles and his recent Cambridge law faculty lecture, the Public Health Act (1984) and the Civil contingencies Act (2004) provide sufficient legislative powers to deal with such perceived threats as Covid-19.
3. To at first choice resort to the solution of legislation to control the behaviour of the public, instead of at first investing in the trust and cohesion of society to respond responsibly to the threat of the contagion, seems an overly zealous invocation of executive power.
4. An emergency panel of scientific expertise, much broader than that of SAGE, (which did not include any epidemiologists or clinicians, almost solely computer modellers, at the time of writing the Act), should have been convened to more accurately assess the risks and chart the projected spread of the virus.
5. From this process a more rational viewpoint from which to make risk management decisions could have been achieved. A rapid and dynamic legislative response would have always been an available tool.
6. I submit that the use of emergency powers by Government to address the pandemic has been disproportionate, and continues to be so.
7. The lethality of the contagion, relative to other known viral pathogens such as Ebola, has been known from an early stage.
8. The Infection Mortality Rate as of July , for people under 70 years, in England was 0.22%. This figure is extracted from a W.H.O. endorsed report authored by Prof. John P A Ioannidis, a world renowned epidemiologist and physician of Stanford University. (*Submitted: 13 May 2020 – Revised version received: 13 September 2020 – Accepted: 15 September 2020 – Published online: 14 October 2020*)
9. The average age of a person dying of Covid-19 in England currently stands at 82.4 years.

#### **Clarity regards the law**

10. There has been an ongoing confusion amongst the public, and arguably those tasked to enforce and regulate restrictions, about what aspects of the lockdown measures are guidance and what carry penalty notices. This has been exasperated by the regularity in which measures and restrictions have changed and the variance between geographic regions.
11. One of the most worrying effects of the new offences, or criminalised acts, under the Coronavirus Act 2020 is the gathering of people. Although there are exceptions, political rallies and protests are not amongst them. (Piers Corbyn fined £10,000 for a rally held in Trafalgar Square 29<sup>th</sup> of August).
12. The freedom of assembly and association are the required rudiments of any free, libertarian and democratic society.
13. The restriction of movement of individuals and the rationing of human contact for such a threat as Covid -19, with coercion sought by the penalty of law and criminalisation, is wholly disproportionate and unjustified.
14. It is also clear, that certainly at the early stages of lockdown, Police forces were interpreting their powers to be greater than those extended to them by the new act. Once again, Lord Sumption has made reference to this citing the case of the Welsh Police force blockading roads and the Derbyshire Police force surveilling walkers using drones in the attempt to issue fines, both actions beyond their legal remit.
15. Further proof of the distrust, dissatisfaction and contempt that can be instilled in citizenry by such measures we have seen here, replicated widely across the globe, is evident in the large scale civil unrest endured across Europe.
16. Denmark, in what might be described as characteristic Scandinavian decorum, have seen a bill rejected by 9 days of peaceful protest outside their parliament, pots and pans being used to announce the discontent of the public. (Epidemic law rejected on the 15<sup>th</sup> of November)

### **Parliamentary scrutiny**

17. To directly quote Jonathan Sumption, former Supreme Court judge, "The sheer scale on which the government has sought to govern by decree, creating new criminal offences, sometimes several times a week on the mere say-so of ministers, is in constitutional terms truly breathtaking. The government has routinely made use of the exceptional procedure authorising it in urgent cases to dispense with advance Parliamentary approval, even where the measure in question has been mooted for days or weeks. Thus the original lockdown was imposed without any kind of Parliamentary scrutiny until the middle of May, seven weeks later. Thereafter, there was little scope for further scrutiny."
18. The suspension of parliamentary scrutiny during this crisis could truly be said to be unprecedented in its history. It places a great deal of trust in the hands of even fewer, who have now greater power to control civilian life without the deliberative process and cautionary advancement that parliament can bring.
19. Could infrastructure and protocol be put in place to allow the rapid assembly of a non parliamentary panel comprising scientists, academics, non state care and welfare providers, economists and other fields of expertise deemed relevant to accommodate the dissection of the crisis at hand? This should include delegates

from all regions, allowing the nuances and specific factors of demographics to be considered. This panel should be open to public scrutiny to ensure trust in the decisions and policy it puts forward.

20. What is needed is the avoidance of ministerial prominence and the unwavering reliance by ministers, in such crises, on faulty and narrowly circumscribed advice.
21. If lessons can not be learned from this and remedial action not taken, then parliament as a construct and symbol of pragmatic order faces its own destruction from a fervent myopia in the selection of power.
22. History has a habit of.....

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