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Timely, Inclusive and Transparent Justice

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1. Introduction

I am conscious that I come from a different legal and linguistic culture from the other participants in this summit, and I feel very honoured to have been invited to address you. Please forgive me for speaking in English.

This gathering of senior judges and members of judicial councils from around the world is a valuable opportunity for the discussion of issues that confront us all. One of those issues is the challenge of delivering timely, inclusive and transparent justice. In almost every jurisdiction around the world, courts are criticised for taking too long to resolve disputes, and for being out of reach and out of touch.

That is not only a problem in itself, but it contributes to an erosion of public trust and confidence in the administration of justice which can have significant repercussions for the rule of law. We have a responsibility to respond by finding ways to improve efficiency, transparency and access to justice for the citizens whom we serve.

2. Public Trust and Confidence

Let me begin by making some observations about public trust and confidence. Public trust in courts used to be taken for granted in most democratic countries. But declining trust in public institutions, including courts, has been a feature of our societies for some time.[2] A changing public discourse has resulted in increased criticism of courts in the media and social media, focused largely on suggestions that judges are out of touch with community values, particularly when they act to protect the rights of minorities or uphold challenges to governmental action. That tendency has been given further impetus in recent times. We have seen in a number of democracies the development of a viewpoint which is hostile to the very idea of restraints on executive power. We have seen the

[1] I am grateful to my Judicial Assistant, Alexander Hughes, for his assistance in the preparation of this lecture. I am also grateful to the organisers of the Ibero-American Judicial Summit, and especially to the President of the Supreme Court of the Dominican Republic, Henry Molina, for inviting me to attend the Summit and to give this address.

[2] See, eg, Stephen Parker, *Courts and the Public* (1998) Australasian Institute of Judicial Administration, pp 17–18.

parallel development of a view that institutions which impose restraints on executive power, such as the legislature and the courts, are elites thwarting the wishes of the people for their own political reasons. We have seen a consequent disdain for judicial independence, and a belief that judges should be politically accountable. We have seen criticism of lawyers as politically motivated, and a consequent disapproval of lawyers who represent unpopular individuals or organisations. And we have seen the growth of misinformation about the law, lawyers and courts on social media platforms, at a time of growing reliance by the public on social media as a source of information. We have also seen measures designed to weaken judicial independence in a number of countries in different parts of the world.[3] This can create a vicious circle. If declining trust is used as an excuse for measures which reduce judicial independence, then that reduction in independence will in turn further endanger citizens' trust in the judicial system.[4]

So, what can courts do to build trust on the part of political institutions, the media and the public? In the UK, a recent study of public trust in the Supreme Court, carried out for the Economist magazine, showed that the degree of confidence which individuals felt in the court was strongly related to their level of knowledge about it.[5] The study made it clear that transparency and communication are essential. I will speak about those in more detail later, but at this point it is worth emphasising that public trust in the judiciary is not simply determined by how efficiently and honestly the courts operate, but also by the way the judiciary communicates.

Most people draw their knowledge of the judiciary and their opinions about the courts from the media, but media coverage of the judiciary is not always accurate or well-informed. To address that problem, the UK Supreme Court employs an expert communications team and uses a number of strategies to inform the public about our work. We recognise that the court operates in an intensive media environment in which journalists and bloggers are expected to provide an instant response to our decisions. So members of the communications team work with the journalists who cover our work to help them to report it accurately. Where a judgment is likely to attract media interest, they hold a media briefing an hour before the judgment is made public, on a confidential basis, at which they explain the judgment and answer the journalists' questions. We do not do this in the most sensitive cases, or where prior knowledge of the judgment could be abused. But the confidentiality of the briefing is enforced by our law of contempt of court, and has never been breached. The communications team also work with the judges to help them to communicate with the public, especially in the summaries that are

[3] See, eg, Pedro Magalhães and Nuno Garoupa, "Populist governments, judicial independence, and public trust in the courts" (2023) 31(9) Journal of European Public Policy, 2748–2774.

[4] See, eg, Ryan Salzman and Adam Ramsey, "Judging the Judiciary: Understanding Public Confidence in Latin American Courts" (2013) 55(1) Latin American Politics and Society, 73-95.

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

delivered on camera when decisions are announced, excerpts from which may appear on the television news. They help us to ensure, for example, that the language we use in our summaries is understandable by members of the public, and they help us to ensure, in cases which will be reported in the media, that there is a short sentence or two in our summary which can be quoted in the reports and which explains the essence of our decision. They also assist me with the media interviews I occasionally give, for example by training me in how to answer media questions, and also in how to avoid answering them. They also maintain our social media accounts, with X, Instagram and LinkedIn, which have about 400,000 followers.

We also try to connect with the general public through our education and outreach work. For example, we have established a scheme which gives pupils at schools across the UK, aged about 16 or 17, the opportunity to take part in a live question and answer session with a judge of the Supreme Court from their classroom, via the internet. This scheme has proved to be very successful, enabling the court to make direct contact with ordinary young people in a positive way. I also give occasional media interviews, including interviews for social media podcasts, when I try to explain our work in ways that the public can understand. We also organise an online course on the Supreme Court in partnership with one of our universities.[6] About 5000 members of the public have enrolled.

In the context of the UK, it has also been important for the Supreme Court to try to improve understanding in Parliament of the constitutional role of the courts, and of why the courts and Parliament should support one another. With the support of the Speaker of the House of Commons, the Supreme Court has engaged directly with all new Members of Parliament since our general election last year, providing every Member of Parliament with materials explaining the rule of law and the constitutional role of the courts, taking part in question and answer sessions with Members of Parliament in private meetings, and encouraging them to visit the court and to meet justices and staff. I regard it as very important to encourage politicians to support the courts, as they have a much greater capacity than judges to communicate with the public and to influence public debate.

We have also engaged directly with the UK financial sector, so as to ensure that its leaders understand the importance of an independent judiciary to the UK's prosperity and influence. Their voice can sometimes be more influential than ours.

3. Delay in the Justice System

I turn now to a perennial problem in justice systems around the world: delay. Access to timely justice is fundamental to the public's trust in the system. However, as we all know, courts can be overwhelmed by having too many cases and not enough judges, or not

[6] www.futurelearn.com/courses/inside-the-supreme-court

enough staff and other resources. That problem has been exacerbated by the emergence of new technologies which have made it more common for communications to be recorded and have made it much easier to create and copy documents, so that judges may be faced with longer and longer files of papers. If this is a concern for British judges in a common law system, it must be even greater in civil law jurisdictions which rely on a written procedure.

In the UK, we have sought to address the problem of delay in a number of ways. Some of them may not apply as easily in legal systems where the process is inquisitorial rather than adversarial, and places less emphasis on the ability of counsel to argue a case in court. However, I will mention them for what it is worth.

First, judicial case management plays a major part in both civil and criminal procedure. The aim, in civil procedure, is to enable the court to deal with cases justly and at proportionate cost.[7] As a result, emphasis is placed on encouraging the parties to settle their claim early where possible, and to deal with one another cooperatively in the period before the trial. Judges have extensive case management powers, which they are expected to use to control the progress of the case towards trial and to impose sanctions on parties who obstruct that progress.[8] They have the power to limit the amount of documentation submitted to the court, and to limit the length of the parties' written and oral arguments. Judges have a broadly similar role in criminal proceedings, managing the proceedings before the trial so as to ensure that the trial proceeds smoothly and takes no longer than is needed to resolve the issues that are truly in dispute.

Secondly, we find that oral argument confers significant benefits in efficiency as well as in relation to transparency. Oral hearings allow for greater and more spontaneous dialogue between the judiciary and counsel than is permitted by written representations. They give the judge the opportunity not only to test counsel's arguments by direct questioning, but also to develop a clearer understanding of the issues that are the most critical to the parties involved in the case by questioning counsel. This improves efficiency: by identifying the fundamental issues during oral argument, judges can save significant amounts of time by adopting a more focused approach to the case. I know that some countries with a civil law background, such as Japan, are now considering adopting an oral aspect to their process in the hope that it may speed up proceedings.

A third factor, critical to appellate courts in common law systems, is the absence of an automatic right of appeal. There is a filter. For a first appeal in the UK, it is necessary to show an arguable case that the first instance decision was wrong. For an appeal to the Supreme Court, it is necessary to show that there is an arguable point of law, and that it is one of general public importance. Only about 60 cases a year meet that test, in a

[7] CPR Rule 1.1, available at: PART 1 – OVERRIDING OBJECTIVE – Civil Procedure Rules.
[8] See CPR Rule 1.4, available at PART 1 – OVERRIDING OBJECTIVE – Civil Procedure Rules and Part 3, available at: PART 3 – THE COURT'S CASE MANAGEMENT POWERS – Civil Procedure Rules.

country with a population of 70 million and the largest legal sector in the world, outside the United States. So we have no backlog, and we only need 12 judges in the Supreme Court, with a jurisdiction encompassing civil law, criminal law, administrative law and constitutional law.

A fourth factor, which applies equally in civil law systems, is the emergence of digital technologies. They present a major opportunity to improve efficiency and reduce the backlog of cases. In the UK Supreme Court, and in many other courts both in the UK and elsewhere, we have moved to holding procedural hearings online rather than in person, to using searchable electronic files of documents rather than paper files, and to using electronic library resources rather than books.

The Supreme Court is continuing to build on its use of digital technologies. We have recently digitised our processes for filing and case management, so as to integrate our existing cloud-based system for the filing, storage, organisation and sharing of documents, with a customer relationship management system which contains all information about appeals and all communications with court users in the same system. This has made it easier to store and find information, to avoid duplication, and to reduce the likelihood of human error. In turn, this is speeding up the court's processes. For example, while we are still in the early days of working under the new system, we have been able to process applications for permissions to appeal to our court more quickly, reducing the average time from 10 weeks to 6 weeks.

The lower courts and tribunals in England and Wales have also undergone a digital transformation in the past few years.[9] The reforms include an online process for resolving small money claims,[10] as well as new digital systems for dealing with probate applications, divorce applications, and certain civil damages claims.

Taking the online small money claims service as an example, it is designed to make it quicker and easier for litigants to resolve relatively low value claims of up to £25,000.[11] The service encourages the settlement of defended claims by automatically referring the parties to a free online mediation service, unless they make an active choice to opt out,[12] thereby reducing the need for court hearings. Almost 50% of the claims are then resolved by mediation, reducing the need for court hearings by a half.[13] The online service also frees up judicial time by enabling legal advisers to make case management directions in defended claims with a value of up to £1,000, subject to reconsideration by

[9] Modernising courts and tribunals: benefits of digital services - GOV.UK.
[10] Make a court claim for money: Make a claim - GOV.UK.
[11] CPR Practice Direction 51R, para 2.1(6), available at: PRACTICE DIRECTION 51R – ONLINE CIVIL MONEY CLAIMS PILOT – Justice UK.
[12] CPR Practice Direction 51R, section 6.
[13] Fact sheet: Online Civil Money Claims - GOV.UK (www.gov.uk)

a judge.[14] As a result, claims have been progressed more quickly than they were in the past.[15]

The incorporation of AI will be the next major development. First, AI has the potential to revolutionise legal advice. AI tools are increasingly able to predict the outcome of cases in advance. For example, the judicial decisions of the European Court of Human Rights have been predicted to 79% accuracy using an AI method developed by researchers in the UK and the USA.[16] A tool acquired by LexisNexis has been said to predict the probability of success in patent litigation in the US more accurately than patent lawyers.[17] As these AI models become more reliable and more accessible, parties will be equipped with data-driven analytics on the likely outcome of their claims, which could cause more claims to settle before they come to court, thereby reducing the need for hearings, since the parties will know (or think they know) the outcomes in advance.

In the UK, it has been proposed that AI should be used in future for online resolution of large numbers of minor disputes, such as consumer disputes, subject to safeguards such as the ability to appeal to a human judge.[18] This approach is already used in the private sector by companies such as eBay, Amazon, AirbnB and Uber, which use digital systems to resolve disputes between the buyers and sellers who use their sites. Since most transactions on these platforms involve relatively small sums of money, it is rarely cost effective for disputes arising from them to be resolved in the courts. At the same time, a reliable system of dispute resolution is vital if buyers and sellers are to trust the platform. Taking eBay as an example, the parties are guided through a series of online forms, which in the majority of cases results in a settlement. However, in the 10% or so of cases where the parties fail to reach an agreement, they can appeal to a human mediator. The eBay system currently resolves more than 60 million disputes a year in the UK, which is much more than the civil courts could currently handle. Over 90% are resolved without any human intervention.[19]

AI is currently being trialled by the Supreme Court to produce transcripts of oral hearings.[20] Other European courts are using AI to link legal citations in documents to legal databases,[21] to anonymise judgments,[22] to direct appeals towards appropriate

[14] CPR Practice Direction 51R, section 20.
[15] Modernising courts and tribunals: benefits of digital services - GOV.UK.
[16] Nikolaos Aletras, Dimitrios Tsarapatsanis, Daniel Preoţiuc-Pietro, Vasileios Lampos "Predicting judicial decisions of the European Court of Human Rights: a Natural Language Processing perspective" (2016) PeerJ Computer Science 2:e93, available at: Predicting judicial decisions of the European Court of Human Rights: a Natural Language Processing perspective [PeerJ]
[17] Legal Analytics by Lex Machina
[18] See The Future for Dispute Resolution: Horizon Scanning (judiciary.uk)
[19] Frederick Wilmot-Smith, "Justice eBay Style", London Review of Books, Vol 41 No 18, 26 September 2019, available at: Frederick Wilmot-Smith · Justice eBay Style (lrb.co.uk)
[20] This is also being done in Spain. The transcripts currently contain too many errors to be publishable, but they should improve over time
[21] Austria.
[22] Austria, France, Hungary and Slovenia.

chambers,[23] to detect thematically connected cases, to prepare summaries of judgments and press releases, and for translation.[24]

At the same time, we need to protect our citizens and businesses from AI's potentially adverse effects. The Judicial Office in England and Wales recently issued updated Judicial Guidance on the (cautious) use of AI.[25] But it would not have done so if it had not thought that judges were as likely as any other group to be assisted by AI tools. The potential use of AI is also being examined carefully in many other countries. In Brazil, for example, where I have been told that there is a backlog of around 100 million court cases, AI is being looked at very carefully as a potential solution.[26]

I am not suggesting that civil courts should be replaced with AI dispute resolution. But at the same time, the courts can feel out of reach for too many people, and we need to do more to improve their accessibility. In some countries, there are also questions about the integrity of human judges.[27] Digital forms of case management, complemented by AI, may be part of the answer.

4. Inclusive Justice

I turn now to the important question of inclusive justice. One of the hallmarks of a well-functioning judicial system is the ability of all members of the public to have equal confidence in its ability to provide justice.

With that in view, we have taken steps in the first place to improve the degree of diversity on the UK Supreme Court and in the judiciary more broadly. The public has to be confident that judges are able to understand the cases before them and to deliver justice fairly. That can be difficult if, as in the UK, the diversity of our society is not reflected in the judiciary, especially at its highest levels. But we cannot compromise the quality of the judiciary by appointing other than on merit. So we have published and followed a strategy to support the progress of able lawyers from under-represented groups – whether women, members of ethnic minorities, or people from poorer backgrounds – into judicial roles.[28] We have followed that strategy, for example, by providing internships at the Supreme Court and other courts for young lawyers from disadvantaged backgrounds, and establishing a network for the young lawyers who have undertaken those internships

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[23] France.
[24] The Court of Justice of the European Union.
[25] Artificial Intelligence (AI) – Judicial Guidance - Courts and Tribunals Judiciary (15 April 2025).
[26] Katie Brehm et al, *The Future of AI in the Brazilian Judicial System*, prepared for the National Council of Justice, Institute for Technology and Society of Rio De Janeiro: "*…the Brazilian judicial system operates with substantial challenges in case flow management and a lack of resources to meet this demand. Drastic solutions are needed… the Brazilian National Council of Justice has enabled the 92 courts it administratively oversees to develop their own AI models…*", available at: https://itsrio.org/wp-content/uploads/2020/06/SIPA-Capstone-The-Future-of-AI-in-the-Brazilian-Judicial-System-1.pdf
[27] As I was told in one country, AI has no nephews.
[28] Judicial diversity and inclusion strategy 2021-2025.

in the past. That has helped them to gain confidence and to progress in their careers. We have also provided webinars in which judges and members of judicial appointment boards provide information and advice to people who aspire to become judges. These have proved to be especially popular with women and members of ethnic minorities. I have also taken steps to encourage women judges to apply for appointment to the Supreme Court, with the result that there have in recent years been equal numbers of men and women appointed. I have also secured the appointment of senior judges from Caribbean countries to sit on the Privy Council, which hears appeals from Commonwealth jurisdictions, together with the permanent judges drawn from the UK Supreme Court, with the result that judges from different ethnic backgrounds can now be seen sitting together.

We have also made clear our support for greater diversity in the law by engaging with organisations which represent minorities in our population: for example, by hosting events for Sikh lawyers, Bangladeshi lawyers, organisations working to overcome barriers for black lawyers, and organisations helping young people from different ethnic and religious communities. All these activities are publicised on the court's website and on its social media pages, so as to make our efforts more widely known.

We also provide guidance and training for judges on how to communicate with different groups, and on sensitive questions of language. All judges in the UK are also provided with guidance on how to deal with members of different communities in court.

5. Transparent Justice

I turn finally to the question of transparent justice. In the UK, we normally have oral hearings in all cases, and they normally take place in public. Any member of the public can walk in and see judges at work, listening to evidence and arguments, questioning the lawyers in civil cases, directing juries in criminal cases, and handing down their decisions in public. Members of the public are encouraged to step into the Supreme Court to watch our hearings and tour our court rooms. We have around 100,000 visitors a year, and our court rooms are usually busy with visitors. We have an exhibition area, where visitors can learn more about the court and its case law, and a public café.

In addition, in the Supreme Court and the Court of Appeal, hearings are live streamed online, subject to a short delay in case anything confidential is accidentally mentioned. They are also made available afterwards on YouTube.[29] The Supreme Court also live streams the delivery of judgments, when the judge who has written the lead judgment gives a short oral explanation of the court's decision in accessible language. During the last financial year, around 750,000 viewers watched our cases and judgments

[29] See UKSupremeCourt - YouTube and Court of Appeal - Civil Division - Court 71 - YouTube.

on our website, and footage was also used on television and on media websites, under contractual terms set by the court in order to prevent misuse.[30]

This has been a great help in our most controversial cases. For example, in a case concerned with a challenge to the way the government was proceeding with the UK's withdrawal from the European Union, highlights of the hearing were shown on the television news, and were analysed by pundits in much the same way as football matches, with replays of the most important moments. When we gave our judgment recently in a controversial case concerned with issues of gender, footage was again shown on the television news. This helped to improve public understanding of what the court was deciding, and to raise the level of confidence that the judges were focused on issues of law and not on controversial political questions.

Televising hearings can present a difficulty for jurisdictions which adopt a primarily written procedure. For example, in 2023 the French Cour de Cassation decided there was a need to be more transparent, and accordingly started to broadcast its hearings. However, the judges of that court were not accustomed to participating in the hearing and sat in silence during the advocates' oral arguments. I have been told that the court then came under some criticism as members of the public gained the impression that the judges were not engaged in the issues that were the subject of the hearings. Careful consideration should therefore be given to how oral proceedings might be conducted. One possibility is to follow the approach adopted by the European Court of Human Rights, where Grand Chamber hearings are live streamed. In those proceedings, the advocates, usually qualified in jurisdictions which have written procedures, generally present their arguments without interruption from the judges. However, at the end of their oral argument the judges may then pose as many questions as they wish, after which the advocates are given time to consult with their legal team before providing responses.

We have also adopted the practice of making the most important case papers available through our website, unless publication should be withheld for reasons such as commercial confidentiality or national security, so that they can be viewed alongside the live stream of the hearing.

6. Conclusion

Reflecting on everything I have said today, it is clear that public trust and confidence in justice systems is closely tied up with our ability to provide our citizens with timely, inclusive and transparent justice. Giving all of our citizens access to efficient and timely justice will enhance public trust; and doing so transparently ensures that justice is not only done but is seen to be done.

[30] The Supreme Court and Judicial Committee of the Privy Council – Annual Report and Accounts 2023–2024.

In the challenging situation which courts face today in many of our countries, judicial networks such as the Ibero-American Summit have an important role to play in providing support and motivation to judges who are under pressure, and in enabling judges from different countries to collaborate in tackling current challenges, whether they are technological or social and political. I am grateful that we can share ideas and learn from each other as we work to increase access to justice and safeguard the rule of law for the future, for the benefit of all our societies.