

Dear Premiere, Chief Health Medical Officer and Minister for Emergency Services,

WA - Mr Reece Whitby;
NT - Nicole Manison;
SA - Vincent Tarzia;
Qld - Mark Ryan MP;
NSW - David Elliott MP;
ACT - Mick Gentleman;
Vic - The Hon Lisa Neville MP;
Tas - Mark Shelton.

RE: The Use of Emergency Powers by the States During COVID

Thank you for serving Australia in your capacity in Parliament. Your public service to your constituents is truly an honour and a privilege not to be taken for granted.

I wanted to share my personal story with you in relation to the above matter.

I also wanted to share some of my legal and human rights concerns with you.

1. Given my rights as a Citizen of Australia, a constitutional democracy, your job is to represent my views in parliament according to jurisdictional delegation of [section 51 to section 60 of the Australian Constitution](#). This means that I have the right to consider any and all legislation before Parliament and give you my opinion on these laws. I would now like to raise concerns I have about how the emergency Powers are being used here in WA.

2. As you know, [Section 92 of the Constitution](#) is clear: trade, commerce and intercourse between the States shall not be restricted - on any grounds. Equal consideration needs to be given to [Section 104 of the Australian Constitution](#) here. Restricting trade and commerce between the states within Australia is a violation of our right to freedom of movement within the ICCPR and as per the international legal principle of state sovereignty. For far too long now, small and family businesses have been affected by lock-downs economically.

[Section 122 of the Australian Constitution](#) disallows a conflict between State laws and Federal laws. Therefore, Federal law takes precedent over state-based laws.

What will you do to ensure these lock-downs no longer occur in violation of our Constitution, and no longer cripple our small and family businesses?

3. [Section 60 and 61 of the Biosecurity Act 2015](#) states that "*authorised officers*" cannot detain, force persons to undertake COVID testing or be forced to be vaccinated, or be quarantined or enforced to socially distance or wear a mask unless and until the person receives a Biosecurity Order by the Court on the grounds of infection or a known tested infectious disease; evidenced scientifically and medically.

4. Furthermore, the COVID App and the 'mandatory' use of force of the app within our communities as we go about our every-day lives is in direct breach of [section 94H the Privacy Act 1988](#).

There are no laws 'mandating' the use of the COVID app. The 'mandate' to use the COVID app is not legal, but a mere policy measure, a suggestion of use, and is entered into voluntarily by its users. Legal academics have made it clear that [the use of contact tracing surveillance on citizens en mass is illegal](#) and in violation of our international human rights.

In fact, businesses cannot refuse customers on their refusal to use the COVID app based on the legal principles of discrimination, clearly laid out in our [anti discrimination laws federally](#).

The 'COVID safe App' has also been reported to be used by Police officers for criminal investigative purposes in violation of [s94F of the Privacy Act 1988](#).

5. The State Governments, including their Premiers or Chief Ministers, the Chief Health Medical Officers and the Ministers for Emergency Services in each State and Territory in Australia have not provided conclusive, transparent legitimate (backed up by scientific evidence) and legally justifiable evidence to satisfy the legal provisions of [section 52 of the Emergency Management Act 2005 \(WA\)](#), which deals with the extension of the state-based Emergency powers every 14 days since March 2020 up until now.

This section of the Emergency Act deals with the “*Extension of Emergency Situation Declaration*” when an “*emergency*” is defined in the legislation as: “*the occurrence or imminent occurrence of a hazard which is of such a nature or magnitude that it requires a significant and coordinated response*”.

As my elected representative and Minister overseeing this portfolio, can you please provide the adequate scientific, medical and legal evidence to satisfy these legal provisions?

As I am sure you are aware, these provisions exist in the Act to ensure that the restrictions are for a proper purpose, that they are proportionate to the imminent threat, and that they are for a restricted time-frame, based on the evidence required to be provided.

These legal measures are also there to ensure that there is not an over-reach of your powers.

Could you please provide the scientific, medical and legal evidence that our State has had “*the occurrence or imminent occurrence of a hazard which is of such a nature or magnitude that it requires a significant and coordinated response*”?

Indeed, this is your duty and responsibility in your role as the Emergency Minister for WA, as you have signed off on the extension of these extra-ordinary powers.

6. Given that the [Therapeutic Goods Administration](#) states one death of COVID in the last 6 months, true recorded cases of COVID do not seem to be severe enough to justify a State of Emergency.

On the other hand, [in the week of 28 June - 4 July 2021, 1,646 adverse health reactions from the COVID vaccines](#) were received by the TGA, with a total of 36,387 reported adverse health reactions from the COVID vaccine to date.

The current health-threat of the COVID vaccines far-outweighs the current threat of COVID.

COVID vaccinations of any kind cannot be legally mandated to any group or cohort in Australia, as it will be found unconstitutional.

[Section 51 \(xxiiiA\) of the Australian Constitution](#) clearly states that no form of civil conscription can be made in relation to medical services: “*the provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorise any form of civil conscription), benefits to students and family allowances*”

Mandated vaccines are therefore unconstitutional and in violation of the highest law in the land.

The directives given by State Premiers, Chief Health Medical Officers and the extension to emergency powers by Emergency Services Ministers are in violation of legal and parliamentary principles such as due process, transparency, representative government and the inalienable rights and freedoms of citizens, as recognised by international law, such as the International Covenant on Civil and Political Rights.

Lock downs, mandatory mask-wearing, COVID app compliance directions which we are receiving from our Premiere are in fact in direct contravention of the Commonwealth

Biosecurity Act of 2015 and unjustifiable with proper evidence under the Emergency Act 2005 (WA).

This over-reach of your powers over your constituents is a violation of our rights to freedom of movement, freedom of association, freedom of speech and religion under the International Covenant on Civil and Political Rights, which have all been compromised under COVID restrictions.

As State-based emergency powers in each State and Territory have been extended without proper evidence, without due process or transparency in Parliament as well as a lack of accountability before its constituents, State Governments and their Premiers and Chief Ministers in ACT and NT no longer have the authority to act under such powers legally, especially in consideration of [section 107 of the Australian Constitution](#).

We must not allow our fears of COVID to totally undermine our inalienable God-given freedoms and rights, to violate the principles of rule of law, and to abolish parliamentary due process and other legal principles that ensures the separation of powers, and a balance of those same powers.

It is your duty as my elected representative to provide the scientific, medical and legal evidence that the Emergency Powers from which you are operating currently are legitimately and legally justified as per [section 52 of the Emergency Management Act 2005 \(WA\)](#).

Please provide this medical, scientific and legal evidence to us, your local constituents as a matter of urgency and in the national interest of our economy, sovereignty and our future as a nation.

Please be vigilant of the true stealth enemy that seeks to divide Australians, to destroy our economy and instil fear into its citizens, and please do me the courtesy of responding to my letter.

We know for a fact that the [World Health Organisation \(WHO\) and China have acted deceitfully thus far](#). WHO have not accurately represented the threat of COVID in a timely manner, and they have been accused of acting as [China's accomplice](#) in initially suppressing information about the coronavirus. Beijing hid information about the virus's origins, infectiousness, spread, and deadliness for more than a month when it was first released in December 2019.

Parliaments here in Australia have withheld crucial information from their people and engaged in the equivalent therefore of espionage and treason, while the CCP seeks to infiltrate our economy, freedoms and way of life. As a refugee child from a Communist country - I cannot stand idly by and allow this to occur to my country - which I love so dearly.

Make no mistake: Australia is in the middle of a [Biochemical Warfare with China](#), and we have fallen asleep at the wheel.

It is up to us to protect and preserve our God-given inalienable freedoms and rights - will you stand with me on the right side of history, and against tyranny and oppression?

Please also take note of the **Legal Briefs** addressed to you by the [Concerned Lawyers Network](#) in Australia attached herewith, with [following data on their website here](#).

“Having heard all of this you may choose to look the other way but you can never again say you did not know.” - William Wilberforce

Andrea Tokaji (JD GDLP LLM PhD Candidate)

Monday, 26th July 2021