

What do Supreme Court judges do all day?

The Wolfson 2026 London Lecture

Lord Reed of Allermuir*

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One of the pleasures of getting older is having grandchildren. One of their picture books is called *What do people do all day?* Hence my title. It is an apt question in relation to Supreme Court judges, as most people have little idea of what we do or how we do it.

Some people think that because the court sits between 10.30 in the morning and 4 in the afternoon, those are the only hours we work. Some people think that we decide cases like a jury: media reports refer to how we voted, and I have been asked by an MP whether we give any reasons for our decisions. In fact, preparing our judgments takes up more of our time than anything else. We have sometimes issued a decision only for a Minister to announce immediately afterwards that he disagrees with it, prompting me to wonder on what basis he imagines he is qualified to express any opinion about the quality of our reasoning: did he spend years studying law at university, or a lifetime practising it? One problem is that non-lawyers often have no idea that doing law involves a specific and rather difficult kind of intellectual activity. I remember, when I was working on my D Phil, how scientists in particular struggled to understand what the concept of research could possibly mean when applied to law. This lack of understanding underlies much of the criticism of the court when it takes decisions which are politically controversial, as it is based on an assumption that we decide cases on the basis of our personal opinions. So, for example, our decision about the interpretation of the word “woman” in a 2010 Act of Parliament was denounced by one politician as the product of “bigotry, prejudice and hatred”.

So, I want to try to explain to you what Supreme Court judges actually do, including how we decide cases. I’ll refer to some recent cases, and I’ll illustrate other aspects of our working life by referring to some of my recent engagements.

My day begins around 6am by reading our press cuttings over breakfast. I have to keep an eye on how we are being reported in the media, and we issue corrections from time to time. When I get into work, I will often have meetings to deal with the management of the court. I have one every week with our Chief Executive, who has delegated responsibility for the administrative side of the court. I have another with the court’s Registrar, who manages relationships between the court and its users, and with the Deputy President, who organises the court’s international relations. Those are an important aspect of our work, as English law and the English courts are used throughout the world in trade and commerce, so our court has a world-wide reputation to maintain. We are also regarded by courts overseas as setting benchmarks in outreach and transparency, and in efficiency. So we take part in meetings with judges from other jurisdictions, and we welcome foreign delegations of judges or government ministers almost every week.

I will often have other meetings, particularly with UK Government ministers and officials, and with Parliamentarians. In the past few weeks, for example, I have had meetings with the Permanent Secretary of the Ministry of Justice, which is the main department of government that we deal with; with the Permanent Secretary of the Foreign, Commonwealth and Development Office, which we liaise with in relation to our international work, and in relation to the induction of diplomats dealing with countries whose final court of appeal is the Judicial Committee of the Privy Council: one of the two courts we operate; and with officials from the Cabinet Office. Other recent meetings have included a Q&A with about 40 MPs who were visiting the court (we will be hosting another visit next month); a meeting with a delegation from Italy, led by their Minister of Justice and their Ambassador, who wanted to learn about how our court avoids the delays which are a problem there; a meeting with a former Chief Justice of India; and a bilateral meeting with judges from the European Court of Human Rights, at which we discussed the impact of populism on trust in the courts, and whether, and how, human rights may affect the use of AI in the courts. This afternoon I welcomed visiting lawyers from the United States. Other meetings concern the court's activities outside the courtroom: recently, for example, dealing with the appointment of judges to the court, with sittings of the court outside London, and with law reform proposals.

There are also frequent events in the evenings: in the past few weeks, for example, I have taken part in a panel event on AI and trust in public institutions, and hosted a reception at which we welcomed judges from the Commonwealth jurisdictions which use the Privy Council. At the end of last week I gave a speech at an event at the Japanese Embassy. Yesterday evening I took part in an event at Westminster Abbey. Tomorrow I will be giving the keynote address, via a video link, at a conference of the judiciary and Parliament of Costa Rica, who want to learn from our experience of engagement between judges and MPs.

While I am undertaking these activities, my colleagues are busy with other matters, such as chairing meetings of our user groups, organising the recruitment of our research assistants, and taking part in events with schools and universities.

I have not yet mentioned our legal work. We operate two courts: the Supreme Court of the United Kingdom, and the Judicial Committee of the Privy Council, which has been retained by 29 Commonwealth countries as their final court of appeal. We deal with roughly equal numbers of cases in each court.

There is no right of appeal to the Supreme Court: that is how we avoid the problems of delay which concerned our Italian visitors. In the UK, as in other common law countries, and in contrast to civil law countries such as Italy, it is necessary to apply for permission to appeal, normally from the Supreme Court itself. That is also the position in most of the countries that use the Privy Council, except where an issue arises under their constitutions: for they, unlike the UK, have written constitutions of which we are the final interpreters.

Applications for permission to appeal are decided by panels of three justices, as the judges are called. Every month, the President and Deputy President have to approve the

composition of the panels and the allocation of the applications to each panel.¹ In almost all cases, we decide the applications on the basis of written arguments, without an oral hearing.²

This system gives us control over the cases we hear, subject to two important qualifications. First, we can only decide whether to grant permission to appeal in cases which litigants have chosen to put before us, and generally only on issues in those cases which the parties have chosen to argue. Secondly, we are not free to grant permission for any reason we please. Rather, we apply the test set out in our Practice Directions, which provide that permission to appeal is granted for applications that “raise an arguable point of law of general public importance which ought to be considered by the court at that time.”³

It can be seen from this test that appeals to the Supreme Court must be concerned with points of law, not questions of fact, which are the responsibility of trial judges. So we do not decide what happened, but rather what the legal consequences are of what happened or may have happened. And the point of law must be one of general public importance. So we will not take a case where we think that the courts below may have gone wrong if the issue is only important to the parties involved. Equally, we may take a case where we think that the courts below reached the correct answer but for the wrong reasons, if their error in approach is liable to cause problems in other cases.

Let me illustrate these points with two examples. Just before Christmas, the Supreme Court gave judgment in an appeal brought by a lawyer who claimed that she had been assaulted and harassed by a Scottish judge.⁴ She sued the judge for damages. She also sued the Scottish Ministers, who had appointed the judge and paid his salary, relying on an Act of Parliament which makes the Crown responsible for wrongs committed by its servants in circumstances where an ordinary employer would be liable for the wrongs committed by its employees. When her appeal came before the Supreme Court, the factual question whether the judge had assaulted and harassed her had not been decided. We were asked to decide the legal question whether the Scottish Ministers could be held liable for the judge’s behaviour if the allegations were proved at trial. The answer to that question hinged on whether the Scottish Ministers were the Crown, or servants of the Crown, and on whether, if so, the relationship between the judge and the Crown possessed the features which result in the imposition of liability on an employer for the wrongs committed by his employees.

After research into constitutional history, the Supreme Court concluded that the Scottish Ministers were not the Crown, but were servants of the Crown, and that the relationship between the judge and the Crown did not possess the features of employment which justify the

* President of the Supreme Court of the United Kingdom. I am grateful to my judicial assistant, Rebecca Fry, for her assistance in the preparation of this lecture, which was delivered to members of the community of Wolfson College, Oxford at Lincoln’s Inn on 3 March 2026 .

¹ In the 2024/25 financial year, the Justices decided 170 applications for permission to appeal to the Supreme Court and 42 applications for permission to appeal to the Judicial Committee of the Privy Council. See *The Supreme Court and Judicial Committee of the Privy Council: Annual Report and Accounts 2024-25*, p. 31. Available at: [The Supreme Court and Judicial Committee of the Privy Council – Annual Report and Accounts](#)

² Rules 17(2)(d) and 18 of the Supreme Court Rules 2024 make provision for applications for permission to appeal to be considered at an oral hearing, but such hearings are rare.

³ UKSC Practice Direction 3.32, available at: [Practice Directions - UK Supreme Court](#)

⁴ *X v Lord Advocate* [2025] UKSC 44.

imposition of liability on employers for the wrongs committed by their employees. The constitutional principle of judicial independence means that neither the King nor the Scottish Ministers can tell a judge what to do or how to do it, and they are therefore in a different kind of relationship with the judge from the relationship between an employer and an employee. We could decide that, and release the Scottish Ministers from the claim made against them, without needing to know whether the lawyer had been assaulted in the first place.

Similarly, we gave judgment last week in a case concerned with whether a criminal offence concerned with expressions of support for terrorist organisations was an unjustified interference with the right to freedom of expression under the European Convention on Human Rights, and with whether that question had to be decided on the particular facts by the jury at the trial.⁵ Those questions were raised by people who have been prosecuted for allegedly making speeches in support of Hamas. Their cases had not yet gone to trial, so the facts had not been established. After analysing the background to the creation of the offence, identifying its essential elements, and considering judgments of the European Court of Human Rights in cases concerned with counter-terrorism legislation in other European countries, we concluded that the restriction on free speech imposed by the offence was compatible with the Convention, and that the issue was not one for decision by the jury at the trial.

It can be seen from these examples that questions of constitutional importance may be of different kinds and may have to be approached in different ways, and that they can be raised in the course of ordinary litigation. The cases I have mentioned were a claim for damages and a criminal prosecution, but constitutional points can also be raised in judicial review claims, such as the case about the lawfulness of the prorogation of Parliament during the Brexit negotiations⁶ or the case about the lawfulness of the Conservative government's Rwanda policy;⁷ or in references to the court concerning devolved legislation, such as the case about the lawfulness of holding a referendum on Scottish independence without the UK government's agreement;⁸ or in many other types of claim.

But the Supreme Court is not confined to constitutional questions: it is the final court of appeal in all civil cases in the UK, and in all criminal cases from England, Wales and Northern Ireland. The appeals which come before us therefore raise many different kinds of legal questions, concerning matters as diverse as commercial law, employment law, patents and trademarks, taxation and family law, among others. And the cases in the Supreme Court come from all over the world, because English law and the English courts are selected by companies and governments internationally for the resolution of their disputes. For example, we decided a commercial dispute between Ukraine and Russia, because both governments had agreed that their contract would be governed by English law and that the English courts would decide any

⁵ *R v ABJ; R v BDN* [2026] UKSC 8.

⁶ *R (Miller) v The Prime Minister* [2019] UKSC 41.

⁷ *R (AAA (Syria)) v Secretary of State for the Home Department* [2023] UKSC 42. Another recent example is *Re McAllister's Application for Judicial Review* [2023] UKSC 5, concerned with the lawfulness of the Northern Ireland Protocol.

⁸ *Reference by the Lord Advocate of devolution issues under paragraph 34 of Schedule 6 to the Scotland Act 1998* [2022] UKSC 31. Another recent example is *Reference by the Attorney General for Northern Ireland - Abortion Services (Safe Access Zones) (Northern Ireland) Bill* [2022] UKSC 32.

disputes arising.⁹ We heard an appeal last month brought by the government of Denmark, and tomorrow we will be giving judgment in appeals brought by the governments of Spain and Zimbabwe.

That international aspect is even more marked in the Privy Council: many of the cases that come to us from jurisdictions such as the Cayman Islands, the British Virgin Islands, the Bahamas and Bermuda are concerned with businesses operating in Russia, China, Japan, India and elsewhere that have chosen to establish themselves in these offshore financial centres.

Once we have granted permission to appeal, the case will be set down for a hearing. In practice, the time taken for a case to be heard depends on how long the parties need to prepare their arguments and to find a date when their counsel is available. The President and Deputy President have to approve the listing of cases and the composition of the court which will hear the appeal, usually of five justices, sometimes of seven or more (there being 12 justices altogether).

Before the hearing, I will spend about a day reading the papers. They usually run to thousands of pages. We do not try to read all of that, but we have to read the key documents, comprising the agreed facts, the written arguments of both sides, and the judgments of the courts below. That will usually amount to several hundred pages. One challenging aspect is that most judges have specialist expertise in particular areas of the law, but the Supreme Court deals with every area of the law, and so the justices have to become generalists. Indeed, in the Privy Council, we have to deal with different types of legal system, such as French law in appeals from Mauritius, and Polynesian law in some appeals from countries in the Pacific.

Before the start of every hearing, the justices hold a short meeting, where we discuss our preliminary views. At the hearing, counsel address the other side's arguments and answer our questions. We engage counsel in discussion of what appear to us to be the tricky points in the case, rather than being a passive audience. This is all done in public, with the hearings being livestreamed on the internet and recordings available on YouTube. The hearing usually lasts a day, sometimes less, sometimes more, depending on its complexity.

Immediately after the hearing, we meet again to deliberate. This second meeting is much longer. Each justice gives their view on whether the appeal should be allowed or dismissed, together with a summary of their reasons for reaching that conclusion. The most recently appointed justice will speak first, and so on, in reverse order of seniority. There is then a general discussion, which is often lively, and can result in minds being changed.¹⁰

Towards the end of the meeting, the senior judge will invite someone to write the lead judgment. Since I became President in 2020, I have often encouraged two or more justices to work together to write a single judgment. Indeed, we aim to hand down a single judgment in as many appeals as possible, in order to make our decisions clearer and easier to understand than if there were several judgments, as used to be normal. Dissents are not discouraged, but

⁹ *Law Debenture Trust Corporation plc v Ukraine* [2023] UKSC 11.

¹⁰ Lord Burrows, "Seven Lessons from Inside the UK Supreme Court", Neill Law Lecture 2023, delivered on 24 February 2023. Available at: [Seven Lessons from Inside the UK Supreme Court Lord Burrows 2725d87d66.pdf](https://www.supremecourt.uk/docs/default-source/seven-lessons-from-inside-the-uk-supreme-court-lord-burrows-2725d87d66.pdf)

the statistics show that the Supreme Court is remarkably united, bearing in mind that we only take difficult cases. Last year, 92% of our judgments were unanimous.¹¹

Judgment writing is the major part of our job. It takes a great deal of time: generally several weeks, if not months. That is because the issues we have to decide are almost invariably complex, and setting out a well-written, fully researched and convincing judgment is intellectually taxing work. It involves a deep and creative understanding of the law. And one difficulty is that one is having to write judgments while also having to prepare and sit in further cases. Most of us have several judgments hanging over us most of the time.

Once one has written a draft judgment that is not the end of the process. It is circulated to all members of the panel for their comments, which can be extensive and require considerable rewriting if everyone is to be brought on board. Any justice may of course decide to write their own concurring judgment or a dissenting judgment.

How do we go about deciding these appeals? One answer would be that we apply the law to the case before us. But that makes things seem more straightforward than they really are. It also fails to explain why different judges sometimes come to different conclusions in the same case. The explanation lies in the nature of the law. Although the way in which much of the law applies in many situations is reasonably settled, it is a mistake to think of the law as a set of rules which judges can apply in a mechanical way. In the cases before the Supreme Court, the relevant legal rule or principle, or the way it should be applied in the circumstances of the dispute, is not clear: that is why we take the case. Our job is, therefore, to work out the answer through a process of legal reasoning.

Legal reasoning is a technique which is different from political or moral reasoning. Its methodology is something which universities try to introduce to students during their three or four years of undergraduate study, and which lawyers then spend their professional careers practising. The substance of the law which students learn is less important, because it is in a state of constant development, with the result that much of the knowledge of cases and statutes which they gain as undergraduates becomes out of date. What endure are the research skills and the method of reasoning. Supreme Court justices are selected as being exceptionally good at that method of reasoning.

The fact that judges have to reach their decisions by applying only the methods of reasoning which the law has sanctioned,¹² and not on the basis of their personal beliefs, was made a long time ago in a famous case which arose when James I became King of England and wanted to sit in person as a judge. He argued that he should be able to decide cases because “the law was founded upon reason, and... he and others had reason, as well as the Judges.” The Chief Justice, Sir Edward Coke, tactfully responded that although, “God had endowed his Majesty with excellent science, and great endowments of nature... His Majesty was not learned in the laws of his realm of England.” As Coke explained, “causes ... are not to be decided by

¹¹ Statistics provided by the Supreme Court Registry.

¹² HLA Hart, “Positivism and the Separation of Law and Morals” (1957) 71 *Harvard Law Review* 593 at 607-608. See also John Gardner, “Legal Positivism: 5½ Myths” in *Law as a Leap of Faith: Essays on Law in General* (Oxford University Press, 2012), pp. 39-42.

natural reason but by the artificial reason and judgment of law ... which requires long study and experience...”¹³ This is a 17th century case, but the point Coke makes remains critical to public trust in the courts. Legal reasoning results in a form of decision-making which the public can accept precisely because judges’ decisions are based on a conscientious attempt to apply the law and not on their personal beliefs and values.

The appropriate method of reasoning can depend on the nature of the issue. In the case about the Scottish judge, we examined the history of proceedings against the Crown going back to the reign of Elizabeth I in order to understand what the concept of the Crown means, and we analysed the features of employment relationships which have resulted in the imposition of liability on employers, and considered whether those features were present in the relationship between the Scottish Ministers and the judge. In the case about terrorism legislation and the European Convention on Human Rights, we did not ask ourselves whether it was reasonable or justifiable for people to express support for Hamas, or how important we thought freedom of speech was. We analysed the relevant judgments of the European Court of Human Rights in order to identify the legal tests which had to be applied in order to assess compatibility with the Convention, and then we examined the matters which were relevant to the application of those tests, including the reasons for the introduction of the offence and the facts which have to be proved in order to secure a conviction, and then applied the relevant tests.

Some cases raise questions which are of a more philosophical nature. An example is a case brought after the Covid pandemic,¹⁴ in which the question was whether insurance companies had to indemnify businesses which had taken out insurance against business interruption which was caused by an outbreak of a disease such as Covid within a defined radius of their premises. The businesses argued that they had had to close as a result of the lockdown, which was caused by outbreaks of Covid throughout the country, including outbreaks within the defined radius. The insurance companies had a number of arguments in response, one of which was that the closure of the premises was not caused by an outbreak of Covid within the defined radius, since the lockdown would have been imposed whether or not there were any outbreaks of Covid in that particular area. Of course, if that was a good argument in relation to a business in one area, it would hold good for every area, so that no insured business could recover under its policy anywhere in the country, since the lockdown was not imposed in response to any specific outbreak but in response to an epidemic.

So the case turned on what we understand in the law by causation. In order for X to be a cause of Y, is it essential that Y would not have occurred in the absence of X? We decided that although the “but for” test of causation – for X to be a cause of Y, there must be no Y but for X – was usually true, it wasn’t always true. The point was illustrated by an earlier case in Canada in which two hunters simultaneously shot a hiker who was behind some bushes, and the medical evidence showed that either bullet would have killed the hiker instantly even if the other bullet had not been fired. Applying the “but for” test would produce the result that neither hunter caused the hiker’s death: a result which the Canadian Supreme Court rejected as nonsensical. More directly relevant to the Covid case was a thought experiment. Say 20

¹³ *Prohibitions Del Roy* (1607) 12 Coke Reports 63 at 65.

¹⁴ *Financial Conduct Authority v Arch Insurance (UK) Ltd* [2021] UKSC 1.

individuals combine to push a bus over a cliff. Assume that only 13 or 14 people would have been needed to bring about that result. It could not then be said that the participation of any given individual was either necessary or sufficient to cause the destruction of the bus. Yet it seems appropriate to describe each person's involvement as a cause of the loss. Treating the "but for" test as a threshold which must always be crossed if X is to be regarded as a cause of Y would again lead to the absurd conclusion that no one's actions caused the bus to be destroyed.

In some cases, we have to be particularly creative in developing the common law so as to address new problems or to take account of changes in the social and legal context. A recent example concerned the law of injunctions.¹⁵ An injunction is a court order that requires the persons to whom it is addressed to do something or to refrain from doing something. The breach of an injunction is a serious matter which can result in imprisonment.

The question for the Supreme Court was whether it was possible to grant injunctions against persons who cannot be identified at the time the injunction is granted, and who have not yet done, or even threatened to do, anything wrong.

At first sight, the answer might be thought to be no. It is a basic principle of justice that court orders are not normally made against anyone unless he or she has been given notice of the application and an opportunity to be heard. In cases of urgency, the court may make a temporary order without notice, but it has to be served immediately on the person affected, who then has an opportunity to apply for it to be recalled. If the person cannot be identified, then he cannot be notified before the order is made, and it cannot be served on him immediately afterwards. And why should the court grant an order anyway, if no one has done anything wrong or threatened to do anything wrong?

The problem is that in modern life there are many situations in which unlawful behaviour can be anticipated, but it is impossible to identify in advance the particular individuals who will be responsible for it, and they may not themselves yet have thought of behaving in that way. Indeed, it may not be possible to identify them even after the wrongful behaviour has occurred. This problem arises in many contexts, including picketing and vandalism by protest groups, and wrongs committed on social media and elsewhere on the internet. If injunctions are available only against identifiable individuals, then the anonymity of wrongdoers operating online risks conferring upon them an immunity from the operation of the law.

So the question arose whether an application can be made for an injunction without identifying any defendant, and at a time when the claimant has no cause of action because no wrong has yet been committed; and, if so, how is the injunction to be served on the persons whom it is intended to bind, and how can they be heard by the court?

At the time the appeal was decided, injunctions of this kind were a completely new form of order with no obvious legal ancestor. However, the courts have a general equitable

¹⁵ *Wolverhampton City Council v London Gypsies and Travellers and others* [2023] UKSC 47.

power to grant injunctions, which has been confirmed and restated by Parliament.¹⁶ This power is not limited to pre-existing, established categories. It follows that the courts can grant injunctions in new circumstances as and when required by the principles of equity which underpin them, including the principle that where there is a right there should be a remedy. We found confirmation of that flexibility in the courts' development of a number of new kinds of injunction over the past 50 years in the light of developments in technology and commerce. Having considered the relevant principles, we were able to conclude that injunctions of this kind could and should be granted, subject to safeguards which we laid down.

One of the stories in the children's book begins, "Get up! There is a lot of work to be done!". It can feel a bit like that. But, although the work of a Supreme Court judge is difficult and there can be a lot of it, it is a pleasure and a privilege to do it. As I explained earlier, the Supreme Court only hears appeals which raise points of law of general public importance. By resolving these points in our judgments, we aim to provide the clarity and certainty that everyone needs to plan their affairs, and to demonstrate that we are all governed by laws that are administered openly and transparently.

¹⁶ Senior Courts Act 1981, s. 37(1).