COVID 19 in scope of a concerned Citizen of The Commonwealth (CW)

30 April 2020

Re: The disproportionate high mortality rates in BAME, Health, Social Care (HSC) workers as units within gross population, is peculiar UK demographic, as atypical of elsewhere in the CW.

Dear sirs,

Covid 19, an unfortunate challenge to humanity in general and to the UK in particular, parades a questionably aggravated and unacceptable demographic selectives for the Black, Asian, Minority Ethnics (BAME). Latest and of note are figures from Intensive Care National Audit and Research Centre (ICNARC) revealing that 34% of all critically ill ITU admissions are non-whites, of whom BAME is in majority[1].

The similarity of data generated from the US notwithstanding, that mortality rates in the black population approaches 70% of all Covid-19 deaths may be evidencing, if not outright hatred, the extent of policy excused demeanour or covert discrimination, rather than the SAR-CoV2 virulence and lethality. Or how else can the type of incidence reported this morning by The Guardian be viewed: that a hospital has launched an investigation into the death of one of its doctors from Covid-19 shortly after he pleaded in vain for him and his colleagues to be given protective equipment?

[2]The Royal Berkshire NHS trust has begun a serious incident investigation after Dr Peter Tun, who specialised in helping patients with brain conditions recover, died on 13 April.

In the U.K., early data shows that 95% of doctor's deaths and 70% of HCW deaths are from BAME backgrounds. Emerging opinion suggests that being male, being over 50 could be comorbid with visceral obesity, diabetes and metabolic syndrome, hypertension, ischaemic heart disease, chronic lung disease, and alleged vitamin D deficiency, implicated in coronavirus susceptibility; it is most alarming that all these conditions are deemed commoner in BAME people compared to the white population.

The pattern for the UK is strange, (granted that the US has never pretended its own xenophobic opportunism, where it is on record that a trigger happy white may shoot as many non-whites as possible in broad daylight, to be reticent of how some wicked xenophobic Americans may have been indulged under the immigration policy of President Trump tenure) being not uniformly European, nor as can be compared with France, Canada, Australia, East Europe and hard to explain beyond the façade of mere excuses towed by teleology which disengages in presence of superior comparatives viz that ethnic minorities are over-

1 ICNARC Report published on 24 April 2020 https://www.icnarc.org/Our-Audit/Audits/Cmp/Reports

[2] Hospital investigates death of NHS doctor who pleaded for PPE
https://www.theguardian.com/society/2020/apr/29/inquests-nhs-staff-deaths-ppe-shortages

represented in high-risk occupations, including health workers, in the transport sector and essential shop work, as if that differs in Russia, North Ireland, Germany, Spain, and Italy where Covid 19 does not select the non-white for its killings. Clearly, there's a huge amount of heterogeneity, but overall ethnic minorities are more likely to live in deprived, dense, over-crowded urban areas and are more likely to be disadvantaged. In some cases, household composition could play a role, particularly in Asian households where you have multi-generational households living together. Comorbidity of diabetes, obesity, cardiovascular, pulmonary, debilitating ailments and hypoimmunity seem too unusually non-white as if Covid 19 only in the UK is genetically tailored to tell races apart where vitamin D differential is so huge between White and the non-white, even as untenable as that excuse obviously is.

Unless you wouldn't mind if we start bibing the hearsay that certain white Doctors are secretly doing unsolicited euthanasia which, apart from being so ungodly and morally despicable to say the very least, is actionably illegal in absentia of consent, and in the best interest of everyone if the possibility of this is countenanced in this sitting.

Discriminatory body language of care givers could lead to a denial of requisite attention and in the absence of any other reason to explain the ethnically skewed mortality, it's not impossible for this to be construed manipulated, unless seen now as a significant area to look into.

Even with these two, the suggestion accords with reason if henceforth, the coloured are given some close monitoring, so that the patient feels at liberty to make calls to report any state of care given that is jeopardizing.

All these aforementioned are in the shadow of our main submission: the crucial is as enumerated By Paul Clark of the Garden Court Civil Liberties Team and cited below:

"1. The Coronavirus Act 2020 received royal assent on 25 March. Sections 51 and 52, and schedules 21 and 22 (in force from 25 March) – which are the key provisions in terms of police powers – could have a substantial impact upon the rights of individuals, particularly those in economically or politically marginalised communities. Leaving aside the question of whether the Act was needed in the first place,

> *[1] this post seeks to summarise the effect of those provisions, and to highlight a limited number of issues. Although not addressed here, attention is also drawn to the Health Protection (Coronavirus) Regulations 2020 (SI 2020/129), which restrict movement and gatherings, and which can be enforced by police officers – including through prosecution and fine. The principal police powers for which the Act provides are in two broad categories:*
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> > *(i) powers concerning "potentially infections persons" (section 51; schedule 21); and*
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> > *(ii) powers concerning "events, gatherings and premises" (section 52; schedule 22).*
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> *[2] This post looks only at the former, which can be further divided into the following:*

a. Power to remove a potentially infectious person for screening/assessment (with an ancillary power to detain)

b. Power to detain for screening and assessments. Powers of forced screening/assessment and of disclosured. Powers over persons who are have been "assessed" (even if results are inconclusive)

3. These new powers become applicable upon declaration by the Secretary of State of a "transmission control period" and such a declaration has been made (sched. 21, para. 4,5). They are conferred upon 'public health officers', police officers, and immigration officers, albeit with some subtle differences between those applicable to public health officers and those applicable to police officers (and immigration officers). Each comes with ancillary powers to use reasonable force, and to enter property (sched. 21, para. 20(4), (5)), and criminal sanctions (a fine up to £1000[4]) are available for non-compliance (sched. 21, para. 23(1), (2)). Even where the provisions directly applicable to a particular power do not mention the police (e.g., the powers of forced screening/assessment and of disclosure), the Act envisages a role for police officers in ensuring compliance.

Who decides?

4. The prerequisites to exercise of the new powers are:

a. reasonable grounds for suspicion that the person is potentially infectious; and
b. necessity and proportionality either in the interests of the person, or for the protection of other people, or for the maintenance of public health.

5. In some respects, the Act is ambiguous as to whether a police officer must exercise her/his own judgement as to suspicion, necessity, and proportionality, or whether he/she may rely upon the instruction of a public health officer (and the latter's asserted view that those requirements are fulfilled). In O'Hara (addressing powers of arrest based on reasonable suspicion) Lord Steyn noted that suspicion had to be formed on the basis of factual matters known to the arresting officer because, "in framing such statutory provisions Parliament has proceeded on the longstanding constitutional theory of the independence and accountability of the individual constable". There is no reason why this constitutional principle should be lost now.

Proportionality and the ECHR

6. All of the factors mentioned in the Act as regards proportionality and necessity ("protection of other people", "maintenance of public health" etc.) are likely to be understood by officers to militate in favour of the exercise of these powers. Plainly, the ECHR remains applicable. Articles 5 and 8 are particularly apposite, and they require that detention be used only as a last resort. Indeed, article 5(1)(e) applies specifically to "detention of persons for the prevention of the spreading of infectious diseases". The import of article 8 goes beyond detention. The Act has the potential to be particularly invasive in terms of access to and use of private data (on health, personal relationships, and otherwise). Any assessment of whether it is proportionate to punish a person for a refusal to disclose (or indeed whether it is proportionate to seek disclosure in the first place) must surely consider the ways in which the data concerned might be used by the state, including the possibility that other public bodies may have access to it. There has been no indication that the usual

practices of information-sharing between state agencies will not apply to private data obtained through the Act.

7. Each of the provisions on specific powers over potentially infected persons (of detention, or otherwise) include requirements as to information that must be communicated to the affected person. Among the matters that must be communicated is "the reason for imposing the requirement" (see, for example, sched. 21, para. 9(2)). Long-standing principles of statutory interpretation suggest PACE 1984 (and related case law) as an aid to interpretation. With this in mind, it is suggested that…

a. *what is required is communication of not only the legal basis for use of a power or requirement, but also the factual basis for doing so; and*

b. *the affected person's response to being informed of the reason for exercising the power must feed into the officer 's assessment of whether (under the ECHR or otherwise) use of the power remains truly necessary and proportionate.*

8. It might well be argued that criminal sanctions are disproportionate per se – as Liberty as argued, they mischaracterise the pandemic as an issue of criminal justice, rather than one of public health. But quite apart from any challenge to the compatibility of the primary legislation itself with the ECHR, it must be emphasised that decisions to use the available sanctions are discretionary and must be proportionate in ECHR terms.

Discrimination and the Equality Act 2010

9. Areas of dense population and overcrowded housing might be cited as risk factors, but they are also features of marginalised communities. The dearth of guidance as to legitimate bases for suspicion that a person is "potentially infectious" gives rise to a real risk that the above powers (including detention) could be invoked on discriminatory bases. The Equality Act's prohibitions upon direct and indirect discrimination (as well as the Public Sector Equality Duty) will be essential bulwarks against prejudice.

[1] It is noted here that pre-existing legislation sought to address the same underlying concerns as does the Act: see, for example, Public Health (Control of Disease) Act 1984; Civil Contingencies Act 2004.

[2] Other provisions that are of relevance to police practice are not addressed herein (including those pertaining to removal to a 'place of safety' under section 135 of the Mental Health Act 1983: see Schedule 8 of the Act;, and those pertaining to 'Investigatory Powers': see sections 22 and 23 of the Act).

[3] "The declaration made by the Secretary of State on 10 February 2020 under regulation 3 of the 2020 Regulations is to be regarded as a declaration made by the Secretary of State under paragraph 4 of this Schedule".

[4] Level 3 on the standard scale."

Your august Public Officers on behalf of HMs Justice Department, (care of the Parliament), is to take notice:

that where the powers permitted by this Act (to be) is used (consequent upon the negligence of the legislature to amend the corruptible clauses, such as them that arrogate diagnostic competence to any police or immigration officer) in violation of the constitutional and common laws, the natural law that ensures the fundamental human right shall be immediately deemed to take precedence, unless otherwise any other provision is made subsequent and consequent to this appeal which indicted the Bill passed so far as deficient, corruptible and capable of being an umbrella for spurious life endangering surmising, victimization, discrimination and unlawful incumbrance.

With due respect sirs, the humble submission pleads for urgent attention, not yet parenthetical permission to mail a copy to International Criminal Court ICC for vetting or outright repealing, since you would kindly show cause for converting this matter of Urgent Public Health and Civil Contingencies to one of a Criminal Law athwart the Natural.

A G Adeleye