

Locking up the elderly until coronavirus is defeated is a cruel mockery of basic human values: Former Supreme Court judge LORD SUMPTION gives a withering critique of the Government's lockdown

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By [LORD SUMPTION FOR THE MAIL ON SUNDAY](#)

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COVID-19 is not the greatest crisis in our history. It is not even the greatest public health crisis in our history. **But the lockdown is without doubt the greatest interference with personal liberty in our history.**

It is normal at this point to add 'in peacetime'. But we can forget that. Even in wartime, we never confined the entire population to their homes, 24/7, if they did not have some excuse acceptable to a Minister.

States have always tried to confine people known to be carrying dangerous infections. But we live in a new world in which, if we are ill, the State will try to cure us. From this, it is said to follow that the State can take control of our lives against our will even if we are healthy, lest we fall ill and need its services too much.

Suddenly, it is our duty to save the NHS, not the other way round.

It is now pointless to object to the imposition of the lockdown in the first place. It has happened. **The question is how we get out of it.**

- It is a pity that the Government did not ask itself that question when, in the blind panic following the delivery of Imperial College London's Professor Neil Ferguson's statistical projections, it legislated the lockdown on the hoof in a late-night press conference.

They now find themselves trapped by their own decisions.

Ministers have formulated five tests to be satisfied before the lockdown is lifted. What is wrong with these tests is that they are all about health and only about health.

The Government has formulated them in their own interest. They think that this will allow them to avoid criticism by sheltering behind the scientists. But that is just an evasion of political responsibility. Of course it is understandable that politicians should want to shelter themselves from criticism. But there is no reason why the rest of us should help them do it.

Ending the lockdown is a political decision, not a scientific one.

It boils down to a single question. Is it worth it? That depends only partly on the science. There are also moral judgments, constitutional values and economic consequences involved. **But since the Government likes its tests to come in fives, here is a five-part test which tries to address the real issues.**



- First, the medical issue. I am not going to argue about Professor Ferguson's projections. They have caused some discomfort among reputable professionals. They are based on some rather arbitrary assumptions. And they leave out of the account important considerations, such as the adverse health consequences of the lockdown itself **or the number of people who would have died anyway from underlying clinical conditions even without Covid-19**, maybe a few months later. But let us take it as a given, since it is probably true, that the lockdown will save a significant number of lives, albeit fewer than Professor Ferguson projects.

Second, we need to ask how many deaths we are prepared to accept in order to preserve other things that we value. **However valuable 'saving lives' may be, it is not the only valuable thing.** Some comparison is therefore unavoidable between the lives we gain and the other things we lose by a lockdown.

To say that life is priceless and nothing else counts is just empty rhetoric. People say it because it is emotionally comfortable and avoids awkward dilemmas. But they don't actually believe it.

We went to war in 1939 because lives were worth losing for liberty. We allow cars on the roads because lives are worth losing for convenience. We travel by air although pollution kills. We tut-tut about it, but we willingly do it.

Third question. What sort of life do we think we are protecting? There is more to life than the avoidance of death. Life is a drink with friends. Life is a crowded football match or a live concert. Life is a family celebration with children and grandchildren. Life is companionship, an arm around one's back, laughter or tears shared at less than two metres. These things are not just optional extras. They are life itself. They are fundamental to our humanity, to our existence as social beings. Of course death is permanent, whereas joy may be temporarily suspended. But the force of that point depends on how temporary it really is.

Viruses don't just go away. This one will never disappear unless and until there is enough exposure to it to produce collective immunity or an effective vaccine appears.

Talk of compulsorily 'shielding' (in plain English locking up) the old and vulnerable until one of those things happens is a cruel mockery of basic human values.

Fourth, there is the money question. People decry attempts to measure the mortality of Covid-19 against the economic cost of reducing it. But this too is rhetoric, and hypocritical rhetoric at that.

- **Money is not just for plutocrats. You and I and the editor of The Guardian and the driver of the No 9 bus and the Archbishop of Canterbury and the cashier at the supermarket all value and depend on money.**

Not just in the sense that it pays our wages or pensions. Hundreds of thousands of businesses are going under. Millions are moving from jobs to universal credit. A thriving economy, of the kind that we are now throwing away, is the source of our security and the foundation of our children's future.

We would do well not to sneer at it. Poverty kills too. And when it does not kill, it maims, mentally, physically and socially.

Last but not least, we have to ask ourselves what are the limits to the things that the State can legitimately do to people against their will in a liberal democracy.

To say that there are no limits is the stuff of tyrants. **Every despot who ever lived thought that he was coercing his subjects for their own good or that of society at large.**

One of the more impressive observations of the Swedish epidemiologist Professor Johann Giesecke, in the interview in which he justified Sweden's refusal to lock its people down, was not about epidemiology at all.

His point was that there are some things that may work and that a totalitarian state like China can do. But a country like Sweden with its long liberal tradition cannot do them unless it wants to become like China.

We, too, have to ask ourselves what kind of relationship we want with the State. Do we really want to be the kind of society where basic freedoms are conditional on the decisions of politicians in thrall to scientists and statisticians? Where human beings are just tools of public policy?

A society in which the Government can confine most of the population without controversy is not one in which civilised people would want to live, regardless of their answers to these questions. Is it worth it?

My own answer is no. Guidance is fine. Voluntary self-isolation is fine, and strongly advisable for the more vulnerable. Most of them will

do it by choice. But coercion is not fine. There is no moral or principled justification for it.

Not everyone will agree, which is fair enough. These are difficult value judgments, on which one would not expect general agreement.

The fundamental point is that these questions need to be confronted and publicly discussed by politicians without the kind of emotive evasions, propagandist slogans and generalised hype that have characterised their contribution so far.