



Constitution Committee

Corrected oral evidence: The rule of law

Wednesday 3 September 2025

10.30 am

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Members present: Lord Strathclyde (The Chair); Lord Anderson of Ipswich; Baroness Andrews; Lord Beith; Lord Bellamy; Lord Foulkes of Cumnock; Baroness Hamwee; Baroness Laing of Elderslie; Lord Murphy of Torfaen; Lord Waldegrave of North Hill.

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Questions 176 - 193

Witness

I: Rt Hon Shabana Mahmood MP, Lord Chancellor and Secretary of State for Justice.

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Examination of witness

Shabana Mahmood.

Q176 **The Chair:** Good morning, everybody, and welcome to this meeting of the House of Lords Constitution Committee. Today, we are hearing from the right honourable Shabana Mahmood, Lord Chancellor and Secretary of State for Justice. You are very welcome and thank you for coming along to this committee meeting. The Constitution Committee in the House of Lords takes a particular view with the Lord Chancellor and this is an annual meeting that we have, to enable us to discuss a range of issues that are of concern to you and to us. As you know, we are in the middle of our own inquiry on the rule of law, and we hope to publish that before the end of the year. We have received evidence from you and various people, which has been extremely helpful. Perhaps we could now go into the main session. Lord Chancellor, can I give you the opportunity of making a few comments before we fire away on our questions?

Shabana Mahmood: Thank you very much, Chair, and thank you to the committee. It is an absolute pleasure to be doing my first appearance before you all today, and particularly in relation to your inquiry on the rule of law, which I think is an issue that is essential to our country's past, present and also future. On becoming Lord Chancellor, I swore an oath to uphold and defend the rule of law. I did so on my Holy Book, which is not something that I do lightly, and I did so with my parents present as well. They are first-generation immigrants who came to this country because they knew it was a place where the law rules, not the mob.

The rule of law is the foundation of our democracy. It is the guarantor of our security and the wellspring of our prosperity, and it cannot be taken for granted. It is a living thing, and that means that we all have a responsibility to keep it alive. I wanted to make a short opening statement today because I must admit some concern on that front. In a vibrant democracy, everything must be up for debate and challenge. That extends to questions of law as well. It also extends to judicial decisions, criticism of which, as Lord Reed of the Supreme Court noted in a recent speech, is an aspect of judicial accountability.

However, there is a line that must be drawn. It is one thing to criticise a decision but another thing entirely to bring a judge's integrity into question. On taking office, judges swear to apply the law without fear or favour. When they enter a courtroom, they leave their personal views at the door. To suggest otherwise, as some have in recent days, is to undermine the public confidence on which the justice system depends and erode the rule of law in this country.

Attacks on judges also have a very human consequence, risking the security of public servants on whom we rely to guarantee our safety. I have been appalled by some of the language used in relation to our judges, particularly in recent days, and the disclosure of personal information that places them at risk, including, unfortunately, by those

who seek high office and who should, frankly, know better. So may I take this opportunity in making a statement before all of you today to end with a reminder to those on all sides of Parliament, and those outside it too? It is incumbent on all of us to uphold the principle of judicial independence and to defend the integrity and ensure the safety of our judges, and by doing so to uphold the rule of law. Thank you. I will leave my opening remarks there.

Q177 The Chair: Thank you very much indeed. Earlier on in the year, we took evidence from the Lady Chief Justice and she very much referred to what you have said on the role of judicial independence and the responsibility of parliamentarians to make sure that they know where the line is between judicial independence and commenting on other aspects of the legal process. So thank you for that. You mentioned your own personal journey and your family background. My first question is, what practical action do you take to uphold your oath to protect the rule of law?

Shabana Mahmood: Ever since I came into office, I have been faced with a justice system under severe stress and a criminal justice system in particular on the point of collapse, particularly given the problem in our prisons in relation to capacity. There is no meaningful rule of law if there is no ability for an assertion of legal rights, a protection of legal rights, effective remedy, and access, therefore, to justice in the broadest sense.

So, being a practical politician with a constituency case load which is very high with people who are stuck in courts backlogs, it is very much on my mind that it is my responsibility to try to restore our justice system to something worthy of the name. So my main efforts since coming into office over the last year have been very much focused on the criminal justice aspect of things, but also taking a broader look at what else is happening in the justice system.

On criminal justice in particular, you will know that I announced, and we have since had reported, the David Gauke review on sentencing—an independent review—and also Sir Brian Leveson’s independent review into criminal courts. I will be engaging in much debate in the next couple of weeks or so, particularly on the sentencing review, because the Government yesterday published the Sentencing Bill as a result of the findings of that review. It is absolutely mission-critical that we get ourselves out of the perma-crisis that we have been in on prison capacity in particular, but also chart our course to a stronger justice system that delivers punishment and ultimately can maintain public confidence and cut crime as well. I see all of those issues as being connected.

On the criminal courts front, Sir Brian Leveson reported before the Summer Recess. I will be setting out the Government’s full response to his report a little later in the autumn, with a view to also bringing forward legislation as early as possible to make any of the resultant changes.

Q178 The Chair: I am sure there will be many supplementaries on that, but I also want to ask you, in terms of your role in upholding the rule of law, how does that extend to your relationship with other Ministers, for

example the Attorney-General?

Shabana Mahmood: The Lord Chancellor, as you all know, is unique compared with all other Ministers. In the Constitutional Reform Act, Section 1 refers to the existing constitutional duties of the Lord Chancellor in relation to the rule of law. It does not spell them out, necessarily. I think it was taken as read in terms of where responsibility tended to sit, certainly historically. But, of course, there is a wider responsibility on all Ministers in the Government and after the election, when we were all sworn in, you will all know that the Attorney-General and the then Solicitor-General both amended their oaths to refer specifically to the rule of law for the first time.

I welcome all members of the Government, of course, making it clear that we have a commitment to uphold the rule of law. It makes sense that the Attorney should also make such a declaration. I was rather surprised that that was not already in the oath. I would have taken it as read, I guess, before coming into office. So, I think the machinery of government responsibility, if you might term it that way, in the broadest sense sits with myself and the Ministry of Justice, particularly in relation to upholding and defending the independence of the judiciary, which is, of course, the other relevant section of the Constitutional Reform Act.

Of course, we have overall policy responsibility for work on the rule of law, particularly in our international engagement, where we do extensive programmatic work with other international partners. For example, we are doing intense work with the Ukrainians on strengthening the rule of law position in their jurisdiction and we have other programmes as well. So, in policy and I guess at official level, we hold the pen. But, of course, you would not expect me to say anything other than it is a responsibility for every Government Minister.

Q179 **The Chair:** Before I call in Lord Anderson, going back to sentencing guidelines, do you think public confidence in the legal system is enhanced by letting prisoners out earlier than would otherwise be the case?

Shabana Mahmood: I think the worst thing that could happen for public confidence in law and order, and the rule of law in this country, would be if we ran out of prison places, which is what we were on the brink of doing soon after I came into office. In fact, every measure I have taken to avoid us going down to zero prison places in England and Wales since I have been in office has been an emergency lever. It has bought us time, but it has not resolved the underlying problem, which is that, despite the largest expansion in prison places since the Victorian era, we cannot build our way out of this crisis.

So the Government are building. We are building fast. But that is not enough. We have to think differently about sentencing. I will just spell out for the committee that, if we get down to zero prison places, there is very little you can do other than run a one in, one out system. You put a person into prison and custody only if somebody else comes out. The police warned during the general election privately to the previous

Government that, in their eyes, that risked the total breakdown of law and order. I think they were right.

When I came into office, I used very strong words to describe the inheritance that had been left for me to clear up. I did not do that lightly. That is, in fact, the absolute, straight-up truth of what I have been facing since I have been in office. It is absolutely critical that we do not run out of prison places.

What is extremely debilitating, not just for the criminal justice part of the system but for the justice system overall, is this sense of only ever moving from crisis to crisis. What is obvious to me, as a still relatively new politician in this job, is how much energy has been taken up at the MoJ on just surviving day to day and how the prisons capacity crisis has crowded out the ability to do other work of importance across the wider justice system. The whole system demands an answer to the prisons crisis.

I see the Sentencing Bill as putting us on a trajectory not just to get out of that crisis but to build a stronger justice system at the end of it, which is why I am particularly focused on ensuring that alternatives to custody, what we do with those who are serving a shorter period in custody and what we do with those who are serving a longer period under intensive supervision in the community is work that is capable of maintaining public confidence. That is why we have made such a huge investment in the Probation Service and why we are powering ahead with investment in technological innovation, such as the greater use of AI and making more use of our current tagging technology, which works extremely effectively.

This is all part of a package. It would be a mistake to think that this issue is just about the criminal justice system; I see it as being necessary and mission-critical for restoring the whole of the justice system.

The Chair: Of course, we will have an opportunity to look at the Bill in due course when it has finished in the House of Commons.

Q180 **Lord Anderson of Ipswich:** Good morning, Lord Chancellor. Thank you for coming to see us. I want to ask you about the European Convention on Human Rights. I declare an interest as a barrister acting both for Governments and against them, including in Strasbourg.

In June, you spoke at the Council of Europe about reform of the ECHR. You said that "reform must be a shared political endeavour amongst us as member states". Which specific aspects of the convention or the convention system require reform? What do you want those reforms to achieve in practice?

Shabana Mahmood: Thank you very much, Lord Anderson. As some of you will know, my speech in Strasbourg followed an intervention by nine other member state signatories to the convention.

Going into what was then my first address to the Council of Europe and my first meeting with the European Court of Human Rights, it was clear

that there was a real appetite for a discussion, particularly among our Danish and our Italian colleagues. There is clearly some concern across the Council of Europe and different member states around how the convention is working, particularly in relation to the challenges of mass migration. You will have seen much of the commentary on that front over recent days.

I wanted to make it clear that the position of our Government is that you can be a big supporter of the convention and absolutely stand behind the independence of the European Court of Human Rights while also having a sensible conversation about whether an instrument that was written 75 years ago can still fit the needs of the modern era. On one level, it was to signal that this Government take a very positive approach to both the convention and the European court; that we are not here to start attacking the court; and that we very much stand behind the principle of the independence of the judiciary in the international sphere.

However, we are keen to shape any conversation on reform that is happening. Unlike other potential attempts by previous Administrations to talk about reform with colleagues in Europe, this is not being led by just us, the Brits. Other nations are welcoming this debate very much. The discussions since I made my speech have been positive. There is a desire to see where the conversation takes us. There is not yet, I guess, a confirmed view between the nine signatories in terms of exactly what they want to discuss.

We are open to leading the conversation or playing a leading part in it. In my speech, I obviously referred to the particular challenges around dealing with irregular migration and also with the deportation of foreign offenders, but on that score, we as a Government believe that there is work that we can do domestically, within our own domestic legal framework, which is why the Home Secretary, in particular, is looking at the application of Article 8 and will be bringing forward further proposals later in the autumn. To begin with, our work is very much focused on Article 8. It may expand beyond Article 8, but that will depend a bit on how some of the new conversations with our colleagues in Europe go.

Lord Anderson of Ipswich: I think others will come back to that domestic aspect of what you are going to do, but I will just ask you one more question, if I may. I am keen to establish the limit of your political ambition when it comes to what you described as the shared political endeavour between member states. Are we looking potentially at an amendment to the text of the convention itself? Are we looking at making it perhaps easier to derogate from certain provisions of the convention, or do you think the most that is realistically achievable might be some kind of declaration of the kind that we saw in Istanbul, in Izmir, in Brighton, where the states agree certain principles guiding the interpretation of the convention rather than actually amending its terms?

Shabana Mahmood: I would say that the debate at the Council of Europe may be a stage before you get to what is the art of the possible, or how far are people willing to go, which is just the desire to have the

conversation. Certainly, under previous British Governments, but even with other colleagues in Europe, there has been a nervousness about even having the debate, or one or two countries have a problem with this but everybody else is basically fine so it seemed like more of a lone endeavour, more of an isolationist position, potentially, to be in.

What is happening now is that more member states are willing to entertain the conversation, but I think they are at the stage of being able to set the parameters for the way in which a conversation might take place, before we get to what is on the table. I would say that it is a stage earlier than what you have said. What is my own personal view? Generally speaking, if you are going to talk about reform, because you believe in something and you want it to last another 75 years, you do not start taking things off the table straightaway, because that would not, to my mind, seem like a sensible political way to operate, but we do so knowing that we are supporters of the convention. We want to remain members of it and, as the Prime Minister has made clear, we are not coming out of it.

- Q181 **Lord Beith:** There has been much talk about family life as an issue raised in tribunals, some of it driven, I suspect, by very selective reporting of tribunal decisions, but the issue is there. I am curious to know whether the Government are looking at potential UK legislative solutions to the interpretation of this provision, and whether they are working up either primary or secondary legislation, at least for consideration, as a way of dealing with it.

Shabana Mahmood: That is exactly where the work of the Government is focused. There is clearly an issue with the extent to which our jurisprudence on the interpretation of our obligations under Article 8 is defeating a migration policy that could command wide public confidence and fulfil our broader legal obligations. I think it is perfectly legitimate to question the extent of it. I think it is certainly a problem. That is certainly the view of the Home Office. Also, interestingly, if you talk to colleagues across Europe, there is a view that Britain is maybe more at the maximalist end of the spectrum when it comes to interpreting how we might comply with our international obligations, and you do not have to be at the maximalist end of the spectrum in order to be in compliance. Again, these are matters of debate.

Where you draw the line of what you have to do to actually be compliant is drawn differently by different member states across the Council of Europe, and I think it is perfectly fine for us to question whether we have drawn the line in the right place. The work that the Home Secretary is doing has both fresh guidance and secondary or primary legislation on the table as potential options, but, as I say, the Home Office has done its immigration White Paper, this work was part of that, and it will be saying more a little later in the autumn about progress on that front.

- Q182 **Baroness Hamwee:** Thank you for coming. You mentioned prisons, obviously. Can I ask about the probation work? One of the things you mentioned was tagging. What are you doing, and what can you do, to get

the message over to the public that there are measures to be taken in the criminal justice system which are very important but do not involve incarceration or tagging but treatment and so on, and that that is not a poor relation or a second best to imprisonment? The message that seems to go out very widely—I do not mean from the Government, but generally—is that if people do not go to prison, then the criminal justice system has failed.

Shabana Mahmood: We have introduced the Sentencing Bill, so it is for me to make and win the argument that there must always be a prison place available for offenders who have to be locked up to keep the public safe. Many offenders do need to go to prison, and some of them for a very, very long time. I do believe in punishment in prison, so that is important, but, for those offenders who can be dealt with in the community, we need to make sure we retain public confidence in what happens to them if they are being punished within the community. That is why we want to think more creatively about the use of tech.

We are at an early stage. We have good technology in terms of tagging—they are good things, they work. We think we are not far away from a new generation of tags, and we have been talking to tech companies about further innovation in this space and, in the future, we see big technological innovation as being possible. I think that is important for retaining public confidence, because the worst thing is when people think it is a consequence-free zone.

Why is shop theft, in particular, so debilitating for public confidence in broader law and order? It is not because people think that every single day, very serious crime is occurring: I think people can see that those numbers have come down. But for people who follow the rules, who do not litter in the public space, who are not hanging around doing street drinking, who are not then going in and nicking vodka bottles off the shelves in the shops and then nothing happens, that says that you can get away with breaking our rules, that these offences might have been decriminalised or that there is impunity. I think that is very debilitating for public confidence, so it is important that we are able to make sure that we can say to the public, “If you break the rules, you will be hearing from the police, you can be charged and convicted and you will be sentenced”, and that sentence will be worthy of punishment in the broadest sense.

To pick up on the second part of your question, one of the arguments I am also making in relation to why the sentencing reforms are so necessary is that we also have to think about punishment that ultimately cuts crime. Currently 80% of all offenders are reoffenders. This vicious cycle of people going in and out of prison is a very real problem, and we therefore have to think about the interventions that help create better citizens rather than better criminals. This is why the evidence on short sentences, sentences of less than 12 months, is so clear: rates of reoffending for people sentenced to custody for fewer than 12 months are off the charts; there are terrible rates of reoffending. Within the year, a very significant proportion of those offenders will be back in the prison

system again, so we have to ask: what is a better intervention? Because every one of those reoffences creates another victim, and ultimately, we all want to see those numbers come down.

That is why I do think that tagging technology works. We have done two recent studies and both have shown that the reoffending rate for someone who wears a tag is cut by 20% compared to someone who does not. That has real implications for people out in their communities and the rates of crime that people see in their community, so we want to press ahead with all of that. It is a political argument, in the end, for me to win. The judges, magistrates and everybody else in the criminal justice system will just apply the framework as they have it in front of them, but I am the one who has to win the public argument for it.

Baroness Hamwee: And the public argument about things like treatment requirements and so on, and that a short sentence to a first offender who does not go into prison is treated—dealt with—in the community is still a punishment.

Shabana Mahmood: It is still a punishment. I have to demonstrate how and why that can both be a punishment and prevent further reoffending. We are particularly interested in, and excited by, the evidence that we have seen from our pilots in this country on intensive supervision courts. When I was out in Texas earlier in the year, I was primarily there to see their prison system and how they have used the principle of good behaviour credits to incentivise better behaviour from prisoners and engagement with the prison regime. But I also saw some of their equivalents of intensive supervision courts; I believe that they served as an inspiration to some of my predecessors, which is what led to the pilots in this country. We think that they have a really important and useful role to play, where one judge is in charge of that offender and basically deals with them in a very intensive way. It is very much intervention and treatment-focused. Again, the early evidence on the capacity of that sort of intervention to reduce reoffending is very exciting, and we will be looking to expand it. Again, I do not want to get ahead of future announcements, but we are very keen to expand the work that we are doing on intensive supervision courts.

Q183 **Baroness Andrews:** Good morning, Lord Chancellor; it is lovely to have you here, and thank you for being so frank on all aspects so far. I want to go back to the ECHR, because what you have been saying about the conversation, the discourse, you are having across Europe is so interesting and important to us in the context of our inquiry into the rule of law in general. One of the issues is about the perception of change. You talked about the changing circumstances, which require a rethink of the ECHR and particularly about mass migration, which has changed the geopolitics to an extent. It has also changed the perception of how robust and consistent our interpretation of human rights can be. In your conversations with Europe—you talked about leadership—do you think you can hold the line that human rights actually have to be defended, even under changing circumstances when there are so many political

pressures as well? Do you have the confidence that it is sufficiently robust, both as a moral and a political imperative, that we can actually show that sort of leadership?

Shabana Mahmood: I believe the answer to that is yes, but that is the political test that we have set ourselves as a Government. Others can judge for themselves in due course. This really goes to the heart of the argument I was making at the Council of Europe. We start as a Government from a position of believing in this convention and wanting to defend the independence of the court and the judiciary that sit in that court. We are not wanting to play, as you might say, populist politics with it. We go in from a position of believers in what the convention is trying to achieve. If people who support this instrument and who want it to work cannot have this debate in a sensible way then, honestly, there is no hope really at all for anybody. So, part of the desire to make that intervention was to say, "Look, we are here. We are supporters, and while we are a Government, this is going to be our position". But it is incumbent on people who are supporters to engage with it, otherwise the debate gets away from you and others who might want to tear up all of these instruments and who might not have any idea of what they want to replace it with—or if they do, it might not be something that we could all sign up to—get to lead the debate.

It was time for a coming together of like-minded individuals to say we should try to lead the debate in a different direction. It is at a very early stage and, of course, us acting alone is not going to get us very far. When you are dealing with lots of different countries with different perspectives, those are going to be delicate and prolonged discussions. But I took heart from the fact that, whatever people think of the content of the letter from the nine other member states, when I was talking to their ambassadors to the Council of Europe, there was a desire just to have a discussion. They wanted to remove the desire to have the discussion from the "Absolutely no. This means you are in the bad guy" box into the "No, can we just be sensible about this?" box. That is where we were trying to land that, and we have a role to play there.

Q184 **Lord Foulkes of Cumnock:** Can I follow that up and declare an interest? I am a one of the members of the all-party delegation to the Parliamentary Assembly of the Council of Europe.

Shabana Mahmood: I know.

Lord Foulkes of Cumnock: As you know, Lord Chancellor, there are some people who are suggesting we should, as they say, withdraw from the European Convention on Human Rights. That would be effectively us withdrawing from the Council of Europe and joining Belarus and Russia. Is that right?

Shabana Mahmood: Yes, if you withdraw, you are in a club that currently has two members and we would be a third. The position of our Government is the direct opposite of that.

Lord Foulkes of Cumnock: Good.

Shabana Mahmood: It is a matter of rather intense political debate at the moment.

Lord Foulkes of Cumnock: And you are very wisely suggesting that you and the Home Secretary should look at how the convention might be adjusted for modern circumstances. Can you give us an assurance that you and the Home Secretary will involve both Houses of Parliament in this discussion, and particularly the all-party delegation to the Parliamentary Assembly? I am sure there would be a useful input from both Houses and from the delegation.

Shabana Mahmood: Yes. The work on Article 8 is being led by the Home Secretary, but I am sure she will not mind me speaking for her. I am certain that you know the Home Secretary very well as well. She will, of course, do things in a proper way, and there will be plenty of debate and discussion in Parliament. As I say, the Government started with their White Paper, a statement of intent about where we want to go and the work that we are doing to deal with some of the challenges that irregular migration is posing. She has already said that, later in the autumn, we will be saying more about our views on Article 8.

In conversation with members of other delegations in Europe, there is a view—it was surprising to me how widely held that view was—that we, the Brits, maybe go to the nth degree: as I say, that we are at the maximalist end of the spectrum. For those who do not necessarily want to get into a big discussion about ECHR reform through the Council of Europe, there was very much a sense of, “You guys just need to sort your domestic law out, because you are maybe going a bit too far, and even the court does not want you to go that far”. Those are discussions with other politicians, I hasten to add, not with jurists, but there was a very widely held view, among lots of people that I was engaging with, that the issue from their perspective is very much our domestic legislation as well, which is why I think this work on Article 8 is particularly important.

Lord Foulkes of Cumnock: Thank you very much. That is very helpful.

Q185 **Baroness Laing of Elderslie:** Lord Chancellor, may I just pursue this matter a little further? You very movingly said in your opening remarks that one of the reasons that your family chose to come to this country is that it is the rule of law and not the rule of the mob that prevails here. I find that particularly moving. We have seen quite a lot of mob activity in various places throughout our country over recent months, and I wonder if you could clarify this point. You have partly answered this in your answer to Lord Foulkes, which is very welcome.

One of the reasons why there has been a lot of what one might describe as mob activity is because people are being told that they are powerless, that our Parliament is powerless, and that international obligations of this Government take precedence over the rights of UK citizens. I know that is not the case. You know that is not the case. I wonder if you could take this opportunity to confirm something, not for the learned members of this committee, but for a wider audience: that the way in which the

judgments and rulings, for example, of the ECHR are applied in the UK is a matter for UK Parliaments—for the Westminster Parliament, and in Scotland for the Scottish Parliament—that it is the application of the Human Rights Act which actually prevails; that this Government and this Parliament have the power, as you have just alluded to and as the Home Secretary said on Monday in the House of Commons, to change the way in which that is done; and that the people who are currently protesting with posters and voices and physical presence do not need to do so, because they have a Government who will listen to them.

Shabana Mahmood: Yes. Our Parliament is of course sovereign. With the European Court and the way the convention works—these are hard concepts to get across in short interviews—there is a wide margin of appreciation. You have a broad principle, but each member state has a lot of leeway, which might be more of a lay man’s way of describing it, in terms of how they apply that broad principle—for example, respect for private and family life—into their domestic legal arrangements. Because you have that leeway, we as a Government think it is perfectly possible that we might have gone a bit too far and we might want to bring that back and still be within full compliance of our international obligations. That is the work the Home Secretary is doing.

I would say to people who are concerned about this issue that we as a Government are telling you that we are not powerless; we are not here blaming other entities or seeking to make scapegoats of anyone here. We know what our responsibilities are as a Government. We have a plan to deal with all the stress points around irregular migration that communities are seeing played out right in front of them, whether that is stopping the inflow out and going after the people smugglers and the horrible individuals that are putting people on dangerous boats in the first place, or making sure that our own domestic legal arrangements are fit for purpose and can meet the scale of the challenge, as well as to implement what we believe is the will of Parliament. Some of the cases that we are seeing were never what was intended when these instruments were written, so it is the responsibility of the Government to bring things back into balance.

I would say to people who are worried that I totally understand why there is such a pinch point and so much concern at the moment. This problem has been many years in the making, but we have started the hard work of putting it right. Bear with us, it will take a bit of time but we do have a plan. As I say, the Home Secretary will set out more later in the autumn. But there are things for us to fix here as a country; we are not mere passive recipients of decisions from above that we can do nothing about.

Q186 Lord Waldegrave of North Hill: Lady Laing pre-empted one part of my question. I invite you to agree with the proposition that the British people might be willing to have very generous asylum procedures and so on, but they will not do that if they think it is being imposed on them. I think that is roughly what you are saying.

I then wanted to go off in a completely different direction. You talked

very movingly about taking the oath on the holy book, then you mentioned the first part of it. I was a former Chief Secretary. The second part of it would have frightened me, as Chief Secretary, like anything. You swore to ensure the provision of resources. Many will support your proposal that short prison sentences do nothing much, but the alternative rests on having the real resource available in the Probation Service and in prison, among prison officers and the whole of the system. Does that second part of your oath, in effect, give you any real privilege in terms of the pre-emption of resources? Otherwise, it is a little bit—one should not swear to do things that are just empty, if you see what I mean.

Shabana Mahmood: Let me just say on immigration that yes, I think people want a managed and controlled system. Generally speaking, in my experience, the sense of decency and fair play in our country means that when someone has come here perfectly legally and is working and making a contribution, there is a real sense of welcome and an acceptance of the role that they play in our country, and their journey to citizenship as well is supported. On asylum as well, people do want us to play our part, but again, it is about the system being controlled and managed, and for us to know who is coming, to know the numbers, and to be able to deal with people effectively who have no right to be here as well. I think the country is looking for a package that fits what people believe should be the right way to proceed as a country. It is on us as a Government to make sure we can deliver that and that the public can have confidence in it.

On resources, I would love to say that the fact that it is part of my oath and I have that statutory obligation gets me absolutely to the front of the queue in spending review negotiations, but that might not be the experience of any of my predecessors. Of course, the justice system has not been a protected department and has faced huge cuts over the last 15 years, but we have invested as an incoming Government. I made choices in 2024-25 to put whatever small amount of underspend that there was in the Budget towards increasing Crown Court sitting days in year, so we added 2,500 Crown Court sitting days. I think that relative to other government departments, and looking at where the spending review decisions were made, we have been able to secure an uplift to help us deal with some of the demand coming into the justice system, but also, of course, to enable us to deliver an effective reform programme.

That is where the uplift for probation, in particular, is welcome. If we are doing things differently in terms of prison capacity and people who get custodial sentences as opposed to those who are managed in the community, there is no way that I or the Government are going to do that without making sure that probation has the resources that it needs, so that you are not just shunting pressure from one place to another but are actually dealing with the problem overall. I would say that, on the broader system, I have been able to secure what is needed for the sentencing reform programme. As I continue to make allocation decisions, I will say more in terms of the Crown Court reform

programme, particularly when I respond officially on behalf of the Government later this year. But that reform programme needs to be funded to deliver the reform and deliver the savings that we believe can come from that reform as well.

I will perhaps leave the august members of this committee to discuss whether the statutory obligation is effective in the sense of, do you have remedy if it does not quite work, and are you trying to legalise what is essentially a political process? I certainly take it seriously and I go and bat for what we need as a department. Of course, I have to make sure that, as I said at the start, there is a justice system worthy of the name, and that means maintaining a decent level of court capacity, which is what I have been seeking to do, both as soon as I came into office and then from the spending review decisions that have been made since.

Q187 Baroness Andrews: The next question follows on, because it is about how the rule of law appears to most people who come into contact with it. As you have said very openly, Lord Chancellor, the issues of the criminal justice system and prisons have driven out some of your capacity to do some of the other things you really want to do.

In evidence, it has been perfectly clear to us, consistently, whether it is from the law centres or from the CAB, that there are people in the community who are at the sharp end of the civil justice system and cannot get access to justice or have faced huge delays in small claims courts, family courts and employment tribunals. That is where most people come across the law and where they judge whether it is available to them and whether it will actually be useful to them. There is a general sense that there is a failing at the moment, in that most people are not able to get access to justice quickly or with confidence, so my first question is simply, how do you reflect on that? If you could send a message, for example, to those people who are working at the coalface to give reassurance that the justice system is there for them and they will get justice, what would you say would be the priorities which you could deliver, say, in the next 12 months or three years?

Shabana Mahmood: Let me first acknowledge that while a lot of the debate on access to justice in the broadest sense, as well as maybe in the narrower legal aid sense, is often about criminal justice, and maybe family after that, I recognise that the way in which most people interact with the justice system is actually through the civil system. I used to be a civil practitioner myself; I specialised in professional indemnity litigation and professional negligence claims—a totally different area of law. A lot of people will access the justice system because of issues of employment or housing or benefits or wills and probate. The business of life day-to-day life is how a lot of people come into contact with the justice system. So, first, I absolutely recognise that, and I think we are doing good work to try and crack down on backlogs in the civil courts. We have small but very welcome improvements in timeliness in the county court, based on quarter 1 data of 2024, and then this year as well it is down from just over 51 weeks to just under 50 weeks. I know it is small, but in our world, these are good gains that we can build on.

There is good work on digitisation of the system—the Master of the Rolls has taken a particularly strong position as a leadership judge on this. I will not get into the experiences of previous Administrations and previous digitisation programmes but will just say that first, we support very much the work that he and the Online Procedure Rule Committee are doing. We are in the process of building a new digital possession service, dealing with possession claims, and we will be replacing CE-File, the High Court case management system, and have started a programme of work on that.

A lot of the work of reform and improving timeliness and productivity in the civil system is about the digitisation process. That is work that we are continuing with. It is why it is so necessary to get all of us in the MoJ out of crisis mode, because that will open up the ability to think more widely about the sort of justice system we want our citizens to be interacting with. But I would not want you to think that, just because of the crises that I have been managing, there is nothing happening in the civil space. There is good work taking place and we will be looking to do more over the course of the Parliament.

Baroness Andrews: It is very important for us to hear you say that. Every Minister is firefighting to an extent, but particularly when people are so badly affected by delays in the justice system. Sir Geoffrey Vos gave evidence to us, described the importance of the civil justice system and came up with a number of very practical issues; for example, removing paper—that is the digitisation point. There were lots of things, actually; it is a process. But is there anything else that you think would make a difference to how people felt about the way the system was working, or the bigger messages to be sent about the importance of access to civil justice in the system?

Shabana Mahmood: I will say two things, just based on constituency experience. I absolutely agree that we need a good, functioning civil justice system and, for most people in our country, that is what they interact with. It is also what business primarily uses as well, so to the extent that the rule of law underpins some of our economic strengths, that is incredibly important. Actually, the problems in criminal justice do bleed across to confidence in the wider system as well. I have done round tables with leading businesses looking to invest in our jurisdiction, wanting to make use of our legal framework to underpin their agreements and resolve their disputes, and if so much of the debate is about the crisis in the system—the sense you are running out of prison places, your Crown Court backlogs are off the charts, people are waiting years for justice—that does have a knock-on effect in terms of confidence, at that level of investor confidence, businesses and the wider economy, but also citizens as well. I think of my constituents. Yes, of course, if they are trying to lodge a claim in the county court, they might complain to me about the process or the paper, but they will absolutely care maybe more about their neighbour who has been waiting four years for their Crown Court trial to proceed and has just been delayed again for another six months.

It is one system, and a total breakdown in one part of that system absolutely bleeds across to the rest of it as well. But I strongly reiterate that we have not—I never would and I could not, because my own practice background is there—taken our eye off the ball on how important civil justice is to the wider system. I am determined that we will make more progress on all the things that the Master of the Rolls has been speaking to you in this committee about, but which he and I discuss regularly as well. There will obviously be a necessary challenge on pace and funding, but we are making progress all the time.

As I say, with the work on digitising the possession service, and building on other good work that has been happening, we are making good gains. I am looking to keep making those gains so that the system does not just reduce paper but is transformed and intuitive, in the same way that people use their phones to do most of their life admin and the day-to-day business of running their lives.

Q188 Lord Beith: Lord Chancellor, what is it about you and the Sentencing Council? You had a disagreement with the Sentencing Council, which, incidentally, will have a very important part to play in implementing new sentencing policy with less use of custody, if Parliament goes along these lines. You had a disagreement with it which you were unable to resolve by correspondence, let us say. You then told us you had to have legislation, and we as a committee looked at that legislation and found that, even as it was finally passed, it had defective drafting in it. I will not go into the detail, but it was a bad precedent for further legislation. Now the Sentencing Bill contains provisions giving you a veto over the Sentencing Council, and I notice that that was given quite a lot of coverage and publicity, as if somebody had briefed that this was one of the most important bits of the Sentencing Bill—that the Lord Chancellor would now have a veto over their decisions. Is this not a pretty pugilistic way of dealing with a judicial body with which I would expect relations to be both cordial and efficient?

Shabana Mahmood: First, there is no personal beef, let me just assure the committee of that, but there was a disagreement on a very important principle of the law, one on which I was not willing to compromise. That is the sense that all are equal before the law. I will not rehearse all the debate here, but I have a very strong view—I have discussed it in Parliament extensively—that that particular guideline strayed into what I considered to be a matter of policy. The underlying issue is absolutely something that is of interest to me. Are there disparities? What is causing disparities? What can we do about disparities? The way to remedy that is not for the Sentencing Council through its guideline, but for me to take ownership of that issue, because it is a matter of policy for the Government and Parliament to correct. I felt that it had stepped into a policy area.

Also, it was not a minor matter. If that guideline had remained and this unequal treatment before the law at point of sentencing had taken hold, then imagine what that would have done across every Crown Court in the land seeking to pass sentence. It could have had very negative effects

and a very deleterious effect on public confidence in the rule of law and in the justice system. I was not willing to risk that. We did try to resolve it. What I obviously originally sought was to stop the process and effectively start it again, on the grounds that it was the first time in the Sentencing Council's history that there had been a change of government, with the guideline coming in starting its life under the previous Government and then completing its life under a new Government. So, although the Lord Chancellor had been consulted in the usual way, the new Lord Chancellor had not, and it was not just a new Lord Chancellor in the same Conservative Administration but a Lord Chancellor of a new Labour Administration. I will not rehearse all the arguments, but there was a disagreement, we were unable to resolve it, and I had said I would legislate in order to prevent that guideline coming into force. That is the action that we took.

Going forward, the Sentencing Council has an important role to play. I took the opportunity to think more widely about how we give guidance to judges. The whole point of the Sentencing Council is to have a sense of consistency—a measure by which you can see that certain types of cases will attract a particular kind of sentence. There is nothing wrong with trying to have consistency in sentencing. It is important, even while defending the independence and the discretion of each judge in every individual case, but they do have to maintain public confidence. Because there has been, in my view, this overstep into an area of what is rightly policy rather than the realm of the independent judiciary, I think that having this process of approval by myself and the Lady Chief Justice is the right way forward.

Lord Beith: The whole problem would not be there, would it, if the courts had access to pre-sentence reports in all relevant cases?

Shabana Mahmood: Pre-sentence reports are a good thing, and I would not mind if they were used in every case. "All relevant cases" get you into the decision of "Which is the relevant case?", which is in the discretion of the judge. To try to do that in accordance with personal characteristics is, I think, a step too far. That is obviously the situation we were seeking to remedy. The new system will maintain public confidence and allow the Sentencing Council to do what is good, important work, which obviously I want to support it in as well.

- Q189 **Baroness Hamwee:** Going back to the public's reaction to what happens on a day-to-day basis in the courts, I know that the MoJ is looking at systems for providing transcripts of judges' sentencing remarks and that is very helpful. That is where a defendant has been found guilty. The outcome of a trial and what a judge has had to say is also important to a victim where the defendant has been found not guilty. I understand that the Ministry of Justice is prepared to trial various things to see what can be done to bring down the cost. That may take us back to AI. Are you able to update us on what the plans are for trials and what is being explored?

Shabana Mahmood: We are exploring an AI tech solution. Colleagues in the House will pull up one of those transcription apps on their phone and say "Come on, Shabana, I can do this on my phone. You are telling me we cannot get this into our courts?" However, the thing we cannot compromise on is accuracy. When you have a document that purports to record and present in written form what has happened and has been said in court, it has to have a level of accuracy that is not just your average transcription app on your phone.

I do not believe we are far from having a tech solution that meets the test of accuracy. The second question would be "How quickly could you roll it out?" It would obviously need to go into testing phase first. Currently, we are testing market solutions for speed and accuracy. Then we will need to take a view on operational viability and how quickly it could be rolled out.

But, just to reiterate for the committee, we believe in open justice. We absolutely want to be in a position where we can open up proceedings. We hear the case from campaigners, victims' groups and others who want more access. In their shoes, with quotes of tens of thousands of pounds, I too would be horrified. It is a reflection of the fact that somebody has to physically sit there, type it out and make sure it is accurate. It is a long process, and it has a cost attached to it.

The Ministry of Justice has its own internal AI unit, and this is one of the things that it has been looking very closely at. As soon as we are able to meet a test of speed and accuracy, I will be able to say to the House what more we want to do in terms of rollout. It is the accuracy that is the problem at the moment.

Baroness Hamwee: You would expect me to ask whether you have a timetable in your head for this.

Shabana Mahmood: Until we know that there is a solution that is viable and available, I think it would be wrong to give a timetable. We are still testing. I think it is perfectly possible, and I do not think in the great scheme of things we are too far from that. Once we know that there is a viable, usable solution that meets that test of accuracy, I will say this to the House. I am asked regularly about this matter. It is of real interest across both sides of the Commons, and I know it is here in the Lords as well. We will set out further plans once we know that we have something we can stand behind and that will stand up to the scrutiny that always follows all things to do with the law.

Q190 **Lord Bellamy:** Good morning, Lord Chancellor. May I first of all say that, having served briefly in the Ministry of Justice in the previous Parliament, I salute the focus and determination you and your colleagues now bring to these very difficult questions with which we are faced?

My overall question is: how do you view any threats to public trust in the rule of law? I would like to give you the opportunity to comment on some of the things in the evidence we have received so far in this committee.

Broadly speaking, it refers to inability to enforce rights through lack of resources. That is the access to justice point. You said yourself, without access to justice, there's no meaningful rule of law. There are delays in the courts and the tribunal system, which are very serious, particularly for victims, but for all concerned. There is a perception of non-enforcement in significant respects, for example, in relation to phone theft, shop theft, anti-social behaviour and so on, and a perception of asymmetric enforcement in which some things are seen to be more enthusiastically enforced than others. Without getting into controversy, that is perhaps summed up in the "streets not tweets" phrase that is current in the media at the moment.

Bearing all that in mind, how would you identify any particular threats to the rule of law and how should the Government go about addressing those threats?

Shabana Mahmood: Let me pick up on the last of those—"streets not tweets". The Prime Minister has made clear this morning, without getting into any individual cases or live investigations, that the police need to focus on the day job and maintain public confidence for crime in our communities. That is not to take away from the fact that you can commit an offence online, but we need to make sure we are clear about what is, for example, incitement to violence or racial hatred. That was the topic of one case that has had lots of attention. The defendant in that case plead guilty. There are other cases that are not marginal but might be in the more humour end of the spectrum. There is an obvious line there which should not, in my view, be hard to uphold. It is important that that is upheld. It does matter for maintaining public confidence in the system. We should be clear that social media is not a free hit when it comes to breaking the laws of our land. But we have to be absolutely sure that everything we do is in accordance with the laws of our land and is not overreach and that the line is held in the right place. I think that is what, in the end, maintains public confidence.

Related to that, I do think that it is incumbent on politicians of all stripes to play their part in maintaining the integrity of our system. Certainly, if a Labour politician—as somebody whose behaviour I could more directly influence through our party structures—was, for example, risking the collapse of a trial, there would be repercussions. Needless to say, no parliamentarian should be risking contempt of court and the possibility of a murderer walking free. There are some very important rules that all politicians, with their huge platforms, should bear in mind. It would be an absolute travesty of justice if somebody walked free from a murder charge because of social media activities and the desire to have a viral tweet. That is, and always will be, unacceptable. I hope that there can be more consensus politically, not just in saying, "This is a bad thing to do", but having some repercussions for when you do that. It is something for us all to uphold.

There are some arrangements that are necessary for the integrity of the system that maybe do not sit well with the desire for everyone to

comment immediately on social media, but they are still important because that is what victims deserve from our system.

Related to that, we have all got to do more to stand up for the independence of the judiciary. It is absolutely fine to say, "I completely disagree with this decision" and to shred it and tear it apart forensically in a committee like this, with slightly heavier rhetoric maybe in the Commons on the Floor of the Chamber. It does not matter. A decision is a decision and we are absolutely entitled to talk about whether a decision is right or wrong. Of course, the system itself envisages situations where a decision is in fact not right and is appealed successfully as well. So we have arrangements to put right decisions that people disagree with or think are wrong on fact or in law, depending on the circumstances. That is all fine.

What is not okay is to start casting aspersions on the independence of individual judges, believing that they are there based on their political views and that they will make biased decisions. We do have a system for people to make complaints about judges; it is not an accountability-free zone. There is the Judicial Conduct Investigations Office, and the Lady Chief Justice and I deal with cases of judicial discipline, as you will know from your experience at the ministry. Those are all important in our arrangements for ensuring accountability. But, if you start behaving as if judges are basically corrupt in some way and cast aspersions like that, you start to chip away at overall confidence in the system. That is unacceptable and all politicians who are engaging in that should step back. That is why I said in my opening statement that those who aspire to high office—those who aspire to do the job that I am doing—have to be the custodians of the system and it will fall apart if we do not maintain the integrity and the independence of the judiciary. That is a responsibility on all of us.

Lord Bellamy: Perhaps I might pursue that. I think it was very fully answered—completely, understandably answered—on the fourth of the points I was making. The other three were inability to enforce rights due to lack of resources, delays in the court system now reaching record levels, and a perception of non-enforcement in relation to things that very much affect ordinary people to do with theft and anti-social behaviour and so forth. If you take those three elements, can we honestly say we have got a meaningful rule of law in this country?

Shabana Mahmood: If there were no change, or no prospect of any change, absolutely, my constituents will be the first to say, "What kind of country are we in? What is the point of the law if it is never enforced?"

Lord Bellamy: So you would accept that we are on the edge of not having a meaningful rule of law, from that perspective.

Shabana Mahmood: What I would say is that what I faced when I looked at my in-tray coming into the Ministry of Justice very much put us at the edge. I think we have been taking steps to put that right—fully recognising, as I do, both as a constituency MP and as Lord Chancellor,

the absolutely debilitating effect of the Crown Courts backlogs, with people waiting for years. That does not feel like meaningful justice.

We often say that justice delayed is justice denied. It is said very easily, but it is actually true. We are denying people justice when we put them through the wringer for years on end. It is not good for victims; it is not good for defendants, either. That is why I have put once-in-a-generation reform of our Crown Courts on the table, because I know that nothing less than a full-spectrum response to this very clear and present danger to our justice system will do. That is why I asked Sir Brian to do his review and we will be setting out, in a full government response in the not too distant future, all the measures we will be taking forward. They will require legislation and we will bring forward a Bill at the appropriate moment. I am very seized of the fact that the system in this kind of crisis, whether it is in prisons or in the Crown Courts, is not worthy of the name "justice". That is the work I am doing to try to restore the justice system.

On non-enforcement, this is a shared endeavour with the Home Office to make sure that we are able to deliver on our pledge on neighbourhood policing, so that the resource is there to be able to apprehend offenders and then do something with them. The Home Office is working with me very closely on the range of interventions and measures that we can take. Some of those people will be liable for custody in the future. Some will be liable for other interventions, such as community punishment, licence conditions, intensive supervision in courts and treatment programmes. We have to do something. What we cannot have is a sense that someone came in, robbed a shop, walked out and nothing happened. That is what is debilitating and the work that we are doing with the Home Office, I hope, will start to put that right.

- Q191 **Lord Waldegrave of North Hill:** You have touched encouragingly on the enforcement of what individually is relatively low-level crime, but which if it is perceived as not enforced more widely undermines the whole perception of the rule of law. "If he can get away with it, why can't I?" There is some element of this, of course, in illegal immigration, because people see it very visibly. I wonder whether, without again getting into current cases, you do not think that Parliament itself has sometimes taken the law into territory which lands law enforcement and the justice system in a mess. The definition—I am using non-legal terminology now—of "hate speech" is such a subjective matter. Would Aneurin Bevan have been prosecuted nowadays for saying the Tories were vermin? Would Churchill have been prosecuted nowadays for saying that the Labour Government were going to behave like the Gestapo? In those days, we were somehow a little more robust; we took it on the chin and on we went, and actually they were probably quite good friends behind the scenes. Has Parliament not taken us into territories here that are almost impossible to enforce and thereby helped bring the rule of law into some disrepute, often for the best of motives? We do not want anybody to be rude to anybody and we do not want anybody to feel victimhood and so on. But these are such subjective matters that Parliament has

taken us into really difficult territory, has it not?

Shabana Mahmood: I will deal with the first bit and reiterate—maybe I should have declared it—that I grew up in a corner shop, so I know about so-called low-level crime. I really dislike it when people refer to it in that way. I know what it is when your parents have to replace stock and take a financial hit because someone has come in and nicked your stuff. It is absolutely debilitating. As I say, that is something we are very alive to as a Government and want to put right, and some of the measures that we are introducing, I hope, will help turn the tide on that.

You made a broader point on Parliament and the law. Rudeness and racism are not the same thing: that is the first thing that I would observe. What you are seeing is fuelled a lot by social media. In recent years there has been a huge upsurge in the hate-speech-filled environment from which we know other terrible things might occur. If you create an environment where people are able to dehumanise fellow citizens, you get a radicalisation effect and other terrible incidents might occur from there. This is what Governments are grappling with. We obviously want to be able to make sure that all our citizens are able to live safely and securely and not be afraid to be who they are in their own country. We obviously need to deal with the impacts of radicalisation and so on. What you are seeing on hate speech and definitions of hatred is Governments trying to find ways to capture the behaviour that we know is coming from people acting with malicious and malign intent who are rather clever about trying not to stray over the line but who, in closed, private Facebook groups, get to let their conspiracy theories run amok.

You have seen a lot of this debate take place in relation to antisemitism, and more recently on Islamophobia as well. Some of the big operators who propagate hate-filled material, particularly online, are also unfortunately very savvy and try to steer just the right side of what they think they can claim is free speech. That is why, for example, so much of the debate focuses on context and patterns of behaviour. I do take your point. Overall, the line between when you have the subjective judgment and the objective judgment is a difficult one to draw. The phenomenon that different Parliaments have been trying to grapple with is very real, though. There is then a question about whether the arrangements ultimately are fit for purpose, but in a healthy democracy, we should be able to debate that. I hope there is more consensus on the fact that there is a very real problem that people are trying to fix, and it does not come from a position of trying to shut down free speech; it is about trying to keep our citizens safe. It is a legitimate political debate as to whether the line is drawn in the right place.

Q192 **Baroness Laing of Elderslie:** The Lord Chancellor has largely answered my question in answer to Lord Bellamy, but can I just take you back for a moment to your duty to defend the independence of the judiciary? I give you an example of last week, when it was appalling to hear respected journalists, not on social media but in the national news, disclosing and reporting upon the previous political activities of certain judges who had made a controversial decision, one in one direction and one in the other.

I find that particularly worrying because it plays to the prejudices of those who are whipping up the mob rule that we discussed earlier. You have said, and I am sure we all agree, that that someone can have personal political views, but in carrying out their professional duties they can be totally and absolutely impartial. It is so important to get that point over. You have mentioned it. How can we get that point over to people such as respected journalists who seem to completely ignore the matter?

Shabana Mahmood: It is important for us as parliamentarians to hold the line, first and foremost. We are political actors in this space, and I have a duty; the particular construction of the Constitutional Reform Act is a duty to defend and uphold—the defence duties. That is mine alone in government, but everybody's duty is to uphold the independence of the judiciary and to protect it. I see that as a wider responsibility on all of us as parliamentarians. I know that good work has been done on educating parliamentarians on what our arrangements are and how they work—I know that Lord Reed and others have discussed that previously with this committee. But I also know that you have spoken to members of the press who have given evidence here as well. It is always a bit of a challenge for any politician to try to suggest where the press can or cannot go. But I would hope for impartiality in the sense that they are also able to clarify that judges swear an oath, act independently or may be able to carry my comments defending the independence and upholding the independence and integrity of the judiciary. So it not for me to seek to try and control the free press in this country—we do have a free press in this country. It is also very important for the accountability arrangements we have, both for our politics and for our law. But as a politician, it is incumbent on me to be able to lead in this space and to lead others, and then that also becomes a part of the story that I hope is at least covered when journalists are doing their comment pieces to media.

The Chair: You will be pleased to hear that we are getting to the end of our questions. There is one more question.

Q193 **Lord Murphy of Torfaen:** A very good welcome to you. I reflect on how, 27 years ago, we embarked on a devolution programme which gave us three devolved assemblies and Governments. They have changed an awful lot over those 27 years. For example, Northern Ireland has now got criminal justice, powers have been changed in Scotland, and in Wales there has been a huge development: there is now a primary law-making assembly called the Senedd, and there is, as you know, a move to have criminal justice and policing devolved to the Senedd and to the Welsh Government. I have had different views myself over the years on this, but I would be very interested to know if the Government have a view or if it is still "the jury is out".

Shabana Mahmood: Actually, I think the most important thing is the settled view of the Welsh people in the end. These arrangements evolve because that is what elected representatives of the citizens in that part of our United Kingdom are asking for. The Government's view is that we are working with the Welsh Government to deliver on our manifesto

commitment around youth justice, where we think that there is a good argument for developing some infrastructure on service delivery where the Welsh Government are particularly interested to take control of some of that a bit more directly, maybe. We have had good bilateral discussions with colleagues in Wales—I think there is another meeting taking place on Friday. So we are working with the Welsh Government to be able to set out the programme on youth justice.

Then we had another commitment around probation in particular, where we are interested in developing further the Manchester model, which is on co-commissioning of services. We think that more locally responsive probation is obviously able to achieve more in terms of outcomes than something led centrally. The work is moving at a slower pace due to the simple fact of the overarching crisis in the prisons and the knock-on impact on the Probation Service. I had committed to doing a strategic review into probation but now, at this exact point in this Parliament, is not the right time, just because of the change that we are envisaging given the scale of the crisis in the prison system.

There is a lot of work to do in probation. I salute our probation officers across England and Wales, who have put in a real shift, particularly dealing with the emergency release mechanism that I had to pull when I first came into office, the SDS40 change and all the other changes that have come since then. So there has just been a huge pressure already. Given their history of privatisation, then renationalisation, I did not want to kick off another strategic review that might cause a loss of confidence at the front line. So that is a little bit more on the back burner. I want to return to it because I think we should reinterrogate the way that we deliver probation services, and there are definitely lessons we can learn from the Manchester model. I know the Welsh Government are very interested in replicating the Manchester model in Wales—they are very open to that conversation; as I say, I have had very good engagement with Welsh Ministers. On probation there is a question of timing, just because of the other reforms that are taking place. I hope we can all agree that you would not want to kick something else off while you are still trying to work through the present changes that need to be made.

Lord Foulkes of Cumnock: There was an unfortunate dispute between the UK and the Scottish Government when the Scottish Government introduced their gender recognition legislation and Alister Jack, as Secretary of State, had to step in because it was incompatible with our Equality Act. What are you doing in terms of discussions with your Scottish counterparts to try to make sure such problems do not arise in the future?

Shabana Mahmood: Across government, there is a big desire to work collaboratively and as early as possible with counterparts in Scotland, Wales or Northern Ireland, depending on what the issue at hand is and what the devolution arrangements are. I can speak for us and the legislation that we have been pursuing—those conversations happen at a very early stage and have worked. The arrangements we have, the

interministerial groups, all work well. I think that across Government as well—I do not want to mark everybody else's homework without necessarily knowing all of it—I have not felt that there has been a complaint that discussions are not happening early enough. Our view was, coming in, that collaboration at the earliest opportunity is the best way to head off disagreements.

I suspect that on this particular issue that you have raised, maybe that disagreement was always going to happen given the political views of some of the individuals involved on both sides. But, that aside, I think everyone knows it is in our interest to make sure that what we are not always in dispute on is what is a reserved matter or what is devolved. Overall, you do not want to have the confidence cost of that for citizens of the whole of the UK. So the more discussion earlier there is, the better, and my general perception across government is that it is working well; certainly in the justice space it is.

Lord Foulkes of Cumnock: Our Secretary of State for Scotland can play a key role in discussions.

Shabana Mahmood: He is playing a very active role. But certainly, again, in my experience with our legislation, the Secretaries of State for Wales, Scotland and Northern Ireland are active members of the PBL—the public Bills and legislation committee—but a lot of work happens before you get there in order to present where you are up to with devolved Administrations. So I think it is working well and hope that there is no complaint from the devolved Administrations.

The Chair: If there are no more questions from the committee, can I say thank you very much indeed to you, Lord Chancellor, for taking the time and the trouble to answer our questions very fully? There will be a transcript in due course, and some of this will in due course filter into the reports that we are writing.

Shabana Mahmood: Thank you very much.