

Introduction

I am a retired 78 year old lay person. As a citizen I am pleased to have this opportunity to make this submission to the Commonwealth's inquiry into its response to the COVID 19 Pandemic. My family and I have been typically impacted by the Commonwealth's response, and no special or unique features are provided. Rather, these comments should have broad or general application to most Australians.

This submission primarily addresses the "Governance" term of reference.

Key Points

The key points are: I hated the physical, social and psychological impost of any lock down. I highly value our freedom of travel, association and amenity. Government needs to properly safeguard these basic freedoms as they are precious. Ineffective lock downs in the unproven name of health safety were a gross over reach and this needs to be captured. Let us not just knee-jerk on the side of safety, with no appreciation or accountability for society's full costs of those actions.

I did however also hate the prospect of my death in a pandemic! Judgement and balance are called for. With the benefit of hindsight, I would choose a "zero constraint" i.e. "let it rip" strategy, rather than ostensibly the extreme risk aversion response that was adopted. But I am pleased I didn't die of COVID!

Issues and Solutions

Federation of the Commonwealth

Of course the perennial issue for epidemics and Health in Australia is that we are a Federation. There is accordingly the problem of the Commonwealth and the States (Territories deliberately excluded here) with their respective incompatible Constitutions and Sovereignties, all-be-them with the same King of England.

The issue of State borders and the policy or health directives of the Commonwealth imposing certain spatial constraints or local lock downs had different effects. Individual State and Territories' unilateral responses are a fundamental structural reality in the management of all national crises. It certainly isn't going to go away before the next pandemic, if ever! This inquiry needs to explicitly address this Issue.

Ministerial Responsibilities

That the PM of the day felt the need for the GG to secretly swear him into multiple Ministries and that the GG agreed was surprising, because it is unusual! This in particular should be an explicit focus of this Inquiry. It goes to the essence of Governance.

There may in fact be a good reason for that secrecy to have been adopted, but the public and the Ministers concerned were not apprised of this. It could portend a significant short coming in the established arrangements, however given that Australia did manage several world wars and other

emergencies effectively under the existing arrangements; it seems unlikely that even a pandemic like COVID 19 would warrant such extraordinary exceptions.

It will be particularly interesting to learn what the Inquiry makes of the secret emergency powers bestowed on the PM by the GG. Similarly the secrecy of the GG in this too is of some public interest. Ideally any exercise of such powers by the GG should be immediately publically gazetted for all to see.

Even if Australia was to become a republic and vest all Commonwealth sovereignty in the Australian Head of State (HoS) and abolish the GG and British Sovereignty, the States still retain their independent Sovereignty through their respective State Governors, directly from the King

National Cabinet

National Cabinet is an interesting concept. It has the lofty goal of finding national solutions, but the political reality is there are separate sovereignties of the Commonwealth and each of the States. They have different jurisdictions, different constituencies, and different political parties. There is no common authoritative instrument constituting National Cabinet.

Notwithstanding some particular national crisis, some political situation will make it expedient for dissent by one or more members of national cabinet, from an otherwise national consensus. This is the reality of Australian Politics. It might even be a good thing?

National Cabinet is ostensibly a good idea. It comprises the PM and his sovereign powers conferred by the Constitution and exercised through the GG. The six State Premiers and their sovereign powers are exercised through their respective independent State Governors. National Cabinet of course also includes the First Ministers of the Australian Capital Territory (ACT) and the Northern Territory (NT), but the two Territories have no sovereign powers, other than those bestowed indirectly through the Commonwealth and the GG. Accordingly, the National Cabinet has no singular statutory or sovereign power; its authority is vested solely in the good will of its members.

National Cabinet can do anything that it collectively agrees to do. However, no member is obliged to agree or be bound by anything that National Cabinet proposes. It consequentially can only produce a lowest common denominator result. National Cabinet is therefore useful only where there is consensus, but it does provide a visible vehicle through which to inform the nation of such agreements.

A National Cabinet is nice to have; if we didn't have one, then the pandemic would have certainly created one anyway. There was of course COAG which is taken here as the predecessor of National Cabinet, which also functioned beyond just epidemics. Although it has no real teeth, National Cabinet is probably still useful. This inquiry should consider how National Cabinet might be authoritatively improved, particularly for future national Health responses.

There is nothing to bind any member of National Cabinet should they not agree with any particular proposal. To the extent that both sides of the political spectrum can simultaneously be in National Cabinet, makes it a unique and convenient forum. However, the independent and separate sovereignty of each member is always just below the surface.

Establishing authoritative power for National Cabinet is a non-trivial problem. The options probably comprehend: Revolution; through National Cabinet; on to Do Nothing. The latter option is probably the comfortable default position for any complex issue presented to National Cabinet! Any proper solution is way beyond scope here. Referendum?

On-shore mRNA Capability

Australia's development of virus sera and immunology has to be commended. Especially the establishment of on-shore production of mRNA vaccines and associated technology is a very good thing.

Short of market forces, it may not otherwise have happened without the impetus or aspiration of a national response to the COVID 19 epidemic.

These benefits ought be highlighted and rightfully celebrated by all Australians.

National COVID Phone App.

One unfortunate governance artefact was the need for us all to load the National COVID 19 Application onto our mobile phones. It proved to be a gigantic flop. These sorts of ideas need to be better conceived and more rigorously developed before significant resources are consumed by them. The benefits realised by that particular fiasco appear to be zero!

The approval authority, for the public money squandered on this project, should be identified and they should be professionally disciplined. The relevant subordinate system engineer (if there was one!) should similarly be dealt with and sent on appropriate systems engineering or requirements development update and retraining.

Ministerial accountability and executive responsibility are never the fault of the enthusiastic technologists, no matter how good they may otherwise be. Ministers and Senior Executives can properly delegate authority, but they can never delegate their personal responsibility.

Commonwealth Leadership

The TOR here, explicitly exclude the Inquiry from addressing unilateral action by individual Premiers, however, there are some national response issues arising from those actions for which the Commonwealth should account.

One particularly unfortunate case was where my wife's sister died in a regional QLD hospital during the pandemic. We obtained medical certification, by a Doctor at the Hospital, that she was terminally ill (not from COVID) and only had days to live. We presented this letter to the QLD border control authorities seeking compassionate exemption to travel directly and exclusively to see her.

The request was denied and we were unable to visit her before she died. The point here is that the national epidemic response plan should take a risk management approach for individual compassionate exemptions, especially where valid documentation is provided.

Perhaps National Cabinet could establish such compassionate exemption protocols?