



Constitution Committee

Corrected oral evidence: Annual evidence session with the President and Deputy President of the Supreme Court

Wednesday 22 April 2026

10.25 am

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Members present: Lord Strathclyde (The Chair); Lord Beith; Lord Bichard; Lord Burnett of Maldon; Lord Cryer; Baroness Hamwee; Baroness Laing of Elderslie; Lord Murphy of Torfaen; Lord Waldegrave of North Hill.

Evidence Session No. 1

Heard in Public

Questions 1 - 11

Witnesses

I: The Rt Hon The Lord Reed of Allermuir, President of the Supreme Court of the United Kingdom; The Rt Hon The Lord Sales, Deputy President of the Supreme Court of the United Kingdom.

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Examination of witnesses

Lord Reed of Allermuir and Lord Sales.

Q1 The Chair: Welcome to this meeting of the House of Lords Constitution Committee. Today, we are holding our annual evidence session with the President and Deputy President of the Supreme Court of the United Kingdom. I am delighted to welcome back Lord Reed of Allermuir for what will be, sadly, his final appearance in front of the committee as President of the Supreme Court before his retirement next January. I am also delighted to welcome Lord Sales on his first appearance before the committee, following his appointment as Deputy President in January 2026. May I say on behalf of the entire committee that you are both very welcome here?

I remind all members to declare any interests relevant to today's meeting the first time they speak. I have no relevant interests of my own to declare. We have a number of questions to ask about the work of the Supreme Court. Before we turn to them, I understand, Lord Reed, that you would like to make a short opening statement. We look forward to hearing it and you are very welcome to do so now.

Lord Reed of Allermuir: Thank you all for the invitation to give evidence this morning. We greatly welcome the opportunity to be able to explain the work of the court to Parliament and indeed a wider public. I thought that in these opening remarks I might say just a word about two aspects of our work which may not otherwise be focused on in the questions. First, I will say something about some of the cases we have been deciding over the past year; then I will say a word about our international work.

As far as the cases are concerned, they are obviously the core rationale of our existence. We have to develop the common law to make sure it stays up to date and suitable for society as it is today. We also have an important job in interpreting legislation which does not always deal clearly with the problems that life throws up. Examples of statutory interpretation during the last year which illustrate the importance of the task are, first, the decision in a case about the interpretation of the Equality Act 2010 and what was meant by the word "woman". It has been a controversial decision, but it is an illustration of how the interpretation of legislation can have important social consequences.

Another example I thought I would mention, which is also important in its own way, was a case to do with whether AI-related inventions can be patented. Our law of patents is statutory but there is an exclusion from the patentability of inventions: computer programs. The question was whether that exclusion meant that AI inventions in the UK could not be protected by patent, an issue which obviously had important implications for investment. Those are just two illustrations of statutory interpretation.

On the application of statute in the last year, there have been particularly important examples of the application of the Human Rights Act. One was

a case concerned with religious education in Northern Ireland and whether the regime adequately respected the rights of parents and children. Another important example was to do with deprivation of citizenship. This is a means being increasingly used by Government to deal with people involved in serious organised crime if they are dual citizens. If they are deprived of British citizenship, they can then be expelled. The issue arose as to whether the statutory scheme provided a fair hearing. That is another illustration.

In relation to common law, there are two examples from the past year. One was the case you will have seen in the newspapers about bank employees who had been convicted of a conspiracy to defraud in relation to Libor and Euribor rates. We held that they had not received a fair trial, because the judge had effectively taken the question of dishonesty away from the jury and treated it as a question of law for his own determination. Another example of great commercial importance was a case concerned with whether people who had bought cars were entitled to compensation if a car dealer received commission which was not disclosed to them.

In every one of the cases I have mentioned, we overturned the decision of the Court of Appeal below us, so I have chosen those examples to illustrate the value of a second level of appeal. We have also had important cases in the Privy Council, which forms about half of our work. I give just one example, to do with whether the governor of an overseas territory could impose legislation creating same-sex civil partnerships.

We have continued to develop the court's international relationships around the world. Our reputation stands high. There has been particular interest in the past year in our work in relation to transparency and outreach, and in trying to build trust and confidence—specifically, our relationship with Parliament and the work that we have done to try to build a stronger relationship. That has been the focus of particular interest in central and South America, resulting in invitations to speak in the Dominican Republic, Costa Rica, Brazil and Colombia. Our work on transparency as a way of building trust has been of great interest in the Balkans. For some years we have done work in Bosnia-Herzegovina, but in the past year we have been focusing on Montenegro. We are about to start work with Kosovo as well. Obviously, we also have international relations with places you might expect, such as the United States, Canada, Australia and so forth, but the reach of the court and its influence are now extending to places that you might not have expected.

Q2 The Chair: Thank you very much indeed for that introduction. You raise a number of issues that we will pick up during our questions and inquiry. I get the impression that your term of office has been a busy time, but it has felt as if it has been a slightly calmer time, even though some of the issues you have had to deal with are in themselves very controversial. As you look back on your time in office—I know you still have nine months to go—what are the issues on which you have concentrated most, what are you most proud of and what are the biggest challenges you have

faced, if that is not too broad a question? Perhaps the key part of it is the areas of which you are most proud.

Lord Reed of Allermuir: The challenges really came in the earlier part of my presidency. Three come to mind immediately. One was the aftermath of the prorogation judgment. I became President a matter of a few months after that judgment was given. It would be fair to say that the judgment had been regarded by the Government and many people in Parliament as an example of judicial activism. I think it was, if you like, the straw that broke the camel's back. It and other cases no doubt prompted initiatives to push back against judicial review, the Human Rights Act and specifically the Supreme Court, with some briefings suggesting that the court would be abolished.

The challenge was to rebuild trust and build a relationship with the Government and Parliament in which our role was understood. I felt that the criticisms reflected mostly a lack of understanding. I wanted to make sure our role was understood and that we understood the limits of our role, and to build relationships where the Government and Parliament respected and had confidence in the court, and vice versa. That continuing effort is going on to this day. This afternoon, I will be doing a Q&A with about two dozen MPs who are visiting the court. We have encouraged MPs to come and visit us, have a tour, talk to a judge and have their questions answered.

The second challenge was to deal with the Covid pandemic. It seems a long time ago now, but it was an enormous problem at the time in personal terms. Technologically, we were able to deal with it. We did not lose a single day, but it meant we had about a year when we did not get together and had to work remotely. That was not an easy period. I had a number of new judges who had not met each other. The lesson from that was to continue investing in technology, which we have done.

A third challenge—people may now have forgotten about it—was how to respond to developments in Hong Kong. When I became President, the court supplied justices to sit on the Court of Final Appeal in Hong Kong, under an agreement that had been entered into between the Government and the Hong Kong authorities at the time of the handover. I became concerned about the erosion of civil liberties in Hong Kong, but it was not a matter purely for me to pull the plug on because there was an international agreement. I had to work with the Foreign Secretary and Lord Chancellor over a period of time to reach a solution to this, which in a way was one of the means by which the relationship with government became stronger, because I was having to work with government in a policy area, which was a novelty. I think we got to know each other and what the rules of the game were about judicial independence much better than might otherwise have been the case.

Besides those challenges, my main objectives were, first, I wanted us to work as a court in a much more collegiate way. When the court moved to Middlesex Guildhall—from this room, in fact—it took a lot of inherited habits with it. There was a culture on the Appellate Committee of what

we might call intellectual individualism. You tended to get people all writing their own judgment, which could make it very difficult for lower courts and lawyers to work out what principle was being laid down. There would be subtle distinctions; sometimes not so subtle but, even if they were, those distinctions would be fastened on and sowed uncertainty. I wanted us to work in a much more collegiate way and I think I have achieved that. Last year, we were unanimous in 92% of our cases, which is quite remarkable when you think that we deal with only difficult cases, so they have to be arguable either way.

I also wanted to improve the service that we provide to the countries that use the Privy Council. We have improved it greatly. We now always offer an online hearing, so there is no necessity to come to London from, say, the Caribbean. I managed to get the agreement of the Government, and then the Palace, to the appointment of judges from these jurisdictions to the Privy Council. We now have two judges from the Caribbean who sit with us.

I was also keen to develop a closer relationship between the Supreme Court and the courts that lie below it. The main way I chose to do that was by regularly inviting judges from those courts to sit on the Privy Council. I also took the opportunity to focus particularly on women judges as a way of giving them experience of sitting with us and, perhaps, more confidence about applying. That has worked successfully. We sat for the first time outside the UK's capital cities. We sat in Manchester a couple of years ago; we are going to be sitting next month in Glasgow.

I was also keen that we do something to recognise our responsibility to give leadership to the judiciary in relation to the question of diversity. We still have at senior levels a judiciary which is lacking in diversity, so we devised a strategy for that. We have worked with suitable partners for the past few years and it is having an impact.

Finally, I wanted us internationally to be more active and engaged with a wider range of countries. I felt we tended to focus on English-speaking common-law jurisdictions, which were also the focus of the international efforts of the courts of England and Wales. I felt there was a good deal of duplication, so we have tended to focus over the past few years more on Europe and the Far East. To some extent it has been demand-led. I did not go looking for interest in South America, for example, but they see what we are putting online—the lectures we are giving. It is like dropping a stone in a pool; the ripples sometimes extend further than you expect.

The Chair: The impression you have given, and from what we see, is that facing up to those challenges has been rather successful, and the way you have dealt with them has been very positive. Lord Beith has a question that follows from that. We will take up a lot of the other issues in the rest of our questions, particularly the international aspect.

Q3 **Lord Beith:** Lord Reed, I think that if you asked the general public what the Supreme Court did they might well say, "Oh, big constitutional issues, and maybe very serious crime". Of course, the latter is not something

that comes in front of the Supreme Court very often: almost never in the case of Scotland, and not all that often in England and Wales. You spoke in your introductory remarks about the relationship between the Supreme Court and the courts below it, and the value of the multi-level system we have. Is there a problem in the fact that that does not operate in relation to crime, or is the balance right that crime comes in your direction only if a very serious doubt about the content or interpretation of the law arises?

Lord Reed of Allermuir: The position in relation to crime is that appeals can come only from England and Wales or Northern Ireland if the Court of Appeal certifies an important question of law. The Northern Irish courts certified quite a few cases, so we had a steady diet of crime from Northern Ireland. In most of my time on the court, very few cases were certified from England and Wales. That was a matter of concern to me and I discussed it with the Lady Chief Justice. I felt that more cases should be coming to us than were. Since then, more cases have come, with quite a notable increase. Off the cuff, the Libor and Euribor case is an obvious example. We had an important case in which I gave judgment recently about pro-Hamas protesters and prevention of terrorism legislation. I feel that we now get more cases coming from England and Wales. You probably know that the matter has been under review by the Law Commission. It recommended effectively that the Supreme Court should be able to take cases that it wants to take, and I would welcome that. I think there has been a risk of the Court of Appeal marking its own homework.

For Scotland, more cases come than you might imagine. It is quite true that, historically, there was no appeal beyond the High Court of Justiciary. But when devolution and the Human Rights Act came in, exceptions were created to make sure that even in criminal cases the devolved authorities stay within the limits of their powers, and also that the Human Rights Act is consistently applied across the whole of the UK. We had a very important criminal appeal from Scotland last year to do with the extent to which evidence can properly be kept from a jury in sexual offences cases without jeopardising the fair trial rights of the defendant.

Lord Beith: There is another side to this coin. If you look at the list of cases dealt with by the Supreme Court, even more by the Judicial Committee of the Privy Council, there is a mass of commercial and business cases which must determine the character of the court's thinking to some extent, but reflects the value that the court has to commerce and business, including in the countries that use the Judicial Committee.

Lord Reed of Allermuir: The Privy Council is very much a mixed bag. The largest single category of cases is criminal appeals, particularly from Trinidad and Tobago, and Jamaica. We deal with an awful lot of murder appeals. Next to that, it is the most refined commercial and chancery work you could imagine, with huge commercial cases. We need to be adaptable. There has also been a big increase in the Privy Council in public law cases to do with constitutional rights of all kinds. I think those

have increased by 500% in the past five years or so, so it has just taken off. It is a very mixed bag; it is not quite 50:50, but there is a lot of crime, and next to that is commercial insolvency work and property. For example, quite often tourism developments are proposed in some Caribbean paradise and there are issues about habitat conservation, marine conservation and so forth. These sorts of cases generate appeals that come to us.

In the Supreme Court, we have an element of crime, but it is not a major part of the work. The biggest single category is public law, which is either judicial review challenges or sometimes human rights questions. Next to that, again, we have a lot of insolvency cases, tax cases and international commerce. If a member of the public thought it was mostly constitutional cases, I think they would be wrong. We have very few of those; they come along once in a while. If you thought we dealt very heavily with business cases, that would be true.

Q4 Lord Waldegrave of North Hill: Lord Reed, could I take you back to something you said to us last year? You said, "I do not, obviously, underrate the value of, for example, a rules-based international order, or of a Government's complying with the obligations that they have undertaken at the international level, or for that matter, adherence to fundamental human rights; but it is not necessary to pack all those values into the concept of the rule of law. The problem if you do is that you are much more likely to find that the rule of law conflicts with parliamentary sovereignty. The result will be, I think, to devalue the idea of the rule of law".

That seemed to me a very important statement of the balance—as a non-lawyer, I will probably get the language wrong—between activism and non-activism in a certain realm of your activities. But it is also extremely important politically, with a small "p", but sometimes with a capital "P", because other lawyers took a different view of it—I do not know whether I am right to mention the late Lord Bingham—so the balance of your court becomes very important politically in relation to this issue. We are not in the American territory of left-right appointments, thank goodness, but here there is a crucial balance as to whether or not you get into conflict with parliamentarians. Am I right in seeing that? You can imagine a different balance of the court taking a different view and a great deal of conflict popping up again.

Lord Reed of Allermuir: The court is quite clear that international law is not part of our legal system; it becomes part of the legal system only if Parliament implements it. That all goes back to the civil war. It is the Executive who enter into treaties and the Executive cannot alter people's rights at their own hand; they need Parliament to do that. I am a law-abiding sort of chap, obviously, and I think that if people enter into agreements, whether they are personal contracts or international agreements, they ought to fulfil their obligations.

The point I was trying to make is that treaties do not form part of our law. If you think of the rule of law in terms of our citizens and how their

lives are regulated, international law does not form part of that picture. I was conscious that if a Government were to enter into an international agreement—for example, the withdrawal agreement as part of the Brexit arrangements—then brought it to Parliament and Parliament rejected it, that would place the Executive in breach of a treaty obligation. Are we going to say that Parliament is acting contrary to the rule of law by failing to give effect to the treaty that a Government negotiated? Perhaps some people would. Going down that route illustrates a point I made about the risk of devaluing the concept, if you give it such a broad meaning that acting contrary to it could actually be a perfectly proper thing to do.

Lord Waldegrave of North Hill: As to your position—for what it is worth, a lot of people would agree with it and, as a non-lawyer, I would agree—it seems easy to imagine a couple of crucial appointments to the Supreme Court of people who took a different view. I suppose this takes us into the issue of the appointments.

Lord Reed of Allermuir: To push back a little, the fact that international law is not domestically enforceable unless given effect by an Act of Parliament is a very well-established legal proposition. It was laid down most authoritatively by the House of Lords in its judicial capacity in the *Tin Council* case, in the days of Lord Bridge and Lord Browne-Wilkinson.

Lord Sales: And Lord Oliver.

Lord Reed of Allermuir: Yes, the leading judgment was that of Lord Oliver of Aylmerton. We restated the principle in a case called *SC* about four years ago, so it is about as firmly established a legal principle as you could imagine. So long as you appoint good lawyers to the Supreme Court, the risk of them departing from that orthodoxy is pretty remote.

Lord Waldegrave of North Hill: I accept that, but if you appoint justices to the Supreme Court who, for example, on the Human Rights Act take a more activist approach, that can land you in all sorts of immediate political uproar. I quite agree that where the Executive have signed a thing saying, “We’re going to do this”, they must be held to it. It is the interpretation of law that may not have been made here, or at least where the voice of our democracy here is a little diluted, that has landed us in political controversy. You seem to have steered the Supreme Court away from those sorts of conflicts, but others might go the other way. It means that the appointments to the Supreme Court against that background have some political implications.

Lord Reed of Allermuir: Yes. Successive Lord Chancellors have been very aware of this, and made it clear to the selection commissions that I served on, and I think also that Lord Burnett served on, that it is a matter of great importance to them that whoever is appointed should have a good understanding of constitutional relationships between the courts, Parliament and the Government. One consequence of that has been that, as part of the selection process, we ask the shortlisted candidates to give us a presentation and we have very often chosen one on that very topic. I can remember asking something along the lines of,

"Do you think that the relationship between the courts and Parliament has been damaged by an overenthusiastic interpretation of the Human Rights Act?". If the candidate says, "No, there's no problem. We had a wonderful relationship with Parliament, and the Human Rights Act had no impact on that whatever", you wonder, "What planet has this person been on?".

Lord Waldegrave of North Hill: My final point is that somebody living on that planet is rather unlikely to get on to the Supreme Court.

Lord Reed of Allermuir: So long as I am chairing the selection commission, I would be looking for people with a better awareness of constitutional realities.

Q5 **Baroness Hamwee:** Going back to your comment in your opening words about some of the work you are doing overseas, I am prompted by your reference to the Balkans. I have a close friend who is a psychologist and has worked with the judiciary in the Balkans, training them in how to question witnesses in war crimes trials. I realise I am not clear about what sort of work you do overseas. I am sure it is a huge spread of different things. Do you get down to that sort of detail about how the judiciary may operate?

Lord Reed of Allermuir: Yes, absolutely. I worked in Bosnia-Herzegovina over a number of years before I became President of the Supreme Court. They had a real problem with public confidence in the constitutional court established under the Dayton accords, and they wanted advice about how we go about building public confidence. To some extent, it was telling them about things we do—for example, the work we do with schools and universities—in trying to ensure that politicians have an understanding of the court's role and so on, but there were much more basic things than that.

Part of the lack of confidence was because of a judicial culture that did not reflect ideas of judicial independence as we would know it. I remember being asked what kind of watch I wore. They were expecting it to be a Rolex or an Omega. I said, "This is my grandfather's watch. It dates from about 1940". They asked what kind of car I drive, assuming it would be a Mercedes S-Class, and I told them I had an old Volvo estate. A lot of it was about trying to get them to understand that, if you are a badly paid judge in Bosnia and you wear a Rolex and drive a Mercedes S-Class, people are going to draw only one conclusion. That is what I was doing there.

With Montenegro, the Chief Justice, supported very much by the President and the Prime Minister, has been trying to reform the judiciary, which also faced serious problems of a lack of public trust—deservedly, from what I understand—and to raise standards again. They wanted to learn from us about transparency, because they saw it as a protection against corruption as well as a way of building trust, in more than one way.

To give you an idea of the impact of this, I went to Montenegro with our head of communications, John McManus—he is sitting behind me and is a former BBC journalist—and our chief executive, Vicky Fox, who is sitting along from him. John has been back to follow up the work. I started by giving a presentation about communications and transparency. It was broadcast live on all their TV channels. I was in a room with the President of a country and the army generals. Everybody who was anybody in Montenegro was in that room, and it was broadcast live, putting a lot of pressure on their judiciary then to live up to what I had been saying. John McManus followed that up with a subsequent trip to train their people in modern judicial communications, and I think there will be a further visit—

Lord Sales: I am going in October to follow up specifically with Montenegro. In fact, it is at their invitation, because they value engagement with the British judiciary since we represent for them such high values in the judicial sphere, and they want to learn from us.

Lord Reed of Allermuir: The same is true with Kosovo. This may sound immodest—I do not want it to—but I got a letter saying that I was regarded as the embodiment of judicial integrity. They wanted me to go there to talk to their judges, so that they could see what a British judge looked like and talk about the things that I have just been discussing. It is planned that I will go there next month.

Baroness Hamwee: Fascinating, thank you.

The Chair: I would like now to turn to the whole question of judicial appointments. Lord Murphy has a question.

Q6 **Lord Murphy of Torfaen:** Indeed, back to appointments after a fascinating interlude there. You have a number of vacancies and new appointments coming up. I want to ask two questions regarding that. First, how is that progressing and do you think that the recruitment process itself works efficiently? Secondly, there are all sorts of other high-ranking judicial appointments coming up at the same time. I assume we have enough people to fill those posts, but sometimes people might want to apply for both posts, so how is that working out?

Lord Reed of Allermuir: On progress, the first vacancy coming up is because Lord Richards, who is a company law specialist, is retiring at the beginning of June. His replacement has been selected and approved by the King. We are just waiting for an announcement from Downing Street. We have somebody very good for that role.

My own retirement obviously creates a vacancy for President. That process is under way. Applications are in, and the process may be completed in the late summer; I am not sure. If I am replaced by an internal candidate, there will then also be a vacancy for a Scottish judge. We have a vacancy for a judge from England and Wales coming up, as a result of Lord Lloyd-Jones retiring at about the same time as me. We will begin that process shortly. We are thinking of running a competition that

will be for up to so many judges, then we will see how many vacancies we actually have when push comes to shove. The process is under way and we are making satisfactory progress with it.

The efficiency of the process is laid down in legislation. There was an Act of Parliament, the Constitutional Reform Act 2005, and then that was amended by the Coalition Government with a statutory instrument in 2013. The process has been used about 35 times by now, and I think it has proved to be robust. It involves a mix of senior judges and lay people who are experienced in judicial appointments because they have served on the appointments commission, either for England and Wales, Scotland or Northern Ireland. The process takes time; it takes about eight or nine months. That is not altogether out of the way for a very senior appointment. It could be speeded up, but only by eliminating some of the political stages. Those are really what takes time. For example, the King approved the appointment of the justice some time ago, but we have not made any announcement yet because we are waiting for a slot in the Downing Street grid, and that can take several weeks.

Once the selection commission has made its recommendation, which it does after consultation, the recommendation goes to the Lord Chancellor. He then has to undertake a second round of consultation on the recommended name, which tends not to produce anything new. It would be possible to speed it up, if one was so minded, but that would require legislation. I would be inclined to caution against opening up what might be a bit of a Pandora's box. The system that we have, I can tell you, is one envied by other judiciaries around the world. We are very unusual in having a process by an independent commission rather than political nomination.

Lord Murphy of Torfaen: Thank you very much indeed.

The Chair: Lady Hamwee, did you have another question that you wanted to ask on that?

Baroness Hamwee: There obviously must be practical implications that flow from this. Is there anything that can be done to reduce the problems of the gaps and so on, and gaps at the same time?

Lord Reed of Allermuir: We should be able to avoid gaps, but if gaps appear, which sometimes they do for other reasons—I had a colleague who died quite unexpectedly, so that caused a gap for several months—we cope. We have a very good supplementary panel, if I may say so, of retired judges we can call on. We can also, as I have explained, call on other judges to sit on the Privy Council, which takes some of the pressure off us, so we are able to cope. It struck me that I forgot to answer Lord Murphy's question about people who might be interested in more than one vacancy.

Lord Murphy of Torfaen: That is right. Is that a time issue, essentially? You mentioned that it will take eight or nine months before you can fill a vacancy, for all sorts of reasons, and that is quite a long time if there are

other senior roles coming up for appointment. How does that work together?

Lord Reed of Allermuir: The candidate will know before eight or nine months whether they have been selected. First, those who are not shortlisted are told that. Of those who are, we let them know what the outcome has been once the recommendation has been received by the Lord Chancellor, which happens before the second round of consultations, of going to the Palace and Downing Street, which adds a few months.

The jobs also tend, on the whole, to appeal to different people. The jobs that you are talking about in the English courts at the moment are leadership roles. They require people with strong leadership qualities and who want to be fulfilling leadership roles. The Supreme Court job does not call for leadership qualities; it does call for really outstanding legal skills. While there may be one or two people who would fall into both camps, most people will not be interested in both the Supreme Court and being president of the King's Bench Division, for example. In so far as there is an overlap, if the worst comes to the worst, people just have to apply for both jobs and see how they get on; and there are informal avenues of communication.

Lord Sales: Could I add something in terms of managing gaps? There is a very strong convention within the court that a justice who intends to retire, particularly if they are to retire early, gives notice of a year informally to the President so that the system can be given time to operate. Although the system takes quite a long time to work through, because the justices behave responsibly by giving indications of when they would wish to leave, there is time for that process to work so that a gap does not actually occur.

Lord Reed of Allermuir: That is one of the terms and conditions that justices are issued with when they are appointed. They are expected to give 12 months' notice of retirement, subject, of course, to ill health or emergencies.

Q7 **Lord Bichard:** Lord Reed, you recently published a new strategy on diversity and inclusion. In the foreword to that, you say that one priority you had when you came into post all those years ago was diversity and inclusion. Would you like to reflect upon what you think has changed? I do not mean in terms of activity but outcomes. What has changed in that six-year period? What has proved most difficult to change and maybe causes you most concern?

Lord Reed of Allermuir: If I may, I will ask Lord Sales to answer on this.

Lord Sales: In our strategy—as you say, it has just been published—we have outlined two objectives. One is to support and build an inclusive culture and working environment at the court, where justices lead that culture and are very actively engaged in it. The other is to actively support the progression of underrepresented groups into the legal

profession, and specifically into judicial roles. From the justices' perspective, we pursue that by engaging with a range of representative organisations and having very active programmes, specifically where the justices make themselves available to people from underrepresented groups to encourage them to think about law as a profession, to give them a sense of confidence that this might be something for them, and specifically to encourage junior or even senior lawyers to think about undertaking a judicial role.

In terms of what we can do with our resources to foster a spirit of inclusiveness and diversity, we consider that we are doing these things and that they are very valuable to do. Indeed, we get a lot of feedback from the organisations saying how valuable they find it. Just to give one example, there is an organisation called Bridging the Bar, which is for young lawyers from underrepresented groups in the legal profession. Each year for five years now, we have had a group of 10 or so young lawyers from Bridging the Bar come into the court for a week. A colleague and I give them a briefing, essentially talking to them very openly and frankly about our own paths into the law and the judiciary. Then they are paired up with judicial assistants in the court and follow procedures there. At the end of the week, they give presentations back to us on what they have learned and taken from the experience. I have been very strongly impressed in their presentations by how much they say they get from this sort of engagement with the most senior judges in the land and the sense of confidence it gives them that they can engage with and speak to us, and are taken seriously by us because we ask their opinions. That makes a big difference.

It would be fair to acknowledge that there has been a running issue over decades in securing diversity of judicial appointments, both within all the United Kingdom's systems and specifically in the Supreme Court. I am not in a position to speak directly about the experience in that regard. I wonder whether Lord Reed, who is better placed to talk about that, might say a word about it.

Lord Reed of Allermuir: There has been a lot of progress made. If one thinks about gender and ethnicity as two indices, in terms of gender, the proportion of women in the judiciary now is over 40%. It diminishes at the upper levels, but I think that is a function of time more than anything else. There are a lot of very able, younger women progressing through the system, provided they stick at it and do not decide that they have more important things to do with their lives when they are in their 60s, perhaps.

On ethnicity, the proportion of judges from ethnic minorities is very similar to the proportion in the working population at large, if you look at people aged about 50-plus. I forget what the figure is; it is something like 11%. But that figure conceals a problem, which is that they are virtually all ethnically from the Indian subcontinent or China. There are very few black judges. There is now one on the High Court, recently appointed, which is very welcome. That is a more stubborn problem.

Lord Bichard: Can I pick up the issue of women as an example? I appreciate how difficult all this is. I am not suggesting you can change it overnight. Whether women in particular stay and are promoted can depend on how the organisation facilitates their enrolment, and that requires sometimes quite significant changes in the system. Are you managing to get some of those changes in place so that you have role models at senior levels, which is so important?

Lord Reed of Allermuir: We have at the moment two women judges. They are both very active in proselytising for women joining the Supreme Court. Just yesterday, in fact, I did a session with schoolchildren, and they asked for advice on how to find out about becoming a judge, if they wanted that. I told them to look at our website and the videos. They will find, among other things, videos by two women judges on our court, one talking about girls and the law, and the other talking about her own career path.

There is a big role here for leadership judges. My experience has been that male judges in the Court of Appeal seem to be more confident about applying, even if they do not necessarily fulfil all the criteria that one is asking for. I have tried to address this in a number of ways. I mentioned earlier that one has been inviting women to come and sit on our court. We have one sitting tomorrow and another next week, for example. Getting them to come and sit with us, and asking them then to write the judgment, is quite a regular thing. They discover that they can do it and that we are quite a nice bunch of people to work with. I hope that would encourage them.

There has also been a problem historically that women judges quite often came from a family law background or perhaps a criminal background, and were pigeonholed in that particular category. They then might lack confidence to come to the Supreme Court, where we do not do very much family law at all and not very much criminal law. They would have to quickly get up to speed with a whole range of other areas of the law that they might not have dealt with very much. I have been encouraging senior leadership judges on the Court of Appeal to ensure that women judges have a broad range of experience. There is a role for leadership judges both on the Court of Appeal and on our court to encourage women to apply. Because I chair the selection commission, I cannot go tapping people on the shoulder, but I used to get Patrick Hodge, when he was Deputy President, to go and speak to people who might be suitable—particularly women—to encourage them, because they might not otherwise have put their names forward.

Lord Bichard: Will the Lord Chair allow me one supplementary? I will try not to look at him, because he might say no. You talked about women and about ethnicity. It seems, particularly at the moment, that the issue of social mobility and social class is often overlooked because it is less easy to see, but it has some of the same problems that you talked about in terms of confidence. Are you alive to that and trying to address that as well? It is very important for the credibility of the judicial system.

Lord Reed of Allermuir: Of course it is. The diversity schemes that we support, including the one we run in our own court that Philip has mentioned, are aimed at people from poorer backgrounds as much as at people from ethnic minorities or people who are disabled. We get young white men from working-class backgrounds, for example, coming to us on this scheme.

Lord Sales: Perhaps I could mention that we have a very important initiative of engagement with schools called Ask a Justice. It is specifically geared to engaging with schools from less-advantaged backgrounds, which covers all ethnicities and certainly addresses social mobility issues, with a view to encouraging children at these schools to gain confidence from speaking directly to a justice¹. As a justice speaking to them, you hope to inspire them to think about law as a possible career path for themselves and that it might be something that is available to them to follow. In trying to address issues of social mobility, we are certainly very conscious that they exist, and we do what we can—essentially, in trying to inspire the next generation of lawyers to come through in a way that will hopefully address that to some degree.

I would make one supplementary point in support of what Lord Reed said about the time factor on diversity. I came through as a barrister at a time when, if I may say so, some of my most formidable opponents at the Bar were women. By the time that I came to the Bar, the number of law students who were women had risen very sharply. The people coming into the profession were probably about 50:50 at that time. I remember to my cost how good they were. Gradually, we are seeing women of the calibre that is required to become judges coming through the system. From my experience, I have seen this process happening. It takes a bit of time, but it is happening.

Lord Reed of Allermuir: Yesterday morning, as an example for Lord Bichard, I did the first class of the day with a school in Hastings, which is an area of deprivation. They asked me about how to find out about studying law at university and about being a lawyer and a judge. I was able to talk to them about that. I have not had any feedback yet, but having done this sort of thing in the past you quite often get feedback. Sometimes the pupils themselves write to me to say how helpful it was. Sometimes it is a teacher or the local authority.

Q8 Baroness Laing of Elderslie: I turn to the issue of relationships between the judiciary, the Government and Parliament, which you addressed, Lord Reed, in your opening remarks to us. It is noted that in

¹ Note from witness: Priority is given to applications from educational institutions who have not visited the Supreme Court before and those located at a considerable distance from the London area (Scotland, Northern Ireland, Wales). In England, schools from the following areas of multiple deprivation are encouraged to apply: Middlesbrough; Liverpool; Knowsley; Kingston upon Hull; Manchester; Blackpool; Birmingham; Burnley; Blackburn with Darwen and Hartlepool. Our target is for 20% of places on the programme to be allocated to these schools. Only state schools are eligible to participate.

the 2024 Judicial Attitude Survey, two-thirds of judges said that they were extremely concerned by the loss of respect for the judiciary by the Government. You also mentioned the criticism of judicial activism—we are all well aware of it; I would say it is unfair criticism—yet this represents the perception of the judiciary and of the upper courts. We note that you have mentioned lots of the work that is being done. You are having a visit from MPs today. The Supreme Court is live-streamed. Indeed, let us hope that this meeting, which is also live-streamed, is part of developing that relationship.

To what extent do you perceive that there is still a lack of understanding about what the judiciary does, what the position of a judge is and how the law works? If I may quote your recent lecture directly, Lord Reed, not least to get these important things that you said on the record, you said: “One problem is that non-lawyers often have no idea that doing law involves a specific and rather difficult kind of intellectual activity”. You went on to say: “Legal reasoning is a technique which is different from political or moral reasoning”. I thought that got to the crux of the matter, and I wondered whether you would like to address it.

Lord Reed of Allermuir: Yes, so much criticism of our decisions seems based on an assumption that we simply give effect to our personal opinions. We got dreadful abuse over the case about the Equality Act, for example, because the presumption was that it was motivated by hatred of the trans community.

Baroness Laing of Elderslie: Yes, that was not fair.

Lord Reed of Allermuir: Equally, during the Brexit cases, the presumption was that we were motivated by our opinions about Brexit. It is important to try to get people to understand that those who go to university to study law are not just expressing their own prejudices for the next three years; they are learning a difficult and expert type of methodology. When we decide a case, we spend a lot of time doing research to find out what the law is. Last time I had MPs visiting—it was the Justice Committee, in fact—I took them up to my room and gave them all a law book, so that they could see what that looks like, and how for every proposition in the text you will find some cases cited in a footnote that are meant to vouch for the proposition. Then I showed them the volumes of law reports so they could see the cases. I was trying to explain to them that our job involves the study of these materials, sometimes going back hundreds of years, and applying a professional discipline in the same way as a brain surgeon applies a professional discipline. It is not a question of asking your gut, “What do I think about this issue?”. I was trying to get that message across.

Baroness Laing of Elderslie: That, of course, is the difference between the way in which a politician thinks and the way in which a lawyer thinks.

Lord Reed of Allermuir: Yes.

Baroness Laing of Elderslie: I wonder if there is a parallel between

people who think they have certain ailments, so they look up on Google what those ailments mean, then they go to their doctor and tell them what they have, and the doctor says, "No, that isn't it at all". One might recognise that in a scientific way. It is more difficult to recognise as far as the practice of the law is concerned.

Lord Reed of Allermuir: To give you an illustration, the last time we had a visit by MPs, a few weeks ago, there were about 40 who came, and one of them said to me that the case about women must have been very difficult to decide. I explained that it was not actually a terribly difficult case to decide because there were enough clues in the legislation as to the intended meaning. You just had to read the text. I said, "On the other hand, I'm working at the moment on a case about children who are very badly injured". I explained that their injuries were resulting in a loss of life expectancy. The question was: can they recover damages for the earnings that they would have earned during the years when they would no longer be alive? That, for a lawyer, is a difficult question.

The Chair: Both of you mentioned these discussions that you are having with MPs, and you mentioned it last year. I wonder if there is some complacency in the House of Lords that, because the Supreme Court is born out of the Judicial Committee of the House of Lords, we all understand exactly what you do. I suspect that there are a number of Peers, particularly newer Peers who have come in in recent years, who would greatly benefit from a visit and a discussion with you as President, or the Deputy President, about the workings of the Supreme Court.

Lord Reed of Allermuir: We would be delighted to welcome visitors.

The Chair: Excellent. We have the benefit of Lord Burnett here, who helps us on judicial matters and is going to ask a question.

Lord Burnett of Maldon: I must start by declaring interests. First, I am a member of the supplementary panel of the Supreme Court that Lord Reed referred to, so I continue to sit from time to time. Secondly, I suppose I should declare that I was a member of the selection commissions that appointed Lord Reed as Deputy President and then as President, and appointed Lord Sales to the Supreme Court.

I would like to follow up on the questions that you have just been asked about relationships with government and Parliament, which were also touched on in your answers to questions from Lord Waldegrave earlier. I suppose strong relationships, to an extent, must be founded on a clear understanding of what the others are doing. We have the three pillars of the state: the judiciary, the Executive and Parliament. There is certainly a sense that I have, which you were just referring to, that there is perhaps not as clear an understanding of what each is about as is necessary. Lord Reed, in a lecture recently, you referred to another visit from Members of Parliament where one asked you whether you write judgments and give reasons, which was quite a surprising question for you to receive, I do not doubt. I would have loved to see your answer.

There was a time when the law and politics were much more closely connected than they are now, because there were a lot of senior practising lawyers in the House of Commons—I was going to say stuffed full of lawyers; that is perhaps overstating it—and many in the House of Lords. The Law Lords were here too, of course, so there was constant social interaction between senior judges and parliamentarians. Both those things have gone. There is clearly work for the judiciary to do to try to make sure the other parties in the constitution understand what goes on, but it is reciprocal. Could you give a little more detail of how you are trying to build strong relationships with Parliament and the Executive?

Lord Reed of Allermuir: I have regular meetings with the Speaker at which we discuss these sorts of matters. On his advice, we had a particular initiative after the last general election to take advantage of all the new MPs. We gave all of them an invitation to come and visit the court. We gave them a video explaining the rule of law and a leaflet giving them a guide to the legal systems of the UK. We have been greatly supported by the Parliamentary Under-Secretary of State at the Ministry of Justice, Mr Richards. He has been drumming up support for visits to the court. He brought the party of 40 a few weeks ago and is bringing the 23 whom we expect this afternoon. That is terrific support from a government Minister.

Lord Sales: In relation to the judiciary and justices learning, for their part, from the other parts of the constitution, we have meetings with the most senior civil servants across all departments where they come and tell us about the sorts of issues that they have to deal with. We have very useful discussions with them, where we learn from them and they learn from us. Obviously, at the highest level of the Civil Service, they tend to understand what we are doing; none the less, it is very useful to have this sort of direct engagement at that level with the executive side, as well as all the initiatives that Lord Reed has mentioned in relation to Parliament.

We are all conscious in the court of the sort of erosion of understanding in Parliament that Lord Burnett mentioned, simply because there are fewer lawyers throughout the parliamentary system, both in the House of Commons in particular and in the House of Lords. We do absolutely all that we can to try to repair some of that understanding and knowledge through the kinds of initiatives that have been mentioned. These initiatives have gained considerable momentum, if I may say so, under the leadership of Lord Reed, because he has made it such a priority that we should engage with parliamentarians precisely to ensure that they understand what we do—and that they understand that we understand the limits on our role. It is very important that we can explain to them that what we do is to apply law in an objective sense, following settled methodologies, not apply our own political ideas or try to impose those on society. All judges, particularly in the Supreme Court, understand very well that that is not our function at all. Our function is to respect what Parliament has chosen.

Lord Reed of Allermuir: We also invite the Justice Committee to come to the court once a year for an informal discussion. We have had a very good relationship with successive chairs of that committee of the House of Commons. We had a particularly useful session when I invited Antonia Romeo, when she was the MoJ Permanent Secretary, to talk to all the justices about the pressures on the justice system as she saw them, and how spending priorities were determined. That was a very useful exercise for the judges to hear. It was, in a way, reassuring to realise that if you are not getting everything you might like, it is not for a lack of respect or understanding but because of practical exigencies.

Q9 **Lord Cryer:** I have to start with a declaration of interest. I am married to the Solicitor-General. Since her meeting has just been cancelled, she might be watching this, so I have to be careful about what I say.

My question is related to communications with the public but I want to add, following on from a number of questions, that greater engagement with Parliament is absolutely crucial, not just because of the points that have been made. I also suspect that the potential for confrontation between the judiciary and Parliament is getting greater. You mentioned the ruling on prorogation; personally, I thought that ruling was wrong. Nevertheless, the reaction among some politicians was pretty outrageous. There is another reason for greater engagement, which is that the potential volatility in the British electoral system is now greater than it has been since 1931. It is likely that at every election, for the foreseeable future, you will see a massive change in the membership of the House of Commons. Naturally, an awful lot of those new Members will not have a knowledge—perhaps a few will—of the judiciary and how the legislative system works.

Now that I have got that off my chest, I will ask my question. This committee produced a report on the rule of law. That was before I was on the committee but you are probably familiar with it. It is an outstanding report. One of its recommendations was that the judiciary should communicate more with the public using online tools and that sort of thing. What is the Supreme Court doing specifically on communicating more with members of the public to counter the sort of narrative that we have talked about?

Lord Sales: Shall I deal with that? The first thing one needs to remember is that judgments are what we produce. In terms of communicating with the public the shift to trying to produce single judgments, as Lord Reed described, that give a clear message on the law, rather than a confusion of voices among the judiciary, is one thing that needs to be borne in mind as to how we have reacted to this world that you mention. When a judgment is handed down, two additional things happen. One is that the court produces a press summary, which we prepare ourselves, that essentially is both an aid for the public, if they are interested, and very specifically an aid for journalists who have to report on the judgment. In a page or two, we explain as clearly as we can what the judgment has decided.

What also happens is that the justice who has written the judgment comes into court and is live-streamed giving a short oral presentation to explain what the judgment is about. These remain in a bank of videos, so anyone can come in and watch five or 10 minutes of the judge who wrote the judgment explaining very simply what it is about. When I now move on to talking about engagement through social media and so on, it is important that the committee does not lose sight of these important aspects of us engaging with the public.

Communication remains, and has always been, a strategic objective of the court. We know that there is a gap between people who are lawyers or familiar with the legal system, who will have a basic understanding of the sorts of things that we do, and the wider public, who very often will not. We do our utmost to bridge that gap, in so far as we can ourselves. We engage increasingly through active social media communications. The figures I have to hand are that we have some 275,000 followers on X, 96,000 followers on LinkedIn and some 28,000 followers on Instagram. The court is actively engaging with the public through these different forms of social media.

The LinkedIn feed is particularly important because that is where the court engages most directly with the legal community, telling them about upcoming judgments or where judgments have been released. In a sense, that is where we are talking to people who have some level of understanding but will benefit from more information from the court. As I am sure the committee appreciates, we have to be quite careful engaging with the public through something like X. We cannot be sucked into social media debates, which can become very heated, and the court has to stand above the fray so far as that is concerned, but we have an active programme of providing basic information about what the court is doing.

In rare circumstances, if something is being said that is factually wrong, particularly in the leading newspapers, we have a programme of picking up on that, engaging with those newspapers and seeking correction. We feel these things are about as far as we can go in terms of explaining to the public, alongside all the other outreach activities that we engage in. As I say, we are very conscious that we have to be careful about not being sucked into political debate of a more intemperate kind. We have to stand above the fray to a certain degree.

Lord Reed of Allermuir: I would add one point. We appreciate that the people most skilled at communicating with the public are journalists, and we work closely with them. Our communications team works with both conventional journalists and bloggers who cover the court to ensure that they are aware of what is going on and to answer questions that they have. To give you an example, our head of comms organised a visit for us last year to the BBC. The whole court went to the BBC newsroom and learnt how news is made, whether it is for Radio 1, Radio 4 or online. We had a long meeting with the editors of the programmes and the overall directors of BBC news to talk about coverage of the court, what problems they encountered and how we could help them to do it better than they

do it at the moment. We introduced some changes as a result of that discussion.

Lord Sales: The other thing to mention is our website, which has been revamped and has a lot of informational content on it. Much of it is in a very digestible video form, with justices explaining various aspects of what we do. There have been videos of Lord Reed, for instance, explaining what the role of President is like specifically as part of a campaign to encourage people to apply for that. Justices have done the same in encouraging applications for people to be justices. These videos are accessed by the public, often not with a view to applying to become President or a justice, but to learn from things that are put out by the court in a very accessible way and explain what the court does.

Q10 **The Chair:** Thank you. Lord Sales spoke clearly about communication and technology, but the other area that I am interested in—Geoffrey Vos spoke to us about it and we have read what Brian Leveson said about it—is more the administrative aspects of new technology and AI in particular. I have no examples to give you where I think AI would help, but I am sure they may well exist. What impact could this new technology have on the justice system? How is the Supreme Court facing up to it and making plans for the near future, as it becomes more acceptable to use these things?

Lord Sales: Within the Supreme Court two justices, Lord Briggs and I, have been tasked with, essentially, gathering information about AI and the opportunities that it may provide for the court. We have had an active programme, through contacts that we have in the legal profession, of going and being given demonstrations of some of the often highly impressive AI tools that are available now in the legal world.

The court as a whole has adopted, rightly, a cautious approach to this, because there are, as well as potential huge upsides in terms of use of AI, very considerable downsides. In particular, there are specific downsides that we would be exposed to as a court if we rushed in without very careful research and exploration of what is involved. It is commonly perceived that there are two main issues of using AI. One is accuracy of the outputs. If you are using it for research, there is the idea of hallucinations coming out that look very plausible but are, in fact, not accurate. People have to be aware of that. Lawyers as a whole are aware of that. In the Supreme Court, we are in a rather privileged position, because by the time we are presented with legal arguments they have been filtered through human lawyers who know that it is their professional obligation to make sure that what we are presented with is accurate. None the less, we are actively looking at using AI tools for our own research, so we have to be very aware of that sort of issue.

The other big issue is the release of information, if one is not careful, from asking questions and so on of AI tools into the wider public realm, which can then be picked up on. Again, as a court, we have to be very careful to preserve the confidentiality of our own internal deliberations. There are ways of addressing both these things and we are actively

looking at how we could do that within the court. It is fair to say that within the court, there are two sides. One is the administration, where there are organisational gains from using AI that are actively being looked at. The other is the use that the justices might make of AI, and that is being looked at actively as well. So far as the court is concerned, watch this space; there is movement happening behind the scenes.

You asked the broader question about what AI is going to mean for the legal system. That is obviously a very big question but one that is with us now, because these systems are being developed at huge speed. There are huge potential gains for the legal system, primarily in terms of access to justice. One problem with all legal systems, but it has been a particular problem with the British legal system, is people being able to get legal advice and into court at an affordable cost. AI, to my mind, represents the potential for a huge gain in actively supporting the rule of law by enabling ordinary people to do these things. That will have a downside as well, and it is happening already: the courts lower down the system are beginning to see something of a tidal wave of claims being brought, precisely because it has been made much easier for people to mount claims and bring them in court. I think there will be a role for AI, both in prompting access to justice and in having to assist in managing the increased flow of business that comes in.

I will mention one last thing that concerns me in thinking about the future of the legal system, and of the judiciary, in maybe 20 or 30 years. Lawyers generally will have to be careful not to become de-skilled through using these tools. If I can put it this way, they are very seductive and very powerful tools, and can appear to do a lawyer's job at the press of a button within minutes, when it might take an individual days or even weeks. There is a strong temptation for people now starting to use these systems to come to rely on them, one might think a little too much. If one thinks about what that might involve for the legal system, if we have a generation of people who come through who have not been applying their own minds and critical faculties to the outputs of these systems but simply take them as read, we will face a problem in recruiting the senior judges of the future who have been trained in developing those critical faculties, which is the whole point of having senior judges in the first place. That is a very big-picture point, but it is right to mention it in this environment.

The Chair: Thank you very much. You have put that forward very clearly. I am sure that your general caution is extremely well placed in this area, although you are not ducking the fact that we all need to look at it and see how it might work in practice. Lady Hamwee, you caught my eye there. Do you have a short question?

Q11 Baroness Hamwee: On that last point, I was interested to see that the updated version of judicial guidance on the use of AI reminds judges that they should understand what it does before using it. That hit home. Of course, you might say the same about parliamentarians.

Lord Reed, you talked at the beginning about the distinction between

development of the common law and statutory law. Are we going to have separate AI law? Is there a development of that law that we should be thinking about now? That is a rather ill-framed question, but I am so struck by how AI has exploded and how we deal with the explosion.

Lord Reed of Allermuir: I will ask Lord Sales to say a word about this in a moment because he has thought about it a lot more than I have. My impression is that it is going to generate an enormous variety of new problems for us, ranging from responsibility for road accidents from driverless cars to applying the tools of administrative law as to whether a decision has been properly reasoned if it has been taken by a black box that you cannot really see inside. There will be a whole range of problems. We will have to tackle them, essentially, using our traditional legal tools and maybe sharpening those up a bit.

Lord Sales: That is absolutely right. There will be a series of problems—for instance, driverless cars—where the way forward will probably be development and adaptation of existing legal concepts, such as vicarious liability. Indeed, the Law Commission is looking at that area intensively, which is the right thing to do. There is an issue about which institutions should be in the lead in trying to deal with this extremely fast-moving area. It should not always be left to the courts, because the development of legal reasoning tends to be quite slow, whereas we are dealing with an area that is moving extremely fast.

On your question, as I understood it, about whether we will see new forms of law generated by AI, I think the answer is that yes, we will, and that it will be something of a new world that society as a whole will have to get used to. Again, the reaction to that sort of development will require very much a partnership approach between the judiciary and institutions like Parliament in trying to work out how these powerful new systems can be used for social good without undermining existing social values.

The Chair: Thank you very much indeed. With impeccable timing, we have got to 12 o'clock, which is when I was going to close this session. I thank you both very much indeed, Lord Reed and Lord Sales, for the time and trouble you have taken, and for answering our questions so fully. I draw this public evidence session to a close.