

Former Supreme Court Justice: 'This is what a police state is like'

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The former Supreme Court Justice Jonathan Sumption, QC, has denounced the police response to the coronavirus, saying the country is suffering 'collective hysteria'. This is an edited transcript of his interview with BBC Radio 4's *World at One* programme earlier today.

Derbyshire police have shamed our policing traditions

BBC interviewer Jonny Dymond 'A hysterical slide into a police state. A shameful police force intruding with scant regard to common sense or tradition. An irrational overreaction driven by fear.' These are not the accusations of wild-eyed campaigners, they come from the lips of one of our most eminent jurists Lord Sumption, former Justice of the Supreme Court. I spoke to him just before we came on air.

Lord Sumption The real problem is that when human societies lose their freedom, it's not usually because tyrants have taken it away. It's usually because people willingly surrender their freedom in return for protection against some external threat. And the threat is usually a real threat but usually exaggerated. That's what I fear we are seeing now. The pressure on politicians has come from the public. They want action. They don't pause to ask whether the action will work. They don't ask themselves whether the cost will be worth paying. They want action anyway. And anyone who has studied history will recognise here the classic symptoms of collective hysteria. Hysteria is infectious. We are working ourselves up into a lather in which we exaggerate the threat and stop asking ourselves whether the cure may be worse than the disease.

Dymond At a time like this, as you acknowledge, citizens do look to the state for protection, for assistance, we shouldn't be surprised then if the state takes on new powers if it responds. That is what it has been asked to do, almost demanded of it.

Sumption Yes that is absolutely true. We should not be surprised. But we have to recognise that this is how societies become despotisms. And we also have to recognise this is a process which leads naturally to exaggeration. The symptoms of coronavirus are clearly serious for those with other significant medical conditions, especially if they're old. There are exceptional cases in which young people have been struck down, which have had a lot of publicity, but the numbers are pretty small. The Italian evidence, for instance, suggests that only in 12 per cent of deaths is it possible to say coronavirus was the main cause of death. So yes this is serious and yes it's understandable that people cry out to the government. But the real question is: is this serious enough to warrant putting most of our population into house imprisonment, wrecking our economy for an indefinite period, destroying businesses that honest and hardworking people have taken years to build up, saddling future generations with debt, depression, stress, heart attacks, suicides and unbelievable distress inflicted on millions of people who are not especially vulnerable and will suffer only mild symptoms or none at all, like the Health Secretary and the Prime Minister.

Dymond The executive, the government, is all of a sudden really rather powerful and really rather unscrutinised. Parliament is in recess, it's due to come back in late April, we're not quite sure whether it will or not, the Prime Minister is closeted away, communicating via his phone, there is not a lot in the way of scrutiny is there?

Sumption No. Certainly, there's not a lot in the way of institutional scrutiny. The press has engaged in a fair amount of scrutiny, there has been some good and challenging journalism. But mostly the press has, I think, echoed and indeed amplified the general panic.

Dymond The restrictions in movement have also changed the relationship between the police and those whose, in name, they serve. The police are naming and shaming citizens for travelling at what they see as the wrong time or driving to the wrong place. Does that set alarm bells ringing for you, as a former senior member of the judiciary?

Sumption Well, I have to say, it does. I mean, the tradition of policing in this country is that policemen are citizens in uniform. They are not members of a disciplined hierarchy operating just at the government's command. Yet in some parts of the country, the police have been trying to stop people from doing things like travelling to take exercise in the open country, which are not contrary to the regulations, simply because ministers have said that they would prefer us not to. The police have no power to enforce ministers' preferences, but only legal regulations - which don't go anything like as far as the government's guidance. I have to say that the behaviour of the Derbyshire police in trying to shame people into using their undoubted right to take exercise in the country and wrecking beauty spots in the Fells so that people don't want to go there, is frankly disgraceful.

This is what a police state is like. It's a state in which the government can issue orders or express preferences with no legal authority and the police will enforce ministers' wishes. I have to say that most police forces have behaved in a thoroughly sensible and moderate fashion. Derbyshire police have shamed our policing traditions. There is a natural tendency of course, and a strong temptation for the police to lose sight of their real functions and turn themselves from citizens in uniform into glorified school prefects. I think it's really sad that the Derbyshire police have failed to resist that.

Dymond There will be people listening who admire your legal wisdom but will also say 'well, he's not an epidemiologist, he doesn't know how disease spreads, he doesn't understand the risks to the health service if this thing gets out of control'. What do you say to them?

Sumption What I say to them is I am not a scientist but it is the right and duty of every citizen to look and see what the scientists have said and to analyse it for themselves and to draw common sense conclusions. We are all perfectly capable of doing that and there's no particular reason why the scientific nature of the problem should mean we have to resign our liberty into the hands of scientists. We all have critical faculties and it's rather important, in a moment of national panic, that we should maintain them.

Dymond Lord Sumption, former Justice of the Supreme Court, speaking to me earlier. We put his criticism of Derbyshire police to the force and they sent us this statement: 'Our advice to the public was in line with national government instruction and echoed what people in our communities were saying following thousands of people that travelled to the Peak District National Park the previous weekend. The weekend just gone saw much smaller numbers and we thank the public for their response.'