Governing the Pandemic: Democracy at the time of Emergency

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State of Emergency

The UK, like many other countries across the world, is currently in a state of emergency as the government scrabbles to deal with the consequences of the Covid-19 pandemic. The notion of emergency, unlike that of crisis, doesn't suggest a critical turning point, with a direct and immanent solution (Calhoun, 2004). It is instead a moment that occurs between an event and an outcome, where the future is still emerging and is subject to a course of action. As such, governing emergencies is inherently political (Anderson and Adey, 2012). Calling into action a state of emergency justifies extraordinary exercises of power by governments which would otherwise be unacceptable, on the basis that rapid and urgent decisions should be made to control the event. Thus, in the name of emergency and urgency, democratic safeguards are often suspended, checks and balances are often uncoupled (Davoudi, 2014) and politics are said to be set aside. In this viewpoint, we show some of the ramifications of undoing these democratic processes in general, and planning practice in particular and call for vigilance in the governing of this pandemic.

We are already beginning to see international examples of the pandemic being used for party political gains, and democracy, in particular, is becoming a casualty of the current state of emergency. In Hungary, Prime Minister Viktor Orbán has made an explicit challenge to democracy by effectively suspending it through emergency legislation in response to the pandemic, allowing his party to govern unchallenged indefinitely. In other places, the pandemic is being enlisted to conquer specific ongoing political contestations, such as Turkey's passing of an amnesty bill that will see the release of thousands of prisoners (in order to curb the spread of the coronavirus in jail), but excludes prisoners controversially held for association with a coup against President Erdogan. Such power grabs are driven by political agendas which explicitly undermine democracy. But this pandemic comes at a time when more apparently 'secure' democracies are also under threat. And democracies may also die, not only at the hands of military coups, or sudden and clear power grabs by authoritarians, but through less visible and gradual erosion. An accumulation of smaller moments of 'democratic backsliding' (Levitsky and Ziblatt 2018: 6), which are often legal can slip under our democratic radars. Within the current moment of emergency, we must be attuned to the undoing of the checks and balances that hold democracy in place. This pandemic is unfolding at a time when there is already a growing concern about the state of democracy in the UK (Flinders 2020).

Democratic condition

An increasing dissonance between citizens and political parties through declining memberships, fractured political identity, falling voter turnouts and general disillusionment has been identified across western democracies (Pemberton and Whickham Jones 2013; Walby 2015; Davoudi and Steele, 2020). Positioning these moves as symptomatic of mature systems of democracy, Crouch (2004) makes a compelling case for a 'post-democratic' condition wherein disengagement with long standing political parties in a representative

democracy makes spaces for other forms of identity and populism to emerge. He draws on the experience of Silvio Berlusconi's Forza Italia Party to highlight the rise of entrepreneurs who counter traditional politics; a trend that is similarly found in President Trump's USA and Nigel Farage's nationalist UK Independence Party and their role in the 2016 referendum to leave the European Union. In these cases, trust in mainstream politicians and systems of governing has been called into question. Through the buttressing of 'friend' and 'enemy', nationalist and anti-immigrant rhetoric, alongside party political propaganda, a diminished tolerance of 'others' has emerged with a sharp line drawn between 'us' and 'them'. In the UK, Brexit in particular was a significant moment in setting deep divisions amongst people, with weakling tolerance of alternative opinions. When the political system is no longer able to contain dissatisfaction, there is a risk of a political crisis spilling into a democratic crisis (Walby, 2015).

A key indicator of such a crisis is the waxing and waning of trust in politics which Flinders (2020) suggests is happening at a greater pace and in the form of a chain of events during this pandemic. Starting with a renewed trust in governments and a 'rallying round the flag effect' (Flinders, 2020), there is often an initial surge in support for government as people seek leadership for getting them through, and out of a crisis. This rallying is often accompanied by a reluctance to 'make things political' (as we mentioned above) by challenging the course of action set out. Gradually, this collective support for government will fade away and become replaced by 'blame games' and a tidal wave of aggressive 'blame shifting' (Flinders, 2020) at the national and international levels. A well-known example of the latter is Trump Administration's labelling of the Covid-19 as a 'Chinese Virus'. The UK reaction to Covid-19 pandemic maps onto this chain of events as we saw an initial heightened level of trust in, for example, the government's 'stay at home' instruction, followed by expressed doubts about its subsequent 'stay alert' message. It is within this state of turmoil that democratic accountability and scrutiny in public decision making can be easily undermined, as we discuss below in relation to the planning system in England.

Emergency and the threat to democratic planning

Whilst democracy may not be as overtly threatened in the UK as it currently is in some other places, there remain causes for concern. For example, concerns have already been raised about the lack of Parliamentary scrutiny of the executive decisions taken by the Cabinet at the informative stages of devising strategies for lockdown, for hospital admissions, and for the provision of Personal Protective Equipment (PPE). The Institute for Government in particular has called for the government to "engage with ordinary forms of parliamentary scrutiny" in order to make better, collective decisions (Hogarth, 2020:3). There have also been major concerns over the initial lack of transparency of Scientific Advisory Group for Emergencies (SAGE) both in terms of the identity of its members and its evidence-based decision making (Sample and Mason, 2020). The information about the members and the minutes of their meetings was eventually published on government's website but only after immense media pressure.

There have also been changes to the English planning system with far reaching consequences for transparency, inclusion, scrutiny and side-lining of democratic processes. Although caution should be applied in seeing the world through a post-political lens - which can risk

overlooking political achievements (Ormerod and MacLeod, 2019) – closer attention should be paid to the depoliticising tendencies of the workings of governance (Darling, 2014) and the consensus-seeking politics that tend to foreclose meaningful debates and suppress political conflicts. Planning has not been exempt from these broader trends. On the contrary, it is within legal and quieter registers of power in planning that we find political moves which close democratic doors. The pandemic is quietly adding to such registers.

The introduction of the Coronavirus Act 2020 has created emergency measures to streamline services, such as the registration of medical and health care professionals; the temporarily closure of other services, such as schools and ports; and, increased powers for the police. The passing of the Act through primary legislation – rather than emergency legislation under the Civil Contingencies Act 2004 – enabled a degree of parliamentary scrutiny, albeit rapidly, allowing for amendments to be made. While this process increases the legal certainty of the Act, it reduces the safeguards for scrutiny after its assent. Thus, the Act is open to review after six-month periods (as opposed to 30 days under Civil Contingencies Act) and does not allow for regulations to be struck down for incompatibility with the Human Rights Act 1998 (Hogarth, 2020). These are important facets of the powers unleashed by the Act, in terms of future accountability.

At the local authority level, the Coronavirus Act has suspended local elections, referendums and combined authorities' mayoral elections, and the recalling of Members of the Parliaments for a period of twelve months. It has also made changes to local authority meetings including: flexibly in "the requirement to hold meetings"; the duration and frequency of meetings; the place of meetings; and, critically, "the manner in which people attend, speak at, vote in, or otherwise participate in [...] meetings". The Act has also made changes to "public admission and access" to the meetings, and "the places at which, and manner in which, documents relating to local authority meetings are to be open to inspection by, or otherwise available to, members of the public" (The Coronavirus Act 2020, Section 78 (1) and (2)).

Regulations following the Act have seen local authorities across the country reviewing their decision making and democratic processes, expanding schemes of delegation to give officers emergency decision-making powers. For example, Cornwall Council have temporarily suspended planning committees (where decisions are ordinarily taken by elected members) and replaced them with increased powers for planning officers to make decisions until planning committees are offered virtually. Gateshead Council have temporarily added to their scheme of delegation, allowing the Chief Executive and the Strategic Directors to deal with decisions normally considered by the Council Cabinet (i.e. elected members) 'in consultation' with each other and the Leader of the Council or appropriate cabinet member. Whilst not expressly un-democratic moves, given the circumstances, these changes can rapidly become 'normal' and decision making can be gradually removed from the democratic structures and its checks and balances. It is these smaller, cumulative changes that call for vigilance so that we do not lose sight of transparency, scrutiny and representation.

Furthermore, new powers to hold meetings virtually are being interpreted differentially by different local authorities. There is a growing concern that key decisions on controversial issues are being made outside of the public realm. A campaign group - comprising CPRE the

countryside charity, CPRE London, Friends of the Earth, Just Space, London Forum of Civic Amenities and Societies and the Town and Country Planning Association – are calling for safeguarding measures to protect public voice through maintaining planning committees virtually, making them accessible to the public, and offering flexible deadlines for them to respond (Edgar, 2020).

Knowing that democracies can fall through tiny cracks in its checks and balances, it is vital that planning not only holds onto and protects important democratic processes in decision making, but also strive to enhance them. In addition to the planning's key role in the long-term responses to the Covid-19 crises, we suggest that the pandemic should also be seen as an opportunity to further democratise planning. By this we mean going beyond understanding democracy solely through representation and rethinking planning beyond what has often become tokenistic forms of 'consultation' and 'participation'. This means building more meaningful forms of inclusion that does not position consensus building at its core, but instead is more open to meaningful conversations about what places we want to make, and allowing space for agonism and real debate that does not look to smooth over contestations by disavowing certain voices.

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