

Covid response breach of The New Zealand Bill of Rights Act 1990 section 5 Justifiable Limitations

Adam Nuttall

to

Andrew Little MP

andrew.little@parliament.govt.nz

Dear Andrew, Thank you for holding the street corner meet on Saturday.

I am writing to clarify your answer with regards to The New Zealand Bill of Right Act 1990 section 5 Justifiable Limitations. When I look for evidence available in a free and democratic society of the effectiveness of the control measures what I find is evidence that meaningful evidence doesn't exist.

https://www.who.int/influenza/publications/public_health_measures/publication/en/

Considering this report is from as recently as October 2019 it surprised me that you claim the same organisation less than a year later provided you with sufficient evidence that the stated measures were now in your view demonstrably effective enough as to be reasonable limitations with regard to the New Zealand Bill of Rights Act 1990 section 5 Justifiable Limitations.

I put it to you that this is not true and that you have never seen evidence that reasonably demonstrated effectiveness and furthermore that no such evidence exists. And that your failure to confirm a factual basis for restrictions is a serious breach of your good faith obligations and your Obligations to the People of New Zealand under the Oath of Office. .

You have a Moral and Legal Duty of Care with due regard to Human Rights protections in New Zealand. I find it concerning that you were unable to quote any evidence for the effectiveness of measures even vaguely, that would limit Human Rights in New Zealand on such an unprecedented scale. Considering the scope of the information that is discussed freely in our democratic society (please see attached for further reference), I find it necessary to clarify the following in

the public interest.

1) Effectiveness of measures: In your answer on Saturday you seem to state that you relied on advice from the World Health Organization and also "did" personally access information yourself demonstrating the "effectiveness" of lockdown measures. As Justice minister what evidence did you personally assess before "lock down" that gave you the belief that the measures breaching the Bill of Rights were effective enough to be demonstrably reasonable?

2) Proportionate to the risk: In your answer on Saturday you stressed how deadly you believed the covid19 virus was. Considering the two points listed below do you now concede that further restrictions are no longer demonstrably proportionate to the risk? If not do you accept that below 0.3% is what the demonstrable case death rate is now? And If not why not?

-- Stanford professor John Ioannidis published an overview of Covid-19 antibody studies. According to his analysis, the lethality of Covid19 (IFR) is below 0.16% in most countries and regions. Ioannidis found an upper limit of 0.40% for three hotspots.

<https://swprs.org/studies-on-covid-19-lethality/>

-- In its latest report, the US health authority CDC reduced the Covid19 lethality (IFR) to 0.26% (best estimate). Even this value may still be seen as an upper limit, since the CDC conservatively assumes 35% asymptomatic cases, while most studies indicate 50 to 80% asymptomatic cases.

<https://edition.cnn.com/2020/05/22/health/cdc-coronavirus-estimatesymptoms-deaths/index.html>

Thank You for the time you take in consideration of Human Rights in New Zealand

Adam Nuttall

Andrew Little MP

Andrew.Little@parliament.govt.nz

Dear Adam,

Thanks for your message following up your questions from the street corner meeting in Christchurch on Saturday.

I appreciate your interest in the important question of constraints on the freedoms of New Zealanders as we manage the on-going response to the Covid-19 virus.

The starting point is to understand the nature of the health threat we are dealing with. Although scientific and medical experts are constantly reviewing their understanding of the characteristics of the virus, we can be certain of the following:

- The virus is highly contagious. It spreads quickly
- It is spread through droplets from coughing, sneezing and talking. Droplets containing the virus and landing on surfaces remain contagious for up to three days
- It can have serious health effects on those who contract the virus, including serious respiratory problems. As we know, it is capable of causing death
- Some population groups are more susceptible to the virus. This includes seniors and some ethnic groups
- It is possible for someone to have the virus and be asymptomatic but also be contagious.

The government has a primary moral duty to strive to prevent avoidable harm to citizens. Preventing harm to citizens is a matter of human rights. In making decisions about managing the threat to public health the government has had to consider appropriate measures that protect the health and wellbeing of all citizens, including those with a particular susceptibility to the threat, and ensure that any constraint on freedoms is no more than is necessary to deal with the public health threat.

The New Zealand government started with limited actions which reflected the level of threat posed by Covid-19. This included some restrictions at the border and personal hygiene measures such as handwashing and physical distancing.

You refer in your email, and I recall you did the same on Saturday, to WHO advice as at October 2019. The coronavirus Covid-19 had not been notified to the WHO as at October 2019 and so I am not sure what advice you are referring to. By February this year the WHO was advising countries to adopt

measures such as physical distancing. By that time also, other countries were putting in place restrictions at their borders. The United States and Australia limited travellers from some Asian countries. Epidemiologists, taking account of the characteristics of the virus as they were known at the time, developed modelling of the impact of it once in New Zealand.

As Covid-19 became apparent in New Zealand and was being passed on through community transmission the government made decisions aimed at preventing a major escalation in infection. Had we done nothing or not taken effective measures, the infection rate would have been considerably greater and the fatalities would have been higher, especially amongst vulnerable populations. The government's decisions were informed by medical and scientific advice available through the Director General of Health and the Prime Minister's Chief Science Adviser. Cabinet considered measures in accordance with the New Zealand Bill of Rights Act and the Human Rights Act.

I note your reference to two studies. Medical and scientific advice is typically developed from multiple studies and disciplines rather than selective articles given the risk of confirmation bias.

Thank you again for taking the time to write.

Kind regards

Hon Andrew Little MP

Minister of Justice, Minister for Courts, Minister for Treaty of Waitangi Negotiations, Minister Responsible for the NZSIS, Minister Responsible for the GCSB, Minister Responsible for Pike River Re-entry

Phone +64 4 817 8707 | Ministerial Email a.little@ministers.govt.nz | Web beehive.govt.nz | Postal Freepost Parliament, Private Bag 18 041, Parliament Buildings, Wellington 6160, New Zealand

Authorised by Hon Andrew Little MP, Parliament Buildings, Wellington 6160, New Zealand