TRUST IN THE COURTS IN AN AGE OF POPULISM

The Peter Taylor Memorial Address 2025[1]

Lord Reed of Allermuir

It is an honour to have been invited by the Professional Negligence Bar Association to give this year's Peter Taylor Memorial Address. I have chosen to speak about a topic which is relevant to the memory of Lord Taylor. He was the first Lord Chief Justice to mark his appointment by holding a press conference, the first judge to appear on BBC Television's *Question Time*, the first to be a castaway on *Desert Island Discs,* and the first to deliver the Dimbleby Lecture for the BBC. In short, he was the first senior judge to make a sustained effort to engage with the public via the media, and to try to explain what judges do, and how they do it, to a general audience. In doing so, he was responding particularly to the need to restore public confidence in the criminal justice system after a series of miscarriages of justice, such as those concerning the Guildford Four and the Birmingham Six. Unlike some other senior judges at the time, he accepted that criticism of the criminal justice system could not always be dismissed, and sought to rebuild public trust.

Maintaining public trust in the courts is as important today as it was in Lord Taylor's time, but we face different challenges. Then, the principal problem was a series of miscarriages of justice, which had dented public confidence in the administration of justice. Miscarriages of justice remain a problem, but most criticism of the courts today in the media ay role nd politics tends to focus on other issues. One is access to justice, with particular concern being expressed about delays, especially in the criminal courts and the County Court. But this evening I would like to focus on two other concerns.

The first is judicial overreach or activism: that judges do not know their place in the constitution, and interfere unwarrantably in the democratic process. As it was put in an editorial in the *Daily Telegraph* earlier this year,[2] under the headline "Judicial reform is

[1] Delivered at Inner Temple on 12 June 2025.
[2] 13 February 2025.

long overdue": "Roughly 29 million people cast their votes, elect their representatives to Parliament, those representatives pass laws, and, at the end of this process, a group of judges appear to then decide what the law should actually be instead". This is not a new criticism. In 2006 an editorial in the *Daily Express* stated: "Britain's out-of-touch judges are increasingly using the Human Rights Act as a means of asserting their will over our elected representatives".[3] As I will explain, a concern that judges do not understand their constitutional role is not confined to a section of the press, but is also felt by some members of Parliament.

The second concern is that judicial decisions are based on the application of values which are not shared by Parliament or the general public. The same editorial in the *Daily Telegraph* cited tribunal decisions in asylum and immigration cases as demonstrating "the extent to which the values held by this country's judiciary have diverged from both those held by the general population, and those held by the legitimate legislature in Parliament". This too is not a new criticism. A *Daily Mail* editorial in 2003 asserted that "Britain's unaccountable and unelected judges are openly, and with increasing arrogance and perversity, usurping the role of Parliament, setting the wishes of the people at nought and pursuing a liberal, politically correct agenda of their own, in their zeal to interpret European legislation".[4]

Although criticism of this kind has tended to come mainly from the conservative end of the political spectrum, the opposite end can be equally critical. For example, following the Supreme Court's recent decision about the interpretation of the Equality Act 2010,[5] the judges were criticised by some organisations, and on social media, for their supposed bigotry and hatred towards the trans community.

Whether it is directed from the left or the right, the criticism rarely attempts to engage with the court's reasoning, but focuses instead on the outcome of court cases, and praises or blames the judges according to whether the outcome is politically welcome or unwelcome. That sort of criticism fails either to understand, or at least to acknowledge, that judges are doing their best to apply the law, not deciding what the law

[3] *Daily Express*, 11 May 2006.
[4] *Daily Mail*, 20 February 2003.
[5] *For Women Scotland Ltd v Scottish Ministers* [2025] UKSC 16.

ought to be as a matter of policy. The response to an unwelcome decision should be, and is, on the part of thoughtful commentators, not to shoot the messenger but to call for reform of the law.

However, criticism of this kind can have a particular resonance with the public because of a related phenomenon. We live at a time when, in democracies around the world, there is a considerable degree of disenchantment with established institutions, as confidence has waned in their ability to resolve current problems, and in their willingness to heed public opinion. In a number of countries, voters have turned to leaders who argue that executive powers cannot be constrained by unelected judges – or, for that matter, elected judges, as in some countries – and who are hostile to courts that uphold constitutional principles, protect the rights of minorities, and safeguard the separation of powers. Such leaders depict judicial independence as a self-serving privilege of judges rather than as a guarantee of impartial justice for every citizen. They portray decisions which are adverse to them as politically motivated. They variously impose budgetary sanctions on the courts when they behave independently, or seek to influence the courts through political control of the appointments process, or simply secure the removal from office of the senior judiciary and their replacement by judges who are more compliant. To varying degrees, this type of politics can be seen developing, or to have taken control, in a number of the democracies of Europe, the Americas, Asia, Africa and the Middle East.

A related factor is the growth of misinformation about lawyers and courts on social media platforms, at a time of growing reliance on social media as a source of information. It is important not to overstate this in the context of the UK. A recent OFCOM report[6] found that BBC news output, across all its platforms, including social media channels, reaches 68% of all UK adults. This is followed by the Meta platforms on 40% and ITV on 38%. The report also found that accurate news is a priority for audiences, and that, although social media platforms have increased in use, traditional news platforms are more trusted and are regarded as more accurate and more impartial. Although young people are the heaviest users of social media for news, they also score it below average for accuracy, trustworthiness and impartiality. Fewer than one in ten adults rely exclusively on social

[6] News Consumption in the UK: 2024 (10 September 2024).

media platforms for their news. That evidence is reassuring. Nevertheless, a rise in misinformation, particularly via social media, poses a risk of eroding trust in institutions.

These tendencies are symptomatic of a phenomenon which is often described as populism, characterised by the belief that there is a fundamental opposition between the people, on the one hand, and an elite, on the other, who do not share their values or heed their concerns. Populism responds to real problems, economic, social and political. It is evidently important that proper weight should be given to the concerns of those who often have the most reason to be pessimistic about their own lives and those of their children. But populism can undermine the rule of law by diminishing trust in the institutions which uphold the law and undermining support for judicial independence. Every country needs stable institutions; and an independent judiciary is one of the most important. But the recent history of some other countries has demonstrated that respect for an independent judiciary cannot be taken for granted even in a long-established democracy.

No democracy is immune to these tendencies. Even in the UK, it was not long ago that the Lord Chief Justice, the Master of the Rolls and Lord Justice Sales were labelled enemies of the people by the *Daily Mail*; and, sadly, there was not much government defence of the judges at that time. However, that was a very rare occurrence, which is why it had such an impact; and it does not appear to have had any damaging consequences over the longer term. More recently, other judicial decisions have been interpreted by public commentators in ways which reflect a populist viewpoint. For example, a recent article in the *Daily Telegraph,* also responding to recent asylum and immigration decisions by tribunals, claimed that our society is "at the mercy of a fanatical Left-leaning judicial establishment", and was headlined "Make our judges stand for election – then they would deliver common sense decisions".[7] I have not myself seen any signs of left-wing fanaticism in the tribunal judiciary, but I can understand a concern that such a high proportion of asylum and deportation cases are held to meet the stringent tests that have been laid down repeatedly by the Supreme Court.[8] In the field of criminal

[7] Isabel Oakeshott, "Make our judges stand for election – then they would deliver common sense decisions", 22 February 2025.
[8] See, for example, *Andrysiewicz v Circuit Court in Lodz, Poland* [2025] UKSC 23.

justice, some commentators have criticised what they describe as a two-tier justice system, which is alleged to be biased against what some of them call white Britons. I do not believe that for a moment, and I am troubled by the tone of some of those criticisms, but they are a reminder of the importance which people rightly attach to equality before the criminal law, and that they do not expect the criminal courts to be an arena for affirmative action.

Although there are criticisms expressed in the language of populism, we have not seen in this country the tendency towards autocracy, or the attacks on the principle of judicial independence, that are current in many other countries. Public opinion surveys continue to show high levels of trust in the judiciary.[9] But we cannot afford to be complacent, if we want to protect the rule of law. So how should the judiciary act so as to maintain public trust in the courts?

There are five important points to be made at the outset. First, the media should not be regarded as the enemy of the judiciary, even if some media organisations are critical of the judiciary. The media perform a vital role in protecting the rule of law, both in exposing and helping to guard against violations of the rule of law, and in providing the means of explaining to the public the role of the courts and the importance of the rule of law, and helping to shape public opinion. I will explain later how the courts can work with the media in order to communicate with the public.

Secondly, criticism of judicial decisions is to be expected in a democratic society. Above all, it is to be expected in Parliament, where important issues in the life of our country are debated. It is the function of members of Parliament to raise matters of public interest, and judicial decisions often raise matters of public interest, even – one might say, especially – when the court has applied the law correctly and in doing so has arrived at a result which strikes non-lawyers as wrong, out of date or in need of change. In the higher courts, cases that come before the Supreme Court, for example, are inevitably difficult and important. We only grant permission to appeal against the decisions of lower appellate courts in cases that raise an arguable point of law of general public

[9] See, for example, https://goodlawproject.org/ground-breaking-polling-yougov-trust-in-the-judiciary/; and https://www.ucl.ac.uk/constitution-unit/news/2023/feb/public-support-central-role-judges

importance.[10] Where our decisions have controversial consequences, those views may be expressed in strong terms. There is nothing new or surprising about that. On the contrary, it would be surprising if there were not criticism, sometimes strongly expressed. Judges have to have broad enough shoulders to cope with that.

But it is important to appreciate that it is also decisions of lower courts and tribunals that give rise to public concern. For example, when a serious crime is committed by a person with mental health problems who has been permitted to return to the community by a mental health tribunal, or when a child is murdered by a parent into whose care she has been entrusted by a family judge, there is inevitable and understandable public concern. But we have to be careful not to impose intolerable pressures on judges at the lower levels of the judiciary who have to take decisions every day that involve risks to the safety of the public. They cannot avoid every risk without our public services, such as our mental hospitals and children's homes, being overwhelmed, and without harming patients who are ready to be returned to the community, and children who do not in reality need to be taken into care and exposed to the risks that that also involves. If people are going to be willing to perform these judicial functions, and to exercise the moral courage that they require, we have to avoid reasonable concern and criticism descending into personal abuse and the stirring up of violent emotions.

The third point to make is that, compared with many other people in public life, judges are generally treated with considerable respect by our politicians and our media. It is rare for government ministers to attack a judge or a court decision. For example, ministers did not utter a word of criticism of the Supreme Court's decision that the Rwanda policy was unlawful,[11] although it was the government's flagship policy at the time. Nor did the Scottish Government criticise our decision in the Independence Referendum case: another flagship policy.[12] Looking beyond the government, it is unusual in the UK for appellate judges to be criticised as individuals in the media or in political debate, although first instance judges are sometimes singled out, particularly for sentencing decisions: another area where judges cannot hope to avoid criticism, even

[10] UKSC Practice Direction 3.3.3. Available at: https://www.supremecourt.uk/procedures/practice-direction-03.html
[11] *R (AAA (Syria)) v Secretary of State for the Home Department* [2023] UKSC 42.
[12] *In re Scottish Independence Referendum Bill* [2022] UKSC 31.

when they are following the guidance that has been given to them, but must have the moral courage to do their job. We are also relatively anonymous in our private lives, and apart from some exceptional circumstances, such as existed in Northern Ireland for many years, have not faced the same risks to our safety or our homes as Members of Parliament do. Unlike judges in many other countries, we do not normally require personal security.

The fifth point is that we have to accept that responsible criticism of judicial decisions is an aspect of judicial accountability. Judges should be willing to listen to criticism and consider carefully whether we might learn from it. If there are problems, even if they are sometimes problems of perception or communication, it is in the judiciary's own interests, as well as in the interests of the public whom we serve, that they should be addressed. Responsible criticism should not be dismissed or ignored.

However, there are limits to responsible criticism. Intemperate personal attacks can place individuals' safety at risk, particularly in the age of social media. In the wake of the murders of Jo Cox and David Amess, commentators should understand that inflammatory attacks on judges are irresponsible. For example, the recent attacks on tribunal judges over immigration and asylum decisions resulted in some cases in threats to their safety. To insist that judges should have broad backs and strong characters is not a sufficient response. It is reasonable to feel concern about judges' safety when they are treated as hate figures.

The limits to responsible criticism are recognised by Parliament. Although Parliament is sovereign and bows to no other authority in this country, it imposes limits on its own debates, recognising its duty to protect and uphold the authority of those who dispense justice on behalf of our society. But that does not mean that members of Parliament have to agree with every judicial decision. The limits are set out in *Erskine May*.[13] In summary, the Speaker has ruled that it can be argued that a judge has made a mistake or was wrong, and the reasons for those contentions can be given; but reflections on a judge's character or motives cannot be made, nor can any charge of a personal nature be made, or a suggestion be made that a judge should be dismissed,

[13] Para 21.23.

except on a substantive motion which allows a distinct decision of the House. The Speaker has also ruled that language which is disrespectful to persons administering justice is out of order.

So what can the judiciary do to maintain public confidence in the courts at the current time, beyond applying the law with professional integrity? I have had to think about this since I took over the presidency of the Supreme Court at the beginning of 2020. At that time we were being accused by many politicians and journalists of overreach and of being politically motivated, following *Miller 2*. A briefing from Downing Street suggested that the court might be radically altered or even abolished.

We could not allow ourselves to be intimidated. Even in a country without a written constitution, the country's highest court plays a vital role in protecting the constitution, as *Miller 2* demonstrated. In the face of the government's assertion in that case that Parliament only sits as and when the government pleases, the court was the last line of defence of a constitutional settlement based on the supremacy of Parliament that has endured since the seventeenth century. We must remain vigilant in defending the values that underpin our democracy. But, while the court has to be fearless in defending our constitutional values, it also has to exercise judgement and display a sensitivity towards the other institutions of the state, and towards public opinion, if it is to avoid being perceived as a political actor. It needs to deploy judicial statecraft, and to communicate effectively with politicians, with the media and with the general public, so as to build a level of trust which can withstand tensions if and when they arise.

So it is important, in the first place, that we exercise our functions in ways that avoid encouraging the perception that we are overreaching or are political actors. For example, we should write our judgments in a measured and neutral style, helping to demonstrate that our rulings are based on the law and not on our personal convictions. We have to explain our reasoning carefully in our judgments and the summaries of them, making it clear that we are applying legal expertise and experience, and that our work is not political. Politicians are concerned with what the law ought to be. We are concerned with working out what it is. We try to explain this to the public in controversial cases. For

example, in the judgment hand down in *For Women Scotland v Scottish Ministers*,[14] Lord Hodge said:

> "It is not the task of this court to make policy on how the interests of these groups should be protected. Our role is to ascertain the meaning of the legislation which Parliament has enacted".

Another part of the strategy is to communicate effectively with the general public. Polling conducted for the Economist magazine in 2022 found that about a third of the public claim to know a great deal or a fair amount about the Supreme Court.[15] Among those who do, the proportion who have a high level of confidence that the court will do its job well is 84%. Among those who do not know much about the court, the proportion drops to 52%. So communication is important to public confidence in the court. We put a lot of effort into this, for example by livestreaming our proceedings and the hand-down of our judgments, watched by half a million people last year. Our website last year was visited by 1.4 million people. Our communications team also maintain our social media accounts on X, Instagram and LinkedIn, with around 400,000 followers.

We also put a lot of effort into public legal education. For example, we have established a scheme which gives pupils at schools across the UK the opportunity to take part in a live question and answer session with a judge of the Supreme Court from their classroom, via the internet. This scheme has proved to be very successful, enabling the court to make direct contact with young people in a positive way.

Another important part of the strategy has been to improve communication with the media. We recognise that the court operates in an intensive media environment in which journalists and bloggers are expected to provide an instant response to our decisions. So members of the Supreme Court's communications team work with the journalists who cover our work to help them to report it accurately. Where a judgment is likely to attract media interest, they provide the judgment and the press summary to journalists, on a confidential basis, an hour before the judgment is made public. We do

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[14] [2025] UKSC 16.

[15] Ipsos/The Economist, "UK Supreme Court polling" (May 2022). Available at: https://www.ipsos.com/sites/default/files/ct/news/documents/2022-06/Ipsos%20Supreme%20Court%20polling_300522_PUBLIC%20%28002%29.pdf

not do this in the most sensitive cases, or where prior knowledge of the judgment could be abused. But the confidentiality is enforced by our law of contempt of court, and has never been breached. The legal commentator Joshua Rozenberg, giving evidence recently to a Parliamentary committee, mentioned the benefits of this practice.[16] We are interested in having a better understanding of how the court's work is reported, and have accepted an invitation to the BBC to meet senior editors next month and discuss the matter with them.

The communications team also work with the judges to help them to communicate with the public. They help us to ensure, for example, that the language we use in the summaries that are delivered on camera when decisions are announced, excerpts from which may appear on the television news, is understandable by members of the public. They also help us to ensure, in cases which will be reported in the media, that there is a short sentence or two in our summary – a soundbite – which can be quoted and which explains the essence of our decision. They also assist me with media interviews, for example by advising me in techniques for answering media questions. Judicial communications officers, who can advise judges in their dealings with the media, are now a necessary part of the justice system. This is not a question of spin. It is a commitment to openness.

Another part of the strategy focuses on institutions which have a particularly important role in supporting the rule of law. One of those is the government, not only because of its central role in the formation and execution of policies affecting the administration of justice, but also because of its role in influencing public debate. It is not the courts' role to lobby or campaign on government policy. However, we can properly seek to improve understanding about the courts, and to inform consideration of policy proposals affecting the courts by sharing relevant factual information, as we have done in response to various consultations on law reform. For example, in taking the 2020 Independent Review of Administrative Law forward, we were able to work successfully with the Lord Chancellor and the Ministry of Justice where there were issues on which the court could productively co-operate with government within our proper constitutional

[16] See: committees.parliament.uk/oralevidence/15919/pdf/

role. Similarly with the 2021 Independent Human Rights Act Review and the Bill of Rights Bill. We also liaised with the Department for Exiting the EU, and subsequently with the Cabinet Office, over the Brexit legislation, with justices of the court providing advice on some of the practical consequences, for the courts, of withdrawal from the EU.

There are also well established informal avenues of communication between senior judges and politicians. Traditionally, the primary avenue is engagement with the Lord Chancellor, who has a statutory duty to uphold the rule of law and the independence of the judiciary and to have regard to the need to defend that independence. Soon after I became President I instituted more frequent meetings with the Lord Chancellor, and found that I was able to obtain their support when necessary, for example when there was a government media briefing which I felt undermined judicial independence. All the Lord Chancellors I have dealt with have taken seriously their duty to protect judicial independence.

We have also engaged successfully with the Foreign Office by informing them about our engagements with foreign courts and governments and inviting their cooperation and assistance, for example by providing embassy or consular support. I think they may have been surprised to discover how extensive our contacts and meetings were, and of the fact that they included meetings with overseas political figures, including Prime Ministers and heads of state, as well as judges. Our engagement with the Foreign Office has proved to be successful, with their briefing us before meetings with foreign judges and ministers, helping with the arrangements for some visits by overseas judges and ministers to our court, providing interpreters at some meetings, and appointing an official with responsibility for liaison with the judiciary over its international engagements. Another result has been the involvement of the Supreme Court in the induction and training of some Foreign Office officials, including newly appointed ambassadors and high commissioners and officials working in Privy Council jurisdictions. We also engaged with the Secretary of State for Business when she wanted to learn about the work of the court in relation to business and trade. All of this helps to build a better relationship.

In relation to government officials, a particularly valuable event was a meeting between the justices of the court and the most senior officials in departments across

government, where we learned how things look from each other's perspectives and talked over the factors that can lead to governmental decisions and policies being challenged in the courts. A subsequent discussion between the justices and senior officials at the Ministry of Justice was also informative about the various pressures on the justice system.

Our aim in dealing with government has been to develop trust, to build confidence that the judiciary understands where the constitutional boundaries lie, and to develop a sense that we have a shared responsibility for the rule of law, rather than being locked in a struggle for power.

Of course, each branch of government must remember the proper limits of contact of this kind. Latimer House Guidelines are very much in point: "While dialogue between the judiciary and government may be desirable or appropriate, in no circumstances should such dialogue compromise judicial independence."[17] At our meetings with ministers, both the minister and the justices are always accompanied by civil servants, and minutes are kept of the meetings. We have almost always found that the boundaries are well understood; and on the only occasion when a minister did not realise that a judge could not provide legal advice about a policy proposal, the point was accepted as soon as it was explained.

Even more important than our relationship with government is our relationship with Parliament. That is so for two reasons. First, parliamentarians are the primary decision-makers in our society. The recent events concerning the Sentencing Council have been a reminder, if one were needed, of that basic fact of life. Secondly, it is very difficult in practice for the judiciary to communicate with a large part of the population. We put a lot of effort into outreach, as I have explained, and it reaches a significant number of people who are interested in knowing more about the courts and the legal system. But politicians are much better at communication with the general public, and so it seems to me that the judiciary needs to work at making itself better understood by

[17] Commonwealth Parliamentary Association, *Commonwealth Latimer House Principles on the Three Branches of Government* (September 2023) 10.

them. If they understand the importance of the rule of law and are willing to defend it, then they can influence public debate.

The relationship between the law and Parliament was until recent times much stronger than it is today, with many more MPs being barristers in practice or having other legal experience. Former ministers served with conspicuous success as senior judges, such as Lord Simon, Lord Reid, and Lord Rodger of Earlsferry. The law lords were also in daily contact with the other members of the House of Lords. Without these various links between the world of the law and the world of politics, there is a risk of remoteness and of misunderstandings on both sides.

So, soon after my appointment as President, I made contact with the Speakers of both Houses of Parliament, to discuss how best to help their members to understand better the role of the court and vice versa, to provide opportunities for judges and politicians to meet and to discuss how things look from each other's perspective. At the Speaker of the House of Commons' suggestion, I invited members of the Justice Select Committee to come to the Supreme Court for a visit and a discussion. That was a successful and well-attended event, which went on for an hour longer than had been planned. There have been two more visits since then, which have been equally successful. I also accepted an invitation from the Lord Speaker of the House of Lords to give a lecture there to Parliamentarians from both Houses, with the aim of promoting greater understanding of the rule of law and its relationship with democracy.

Last year, the Speaker and I identified the arrival of new MPs following the general election as an opportunity to make the work of the courts and the importance of the rule of law better understood. The Speaker, our Chief Executive and I made a video which was sent to all 335 new MPs. It covered the rule of law and the constitutional role of the court and was part of their parliamentary induction pack. We also prepared a booklet about the legal system and court structure in the UK, which was also included in the induction pack. The Speaker invited our Chief Executive and me to a reception for all new MPs, at which we had a chance to meet them and talk about our relationship with Parliament. Every new MP was sent an invitation to visit the court for a tour and a meeting with justices and staff. Some of them have taken up the invitation: for example, about 20 MPs visited the court this morning and engaged in discussion with some of my colleagues. We have

also held an event in Parliament, which was attended by MPs and their staff, when we spoke about the work of the court and answered their questions.

I have also made it clear that I am willing to meet groups of parliamentarians. Last year I accepted an invitation from Conservative members of both Houses to talk to them about the work of the court and answer their questions. The event was attended by Cabinet ministers, other members of the government, backbench MPs and peers. Earlier this year I accepted an invitation to address the crossbench peers and to answer their questions. We also invited the Constitution Committee of the House of Lords to a breakfast meeting at the court, when we were able to have a more candid discussion than is possible on public occasions.

These discussions between judges and politicians are valuable for both sides. Promoting a better understanding in Parliament and elsewhere of the nature and value of our work helps to create a climate of opinion in which ill-informed criticism may be less likely to be expressed by respected figures. Engagement with Parliament can also provide opportunities for answering criticism and concerns in private, where points can be made without the risk of anyone losing face in public, and where people may therefore be less defensive and more willing to listen.

One lesson for judges is that there is often less understanding of our work and our role than we had imagined. For example, one MP asked me whether the Supreme Court gives reasons for its decisions, and if so, whether they are made public. We should not be surprised if a lay person does not know that judges issue judgments, and imagines, I presume, that we simply take a vote, rather like a jury. Most people are not taught at school about the justice system, but draw their knowledge and opinions about it from the media. Bearing in mind that Judge John Deed tries cases which are prosecuted by his girlfriend and defended by his former wife, and is constantly resisting attempts by government officials to influence his decisions, before he solves the crime himself through his own investigations, it is not surprising if lay people have an inaccurate idea of what judges do.

Another question I have been asked by a parliamentarian revealed an assumption that the law consists only of legislation. Judicial development of the common law was

assumed to be constitutionally illegitimate activism. Again, lawyers take the judicial development of the common law for granted, but why should we expect lay people to know anything about it unless we explain it to them? In the light of those questions, when we have politicians visiting the court, I now begin the tour by showing them a legal textbook so that they can see how every statement about the law is supported by references to judgments of the courts. I then show them the law reports, so that they can see how the law is developed through judicial decisions. I also show them a volume of law reports from the sixteenth century, so that they can see that judges have been developing the law through their judgments for quite some time.

At my meetings with politicians I am often asked the same questions. I am asked about the legitimacy of unelected judges overturning the decisions of a democratically elected government, which gives me an opportunity to explain the difference between the government and Parliament, and the duty of the courts to uphold the laws enacted by Parliament if they are violated by the government. I am asked whether a Supreme Court operating on the American model is not foreign to our constitutional traditions, which gives me an opportunity to explain the differences between the UK and US Supreme Courts, and how the UK court is simply the Appellate Committee of the House of Lords in a new form, separated from Parliament but performing the same judicial function in the same way. It is much better to have the opportunity to engage with politicians who hold these concerns and explain the position to them than have them continue to hold mistaken beliefs about the judiciary.

However, my meetings with parliamentarians have also made clear to me the depth of the misgivings which are felt about the judiciary. For example, there is a widespread concern about what they believe to be the over-readiness of judges to allow applications for judicial review. There is also a concern that if Parliament tries to protect the decisions of those bodies from judicial review by means of ouster clauses, the courts simply ignore them. The solution, in the view of some parliamentarians, is to frame provisions conferring discretionary powers in language which is as wide as possible, so as to stymie judicial review.

It is worrying that there should be distrust of the courts, and it underlines the need for the courts to do what they can to build greater trust. But we should not deceive

ourselves into thinking that the reasons for the distrust have nothing to do with the courts. Cases in which, for example, judges have said that they might disapply an Act of Parliament which they regarded as contrary to the rule of law, or in which they have interpreted ouster clauses so narrowly as to render them ineffective, have left a legacy. The courts' approach in recent years has been more attentive to the separation of powers; but the more ambitious decisions and dicta of the past have not been forgotten.

If it is desirable for politicians to understand the judiciary better, it is also desirable for the judiciary to understand politicians better. It is important that a sense of proportion is maintained and that we do not cry "wolf" in response to every proposed statutory intervention in the work of the courts. It needs to be recognised that not all proposals for the modification of judicial review, or sentencing policy, or the protection of human rights, are constitutionally improper. The current state of judicial review, or sentencing policy, or human rights protection, is not sacrosanct. Not all proposals for reform are equal and not all criticism of the status quo, or of the courts, implies a lack of commitment to constitutional principle. Responding as if it does limits the scope for mature discussion and risks stoking the type of populist reaction that it is in all our interests to avoid. Those who wish, as I do, to defend the crucial role played by the judiciary in our Parliamentary democracy need to exercise judgement and encourage a measured debate, rather than responding in a way which encourages the view that the judges are a law unto themselves, deaf to criticism and an obstacle to reform.

Apart from Parliament, the Government, the public and the media, the other relationship that seems to me to be particularly important is that between the courts and the financial sector. My principal aim in building a stronger relationship between the highest court and the City has been to emphasise the fact that the UK's position as a global centre for legal and financial services, and its ability to attract inward investment, are underpinned by international confidence in our courts and our reputation as a country where the rule of law is upheld: matters which ultimately depend on the independence and quality of the judiciary and the legal profession. In recent years, speeches by the Governor of the Bank of England and the Lord Mayor have similarly emphasised the link between respect for the rule of law and the UK's prosperity and ability to attract investment.

The other component of our attempts to build and maintain trust in the court is our diversity and inclusion strategy. One of the hallmarks of a well-functioning judicial system is the ability of all members of the public to have equal confidence in its ability to provide justice. However, public opinion surveys report that trust is higher among some groups than others, and reflects factors such as social class and ethnicity.[18]

With that in view, we have taken steps to increase the degree of diversity on the Supreme Court and in the judiciary more broadly. But we cannot compromise the quality of the judiciary by appointing other than on merit. So we have published and followed a strategy to support the progress of able lawyers from under-represented groups – whether women, members of ethnic minorities, or people from poorer backgrounds – into judicial roles.[19] We have followed that strategy, for example, by providing internships at the Supreme Court for young lawyers from disadvantaged backgrounds, and establishing a network for the young lawyers who have undertaken those internships in the past. That has helped them to gain confidence and to progress in their careers. The scheme has been copied by other courts, illustrating the leadership role which the Supreme Court can play. We have also provided webinars in which judges and members of judicial appointment boards provide information and advice to people who aspire to become judges. These have proved to be especially popular with women and members of ethnic minorities. I have also taken steps to encourage women judges to apply for appointment to the Supreme Court, with the result that more women have applied for appointment when vacancies have occurred, and there have in recent years been equal numbers of men and women appointed. I have also secured the appointment of senior judges from Caribbean countries to sit on the Judicial Committee of the Privy Council (which hears appeals from jurisdictions in the Caribbean and elsewhere) together with the permanent judges drawn from the Supreme Court, with the result that judges from different ethnic backgrounds can now be seen sitting together. We have also made clear our support for greater diversity in the law by engaging with organisations which represent minorities in our population: for example, by hosting events for Sikh lawyers, Bangladeshi lawyers, organisations working to overcome barriers for black lawyers, and organisations

[18] See, for example, https://goodlawproject.org/ground-breaking-polling-yougov-trust-in-the-judiciary/
[19] Judicial diversity and inclusion strategy 2021-2025.

helping young people from different ethnic and religious communities. All these activities are publicised on the court's website and on its social media pages, so as to make our efforts more widely known. We also provide guidance and training for judges on how to communicate with different groups, and on sensitive questions of language.

The last point I wish to make is that the continuing independence of our courts presents an opportunity for the UK at a time when judicial independence and the rule of law are in greater jeopardy internationally. My meetings with my counterparts in other jurisdictions make clear how the UK justice system is regarded elsewhere as a model, as it was recently put to me by the President of the Constitutional Court of the Dominican Republic, where I had been asked to be the keynote speaker at a meeting of the highest judges of 23 countries from Europe and Central and South America. We are the gold standard of the rule of law, according to a member of the German Federal Constitutional Court at a conference I attended at Yale University. The judgments of our Supreme Court are followed, I have discovered at recent meetings, by courts in countries as far apart as Nepal and Costa Rica. The Chief Justice of a country in the Americas told me that his courts no longer look to the US Supreme Court as a model, but to what he described as the US court's elder brother, the UK Supreme Court. Justices of an African supreme court told me that they regard our court as the mother of their own. At a time when confidence in the independence of some other leading courts is under pressure, this level of confidence in UK courts presents an opportunity for English law and the English courts to increase their international influence and their importance to this country's prosperity.

To conclude, this is an age in which trust in public institutions cannot be taken for granted. In order to establish that trust, the judiciary and Parliament have to maintain the relationship of mutual respect that historically has been one of the great strengths of our constitution. We have to avoid pitting one institution against another in ways that damage our reputation both inside and outside our borders as a society based on the rule of law. We need to encourage trust where there may have been distrust, to encourage politicians and judges alike to see the courts and political institutions as having a shared responsibility for the rule of law, and to help politicians and the public to understand that the courts' independent role in the interpretation and application of the law is legitimate and necessary. That is the essential message that we need to communicate.