The New Normal: What is the UK Biosecurity State? (Part 1. Programmes and Regulations)

Posted on JULY 31, 2020 Simon Elder (ASH - Architects for Social Housing)

'The tradition of the oppressed teaches us that the "state of emergency" in which we live is not the exception but the rule. We must attain to a conception of history that is in keeping with this insight. Then we shall clearly realise that it is our task to bring about a real state of emergency, and this will improve our position in the struggle against fascism. One reason why fascism has a chance is that, in the name of progress, its opponents treat it as a historical norm. The current amazement that the things we are experiencing are "still" possible in the Twentieth Century is not philosophical. This amazement is not the beginning of knowledge — unless it is the knowledge that the view of history that gives rise to it is untenable.'

— Walter Benjamin, *Theses on the Philosophy of History* (1940)

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The UK, and with it the nation states of Western capitalism, is undergoing a revolution. In comparison to the momentousness of this change, the neoliberal revolution overseen in this country by the Government of Margaret Thatcher merely created the political hegemony for the expansion and administration of a global economy. But the world of parliamentary democracies, of civil liberties and human rights, including our rights of assembly, speech, thought, privacy and a fair trial, of the division of powers between an executive, legislature and judiciary, of media scrutiny of Government, of freedom from censorship, of political activity itself, is now over. What we are entering into is something quite different. Like all revolutions, it's been a long-time brewing, with the legislation necessary to administer it, the technology required to police it, and the manufacture of popular consent to its implementation having been in preparation for at least two decades. But the wheel has now turned, and the world we lived in no longer exists. This is the new normal.

1. Historical Precedents for Emergency Powers

On 15 June, opening the Secondary Legislation Scrutiny Committee debate on the motion to approve Amendment No. 2 to the Health Protection (Coronavirus, Restrictions) (England), Lord Bethell, Parliamentary Under-Secretary of State in the Department of Health and Social Care, one of only 814 hereditary peers in the UK and the 5th Baron Bethell, declared:

'The amending regulations we are discussing were made by the Secretary of State on 13 May. These remain an exceptional and necessary package of measures brought forward to protect public health. The regulations we are debating have been amended two further times since, on 31 May and 12 June. This is an unusual situation, so I will address this early in my speech because I know that it is a cause of concern.'

'This sequencing has been a necessary consequence of the speed at which the Government have had to respond to the changing impacts of the pandemic on our country. Use of the emergency procedure has rarely been so necessary. These are not usual times. However, I believe that the situation has demonstrated that our flexible unwritten Constitution is a strength in extraordinary times such as these, and that our parliamentary democracy can retain its oversight while bringing about measures necessary to meet these unprecedented circumstances.

'I assure noble Lords that this expedited process does not set some kind of inappropriate precedent for the future, when we reach a greater state of normality.'

We are — we are constantly being told — living in 'unprecedented times', facing 'unprecedented circumstances' requiring 'unprecedented measures' for which there is no historical precedent and for which — is the unstated implication — the Government cannot be held to account for the consequences of its responses. It didn't know that emptying NHS hospitals of elderly patients already infected by SARs-CoV-2 would start an epidemic in UK care homes. It didn't know that denying medical and emergency care for tens of thousands of patients with cancer, heart disease, diabetes and dementia would kill more people than COVID-19. It didn't know that putting the country into lockdown for 3 months would send the UK economy spiralling into the worst depression in over 300 years, bankrupt thousands of small businesses and push unemployment up to an estimated 4-5 million people. And it apparently hasn't considered that closing schools for four months because of a disease to which children are statistically immune will have an as-yet-unknown impact on the education and lives of millions of school children. The situation is unprecedented, and the Government is doing the best it can.

'Unprecedented', however, is one of those words that should set alarm-bells ringing in the head of the historical materialist, implying, as it does, that we are in a moment about which history can teach us nothing, but which signals, in practice, that the speaker either hasn't a clue what they're talking about (the journalist) or is deliberately dissembling what they are in fact doing (the politician). But in either case, whether the present is a product of ignorance or deceit, history inevitably has a lot to tell us about supposedly 'unprecedented' moments, and so it is with the coronavirus crisis. Bear with me, then, as we take a brief detour through the history of emergency powers, the better to arm ourselves for confronting their use in the present.

It took less than five years for France to pass from the revolutionary overthrow of the constitutional monarchy of King Louis Philippe I in February 1848; through the subsequent foundation of the French Second Republic in May 1848; the bloody repression of Parisian workers in the June Days uprising; the election by popular vote of Louis-Bonaparte as President of the Republic in December 1848; to the latter's *coup d'état* in December 1851 and subsequent election as Emperor Napoléon III in December 1852 — five years to pass from a king to a republic and back to an emperor — and throughout most of that revolution the citizens of Paris were living under a 'state of siege'.

The best commentary on the constitutional origins and use of emergency powers — as he has been throughout the coronavirus crisis on the juridico-political

changes implemented under its cloak — is that by the Italian philosopher, Giorgio Agamben. In *State of Exception*, in which he traces the history of emergency powers back to the French Revolution of 1789, Agamben writes:

'The institution of the state of siege has its origins in the French Constituent Assembly's decree of 8 July, 1791, which distinguished among état de paix, in which military authority and civil authority each acts in its own sphere; état de guerre, in which civil authority must act in concert with military authority; and état de siège, in which "all the functions entrusted to the civil authority for maintaining order and internal policing pass to the military commander, who exercises them under his exclusive responsibility".

'The subsequent history of the state of siege is the history of its gradual emancipation from the wartime situation to which is was originally bound in order to be used as an extraordinary police measure to cope with internal sedition and disorder, thus changing from a real, or military, state of siege to a fictitious, or political one. In any case, it is important not to forget that the modern state of exception is a creation of the democratic-revolutionary tradition and not the absolutist one.

'The idea of a state of suspension of the Constitution was introduced for the first time in the Constitution of 22 Frimaire Year 8, Article 92 of which reads: "In the case of armed revolt or disturbance that would threaten the security of the State, the law can, in the places and for the time that it determines, suspend the rule of the Constitution. In such cases, this suspension can be provisionally declared by a decree of the Government if the legislative body is in recess, provide that this body be convened as soon as possible by an article of the same decree."

'The city or region in question was declared "hors la Constitution" [outside the Constitution]. *Although the paradigm is, on the one hand (in the state of siege) the extension of the military authority's wartime powers into the civil sphere, and on the other a suspension of the Constitution (or of those constitutional norms that protect individual liberties), in time the two models end up merging into a single juridical phenomenon that we call the state of exception.'*

Following the Restoration of the Bourbon monarchy, Article 14 of the Royal Charter of June 1814 gave the king, as head of state and commander-in-chief of the armed forces, the exclusive power to 'make the regulations and ordinances necessary for the execution of the laws and the security of the state'. The following April, after Napoloeon Bonaparte's return from Elba, Section 66 of the Additional Act required that, in the case of civil disturbances, the Government's declaration of a state of siege had to be made by law. This was the constitutional position when, thirty-three years later, on 22 February 1848, in response to striking workers and republican students taking to the streets of Paris, the French Government declared a state of siege. Unfortunately for King Louis Philippe, the National Guard sided

with the revolutionaries, protecting them from the French Army. Following the fall of the so-called 'July Monarchy', a decree of the Constituent Assembly on 24 June, 1848, placed Paris back into a state of siege and assigned to General Cavaignac, the newly-appointed Minister of War, the task of restoring order in the city, which he did at the cost of 10,000 killed and wounded. An article establishing the conditions, forms and effects of the state of siege was subsequently incorporated into the new French Constitution of 4 November, 1848. This state of siege, renewed in June 1849 when the socialists and radical republicans made a half-hearted attempt to seize power, lasted until 12 October 1849.

That year, the law of 9 August established that a political state of siege could only be declared by Parliament or the head of state. Louis Bonaparte made considerable use of this law as both President and Emperor, but particularly in the former capacity. Following his military coup in December 1851, resistance in the Departments of France was crushed by, once again, declaring a state of siege; and the following January, Section 12 of his Constitution had the effect of transferring the prerogative of declaring a state of siege from the legislature to the head of state exclusively, with the Senate in the role of mere advisor, thereby turning it against those who had created the idea in the Constituent Assembly. This was the situation on which Karl Marx, that same year, commented at length and with no little irony in *The Eighteenth Brumaire of Louis Bonaparte*:

'The state of siege. A splendid invention, periodically employed in every ensuing crisis in the course of the French Revolution. But barrack and bivouac — which were thus periodically laid on French society's head to compress its brain and render it quiet; sabre and musket — which were periodically allowed to act as judges and administrators, as guardians and censors, to play policeman and do night watchman's duty; moustache and uniform — which were periodically trumpeted forth as the highest wisdom of society and as its rector: were not barrack and bivouac, sabre and musket, moustache and uniform finally bound to hit upon the idea of rather saving society, once and for all, by proclaiming their own regime as the highest, and freeing civil society completely from the trouble of having to govern itself?'

Marx's metonyms of barrack, musket and uniform refer, of course, to the French soldiers that, under the direction first of Parliament and then of the head of state, imposed the state of siege on the rebellious French population. But 170 years later, there is little distinction between the police forces that implement government guidance with or without legislation and the armed forces that can be deployed under a state of emergency that in France was extended five times in the two years between November 2015 and November 2017, the longest in its history. As we have already seen over the last 20 months of violent assaults on the *Gilets jaunes* protests by the neo-liberal Government of President Emmanuel Macron, what has become the standard police armoury of cuffs, baton, CS-gas and taser can very quickly become flash ball, semi-automatic rifle, tear gas and TNT grenade,

civil disobedience can quickly be reclassified as terrorist threat, military forces can be deployed on home soil, and keeping the peace used to justify violent assault, targeted mutilation and state-authorised shooting by police officers and gendarmerie very clearly acting *hors de constitution*. Between 22 March and 10 July, 2020, in response to the coronavirus crisis, France was once again placed under a State of Emergency.

As for the UK, where we like to think we police by compliance rather than enforcement, like France and the rest of Europe we spent the Great War of 1914-18 under emergency measures that had been prepared in advance by the relevant ministers and then nodded through Parliament almost without debate. The most important of these was the Defence of the Realm Act 1914, which severely limited the rights of UK citizens, including granting military tribunals jurisdiction over civilians, and greatly reduced the activities of Parliament for the duration of the war. No sooner was the war over than, in response to widespread civil disturbance and the perceived threat of revolution, the UK Government made the Emergency Powers Act 1920. In the event of any action or threat of action that might 'deprive the community, or any substantial portion of the community, of the essentials of life', these empowered the king and head of state to declare a 'state of emergency'. These emergency powers first introduced the state of exception proper into UK law, and were subsequently used during the General Strike of 1926 as the basis of the strike-breaking force. The Emergency Powers Act was amended in 1964 and bolstered by the creation in the 1970s of the Cabinet Office Civil Contingencies Unit, which was replaced in 2001 by the Civil Contingencies Secretariat. In the more than 80 years of its jurisdiction, the Emergency Powers Act was used 12 times to declare a state of emergency, all of them in response to industrial action, the last time during the coalmining and energy workers' strikes of 1973–74. In 2004 it was repealed and replaced by the Civil Contingencies Act, which remains in force today.

Far from being unprecedented, therefore, the emergency measures justified by the declaration of the coronavirus crisis and enacted by ministers, police and judiciary have been anticipated and provided for in UK legislation every bit as much as they were in the French Constitution that brought Napoleon III to power in the 1850s and legalises Macron waging civil war against the French people today. As I have covered at length in my article on The *State of Emergency as Paradigm of Government: Coronavirus Legislation, Implementation and Enforcement*, this legislation includes the Coronavirus Act 2020, which is primary legislation, as well as the (at the time of publication) 163 coronavirus-related Statutory Instruments made into law as secondary legislation. No less than 25 of these have been made under the Public Health (Control of Disease) Act 1984, and 13 under emergency procedure set out in Section 45R. This permits a Statutory Instrument to be made without a draft having been laid before and approved by Parliament 'if the instrument contains a declaration that the person making it is of the opinion

that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved.'

Four months since Parliament voted itself into extended recess on 25 March, and over a month since it returned on 2 June under social distancing rules that limit the House of Commons to 50 MPs with the consequent restriction of Parliament's ability to hold the Government to account, the UK Government continues to circumvent the legislature, with 94 Statutory Instruments made into law without a draft having been presented to Parliament at least 21 days prior to coming into effect. Of the 21 Statutory Instruments requiring parliamentary approval to remain law, 17 were made using the emergency powers conferred on Ministers by the Public Health (Control of Disease) Act 1984. This is what the phrase 'unprecedented circumstances' means in practice: government by legislative dictatorship, in which the legislature is brought in after the fact to rubber-stamp laws already implemented by the executive without scrutiny of the evidence for their justification or proportionality, without an assessment having been made of their impact, and without approval by our democratically elected representatives in Parliament.

2. The Civil Contingencies Act

On Thursday, 25 June, 2020, as temperatures reached 33 degrees centigrade in the UK, and crowds descended on the beaches at the seaside town of Bournemouth in Dorset, Vikki Slade, the Liberal-Democrat leader of the Coalition-run Bournemouth, Christchurch and Poole (BCP) council, announced:

'The irresponsible behaviour and actions of so many people is just shocking, and our services are stretched to the absolute hilt trying to keep everyone safe. We have had no choice now but to declare a major incident and initiate an emergency response.'

The key phrase in this statement is the one about 'trying to keep everyone safe', in the implementation of which the council is authorised to declare a 'major incident' justifying an 'emergency response'. One might think these are just phrases to describe a range of actions, but they aren't. In using these terms, council-leader Slade activating very specific and extraordinarily powerful legislation.

First of all, a 'major incident' is defined in Emergency Response and Recovery: Non-statutory guidance accompanying the Civil Contingencies Act 2004, which was revised and published in October 2013. This states:

'The term "major incident" — is commonly used by emergency services personnel to describe events or situations which would constitute an emergency as defined in the CCA regime; this is the threshold of event or situation that will initiate a response under their major incident plans. These terms refer to the same threshold and are essentially interchangeable.'

In Section 1 of the Civil Contingencies Act 2004, an 'emergency' is defined as:

1. An event or situation which threatens serious damage to human welfare in a place in the UK;
2. An event or situation which threatens serious damage to the environment of a place in the UK, or
3. War, or terrorism, which threatens serious damage to the security of the UK.

By declaring the beaches at Bournemouth a 'major incident', therefore, Councillor Slade, a former school governor, was placing them on the same level, for the purposes of jurisdiction over the situation, as the site of a terrorist attack. I think it's safe to assume that BCP council didn't believe they were under either a terrorist attack or at war, or that serious damage was being done to the beaches of Bournemouth; so we can only assume that the emergency they declared a 'major incident' was constituted by the threat of serious damage to human welfare. To qualify as such, however, the situation must have involved, caused or threatened to cause a) loss of human life; b) human illness or injury; c) homelessness; d) damage to property; e) disruption of a supply of money, food, water, energy or fuel; f) disruption of a system of communication; g) disruption of facilities for transport, or g) disruption of services relating to health.

Again, the only threat the beaches may conceivably have presented to holiday-goers was b) injury or illness, and perhaps, through the latter, a) loss of life. We'll get to what exactly the threat was that justified such a response; but by declaring a major incident, BCP council initiated action by an 'emergency responder agency'. This describes all Category 1 and 2 Responders as defined in Schedule 1 of the Civil Contingencies Act and associated guidance. These includes local authorities, police services, fire and rescue authorities, health bodies, the Maritime and Coastguard Agency, the Environment Agency, utilities, telecommunications, transport providers, the Highways Agency and the Health and Safety Executive.
In the event, Bournemouth, Christchurch and Poole council didn't bring in the army; but they did deploy the Dorset Local Resilience Forum, which jointly made the decision to declare the beaches a major incident. LRFs are multi-agency partnerships made up of representatives from local public services, including the emergency services, local authorities, the NHS and others. These agencies also work with other partners in both the military and voluntary sectors in preparing for emergencies. The aims of LRFs are to plan and prepare for localised incidents and 'catastrophic emergencies' by identifying potential risks and producing emergency plans either to prevent or to mitigate the impact of any incident on their local communities. LRFs are Category 1 Responders, indicating that it was under the Civil Contingencies Act that the emergency response was initiated.

The Civil Contingencies Act, however, has far greater power than declaring a major incident. Part 2 of the Act contains the Government's generic legislation on emergency powers. These are described as a last-resort option for responding

to the most serious of emergencies where existing legislative provision is insufficient. Emergency powers are a mechanism for making temporary legislation in order to prevent, control or mitigate an aspect or effect of the emergency. To this end, the Government can make laws granting them new powers without laying the legislation before Parliament for scrutiny or approval. In the Non-statutory guidance to the Act it states:

'Emergency powers ensure the Government can respond quickly in emergency situations where new powers or amendments to existing powers are needed and there is not time to legislate in the usual way in advance of acting. They ensure the Government can act legally and accountably in situations where temporary new legal provision is required without the time for Parliament to provide it beforehand.'

Under such legal provision, the Civil Contingencies Act allows Ministers to amend primary legislation, issue curfews, ban travel, require the movement of people to or from specified places, suspend our rights of assembly and 'other specified activities', confiscate property without compensation, create offences for failure to comply with these regulations and, most significantly, deploy the armed forces on homeland UK. We shouldn't forget that in March this year, under the banner of a 'COVID Defence Force', 23,000 British military personnel were placed on standby in anticipation of civil unrest in response to the Government-imposed lockdown of the UK. Crucially, Section 19 allows the Secretary of State to extend the list of events classed as an 'emergency' in the event that the UK faces an unforeseen threat.

As an example of which — as if this were the first time in history that an English beach had been crowded on a summer's day, a council had failed to provide sufficient bins for the amount of rubbish thrown away, or opened the public toilets to the public, or there weren't enough carparks for visitors — Assistant Chief Constable Sam de Reya, of the Dorset Police, didn't hesitate to declare:

'These are unprecedented times, and we are urging people to stay away from the area of Bournemouth Beach and other Dorset beaches. We continue to work very closely with BCP Council and other partners to ensure the safety of the public. We are also deploying additional resources to provide increased patrols in the vicinity to help tackle any issues of anti-social behaviour and other offences being committed. The declaration of a major incident allows us to bring agencies together so we can take actions available to us to safeguard the public as much as possible.'

I have written to Councillor Slade and asked what threat of injury, illness or loss of human life the apparently unprecedented incident of a crowded beach presented to the holiday-goers on 25 June, 2020; but she has refused to answer. In the absence of any reports of any of the above, I also asked her whether it was the threat of contagion by SARs-CoV-2 presented by the close proximity of sunbathers

on the beaches, but again she refused to answer. This assumption of rights over constituents without the obligation to divulge under what laws they are assumed is, in my experience, typical of the lack of transparency and accountability under which councils enact their authority. But what makes the Bournemouth beaches incident so instructive for how the UK biosecurity state might work in the future is that all it took to go from 'trying to keep everyone safe' to having the right to deploy the UK armed forces on the streets of Britain was a busy beach and the real or feigned shock of the leader of a local authority backed by an Assistant Chief Constable.

In response, Matt Hancock, the Secretary of State for Health and Social Care who has been speaking and acting like a minor dictator for some time now, and who does have the authority to make regulations introducing emergency powers, threatened to close England's beaches. He could do much more. Flexing its own muscles, BCP Council issued 993 fixed-penalty notices for illegally-parked cars in a single day, belatedly opened the public toilets and carparks, drafted in a team to pick up rubbish from the beach, and various other measures hardly consistent with a major incident justifying an emergency response. But under Regulations made under the Civil Contingencies Act as an emergency response to a designated 'major incident', anyone arrested, assaulted or otherwise injured or even killed by the deployment of emergency responders has, effectively, the rights of a terrorist — which, as we have seen in shooting after shooting by our police and security forces, means none whatsoever. In the interests of 'ensuring the safety of the public' — that is to say, our biosecurity — our individual civil liberties and human rights can and will be taken away from us — including, if necessary, our right to life.

As we have seen, the vast number of new laws made by the Government without scrutiny or approval by Parliament during the coronavirus crisis have been largely made by Statutory Instruments making amendments to existing legislation. This, however, is to my knowledge the first time a local authority has had recourse to legislation in the Civil Contingencies Act 2004, which has never previously been used. The Act has its limitations, since under Section 26 any regulations made under its jurisdiction lapse after 30 days — although they can be renewed with the approval of Parliament; and under Section 30 these must be made by Statutory Instrument, meaning they are secondary legislation and therefore considered subordinate to the Human Rights Act 1998. Indeed, it is these limitations that have persuaded the UK Government to respond to the coronavirus crisis using other legislation.

On 17 July the Government made yet more Regulations, again under Section 45R of the Public Health (Control of Disease) Act 1984, again without laying a draft before Parliament, again without approval by either House, again without an assessment of their impact having been made, all of which is justified 'by reason of urgency' 4 months since the Government-imposed lockdown. The Health

Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 empower a local authority, or the Secretary of State to direct a local authority, if they consider that there is a serious and imminent threat to public health and for the purpose of preventing or protecting against the spread of coronavirus, give directions imposing prohibitions, requirements or restrictions to close or restrict entry to premises, events or public outdoor places. The exception is for land owned by the Crown, which presumably is immune to the spread of disease. If one were attentive to how laws are being made under the cloak of the coronavirus crisis, one might conclude that the wildly disproportionate, completely unjustified and altogether absurd response of Bournemouth, Christchurch and Poole council and the Dorset Local Resilience Forum to a crowded beach on an English summer's day, which received front-page and headline coverage on every media outlet in the country, was stage managed to justify the Government making Regulations that will allow every local authority in England to act in an equally authoritarian, unjustified and disproportionate manner to any deviation from both existing laws and whatever new ones the Government dreams up in the future without the limitations imposed by the Civil Contingencies Act 2004.

3. Legislation for the UK Surveillance State

The legislative preparation for this permanent state of emergency has been a long time coming, and any selected moment of origin will inevitably have precursors; but over the last 20 years there have been no less than 12 terrorism Acts, amendments and measures brought into UK law, and the attack on the World Trade Centre in September 2001, as for so much else, signalled the beginning of the state's assault on the rights and liberties of its citizens. I have written about this legislation elsewhere, in our report *Inequality Capital*; but my focus here is on the overlapping legislation for the UK surveillance state.

In December 2014, the Investigatory Powers Tribunal, the judicial body that oversees the intelligence services in the United Kingdom, ruled that, under the Regulation of Investigatory Powers Act 2000, the legislative framework in the United Kingdom does not permit mass surveillance, and that while the Government Communications Headquarters (GCHQ) collects and analyses data in bulk, its practices do not constitute 'mass surveillance', and are compliant with Articles 8 (right to privacy) and 10 (freedom of expression) of the European Convention of Human Rights. This judgement was corroborated in March 2015 by the Intelligence and Security Committee of Parliament. Both organisations were responding to the raft of legislation passed in the wake of the attack on the World Trade Centre in New York on 11 September, 2001, as well as subsequent terrorist attacks in the UK, most notably in London on 7 July, 2005. This included the Anti-Terrorism, Crime and Security Act 2001, which granted powers for the Secretary of State to regulate telephone companies and internet providers in order to retain data for the purpose of national security, and which Adam Tomkins, a Professor of Law at the University of Glasgow, called 'the most draconian legislation

Parliament has passed in peacetime in over a century'; the Protection of Freedoms Act 2012, which sought to regulate surveillance, including the retention of biometric data; the Justice and Security Act 2013, which extended the powers of the GCHQ, allowed the Government to withhold trial evidence it considered to be sensitive, empowered courts to decide cases without informing the defendant what the case against them is, and was described as leaving Britain with 'more draconian rules than any other country in the world, more suited to despotic regimes such Iran and North Korea'; the Data Retention and Investigatory Powers Act 2014, which tried to remove regulation of surveillance, and which was subsequently repealed in December 2016 following a High Court judgement that sections 1 and 2 were unlawful; and the Counter-Terrorism and Security Act 2015, which requires internet service providers to retain data showing which IP address was allocated to a device at a given time.

The following November, however, these judgements, however inaccurate, were rendered redundant when Parliament passed the Investigatory Powers Act 2016. Nicknamed the 'Snoopers' Charter', this requires internet service providers and mobile phone companies to keep records of everyone's browsing histories, including on social media, e-mails, voice calls and mobile phone messaging services for 12 months, and gives the police, security services and a range of government departments unprecedented access to the data, as well as new powers to hack into computers and phones to collect communication data in bulk. Authorities able to access the internet connections records of UK citizens include the Metropolitan Police Service, the City of London Police, the British Transport Police, the police forces of Scotland and Northern Ireland, of the Ministry of Defence, of the Royal Navy, Military and Air Force, the Security Service, the Secret Intelligence Service, GCHQ, the Home Office, the Ministries of Defence and Justice, the National Crime Agency, the Department of Health, and 26 other authorities.

The Investigatory Powers Act was described by Edward Snowden — the former US National Security Agency contractor turned whistle-blower who in 2013 revealed that GCHQ had been routinely collecting, processing and storing vast quantities of global digital communications, including e-mail messages, posts and private messages on social networks, internet histories, and phone calls — as the 'most intrusive and least accountable surveillance regime in the West'. In December 2015, the Chinese Government cited the Draft Communications Data Bill — which was superseded by the Act — in defence of its own intrusive anti-terrorism legislation. In April 2018 the UK high court ruled that the Investigatory Powers Act was incompatible with European Union law. In response, the Government made the Data Retention and Acquisition Regulations 2018. These increased the threshold for accessing communications data to the purposes of serious crime and only following approval by the Investigatory Powers Commissioner; but also included a loophole through which rapid approval can be made internally without independent approval.

Significantly, over this period the UK became the country with the highest density of CCTV cameras per capita in Europe, with half a million in London alone, or 1 camera for every 18 people, with the average Londoner caught on camera 300 times a day. Globally, it is estimated there are 25 million CCTV cameras, and between 4 million and 5.9 million of them are in the UK, a fifth or more of the total in a state with 0.87 per cent of the world's population. That's up to 1 camera for every 11.5 UK citizens. By comparison, China, with an estimated 170 million CCTV cameras for a population of 1,4 billion, has 1 for every 8 citizens; but, as always, it is the USA that is the forefront of the surveillance of its population of 330 million people, with 50 million cameras, or 1 camera for every 6 citizens, an extraordinary level of intrusion.

Legislation for the use of CCTV in the UK includes the Protection of Freedoms Act 2012; the Surveillance Camera Code of Practice 2013, which was issued by the Secretary of State under Section 30 of the 2012 Act, and clarified that 'the Government is fully supportive of the use of overt surveillance cameras in a public place'; and the Data Protection Act 2018, which legislates our right to see information held about us, including on CCTV recordings. The use of private companies to implement the surveillance state, in a country where all land is privately-owned and the public has mere rights of way over it, has provided a model of how to implement the UK bio-security state. But the coronavirus crisis was the ideal opportunity to extend these intrusions further into our private lives.
Under the Coronavirus Act 2020, which was 'nodded' through Parliament by mutual agreement of all parties on 25 March after just 3 days of debate between both Houses before becoming law, the following provisions have increased the investigatory powers of the UK Government as follows:

Section 22. Empowers the Home Secretary to increase the number of Judicial Commissioners, and to vary the appointment process at the request of the Investigatory Powers Commissioner, who oversees and authorises almost all investigatory powers. This allows the Commissioner to directly appoint temporary Judicial Commissioners for a term of up to 6 months, renewable to a maximum period of 12 months.

The Act claims this provision is to cover for a shortage of Judicial Commissioners as an anticipated result of the effects of COVID-19.

Section 23. Empowers the Home Secretary, by Regulations made by Statutory Instrument, to change the time limits relevant to the issue, approval, duration, renewal and modification of warrants under the Investigatory Powers Act 2016. At the request of an Investigatory Powers Commissioner defined under this Act, the lifespan of a warrant can be extended from 5 days to up to 12 working days. In addition, such Regulations may make consequential, supplementary or transitional provision lasting for a period up to 12 months.

The Act claims this provision is to cover for an anticipated shortage of Judicial Commissioners as a result of the effects of COVID-19.

Section 24. Empowers the Home Secretary, again by Regulations made by Statutory Instrument, to extend the time limit for the statutory retention of biometric material such as fingerprints and DNA under the Police and Criminal Evidence Act 1984, the Terrorism Act 2000, the Counter-Terrorism Act 2008, and the Terrorism Prevention and Investigation Measures Act 2011, for a period up to 6 months and not longer than 12 months in total.
The Act claims this provision is in order to mitigate the anticipated impact of the coronavirus pandemic, by protecting national security and prevent serious crime during 'a period of potential widespread upheaval.'

As yet another example of how the Government is bypassing parliamentary scrutiny through the use of Statutory Instruments, a mere two days later, on 27 March, the Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020 were made into law under Sections 22 and 23 of the Coronavirus Act 2020. Mimicking the process by which they themselves were made, these Regulations extend the length of time that a warrant issued under the Investigatory Powers Act 2016 has to be authorised *ex post facto* by a Judicial Commissioner from 3 working days to 9 working days. In addition, where the Investigatory Powers Act 2016 requires that a Judicial Commissioner cannot be appointed by the Prime Minister unless jointly recommended by the Lord Chancellor, the Lord Chief Justice of England and Wales, the Lord President of the Court of Session, the Lord Chief Justice of Northern Ireland and the Investigatory Powers Commissioner, one can now be appointed directly by the Commissioner on a temporary basis. Once again, in the Explanatory Memorandum this extension of powers under the Investigatory Powers Act are justified on the grounds of the anticipated effects of COVID-19 and 'to protect national security and prevent serious crime during this period.'

A further 5 days later, on 1 April, the Coronavirus (Retention of Fingerprints and DNA Profiles in the Interests of National Security) Regulations 2020 were made into law under Section 24 of the Coronavirus Act 2020. These Regulations announce the decision of the Home Secretary to exercise the extension of the deadline for retaining biometric data that would otherwise be destroyed within 12 months of the Coronavirus Act coming into effect on 25 March to a total of 12 months. In the Explanatory Memorandum it argues that these Regulations have not been laid before Parliament, as required by law, 21 days before coming into effect because: 'Any delay between the laying and coming into force of this instrument would result in the loss of biometrics (fingerprints and DNA profiles) from police databases which may have otherwise been retained on national security grounds by the making of a national security determination.'

Additionally, on 21 April, the Investigatory Powers (Communications Data) (Relevant Public Authorities and Designated Senior Officers) Regulations 2020 were made into law under Part 1 of Schedule 4 of the Investigatory Powers Act 2016, extending the power to obtain communications data to five additional public bodies, including the Civil Nuclear Constabulary, the Environment Agency, the Insolvency Service, the Pensions Regulator and the UK National Authority for Counter Eavesdropping.

The provision within the Coronavirus Act 2020 for the making of Statutory Instruments in anticipation of a purely fictional situation that was never in any danger of materialising was and is a cynical use of a viral disease to justify extending the powers of what were already the 'most intrusive and least accountable surveillance regime in the West'; and, once again, this has been done without prior scrutiny by our elected representatives in Parliament, who have obediently approved them when finally called on to do so. But the foundations for the UK biosecurity state are not confined to regulations made under the cloak of the coronavirus crisis but are also, and primarily, being laid through the technology and programmes by which the UK population is being monitored and controlled and which are changing our status as citizens under UK law.

4. The Presumption of Guilt

In my article on *The Science and Law of Refusing to Wear Masks* I looked at how Western political scientists have gazed enviously at the measures for population surveillance and control employed in East-Asian countries and above all in China, and have challenged liberal democracies in the West to overcome their history of civil rights to implement equivalent measures under new legislation that will accommodate their restrictions of civil liberties and intrusions into our private lives. To get an idea of where we're heading, these are just some of the surveillance technology and programmes already being used by the governments of China, Hong Kong, South Korea and Taiwan to track, monitor and control their populations during the coronavirus crisis:

- Mass surveillance of mobile phone, rail, and flight data to track down individuals who had travelled to affected regions.;
- Deployment of hundreds of thousands of neighbourhood monitors to log the movements and temperatures of individuals;
- Integration of health and other databases so that hospitals, clinics and chemists can access the travel information of their patients;
- Tracking down individuals suspected of being infected through access to their credit card transactions and CCTV footage;
- Enforcement of self-quarantine through location-tracking smartphone apps in compulsory wristbands;

- Requirement of Government-issued identity cards in order to buy SIM cards or tickets on state-run rail companies and airlines;
- Employment of colour-coded smartphone apps that tag people as green, indicating they are free to travel through city checkpoints, or as orange or red, indicating they are subject to degrees of restriction on movement;
- Use of facial recognition algorithms to identify commuters who aren't wearing a mask or who aren't wearing one properly;
- Use of robotic dogs to patrol parks to ensure compliance with social distancing measures and other Government guidance and Regulations;
- Making refusal to comply with these measures an offense punishable by a fine or arrest.

So what equivalent and similar measures has the UK Government introduced under the cloak of the coronavirus crisis?

The so-called 'NHS Test and Trace' programme has been one the most expensive and so-far useless initiatives of the Government in response to the coronavirus crisis, yet the Government's commitment to its implementation shows no sign of weakening. I say 'so-called', because from the start the NHS tag has been a cynical use of the UK public's trust in this public service to deflect concerns about its implementation. As I wrote in *Lockdown: Collateral Damage in the War on COVID-19*, on 6 May the Scientific Pandemic Influenza Group on Behavioural Science presented a paper to the Scientific Advisory Group for Emergencies titled Key behavioural issues relevant to test, trace, track and isolate. Reviewing the barriers to compliance with this programme, the paper advised that:

'Contact tracing is also viewed as more acceptable against a background of high levels of trust in an individualised provider. Personalising that provider as, for example, a health visitor or other public health clinician can also increase confidence and acceptability of contact tracing, even where contact tracing is undertaking (sic) using a technological solution. In designing a test and track programme, it may be appropriate to capitalise on trust in the NHS and in local health personnel.'

The Test and Trace programme was initially announced on 12 April, under the subsequently dropped title of 'Track and Trace', by the Secretary of State for Health and Social Care. This programme utilises an app that is uploaded onto a smart phone that allows the downloader to notify a centralised data base of their self-diagnosis of the symptoms of COVID-19, at which time they will be required to self-isolate for 1 week. The app will then notify every other user of the technology that has come into an unspecified proximity to the self-diagnoser over the previous 48 hours that they have come into contact with someone who may be infected with SARs-CoV-2. This will be established through GPS location data and

Bluetooth signals in their smartphones, the technology for which — the Exposure Notifications API (application programming interface) — has already been downloaded automatically, without informing users in advance, into all Apple and Android smart phones. At this point, the phones of all the people with whom the phone of the person diagnosing themselves as infected has been in contact will be issued with a code-yellow warning, and the owner of the phone instructed to self-isolate for two weeks. They will not be allowed to leave their home, enter shops, use public transport, go to work, visit parents or pick up children from school, or meet with anyone outside their immediate household. A single self-diagnosis, therefore, by a person with no medical qualifications, of a disease whose symptoms are indistinguishable from influenza, common cold and numerous other illnesses, will result in the quarantining of hundreds of immediate and secondary contacts.

During this period of yellow alert, the person who made this diagnosis who will be contacted by member of the tracking team and asked for their name, date of birth and address, the identities of other members of their household, as well as the names and contact details of anyone they have come into contact with in the 48 hours before their 'symptoms' started and where they came into contact with them. This is only a show of consent, however, since the app will automatically record the unique ID of the phones with which it has been in close proximity over the previous 48 hours, and notify them. It will also record how long the phones were in communication with each other, how close and where. The person diagnosing themselves will then be sent a home-test kit and be required, under Schedule 21 of the Coronavirus Act 2020, to send a swab sample to a testing laboratory that will confirm or deny the diagnosis. No time-frame has been given for this process, during which everyone contacted by the app and their household must remain in quarantine, but it is estimated to be several days. The self-diagnoser will be contacted every few days by the contact tracing team to ensure their compliance with quarantine. A negative result to the test will lift the quarantine, while a positive result will issue their phone with a code-red alert, confirming them as being infected with 'coronavirus', and confining all their contacts to their respective households for two weeks from the moment of contact. Furthermore, a message will also be sent to the phones of everyone they have been in contact with over the previous four weeks, recommending that they self-isolate.

Revealingly, for the true purpose of this programme, the Government has instructed those the contact tracing team have alerted but who show no symptoms that they '*must not seek a test*, as the scientific evidence shows that the test may not be able to detect whether you have the virus.' In other words, hundreds of people who may have come into contact with someone who thinks they have the symptoms of coronavirus will be legally confined to house arrest on the basis of a test in which the Government has so little faith that they are instructing those same people not to use it in order to establish whether or not they have been infected. We shouldn't forget that, under coronavirus legislation, we can be compelled not

only to provide a biological sample for analysis, but to remain in quarantine for as long as the Secretary of State regards it necessary and, should be break quarantine, to be incarcerated in an isolation centre. In effect, everyone in the UK is assumed to be infected and therefore, under coronavirus legislation, under a permanent state of house arrest that will only be lifted following the negative result from a test to which they do not have the right of access. From a presumption of innocence until proven guilty under Article 6 of the Human Rights Act 1998, 'Right to a fair trial,' in the UK biosecurity state there is a presumption of guilt until proven otherwise by the private companies running the COVID-19 test programmes. Without legislation being made to this effect, therefore, the programmes for testing, tracing and isolating UK citizens are fundamentally changing our status under UK law.

In both *The State of Emergency* and *Lockdown* I discussed at some length the potential this programme has not only for mistaken diagnoses by the public, but also for abuse of the data by the tech companies running the app for commercial and financial purposes, and manipulation of the population by the governments mandating its use, and I will not repeat my concerns here. But like the crowded beaches of Bournemouth, the mere perception of a threat to the physical health of the individuals using this app is sufficient to suspend the civil liberties of the public it monitors and controls. This equation is the essence of the biosecurity state, in which the citizen no longer has the right to life (familial, social, economic, political), but in which the state has absolute power over the biopolitical body of the subject. Agamben describes this as the transition from the citizen's right to health to the legal obligation of the subject to biosecurity.

The facade of this being an NHS programme was quickly dropped when, on 18 June, the Government announced that the trials on the Isle of Wight initiated on 5 May had failed and that NHSX, the digital arm of the NHS, didn't have the capabilities to develop the app, and that the technology for tracing us was instead being developed by the US tech firms Google and Apple. The testing component of the programme had already been outsourced to other multinational companies, with the Government awarding the contracts to the US multinational conglomerate Amazon, the British-Swedish multinational biopharmaceutical company AstraZeneca, the UK pharmacy retailer Boots, the professional services network Deloitte, the UK artificial intelligence start-up Faculty, UK pharmaceutical giant GlaxoSmithKline, the UK company Oxford Nanopore, the UK strategic outsourcing company Mitie, the US software company Palantir, the US scientific supplies company ThermoFisher, the UK in vitro diagnostics company Randox, the Swiss multinational healthcare company Roche, and the UK public services provider Serco. Behind the facade of a public initiative administered by the National Health Service and overseen by the Government, the Test and Trace programme is a private enterprise of contractors and subcontractors with an appalling record of incompetence, malpractice, fraud, price-fixing, financial mismanagement, conflicts of interest , misconduct, bribery, breaches of contract,

breaches of security, breaches of confidentiality, abuse of human rights and questionable ethical practices.

The contracts awarded to some of the companies developing the Test and Trace programme were only released by the UK Government on 5 June in response to the threat of legal action by Open Democracy. These contracts revealed that Google and Palantir — the latter of which has committed 10 per cent of its workforce to the project — have been paid no more than a nominal £1 for contracts that were awarded directly and without being put out to tender by the Department of Health and Social Care. Evidently, therefore, the private tech companies offering up their considerable resources to this programme are doing so not — as the Government laughingly suggests — to combat the spread of a deadly virus, but to gain access to and use of the biometric data and personal details of the UK population. In response to a legal challenge by the privacy campaigning organisation Open Rights Group, two days after its admission that the NHSX app had failed the Department of Health and Care admitted that the Test and Trace programme had been rolled out without a Data Protection Impact Assessment having been made, and had therefore been deployed unlawfully, with three data breaches involving personal data by private contractors having already occurred.

Even without these technical and legal barriers, however, from the start there was a more insuperable barrier to this mass transferral of private information into the data bases of private companies, and that was the extent to which the Test and Trace programme would be taken up by the UK public. The Secretary of State for Health and Social Care initially avoided answering the question of whether the use of Test and Trace app would be voluntary or mandatory, but on 11 June he admitted the Government hasn't ruled out using an 'enforcement mechanism'. 60,000 people on the Isle of Wight — about half the population — downloaded the app as part of Government trials. In the two weeks after the system went live across the UK on 28 May, 31,000 people were traced, although over 4,800 of them were uncontactable, and many of those that were refused to self-isolate. The Government has admitted that 60 per cent of the entire population of the UK — over 41 million people — would have to download the app for the Test and Trace programme to fulfil its function. Google and Apple, however, have already indicated how their technology will overcome this barrier by building the contact tracing function into the underlying platforms:

'In the second phase, available in the coming months, this capability will be introduced at the operating system level to help ensure broad adoption, which is vital to the success of contact tracing. After the operating system update is installed and the user has opted in, the system will send out and listen for the Bluetooth beacons as in the first phase, but without requiring an app to be installed. If a match is detected the user will be notified, and if the user has not already downloaded an official public health authority app they will be prompted to download an official app and advised on next steps.'

Without downloading the Test and Trace app, therefore, the capacity for following and recording the movement, location, contact and proximity to each other of every iOS and Android phone will be built into their operating systems and uploaded automatically. Once again, then, it will be up to the user to opt out of this system of surveillance either by uninstalling the contact tracing application on their phone or by turning off its Bluetooth function. Whether or not they download the health testing app or not is irrelevant. Just 4 per cent of UK households are without a mobile phone, and 77.21 per cent of all mobile phones in the UK are smart phones. In June of this year, Google's share of the mobile operating system market in the UK was 53.24 per cent; Apple's was 46.53 per cent. This is what the US military calls 'full-spectrum dominance', indicating control over all dimensions of the battlespace. The University of Oxford's Big Data Institute advising the NHSX has said that 80 per cent of smartphone owners need to use the operating system for it to work. This doesn't mean enough to stop the spread of COVID-19 through tracing and isolating those with symptoms; it means a sufficient percentage of the population for it to be economically viable for the Goverment to make use of the operating system a condition of entry to public spaces or use of public services. Compliance will remain voluntary because non-compliance will be impossible for most of us. This, and not saving us from an imaginary threat to the public's health, is the real purpose of the Test and Trace Programme.

The Government has already spent £10 billion on this programme — more than the £9.4 billion it has allocated to the job retention scheme to keep UK employees on furlough — most of it in contracts awarded to the private companies running the testing component; so it's not going to drop it. For now, though, the tracking component of the programme has been put on the back-burner, with Lord Bethell, who is leading the Department of Health's work on the NHS app, telling the Commons Science and Technology Committee on 17 June that it 'isn't a priority for us at the moment', but that the Government hopes to have it up and running by winter.

Until then, the Government is relying on manual contact tracing to build up a digital data base of the population, its movements and interactions. On 2 July, two weeks after the technical failures in the Isle of Wight trial and the Government's admission of the app's illegality, the Department of Health and Social Care published Guidance on 'Maintaining records of staff, customers and visitors to support NHS Test and Trace'. This instructed the owners, managers and staff of public houses, bars, restaurants, cafés, hotels, museums, cinemas, zoos, hairdressers, barbershops, tailors, town halls, civic centres, community centres, libraries, children's centres and places of worship to refuse entry to, service in, or employment by, their establishments to visitors, customers or staff who refused to supply them with their personal details, including their name and contact number or e-mail, as well as the time of their visit, purchase or shift; to retain this information in their records for 21 days, and to share it with the private companies running the Test and Trace programme when contacted by them. Despite the

bullish tone of these instructions, this Guidance is not law. Compliance with these measures, as the text of the Guidance clearly states, is not mandatory but voluntary; and the establishment does not have to impose them as a condition of entry, service or employment. Any information we chose to give does not have to be verified either by us or the establishment collecting it, and at our insistence it can be withheld from the Test and Trace programme.

Despite its voluntary nature — expressing nothing more than the wishes of a Minister, and without the force of law behind it — this Government guidance has been widely adopted by establishments in England, with many competing to extend the measures to, for example, making the wearing of face coverings a condition of entry into their premises. For those of us politically opposed to such measures, which have no medical proof of their effectiveness, that are wildly disproportionate to the threat to public health, are an intrusion into our privacy, a violation of our civil liberties, and another element in the apparatus of the biosecurity state being imposed under the cloak of the coronavirus crisis, this Guidance has effectively banned us from public life. In the next section I will look at the role of the medical profession in supplying the justification for such extraordinary and authoritarian measures of surveillance and control that have so quickly been accepted as part of 'the new normal'.

Perhaps the most dystopian vision of our future, however, is provided by so-called 'immunity passports'. On 28 April, the Chief Executive of NHSX, the unit that sets national policy and best practice for the NHS on digital technology, including data sharing and transparency, told the Parliamentary Science and Technology Committee that they were exploring the creation of immunity passports. An extension and expansion of the Test and Trace app, these will signal to anyone authorised to require this information whether a person has immunity to SARs-CoV-2. In order to do so, immunity passports will require an artificial intelligence facial recognition check that matches a Government-approved form of identification linked to biometric data like a fingerprint or photograph. This check will automatically confirm a person's health 'status' via a Quick Response (QR) code whenever they enter any public space using the bio-security system. Access to such a place, accordingly, will be taken out of the hands of the security, staff, manager or even owner, and placed within the sole jurisdiction of the artificial intelligence technology employed by the company running the programme.

Once again, therefore, there will be a presumption of infection and therefore guilt it is the individual's responsibility to disprove through compliance with the various systems of surveillance, testing, monitoring and control. Without the devices necessary to activate those systems, and without the willingness to comply with its directions, the subject of the biosecurity state will be effectively banned from access to a whole range of public spaces and services, including, potentially, public transport, shopping centres, job centres, educational institutions, health clinics, hospitals, council premises, airports and workplaces. Making such a passport

mandatory will not be necessary, then, when citizenship in the country in which they are implemented is contingent upon their use.

There are numerous AI companies competing for government contracts for immunity passports around the world and as many terms to describe the products they're selling; but in the UK the front-runners appear to be the digital identity start-up Onfido, which in its proposal to NHSX (subsequently removed from the internet) recommended that its immunity passport be made mandatory, since this would mean 'participation should be possible without further intrusion on a person's civil liberties and freedoms'; the global digital identity company Yoti, which prefers to use the term 'Digital Health Passes' to reflect doubts among medical professionals of the extent to which the presence of antibodies in a previously infected person confers immunity; and the cyber-security company VST Enterprises, which already supplies its product, COVI-PASS, to 15 countries, including Italy, France, Spain, Portugal, Sweden, the Netherlands, the USA, Canada, Mexico, South Africa, India and the United Arab Emirates. In its cartoon promotional video, VST Enterprises boasts that its VCode technology gives their company the edge in 'ensuring fluid crowd control and movement of people'. The crowds it depicts the pass controlling are workspaces and businesses open to the public such as department stores, supermarkets and public bars, but as the video says, the product's 2.2 quintillion codes offer 'infinite possibilities, once assigned'. It doesn't take much imagination to apply their boast to every movement of every member of the public in every public space.

5. The Religion of Medicine

In his 2013 study, *Microbial Storms: Essay on Health Security Policies in the Transatlantic world*, Patrick Zylberman looked at how new political strategies of governance based on the health security of the population has given rise to the fictive scenarios required to justify them:

'Health security is today both the object of, and the pretext for, a vertiginous descent into fiction. Exaggerated figures, groundless analogies and bioterrorism threat narratives are all noted examples of this. But where do all these worst-case scenarios come from? And what are their implications when applied to our own defence systems against microbial threats?'

To answer these questions, Giorgio Agamben, in another article on the coronavirus crisis, 'Biosecurity and Politics', published on 11 May, summarised these strategies as follows:

1. *'The construction, on the basis of a possible risk, of a fictitious scenario in which data are presented in such a way as to promote behaviours that allow for governing an extreme situation;*
2. *'The adoption of the logic of the worst as a regime of political rationality;*

3. *'The total organisation of the body of citizens in a way that strengthens maximum adherence to institutions of government, producing a sort of superlative good citizenship in which imposed obligations are presented as evidence of altruism and the citizen no longer has a right to health (health safety) but becomes juridically obliged to health (biosecurity).'*

   Three months later, this reads like a three-point plan for the UK Government's response to the coronavirus crisis, which — let us remind ourselves:

1. By changing the classification and registering of COVID-19 and therefore its appearance as the 'underlying cause of death' on the death certificates of people in whose death its causality is not proven but only suspected, has transformed a respiratory disease that statistically threatens only those over 60 years of age with at least one pre-existing illness into an epidemic justifying the lockdown of 68.8 million UK citizens;
2. On the basis of an 'imminent and serious threat' to the health of all UK citizens, has placed the UK into an 'emergency period' whose continuation only the Government has the ability to end, and during which laws can be made without parliamentary scrutiny or approval, effectively placing the UK under a constitutional dictatorship;
3. Has used this legislative freedom to issue Guidance, impose Regulations and deploy Programmes in violation of our human rights and civil liberties, either enforced by our police forces or made a condition of our access to public services and places, in which compliance is promoted as a civic duty and refusal punished with a fine or the threat of arrest by propaganda campaigns that denounce dissent as a threat to public health.

   In June this year, at the request of the Government, the Academy of Medical Sciences established an Expert Advisory Group to look at, among other things, how systems of surveillance and other non-pharmaceutical interventions could respond to estimates of a worst-case scenario for the winter of 2020-21. Chaired by Stephen Holgate, Clinical Professor of Immunopharmacology at the University of Southampton, on the 14 July this group published their findings in a document titled *Preparing for a challenging winter 2020-21*. What the report calls its 'reasonable worst-case scenario' comprises a large resurgence of COVID-19 deaths in a second wave of infection starting this autumn; disruption of health and social care systems caused by the need to respond to this resurgence; the backlog of medical care unrelated to COVID-19 that has accumulated with the suspension of medical service under the lockdown; and a possible influenza epidemic. The compounded result of this worst-case scenario is that from September onwards the rate of infection from SARs-CoV-2 will rise to 1.7, resulting in an estimated total number of hospital deaths (excluding care homes) between September 2020 and June 2021 of 119,900, 'over double the number occurring during the first wave in spring 2020', with an upward estimate of over a quarter of a million people.

We've heard these kinds of estimates before. In the report published on 16 March, the Imperial College COVID-10 Response team estimated that, unless the Government imposed a lockdown of the UK, up to 550,000 people would die from COVID-19. Unsurprisingly, this latest report takes as proven the effectiveness of social distancing measures, confidently asserting that they 'resulted in an 80% reduction in transmission and that 470,000 deaths had been averted in the UK up to 4 May 2020 due to such restrictions.' In this respect, the group is repeating the claim of the Prime Minister, in his address to the nation on 10 May, that the lockdown of the UK saved 'half a million fatalities'. However, the only evidence the report provides for this assertion is an unedited manuscript accepted for publication in *Nature* on 8 June under the title 'Estimating the effects of non-pharmaceutical interventions on COVID-19 in Europe'. This was co-written by the same Imperial College team whose gross overestimates of the number of deaths from COVID-19 were used by the Government to justify the lockdown of the country, the suspension of Parliament and the raft of legislation made into law in its continuing absence. It's not in the least surprising that Professor Neil Ferguson, the leader of the Imperial College team for the initial and long since discredited estimates of COVID-19 deaths, was also one of the contributors to this latest assertion of the efficacy of the lockdown. The Government's go-to man for exaggerated predictions of deaths from diseases — 65,000 from swine flu (457 have died), 150,000 from mad cow disease (178 have died), and 200 million from bird flu (282 have died) — Ferguson, just two days after this manuscript was published in *Nature*, told a committee of MPs that, if the lockdown of the UK had been imposed a week earlier, deaths from COVID-19 would have reduced 'by at least a half'.

I won't repeat here my previous analysis of the lack of evidence for the efficacity of lockdown for anything other than increasing the number of deaths in the countries in which it was imposed, which in the UK, in particular, has been largely due to the withdrawal of medical treatment for life-threatening illnesses in order to free up hospital beds for an epidemic that never materialised. But I want to say something about the complete irrationality of these assertions, which are religious in their basis and rationalisations. Like the threat of an eternity of suffering in a hell from which only God's love can save us, the estimation of a worst-case scenario by the medical profession is being used by our Government to justify any measures that will avert catastrophe. And just as the Church, unsurprisingly, tells us that only obedience to their dictates will appease the wrath of God, so the Government, equally unsurprisingly, insists that only obeying its emergency measures will stop the worst-case scenario from coming to pass. Of course, like the priest, the politician's proof that such measures work is that nothing even approaching the prediction of 550,000 deaths from COVID-19 came to pass, and asks us to imagine how much worse it would have been as we gaze at the images of eternal damnation they have painted for us on every available surface and screen.

A rational response to such evangelical fearmongering is to look at the countries where nothing like the level of lockdown measures in the UK were imposed, and where the deaths attributed to COVID-19 are nothing like as high, suggesting not only that the lockdown did nothing to stop the virus but that it increased the number of excess deaths in the countries where it was most strongly imposed. This is precisely what I did in my article *Lockdown: Collateral Damage in the War on COVID-10*; and in response to the growing number of articles making the same argument the Government has now identified the wearing of masks in countries where the governments didn't impose a lockdown, and in particular in Japan, South Korea and Taiwan, as the real barrier to the spread of the virus. In other words, obedience to the rules of the Church of Medicine is the basis to our entry into the Kingdom of Biosecurity, but a little prayer helps too (and wearing a home-made face covering to stop a virus is nothing more than a prayer), which our local priest is happy to perform on our behalf for a small donation. 'The world, alas, is full of suffering and death!', these peddlers of purgatory gravely inform us. 'But imagine how much worse it would be if we weren't praying for you!' Such are the self-fulfilling prophecies of doom and salvation preached by the evangelists of health.

In one of his series of commentaries on the coronavirus crisis, published in *Quodlibet* on 2 May under the title 'Medicine as Religion', Giorgio Agamben explicitly compares this rationalisation to religious practice:

'That we are dealing here with a cultic practice and not a rational scientific demand is immediately obvious. The most frequent cause of death in our country by far are cardiovascular diseases, and it is well known that these could be reduced if we practiced a healthier form of life and followed a particular diet. But it has never crossed the mind of any doctor that this form of life and diet, which they recommended to the patient, should become the object of a juridical norm, which would decree as a matter of law what must be eaten and how we should live, transforming our whole life into a health requirement. Precisely this has been done and, at least for now, people have accepted, as if it were obvious, renouncing their own freedom of movement, work, friendships, loves, social relations, their own religious and political convictions.'

Unfortunately, under a sustained propaganda campaign of co-ordinated adulation — including the weekly 'clap for the NHS' ritual, public offerings of thanks on everything from house windows to billboards, and the elevation of health professionals to 'front-line' heroes in a war on COVID-19 — the medical profession has been encouraged to view itself as the highest and final arbiter of our response to the coronavirus crisis — if not as God, exactly, then as the guardians and arbiters of His laws. And they have not been reticent in adopting this new priestly role. In response to me posting my article *Manufacturing Consent*, which examines how the criteria for attributing deaths to COVID-19 in the UK has been set by changes to disease taxonomy made by the Department of Health and Social

Care and instructions on filling out death certificates for COVID-19 published by the World Health Organisation, I was recently attacked on Twitter by a cabal of medical practitioners led by a doctor whose name I won't reveal, but who diagnosed me as 'mentally deficient' and advised me to 'get treatment'. Social media, admittedly, increases the stupidity and aggressiveness with which people speak; but I still find it worrying that a medical practitioner of some seniority should say such things in a public forum at a time of such confusion and doubt among the public about the Government's response to the coronavirus crisis. Not too long ago, the same medical attitude prescribed lobotomies for anyone who didn't knuckle down and toe the line, or collaborated in incarcerating women who refused to obey their husbands. It is perhaps not surprising that an increasingly secular population should seek hope of protection from an invisible threat when medicine has become the religion of the biosecurity state; but it is more than concerning that professors and practitioners of medicine should feel authorised to make recommendations on social policy based on irresponsible fearmongering by the Government that is quite blatantly in the service of expanding its power over the population.

These recommendations are made by the Academy of Medical Sciences in the second part of their report, titled 'Priorities for prevention and mitigation'. With nothing more than the assurance that face coverings '*could* contribute to reducing viral transmission when population compliance is high' and '*could* reduce onward transmission', the report nonetheless confidently asserts that the 'wearing of face coverings in shared indoor environments, are *vital* to preventing SARS-CoV-2 transmission'. Of more concern, however, is that in the absence of any assessment of their impact or consideration of the proportionality or justification for doing so, the authors bullishly insist that to be effective the wearing of face coverings should not be merely encouraged but made mandatory, so that doing so 'becomes a social norm'. At this point we should remind ourselves that this is a report by professors and doctors of epidemiology, virology, and immunology, not of political science, sociology or law. The exception is Professor Dame Theresa Marteau, Director of the Department of Health's policy research unit on behaviour and health at Cambridge University, who also sits on the academic advisory panel of the Cabinet Office's Behavioural Insights Team or 'Nudge Unit' that is leading the Government's management of the cornavirus crisis. Perhaps coincidentally, she once confided to the *British Medical Journal* that her first ambition was 'to become a nun, to atone for sins that in my 9-year-old mind would inexorably lead to eternal damnation'.

It's when the report gets to the question of how to ensure compliance with these measures, however, that the collusion of this new priesthood in the UK biopolitical state becomes most explicit. In response to their own question — 'How do we establish and communicate the "new normal"?' — the authors identify public engagement in the latest version of the Test and Trace programme, now retitled 'Test, Trace and Isolate' (TTI). Having identified the reluctance to put friends and

family into quarantine as compromising the effectivity of this programme, the report recommends that public information campaigns should be tailored to the educational, economic and racial characteristics of the targeted communities in collaboration with what it calls 'local leaders', among which it includes directors or public health, healthcare practitioners, doctors and religious leaders. However, the report insists that 'TTI will only be effective if it is carried out quickly, accurately, is acceptable to the public, and encompasses a high proportion of symptomatic cases.' To this end, 'testing and tracing capacity will need to be significantly expanded to cope with increasing demands over the winter.' Finally, the report advises that there are 'substantial opportunities for TTI to act synergistically with a broader surveillance system'. One is tempted to ask why the authors do not extend the imposition of such measures to reducing dementia, heart disease and cancer — the primary causes of death in the UK — by banning unhealthy foods, smoking and alcohol and mandating a healthy diet and exercise and developing an app to ensure our compliance.

It's in the chapter on how to 'optimise public health surveillance', however, that the authors of this report firmly nail their colours to the Government's mast. These are some of their highlighted recommendations, in which 'granular' means more detailed — with the more granular the data the closer the examination, and 'real-time' data that is not kept or stored, but is passed along to the end user as soon as it is collected. Together, they describe a more intrusive, more widely implemented, more totalising system of surveillance:

- *'To inform these existing surveillance systems, it is important to sustain and improve the quality and completeness of near real-time, granular data collection with more detailed reporting in time, place and person.*
- *'Targeted surveys of populations where COVID-19 incidence is high or unknown will be vital to ensure such groups are carefully monitored for early evidence of a resurgence in cases.*
- *'All collated data need to be made available to local public health and NHS providers in order to rapidly implement outbreak investigation and control. This data must also be made accessible to researchers with the linking of routine surveillance data and research platforms.*
- *'Given the complexity of all the data collection, processing and distribution involved in effective public health management of a winter COVID-19 outbreak, a single central authority overseeing and coordinating efforts would increase the likelihood of success.'*

Given the reports' willingness to provide the Government with the medical opinion it needs to implement the next stage of the biosecurity state, the authors' recommendation for this central overseeing and co-ordinating authority isn't surprising: the Government's new Joint Biosecurity Centre.

Announced by the Prime Minister on 11 May, the Joint Biosecurity Centre (JBC) is a monitoring system designed to require businesses to collect a wide range of data, including biometric samples, on their employees, customers and visitors. It is responsible for advising Ministers, local authorities and businesses to close schools, workplaces or other establishments. Like the Test and Trace programme, the Joint Biosecurity Centre is a public-private partnership — which means it will be run by private contractors and have the backing of the Government, including, if necessary, the legislation made to accommodate its intrusion into our privacy or enforce its use as a condition of access to public spaces.

To this end, the Joint Biosecurity Centre, which is based on the Joint Terrorism Analysis Centre, is responsible for setting what the Government calls the COVID-19 Alert level. This parallels and has much the same function as the UK Terror Threat Levels that the Government introduced in 2006, and which have never since dropped below level 3, substantial, indicating that a terrorist attack is 'a strong possibility'. Unsurprisingly, since the COVID-19 Alert level was introduced nearly three months ago, it too has never dropped below 3, indicating that the coronavirus is in 'general circulation'. The Government, however, is not bound by this setting level. Supposedly determined by scientific analysis of the rate of infection in the UK, the number of confirmed cases of SARs-CoV-2, and the number of deaths attributed to COVID-19, the COVID-19 alert level is set by the same Chief Medical and Chief Scientific advisors to the Government that have justified the enforcement of social distancing by police officers beyond the requirements of legislation, the lockdown of the UK for three months, the suspension of medical treatment for life-threatening diseases other than COVID-19, the mandating of face coverings in public spaces, and the collecting of personal information in public premises as a condition of entry — so we can expect the same level of compliance with unjustified Ministerial wishes and willingness to justify disproportionate Government policy. More indicative of the purpose and function of the Joint Biosecurity Centre is that it was initially headed by Tom Hurd, the Director General of the Office for Security and Counter-Terrorism, before being handed over this June to Clare Gardiner, a senior spy at the Director of National Resilience and Strategy at the National Cyber Security Centre, a branch of GCHQ. In 'Medicine as Religion' Agamben writes:

'Epidemic, as the etymology of the term suggests ('demos' is in Greek the people as a political body and 'polemos epidemios' is in Homer the name for civil war) is above all a political concept, which is preparing to become the new terrain of world politics — or non-politics. It is possible, however, that the epidemic that we are living will be the actualisation of the global civil war that, according to the most attentive political theorists, has taken the place of traditional world wars. All nations and all peoples are now in an enduring war with themselves, because the invisible and elusive enemy with which they are struggling is within us.'

6. The Utopia of Shame

As part of the production of its report *Preparing for a challenging winter 2020-21*, the Academy of Medical Sciences employed Ipsos MORI, the market-research company, to conduct three online workshops with 36 members of the public. Among the key findings from these consultations was the following observation:

'There was a general perception that "other people" were not abiding by the rules of social distancing, evidenced for many by the scenes of crowds on Bournemouth beach and also typified for some by the conduct of high-profile individuals they felt should be setting better examples. This fed a general demand among the groups that the social distancing rules be made clearer and that they should be demonstrably enforced, including through fines and arrests.'

The public did not have long to wait. On the same day, 14 July, the Secretary for State for Health and Social Care announced to a House of Commons with less than two dozen MPs present that face coverings will become mandatory for customers in shops and supermarkets, with non-compliance punished with a fixed penalty notice up to £100:

'Should an individual without an exemption refuse to wear a face covering, a shop can refuse them entry and can call the police if people refuse to comply. The police have formal enforcement powers and can issue a fine.
'This is in line with how shops would normally manage their customers and enforcement is of course a last resort, and we fully expect the public to comply with the rules as they have done throughout the pandemic.'

In response to this announcement, the Chair of the Metropolitan Police Force told BBC Radio 4:

'It will be nigh-on impossible for enforcement because you won't have a police officer on every shop door because there isn't enough of us. If a shopkeeper calls the police because someone hasn't got a mask on, they haven't got the power to detain them so that person can just walk away. We'll be driving around and around London looking for people who aren't wearing masks, it's absolutely absurd.'

On 22 July, the Commissioner of the Metropolitan Police Force confirmed that her police officers will not respond to calls about shoppers refusing to wear face coverings, and that calling the police should be a 'last resort'. She also told LBC Radio that she hoped shoppers would be 'shamed' into compliance:

'My hope is that the vast majority of people will comply, and that people who are not complying will be shamed into complying or shamed to leave the store by the store keepers or by other members of the public.'

The following day, on 23 July, The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 were finally published. Once again, these were made by Statutory Instrument under the Public

Health (Control of Disease) Act 1984; once again without prior scrutiny by Parliament of the evidence; once again without an impact assessment having been made; and once again with the absence of all of these requirements justified 'by reason of urgency', despite the Regulations being made four months since the Government-imposed lockdown of the UK and as many since the debate on the benefits and dangers of wearing masks in public began.

Under Regulation 1, these Regulations come into force in England and Wales on 24 July, 2020. Under Regulation 3, we cannot enter or remain within a 'relevant place' without wearing a covering over our mouth and nose. Under Regulation 5, a 'relevant person' can deny us entry to, direct us to wear a face covering within, or direct us to leave, a 'relevant place' when not wearing such a covering. Under Paragraph 9, a 'relevant person' is a police constable, community support officer, Transport for London officer or person designated by the Secretary of State for the purpose of these regulations. Under Schedule 1, a 'relevant place' is defined as an enclosed shop, shopping centre (but not a seated bar or cafe within it), bank, post office or transport hub. If we refuse such direction by a relevant person, under Regulation 5 a constable can remove us from such a place using reasonable force. Under Regulation 6, refusing, obstructing or otherwise resisting such powers is an offence that under Regulation 7 is punishable by a fixed penalty notice of £100, which, again, may only be issued by a relevant person. Under Regulation 9, these Regulations must be reviewed by the Secretary of State within 6 months of them coming into force; and under Regulation 10 they will expire in 12 months. None of these powers are granted to an owner, manager or member of staff of a relevant place. Indeed, the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 have nothing to do with the owners, managers or staff of the relevant places they designate. They merely extend the powers of police constables, community support officers, Transport for London officers or other relevant persons over us when in such places.

There are several things to be said about these new Regulations. The first is that — like those preceding them — they exclude the shop, bank, post-office, supermarket and shopping-centre staff, public transport employees, community support officers and police constables that are the most constant human presence in these designated 'relevant places' and are therefore — if we are to believe the Secretary of State for Health and Social Care — the primary source for the spread of the 'serious and imminent threat' the places in which they work are supposed to present. Emergency responders, too, are also exempt. In addition to these exempt persons, the following places are also excluded from the list of relevant places: restaurants with table service, hotel dining rooms, members' clubs, bars and public houses; public libraries and reading rooms; premises providing professional, legal and financial services; premises providing medical services; veterinary services; cinemas, theatres, nightclubs, dance, bingo, concert, exhibition and other public halls; conference and exhibition centres; fitness and dance studios, indoor gyms, leisure centres, indoor swimming pools, water parks, bowling alleys, funfairs,

theme parks, amusement arcades, indoor soft-play areas, skating rinks or other indoor premises for indoor sports, leisure, adventure or recreation activities; indoor sports arenas or stadia; casinos, hotels and hostels; spas, nail, beauty and hair salons and barbers; tattoo, piercing and massage parlours; storage and distribution centres; funeral directors; photography studios; and auction houses. Quite evidently, therefore, by the sheer number of public places excluded from these Regulations, they have other motivations than protecting 'public health'.

The second thing to say is that, although they can be ignored by the owners, managers and staff of the places they designate as relevant to them, these Regulations rely for their implementation not on the various UK police forces — which have admitted that they do not have the constables to police them — but on the owners and managers of shops, supermarkets and other 'relevant places'. However, since their staff do not have the legal powers to detain a customer who refuses to wear a face covering on the premises, or even to deny us entry to the premises under the powers conferred by these Regulations, staff can only make wearing one a condition of entry on the grounds that the premises are private property. This is what the Secretary of State referred to when he told Parliament that refusing entry would be 'in line with how shops would normally manage their customers'. As long as doing so does not discriminate against someone under the Equality Act 2010 — that is, because of our age, race, religion, gender, sexuality, etc — staff can already refuse to serve us, and sometimes do so if, for example, we are drunk, or abusive or threatening. The new Regulations have added nothing to an owner's rights over their private property.

What is being presented as a public measure, therefore, will in practice cause further reduction of our public rights of way over private land. This will inevitably lead, at least initially, to increased confrontation and civil disturbance in retail outlets and shopping centres. In the same way, therefore, that more and more private land in the UK is being guarded by private security guards, so too more shops — and not just shopping centres, supermarkets and banks — will employ security guards to enforce this condition. Behind the bogus reason of protecting the public from the spread of a disease that has all but left these isles, these Regulations are using the private sector to bear the financial burden of increasing the number of security guards in our public life, thereby expanding the UK surveillance state.

In the UK today, security guards, as a matter of course, wear uniforms as close as is legally permissible to police constables, often with chequered hat bands, high-visibility jackets, dark-blue clothing and jack boots. Given the British public's general ignorance of the laws under which we live, a direction from a private security guard is accepted as having the force of law, when in fact it has nothing of the kind. The owners of private property can impose wearing a face covering as a condition of entry into their shop, and announce this condition on a sign displayed outside the premises, and this makes entry without such a covering trespass. This,

however, is only a civil offence. If the owner or his or her representatives — that is to say, the manager, staff or security guard — directs us to leave the premises, to refuse to do so would then incur a charge of aggravated trespass, which is a criminal offence under Section 68 of the Criminal Justice and Public Order Act 1994. However, only a police constable has the power to detain or arrest someone for doing so, and any private security guard who tries to do so is acting illegally.

Anyone who has been following the creeping intrusion of Government measures into the public life and social behaviour of the UK will know that it will not stop here. No sooner had the Regulations making face coverings on public transport mandatory come into effect than it was announced that the Government was considering imposing the same in shops and supermarkets. The ink on the Regulations imposing the latter has not dried and already the Government has announced it is looking at enforcing the wearing of gloves to combat the spread of the virus. No one should be in doubt that the Government's aim is to make the wearing of masks and anything else its advisors can dream up mandatory in all public places.

Unfortunately, for the overwhelming majority of the UK public a sign outside announcing the wearing of a face covering as a condition of entry, the presence of a private security guard on the door, and the vague awareness of Government Regulations to this effect, will most likely be enough to ensure widespread compliance. The English don't do rebellion, except when it comes to football. More effective than all these measures, though, will be the self-policing on which the UK biosecurity state has relied for its implementation since the coronavirus crisis was declared. In England, at least, if less so in Wales, Scotland and Northern Ireland, the public 'shaming' to which the Chief of the Metropolitan Police Force referred in her interview should not be underestimated as a method of public compliance. As Twitter has tested, demonstrated and confirmed, the shaming of deviations from social orthodoxy is one of the most powerful political tools in this most obedient and ashamed of countries. The uncovered face will become the source of a shame every bit as effective for our new socio-political order as clothing is to our naked bodies. Social media is awash with the argument that, just as under existing obscenity laws we cannot enter a shop naked, so now we cannot enter a shop without our face covered. In our radically conservative times, obedience to public shaming is presented as a measure of progress. Whatever unsubstantiated or marginal medical reasons there may be behind the prohibition are no longer relevant. The time for arguing with authority is over. A covered face in public is now the new normal.

Before it becomes so, however, we should remember that there is nothing in the new Regulations compelling or empowering staff, managers or owners of a shop, shopping centre, bank or post office to enforce the wearing of a face covering as a condition of entry or service, and remind them of the fact. Like their equivalents in the pubs, bars, restaurants, cafés and other public premises instructed by the

Government to collect customers' private details as a condition of entry or service, those who do so have chosen to police the public beyond what is required by law. Most of the pubs I have visited in London since the Government Guidance on contact tracing was issued had a sign outside saying something like: 'In compliance with Government instructions, we can only serve you if you hand over your contact details'. This is legally incorrect, and around half of the staff I informed that it was, and showed the text of the Guidance clearly stating that it was a voluntary programme, served me without taking my details. The other half, however, refused. But whether it's out of ignorance or choice, indifference or obedience, shame or duty, those who police the public beyond the requirements of the law are the willing instruments of the biosecurity state, in which laws in violation of our human rights are made in contravention of parliamentary procedure and police commissioners call on the public to shame those individuals who fail to comply with them.

I have already written at length about face coverings in *The Science and Law of Refusing to Wear Masks: Texts and Arguments in Support of Civil Disobedience*, so will not repeat my discussion of the lack of evidence for their purported efficacity. But the argument for blanket masking remains the same as it was for their mandating on transport or in shops: that no matter how small the difference face coverings make, no matter how marginal their benefits, if they can save even one life they should be made mandatory. Even were it true, this is a purely medical argument, and as such its context is limited to the care of the patient's health. Consideration of these Regulations, however, go far beyond the limits of protecting public health; and medical practitioners are not the only people we should be consulting on their justification, proportionality, legality or impact.

First, living is dangerous to an individual's health. Some people like to keep their sofas wrapped in the plastic in which it was delivered from the warehouse, to place coasters between their coffee cups and the coffee table, spray every surface in their home with disinfectant, want to ban smoking cigarettes, drinking alcohol, eating unhealthy foods, stop children playing conkers and all contact sports, but these are pathological reactions to the physical realities and risks of life on which the pharmaceutical, cosmetic and health-and-safety industries ruthlessly prey. It's worth recalling that the most famous wearer of masks in public places was the pop singer, Michael Jackson, who like most billionaire celebrities considered his person to be at risk of contamination from proximity to the fans who bought his records, concert tickets and merchandise. If you're rich enough to be able to do so, never leaving your house may eliminate the threat of dying in a road accident, for example, or catching a common cold, but it's hardly conducive to a healthy life, either physically or — as Jackson demonstrated — mentally. And as for an individual so for the nation, physical health must be balanced against mental, social, economic and political health. To take just one example, an immunologist can tell us whether or not outsourcing our children's immune system to a vaccine for a respiratory disease to which they are statistically immune will have negative

physiological consequences for them in the future; but hopefully we can all understand that raising them — as the Government is instructing us to — to treat their fellow human beings as a source of harm and a threat to their well-being quite clearly has the potential to create a psychological and social time-bomb for the future of the UK. So the medical argument that making the wearing of a face covering mandatory in public is justified on the grounds that it may save a life is a flawed argument that isolates the issue from its wider context.

Second, making the wearing of face coverings in public mandatory is grossly disproportionate to the threat of COVID-19 in the UK. According to estimates by the Office of National Statistics, in the week ending 19 July just 1 in 2,000 people in England, excluding those in hospitals, care homes or other institutional settings, had SARs-CoV-2. This equates to an estimated 27,700 people, with around 0.52 new infections for every 10,000 persons. According to the most recent figures, the number of deaths attributed to COVID-19 in the whole of the UK in the week ending 10 July, was 388, the lowest number of deaths attributed to COVID-19 in the last 16 weeks, and constituting just 3.9 per cent of all deaths. By comparison, in the same week 789 people — twice as many — died from a respiratory disease other than COVID-19. The total number of deaths registered in the UK in the same week was 9,919, which is 587 fewer than the average over the last five years. Over a quarter of all deaths attributed to COVID-19 were over the age of 90. Three quarter were 75 and over. All but 35 in a population of 67.8 million were over 64 years old. Indeed, last week it was revealed that there were insufficient numbers of people in the UK infected with SARs-C0V-2 to test-trial the vaccine being developed by AstraZeneca — the multinational pharmaceutical company that has signed a deal with the UK Government to produce 100 million doses of the vaccine — in collaboration with Oxford University. No-one appears to have questioned why we should require a vaccine for a virus so few of us have and which is a threat to even fever; but this, again, is an indication that the 'severe and imminent threat' coronavirus supposedly presents to the population of the UK is a fictional construct of our Government, given scientific legitimacy by the purchased opinion of senior medical advisors, with the collaboration of the National Health Service, and disseminated by the press and media. What this data doesn't support is the mandatory wearing of face coverings punishable by a fine and prosecution.

Third, the proponents of mandatory face coverings occasionally ask what possible harm wearing one could do. I have yet to see any of them wait to hear an answer. The 'debate' on masks, if it can be called that, addresses the pros and cons of wearing one as if the Regulations making face coverings mandatory have been made in isolation from the vast number of laws being made by this Government under the cloak of the coronavirus crisis. One would think — and the noisiest promoters of masks appear to be entirely ignorant of the fact — that these Regulations are being made under normal parliamentary conditions by a Government fully accountable to the scrutiny and approval of the legislature, rather than as a distraction from the regulations and programmes which, as I have sought

to demonstrate in this article, are tearing down and refashioning the social, juridical and political structures of the UK state. The first question to be asked in any debate about whether the wearing of masks should be made mandatory, therefore, is how doing so serves the Government's ongoing implementation of the UK biosecurity state under the cloak of this crisis. This is a question for political scientists and social activists, not medical practitioners. It is a question that, in its total absence from what debate there is in both our Parliament and our media, all of us should and must ask ourselves and each other before we obediently place the sign of our compliance to that implementation over our mouths.

The press and media have framed the Government's delay in imposing face coverings on the population as a sign of its indecision and incompetence; while the Government, in turn, has explained its sudden change of opinion as the response to new medical opinion and scientific advice. In truth, it is neither. When the deaths attributed to COVID-19 were sufficiently high to hold the public in the grip of a panic the media did everything to increase and spread, the Government had no need of masks. Now, when the excess deaths on which the press relied for that panic has dropped below the average over the last five years, and even the deaths of 90-year olds attributed to COVID-19 has fallen to figures that even the most imaginative bar-charts have trouble terrifying the public with, the Government needs an easily consumed sign of the presence of what it continues to call in its legislative documents 'a serious an imminent threat to public health'. What better sign of the universal consensus to the existence of that threat than a nation masked and muzzled? Under the silencing and shaming of dissent of which the mask is both symbolic compliance (nakedness covered) and physical enforcer (speech silenced), the Government is free to continue and expand the implementation of the UK biosecurity state.

In a passage widely reproduced over the past six months by students and professors of philosophy thrown into a sudden panic of denial and denunciation by words that appear to have leaped off the pages of their academic research and into the political reality of their own lives, Michel Foucault, in his 1975 book *Discipline and Punish: The Birth of the Prison*, described the result of the measures imposed by the state when the plague appeared in a town in France at the end of the Seventeenth Century:

'The plague-stricken town, traversed throughout with hierarchy, surveillance, observation, writing; the town immobilised by the functioning of an extensive power that bears in a distinct way over all individual bodies — this is the utopia of the perfectly governed city. The plague (envisaged as a possibility at least) is the trial in the course of which one may define ideally the exercise of disciplinary power.'

Foucault called this utopia the 'political dream of the plague'. Over three centuries later, in the course of a trial that has already found us guilty, that dream is coming true in the dystopia of our present.

Addendum: The Lockdown of the North

Today, 31 July, as we publish this article, Greater Manchester, East Lancashire and parts of West Yorkshire have been placed under lockdown. Last night, the Secretary of State for Health and Social Care announced that, since households in these areas have been ignoring social distancing measures, from midnight people from different households in these areas are banned from meeting each other indoors, either in their own homes and gardens or in pubs, restaurants, cafes, shops, places of worship, community centres or leisure and entertainment venues. To enforce compliance, the Government also announced it will pass new laws to enforce the changes to people meeting in private homes and gardens. The police will be empowered to take action against anyone who breaks these rules, including directing people to disperse and issuing fixed penalty notices starting at £100. The Secretary of State said he would do 'whatever is necessary to keep the country safe'.

Following the lockdown of Leicester on 17 July, and which remains in place today, this latest localised lockdown has supposedly been imposed in response to what the Department of Health and Social Care calls 'an outbreak of coronavirus' in these areas. Although the Government provided none in its statement, the purported evidence for this outbreak is that, according to the records of Public Health England, the number of 'cases' in the populations of North-west England and Yorkshire and Humber is currently 629.4 and 581.6 per 100,000 residents (or 0.62 and 0.58 per cent of the population), compared to 485.4 and 457.7 in the East and West Midlands (0.48 and 0.45 per cent). As with all the decisions it has made during the emergency period, the Government hasn't revealed what constitutes an 'outbreak' justifying such measures; but in the locked-down areas these are the recorded number of cases: the City of Manchester 3,235, Trafford 1,415, Stockport 1,728, Oldham 2,102, Bury 1,341, Wigan 2,177, Bolton 1,976, Tameside 1,599, Rochdale 1,854, Salford 1,446, Blackburn with Darwen 1,374, Burnley 483, Hyndburn 382, Pendle 568, Rossendale 299, Bradford 4,988, Calderdale 854 and Kirklees 2,415. This makes a total of 30,236 cases.

To put these numbers in context, there are a 260,534 recorded cases in England, over 35,000 of them in London alone. Crucially, despite its equation in Government statements with COVID-19, a 'case' means only that a positive test for SARs-CoV-2 has been made, not that the person tested is ill or symptomatic. This is a distinction that is always made in infectiology but has been almost entirely ignored during the cornavirus crisis. A more accurate assessment of the threat to public health represented by around 0.6 per cent of the regional population being infected with SARs-CoV-2 is that, in the week ending 29 July, the NHS recorded a total of 7 deaths attributed to COVID-19 in the North-west of England and 4 in the North-east and Yorkshire. Despite this

evidence against its justification or proportionality, this lockdown, imposed under emergency powers, has suspended the rights and liberties of 6.6 million people.

Having declared this 'outbreak', this afternoon, in an address to the nation, the Prime Minister promised a greater police presence to ensure face coverings are being worn where this is required by existing Regulations, and that the Government will be extending the requirement to wear face coverings to other indoor premises, such as museums, galleries, cinemas and places of workship, with the Regulations necessary to enforce this coming into effect on 8 August. This is the UK biosecurity state in action.

Simon Elmer

Architects for Social Housing
Part 2 of this article, 'Normalising Fear', will be published in August.

Link to article:
https://architectsforsocialhousing.co.uk/2020/07/31/the-new-normal-what-is-the-uk-biosecurity-state-part-1-programmes-and-regulations/