



IDENTITY CRISIS

The case against ID cards

by Peter Lilley MP

The Bow Group

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- To provide a forum for its members to meet socially and to discuss policy issues;
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SUMMARY

- The Government's plan for compulsory identity cards is a bad idea, in a bad bill, introduced for the worst possible motives.
- Compulsory ID cards would not address the real problem in tackling organised crime, terrorism and illegal immigration, which is not identifying suspects but proving them guilty or removing them. ID cards simply divert resources away from this area.
- Public support for ID cards rests on the mistaken belief that most immigration is illegal coupled with ignorance of the fact that all illegal immigrants can, and most do, claim asylum at which point they are already given an ID card. Most supporters of ID cards believe the police will check the ID of anyone who looks 'foreign'. Yet that would be odious and unsustainable since it would force ethnic minority citizens constantly to justify their presence.
- The public sector's record in the successful implementation of IT projects is woeful; and this would be the biggest yet.
- Biometric technology still involves high levels of error. At present success rates, even if each UK citizen only had their card checked once a year, 4 million people would be falsely accused of not being who they are.
- On the government's own figures the cost is huge - £5.5 billion over ten years – so a passport/ID card will cost £85 per adult. All past experience and independent experts suggest the cost could easily double. **This could be Labour's poll tax.**
- If the scheme does not require everyone to carry and produce cards at all times the claimed benefits would largely disappear.
- Yet if carrying cards is made compulsory even leaving home without one would be an offence; failure to notify a change of address means a £1,000 fine and failure to register means a £2,500 fine.
- The introduction of compulsory ID cards in peacetime has been the preserve of fascist and communist states; such plans have always been intended to control their citizens. Common law countries have all rejected them in peacetime.
- In sum, compulsory ID cards represent an unjustifiable encroachment on liberty in return for at best minor benefits, and at huge financial cost which would be better spent on more police or better control of our borders.

CHAPTER 1

INTRODUCTION

The proposal for compulsory identity cards is not new. It has been hawked round Whitehall for decades and offered to every new minister looking for an eye catching initiative. When this government finally swallowed the idea, I remarked to a senior civil servant that the whole saga was worthy of an episode of 'Yes Minister'. He replied: "You thought 'Yes Minister' was a comedy – now you know it's a documentary!"

Whenever ID cards were considered by the last Conservative government I described them as 'a solution looking for a problem'. On examining each potential problem, ID cards were found to be a largely illusory solution. It emerged that:

- the police rarely have any difficulty identifying suspects – only proving them guilty;
- terrorists normally conceal their intentions rather than their identities;
- benefit fraudsters usually misrepresent their circumstances not who they are;
- and all illegal immigrants can, and most do, claim asylum whereupon they are already required to have an identity card containing their finger prints and photo.

Of course, if circumstances had changed since then and it could be shown that ID cards could, in particular, make a substantial contribution to tackling terrorism and saving lives, I would have to reconsider my opposition to compulsory ID cards. Like most Conservatives I do not believe there is some

absolute principle which rules them out in all conceivable circumstances. For example, they were accepted as a regrettable necessity in wartime.

The government suggest the attitudes of the police, security forces and other departments have changed and cite statements from them supporting compulsory ID cards. Such statements are not in themselves very compelling. Officials will always support government policy in public. That is their job. Given the willingness of the security services at government behest to stretch the evidence in favour of the existence of weapons of mass destruction in Iraq we should treat their support with a degree of scepticism.

The acid test of whether a department really finds a policy valuable is whether it will make a contribution from their budget towards that policy. Ministers refuse to address that question. But it is clear that no departmental contributions are forthcoming since the entire cost of the ID card system (currently put at £5.5 billion over ten years) is to be born by the users – at £85 per adult.

In opposition Tony Blair said:

“Instead of wasting hundreds of millions of pounds on compulsory ID cards as the Tory Right demand, let that money provide thousands more police officers on the beat in our local communities.”¹

Now the cost has risen to billions of pounds he prefers to waste that on plastic cards rather than policemen. I believe his change of heart is entirely cynical.

It reflects government by focus group. The focus groups showed that the public felt the government had failed on crime and immigration; the Conservatives were trusted to do better; and Michael Howard was a successful Home Secretary who reduced both crime and immigration. Focus groups also showed that the public believed ID cards would help tackle both problems. So Blair is pressing ahead with ID cards to create the impression that he is being tough on crime and immigration.

Having adopted the idea cynically, the government embraced them wholeheartedly because ID cards fit squarely within the New Labour mould. They have the smack of modernity – witness Ministers’ talk of biometrics, smart cards and new technology; they are nakedly populist; they make Britain more like our European neighbours, many of whom have identity card schemes of one sort or another²; and they reflect New Labour’s desire to nanny and control us.

Finally, Blair hopes a docile media can be persuaded to focus on differences of opinion about this issue in the Conservative Party rather than in his own ranks. I profoundly respect Michael Howard’s consistency on this issue as

¹ Speech to the Labour Party conference Oct 1995

² It is notable by contrast that Britain’s common law counterparts such as Australia, New Zealand and the United States have all firmly resisted identity cards (see further below).

much as I despair of the shallow opportunism of both Blair and the Liberal Democrat home affairs spokesman, who have both flip-flopped on this issue.

But those of us who have reached a different conclusion have an obligation to expose both the hypocrisy and weakness of the Labour government's case and the dangers compulsory ID cards pose for ancient liberties - which all Conservatives and most of our fellow citizens cherish.

CHAPTER 2

IMAGINARY BENEFITS

When the government first announced its conversion to ID cards it was under attack for waste in the public services. So it called them Entitlement Cards, frankly admitting that it would have little role to play in combating terrorism.

When the government came under attack for their failure to control immigration, they said that the ID Card's "primary purpose" would be to control illegal immigration.

When the focus groups told them that they were lagging behind the Conservatives on crime, they said that the primary issue was to control crime.

Now, because they want to frighten us ahead of the election with the threat of terrorism, they claim ID cards are essential to control terrorism.

There is a general rule, to which I know of no exceptions, that when a government keeps shifting the grounds on which it justifies a measure that means it lacks any solid justification at all. Let us examine a little more closely the reasons they give for their compulsory ID card scheme.

Crime

The Metropolitan police told the Home Affairs Select Committee:

"We have seen no evidence either here or in previous debates, that suggests the introduction of an identity card will in itself lead to a reduction in crime or an increase in detection rates."

The Chairman of the Police Federation of England and Wales, Mrs Jan Berry, expressed more enthusiasm for ID cards. But when asked to be specific about their uses mentioned only situations where they would be helpful if

members of the public were required to carry them at all times which the government says will not be part of their scheme.³

Terrorism

The government's original consultation document⁴ listed eight possible benefits from introducing what was then called the Entitlement Card. Combatting terrorism was not among them - even though 9/11 was still fresh in people's minds.

That initial scepticism has been born out in practice. The worst terrorist atrocity in Europe – the Madrid bombing – was carried out in one of the few countries which make it compulsory to carry an ID card at all times. They likewise failed to stop the bombings in Istanbul. And those who planned the 9/11 attacks chose to do so from Germany which requires its citizens to have an ID card though not to carry it – much as the Labour Government proposes here. The perpetrators of 9/11 then travelled to the USA under their true identities.

The main problem with terrorists is finding and apprehending them, not identifying them once apprehended. When pressed, British ministers admit as much (although this has not stopped them redeploying the argument thereafter). David Blunkett was forced by one of his own MPs, Chris Mullen, to concede to the House that:

“I accept that it is important that we do not pretend that an entitlement card [as it was then known] would be an overwhelming factor in combating international terrorism.”⁵

They fall back on the argument that at least ID cards would create additional obstacles for terrorists to overcome. Nonetheless, it will not be much of an obstacle to foreign terrorists since the one group *not* required to have an ID card are foreigners who come here for less than 3 months at a time.

Recently ministers have claimed that “35% of terrorists use false or multiple identities”⁶. No source is given for this figure. The Regulatory Impact Assessment of the Identity Cards Bill states that:

“At least one third of terrorist suspects are known to have used more than one identity either for facilitation or planning the commission of terrorist acts.”

Interestingly, it does not claim that false identities are used by those *committing* terrorist atrocities. Indeed the document goes on to admit “The risk is mainly focussed on the use of false identities for facilitation”. The only

³ Reply to Q269 in Ev 41

⁴ Cm 5557 July 2002

⁵ Hansard, 3 July 2002

⁶ Hansard 17th May 2004 col 773W

example the authors of this document cite of an (attempted) terrorist act where “the issuing of identity documents [may have] increased the risk of commission of terrorist acts” is “the ease with which Richard Reid (‘the shoe bomber’) was able to obtain more than one passport”. In fact even he went on his mission under his true identity.

At most, that example can justify introducing biometric identifiers into passports to prevent one individual holding more than one British passport under different names. Even that will not stop terrorists and their “facilitators” holding passports from more than one country in different names.

Benefit Fraud

There is a common assumption that much benefit fraud relies on claiming under false identities. I probably shared that view when I started a drive against fraud as Secretary of State for Social Security. In fact we found the overwhelming majority of fraud involves misrepresenting circumstances – for example, claiming out-of-work benefits when working. The Government now estimates that total benefit fraud involving false identities is between £20-50 million a year which is about 2% of total benefit fraud.

The main focus should be on stopping the other 98%. But even to deal with the 2% of cases which are based on identity fraud does not require an identity card. Tightening up on the use and issue of National Insurance Numbers will help. Unfortunately a significant element of identity fraud involves accomplices inside the DWP who would also be able to circumvent an ID card.

Although opposed to a compulsory national ID card scheme, as Secretary of State I launched a Benefit Payment card to replace giro cheques and order books. These were a very insecure means of payment leading to losses through theft and forgery of about £150million a year. Only those in receipt of benefit payments via post offices – around 15 to 20 million people – would have had these cards. The system adopted had already been introduced in the Irish Republic which had a similar welfare system and post office payment network to the UK but covering about a million beneficiaries.

Nonetheless, two years into the Labour government they decided to abandon this project at some cost to the tax payer. It was proving too complex to scale up a system which had worked for 1 million people in Ireland to cover 15-20 million in the UK. At very least this raises doubts about the feasibility of operating an entirely untried and tested ID card system covering 60 million people.

Illegal immigration

The overwhelming reason why the public support compulsory ID cards is their belief that they will crack down on illegal immigration. In the government’s own poll, 58% gave this as their prime or sole reason.

Very few people (even amongst supposedly informed commentators) are aware that all illegal immigrants can, and most do, claim asylum and are then already required to have an ID card – their Application Registration Card. Ever since 1993 their finger prints and photos have been taken. Since 2002 those identifiers have been stored on a central computer and on the cards. This helps detect rejected asylum seekers who return to lodge fresh claims under new names. Without this card asylum seekers are not able to claim benefits or to work legally (if so entitled).

Public support for ID cards is based on the belief that everyone will be required to carry one and the police will then be able to stop anyone who looks or sounds foreign, demand to see their ID, and if they do not have one, 'send them back home'. The effect of such a policy would not be what the public expects. If illegal immigrants were detected they would simply have to claim asylum. They would then be given an identity card and, since very few asylum seekers are ever removed from this country even if their claims are rejected, they would probably be able to stay indefinitely.

But there would be a far more odious consequence. Our fellow citizens who are members of ethnic minorities would be continually compelled to justify their existence. Researchers from Leicester University who accompanied police officers in France, Germany and the Netherlands⁷ observed that they demanded ID disproportionately from ethnic minority residents – including humiliating checks in front of colleagues at people's workplaces. Yet in no case was an illegal immigrant detected.

In practise such a policy could not be sustained in this country. Imagine the uproar if police tried stopping people who look or sound foreign to check their immigration status. That would be 'institutional discrimination' on stilts. In less than no time the police would only dare stop white people with English accents. So the whole idea would backfire on those who now advocate it most strongly.

Nonetheless, the government have fuelled the belief that ID cards would help prevent illegal immigration. In their consultation document they gave it as the "primary reason":

"The identity card scheme is intended primarily as a United Kingdom wide measure to help deter and control illegal immigration..."⁸

They have done so for the most cynical of reasons. They know that most people mistakenly assume that the government is trying to restrict immigration. So they assume that the large inflow of new immigrants that they perceive must be the result of illegal immigration.

⁷ Adrien Beck and Kate Broadhurst: *Policing the community: the impact of national identity cards in the European Union*, Journal of Ethnic and Migration Studies July 1998. NB these checks were carried out even where carrying ID cards is not actually compulsory.

⁸ Home Office, *Legislation on identity cards: a consultation*, Cm 6178

In turn the Government think that if they introduce tough measures to control illegal immigration people will conclude that they must be restricting immigration as a whole. But the officials who wrote the Regulatory Impact Assessment let the cat out of the bag. Far from trying to limit immigration as most people assume, the document baldly admits:

“The government *wants to encourage* lawful migration into the country... In sustaining and *perhaps increasing* current levels of lawful migration, it is important to retain the confidence of the resident population”. ID cards will help achieve this by convincing people “that immigration controls will not be abused”.⁹

In other words, if the government mounts a high profile campaign against “abuse of immigration controls” the public will not realise that it is actually “encouraging” and “increasing” the present unprecedented level of immigration.

If the government seriously believed a system of compulsory ID cards could play an important role in combating terrorism – not to mention crime, illegal immigration, benefit fraud etc. – they would want it up and running as soon as possible. During the 2nd World War a national ID card system was introduced within months. Yet the government’s plan will be rolled out at a fairly leisurely pace. Initially registration will be voluntary. It is not expected to become compulsory to register until 2012. There could be no clearer evidence that the primary motivation for this bill is populist. It is a costly example of what Lord Butler derided as this government’s penchant for policies designed to attract favourable headlines rather than to deliver practical benefits.

⁹ Identity Cards Bill Regulatory Impact Assessment 29th Nov 2004. Italics added.

CHAPTER 3

A COSTLY PROJECT

Information provided by the government on the costs of their proposed system of ID cards has not been transparent. The one thing that is clear is that the estimated cost only goes up.

The original proposal floated in the Green Paper in 1995 suggested that a voluntary ID card would cost £10 -15 each or possibly less if issued at the same time as a passport. If everyone applied for one or it was made compulsory the total cost was estimated at £600-1,000 million – presumably spread over 10 years.

The Labour government's first proposal was costed at between £1,318 million (for plain plastic cards) and £3,145 million (for sophisticated smart cards) spread over thirteen years. The plain card option was expected to add £10-15 to the charge for a passport or cost £5-15 on its own. The Consultation Paper reassured us that: "In practice, the above fee increases represent a worst case scenario..."

Needless to say the costs continued to escalate and when the next Consultation paper was issued in April 2004 the ID card was expected to cost £35 on its own and in conjunction with a passport would cost £77 (against the current cost of £42).

Seven months later the Regulatory Impact Assessment put the cost of passport and ID card combined at £85. Strangely this document gives no overall figures for the cost of introducing and running a compulsory ID register and card. Instead it projects the annual operating costs of the UK Passport Service at £415million (in constant 2004 prices) and says issuing cards to the 20% of the population who do not have a passport will cost £85 million a year

and annual costs of the verification service will average £50 million. Simple arithmetic suggests the total cost over ten years will be £5.5 billion.

Ministers, however, dispute that and claim that much of the increased cost of running the UK Passport Service (from £129million last year to £415million) will have to be incurred because of international developments. The Prime Minister asserts that we “will effectively be obliged to use [biometric technology] for passports, which represent the bulk of the cost - £70 out of £85 is for the passport”.¹⁰ In fact, all that is required to meet the International Civil Aviation Authority rules is “a facial biometric (which can be derived from a passport photo).”¹¹ By itself this would add little to the current cost of a passport. There is no requirement to include an iris biometric, nor to create a computerised national register.

The next revision of the costs of this scheme is scheduled for completion in early 2005. All previous experience and most outside experts confidently suggest that costs could easily double by the time the system is finally up and running¹². If so, the cost could well exceed the old Poll Tax which was set at £140 per head. But this would be a poll tax simply for being you. Even at £85 per head, a household with two children at university would have to cough up an extra £340 just to be able to move about.

¹⁰ Hansard col 1664 15th Dec 2004.

¹¹ www.ukpa.gov.uk 19th Nov 2004. “The UKPS and FCO in collaboration with international partners, (including the US), have a programme of work in place to implement this biometric in British passports from late 2005/early 2006.”

¹² It is notable that no government department has provided funding for the project – unsurprising perhaps given the lack of concrete benefits. All the cost will be borne by applicants.

CHAPTER 4

WILL IT WORK?

The experience of nearly all large public sector IT projects suggests that not only do costs overrun but they often fail to work as planned. The Child Support Agency: overrun by 18 months; after a further 18 months only 61,000 of its 478,000 applicants were receiving payments. The DWP computers: 80% of screens went blank. Inland Revenue tax credits system: 200,000 families waiting over a year for payments. NHS electronic records system: planned to cost £6.2 billion; now claims that it could cost between £18 billion and £31 billion. Cattle Tracing Scheme: introduced a passport for cows who ought to be easier to control than humans since they are usually surrounded with barbed wire and have tags on their ears – nonetheless 1 in 8 movement histories are found to be incomplete; instead of 450 staff 700 are needed – two thirds simply to correct errors.

Biometrics

It is not just the IT system that will be liable to failure – the biometric systems on which they intend to rely simply have not been tried on any scale. Indeed the government's own pilot trials had to be postponed because of:

“a series of hardware, software and ergonomic problems ... remedial actions to cure these problems continued for several weeks when, after further tests, the system was given back to the suppliers for further development and reconfiguration.”

Moreover, a Cabinet Office study said that biometric tests would wrongly conclude that between 10 and 15% of those tested were not who they actually were. So if every adult card holder were checked just once a year there would be upwards of 4 million people a year who would be falsely accused of not being who they actually are.

US tests have reached a similar conclusion. The National Institute of Science and Technology stated in a report to Congress that biometric identifiers

“always look stronger and easier in theory than in practice. Effective enrolment is difficult and physical spoofing is a lot easier than we would like.”

A recent US report¹³ makes it clear how difficult it is to make these systems work effectively. Four years ago the US authorities began struggling to link the finger print checks carried out on foreigners entering America with the FBI's finger print records of criminals and terrorist suspects. Four years and \$40 million later they can still only check 1% of foreign visitors against FBI files. Current border checks apparently miss 73% of criminal aliens who are listed on FBI files. It takes up to a month to transfer data on new terrorist suspects from the FBI to the immigration authorities. And the FBI is still completely unable to access the fingerprints of foreign visitors at all!

Another recent US report¹⁴ suggests that before introducing complex new systems it would be wiser to concentrate on making existing systems like checks on stolen passports work. The report begins with the breathtaking admission that: “Aliens applying for admission to the United States using stolen passports have little reason to fear being caught and are usually admitted. Our analysis showed that it made only a small difference whether the stolen passports were posted on the lookout system.” Indeed, 73% of those using stolen passports of whose theft the US had been notified and duly posted an alert were nonetheless allowed into the USA – half of them since 9/11.

It is worth asking: why has no bank, supermarket or credit card company started using this biometric technology? Could it be that they believe the cost will be too high, the danger of alienating their customers too great, and the likelihood of breakdown too serious to risk?

¹³ US Department of Justice, *Follow-up Review of the Status of IDENT/IFAFIS Integration* Report No I-2005-001 December 2004

¹⁴ Department of Homeland Security, *A Review of the Use of Stolen Passports from Visa Waiver Countries to Enter the United States* 01G-05-07 December 2004

CHAPTER 5

JUST A PIECE OF PLASTIC?

The arguments against ID cards are not just practical. They would increase the power of the state and change the relationship between the citizen and the government.

The states which have introduced ID cards in peacetime have almost all had communist or fascist regimes. They introduced them precisely in order to control their citizens. That may not be the objective of this government but they are creating a system which could be abused in an oppressive manner by a future government of an (even) more authoritarian disposition than New Labour.

What is virtually certain is that once the initial scheme is up and running the pressure to make it compulsory to carry the card at all times as well as to possess one will be irresistible. The police and most other agencies who have offered support for this scheme have indicated that the main benefits they anticipate from it would only arise if people were required to carry and show the card at all times. The fact that such a step would require further primary legislation would be a minor obstacle. After all, this Government thinks nothing of introducing several police and criminal justice bills a session.

No common law country has ever introduced compulsory ID cards successfully in peacetime. Australia, New Zealand and the USA have considered such proposals but ended by rejecting them. The common law we all share is built on the presumption of innocence. No one can require us to justify our existence or our presence. The state and the police are our servants not our masters. They answer to us, not us to them. The attitudes embedded in and fostered by this tradition make people in Anglo-Saxon countries very wary of giving too much power to the state.

But how does a compulsory ID card affect our liberties in practical terms? Surely carrying an extra piece of plastic would be no threat to those who have nothing to hide?

There is every difference in the world between cards we carry voluntarily and being compelled to carry one. If you forget your credit card it is an inconvenience. But once it is compulsory to carry your ID card, every time you step out of your home without it you would commit an offence. If you fail to notify the government of a change of address you would be liable to a fine of up to £1,000. If you fail to report that you have lost it you could be fined another £1,000. If you refuse to go along to register and have your irises scanned your finger prints taken and your face photographed you can be fined £2,500. Even though the card would probably not help catch a single villain it would bring many thousands of absentminded, forgetful and obstinately private people into conflict with the law.

Moreover, compulsory ID cards threaten people's privacy. The central computer will retain an audit trail of every time and place the card has been checked. The card itself is to be a smart card capable of containing an increasing amount of information in future – for example, the holder's medical history. Many fear that, however smart the card, there will be smarter hackers who will be able to read its contents.

The reluctance of other common law countries to introduce compulsory ID cards has lessons for Britain. Even post 9/11 when the US has accepted some quite draconian measures it has ruled out making Americans possess and carry an ID card.

Such a scheme was, however, formally proposed in New Zealand in the early 1990s. The proposed "Kiwi Card" was sold to the voters with much the same language as New Labour: it would be an "entitlement card" rather than an "identity card"; it would not be an encroachment on civil liberties; it would help tackle crime and tax evasion. The proposal was widely opposed and in the end a simple card for health benefits only – explicitly not a compulsory identity card – was introduced.

The most telling example, however, is Australia. In 1986, the Australian Labour government proposed an "Australia card" to be carried by all citizens and which was to be necessary for opening a bank account, obtaining social security benefits, obtaining health care, and immigration and passport control purposes. Like the UK, opposition was initially muted, and the government demonised those who opposed the scheme as "friends of tax cheats". With some courage, the Opposition raised the matter in the Senate and managed to obtain the appointment of a Joint Select Committee.

In the meantime, an unlikely coalition of right wingers, civil liberties groups and concerned citizens began to mobilise. Gradually the opinion polls, which had initially showed 80 per cent of people in favour of the scheme, began to shift as the detail of the scheme began clear and as its impact began to enter the public consciousness.

A report from the Joint Select Committee raised numerous concerns about the proposals, leading to a further swing in opinion. A feeling emerged that the project was “un-Australian”, and street demonstrations began to take place against it.

Eventually the polls showed that 90 per cent were against the cards and the Government abandoned the plan. It contributed to the fall of the Labour Government

There are clear lessons here for Britain’s Conservatives. First, there is nothing inevitable about ID cards in the UK. There is a long road between now and their compulsory adoption. As yet there has been little public focus on the plan but, as the debate progresses, public concerns will rise.

Second, as was the case in Australia, this is a plan which is profoundly contrary to British traditions and British values. It involves high costs in exchange for uncertain benefits. And it introduces into our contract between individual and state a reversal of the notion that the state is the servant rather than the master of the individual: henceforth, the individual may not even go peaceably about his or her business without the risk of falling foul of the law.