

Supplementary written evidence submitted by Dr. Andrew Watt

(CLL0127)

This Written Evidence seeks to put on record an important, hitherto unexamined, issue relating to the UK Government's response to the Covid-19 epidemic in the United Kingdom.

The issue to which I wish to draw attention in this Written Evidence is the question of whether constraints may be imposed by Law on the responses which are legitimately available to a Government in response to a New Disease Risk, of which the Covid-19 epidemic in the United Kingdom is a prominent example.

This document is a preliminary examination of a complex matrix of legal issues with huge implications with respect to options for Public Health action where a New Disease Risk exists.

I seek to explore a key issue relevant to any response by the UK Government or its advisers to a New Disease Risk:

- Does the Law constrain options for Government action in response to a New Disease Risk?
- Is the so-called "Roadmap" unlawful?

A key question which I seek to explore, albeit in a preliminary way, is whether it is lawful for a Government to take actions which it knows will result in increased deaths.

Capturing contemporary evidence

In an earlier Inquiry by the Science and Technology Committee entitled "The UK response to covid-19: use of scientific advice", the Committee expressed the following as one of its aims:

"Capture contemporary evidence from what the people taking decisions, those advising them and those working on the response to the pandemic thought at the time, so that future inquiries need not be only through the lens of hindsight."

See

<https://committees.parliament.uk/publications/4165/documents/41300/default/>

The quoted text is the second bullet point in the Summary of the Report.

As will become apparent in this Written Evidence this exploration of the question of whether legal limits exist to the Government response to a New Disease Risk such as the Covid-19 epidemic is highly contemporary.

Does the Law constrain options for Government action in response to a New Disease Risk?

The answer to this question must, I suggest, be answered in the affirmative.

Where a New Disease Risk poses a threat to life, the legal obligations imposed by Article 2 of the European Convention on Human Rights ("Article 2 ECHR") must be carefully examined.

It seems to me that the effect of Article 2 ECHR is relevant in at least two phases of the response to a New Disease Risk:

- On identification of a New Disease Risk
- When contemplating relaxation or removal of Public Health protections

In this document I seek to examine only the second situation.

Article 2 of the European Convention on Human Rights

The Human Rights Act 1998 (“the 1998 Act”) adopts in the Law of England and Wales¹ the legal effect of Article 2 of the European Convention on Human Rights (“Article 2 ECHR”), the “right to life”.

Schedule 1 of the 1998 Act expresses the text of Article 2 ECHR in the following terms:

“Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.”

<https://www.legislation.gov.uk/ukpga/1998/42/schedule/1/part/1/chapter/1/paragraph/1>

Broadly, Article 2 ECHR has three effects:

- A prohibition on intentional deprivation of life
- A requirement to protect life
- A requirement to investigate deaths where Article 2 ECHR compliance is in question.

In this document I do not discuss the effect of Article 2 ECHR which requires that deaths which engage Article 2 ECHR be comprehensively investigated.

Does the “Roadmap” cause increased deaths?

It seems to me to be self-evident that allowing the Novel Infective Agent which causes a New Disease Risk to spread will increase infections.

Given that a proportion of those infected will die, it is inevitable that deaths will occur which would not have occurred had Public Health protections not been removed.

Thus, the removal or relaxation of Public Health protections against Covid-19 risks increasing deaths. Therefore Article 2 ECHR is engaged.

By the Prime Minister’s own admission increased deaths from Covid-19 will occur in the context of the “Roadmap”.

For example, in his statement on 12th July 2021,

<https://www.gov.uk/government/speeches/pm-statement-at-coronavirus-press-conference-12-july-2021> ,

the Prime Minister stated the following:

“We know we’re going to see more hospitalisations and more deaths from Covid. But we also know that this wave was clearly foreseen by our scientists when we first set out that roadmap in February.”

It is, I suggest, clear that the Prime Minister knows that the Government’s actions will cause people to die and has known that since February 2021.

The Prime Minister is intentionally acting in a manner which he knows will cause people to die.

¹ The Human Rights Act 1998 also has legal effect in Scotland and in Northern Ireland. However, the “Roadmap”, the focus of this Written Evidence, seeks the removal and/or relaxations of Public Health protections only in England.

It seems to me there are clear legal arguments that the Prime Minister and the UK Government is intentionally depriving many people in England of life contrary to the legal prohibition imposed by Article 2 ECHR. However, I am unaware of any Court, whether in England or at the European Court of Human Rights, having directly addressed this question.

Whether not a Court sustains the foregoing argument relating to the prohibition on deprivation of life, it is blatantly obvious, I suggest, that the "Roadmap" is in breach of the Government's legal duty to protect life.

Step 4 of the "Roadmap" must be cancelled

It seems to me that Step 4 of the "Roadmap" currently scheduled for 19th July 2021 is unlawful.

Therefore Step 4 of the "Roadmap" must be cancelled.

Should Steps 1 to 3 of the "Roadmap" be reversed?

To the extent that Steps 1 to 3 of the "Roadmap" increase the number of Covid-19 infections and therefore increase the number of deaths from Covid-19 it seems to me that such aspects of Steps 1 to 3 are unlawful.

There is, I suggest, a legal duty on the Government to comply with the Law.

Accordingly, those aspects of Steps 1 to 3 of the "Roadmap" which are unlawful should be reversed without delay.

(Dr) Andrew Watt

Annexes to this Written Evidence were redacted

(14th July 2021)