**The Attlee Foundation Lecture: 11 April 2006**
**Democracy, the Rule of Law and the Role of Judges**
**By Lord Steyn**

It is a great honour for me to give the Annual Attlee Foundation Lecture. Many aspects of Attlee's character are an abiding example to us.[1] Above all, his humanity stands out. He said that he unemployed were "the same men who saved us during the war. They are the same men who served side by side in the trenches." Yes, humanity may be one of the greatest qualities of a politician. Another politician who had it in full measure was Winston Churchill. In a speech made on 20 July 1910 in the House of Commons Winston Churchill as Home Secretary explained his philosophy, many years later reflected in his pivotal role in the establishment of the European Convention on Human Rights. In 1910 he said:

> "The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country. A calm dispassionate recognition of the rights of the accused, and even of the convicted criminal, against the State – a constant heart-searching by all charged with the duty of punishment - …These are the symbols, which, in the treatment of crime and criminal, mark and measure the stored-up strength of a nation, and are sign and proof of the living virtue in it."

How very different from the ethos of the Home Office during the last twenty years under Conservative and New Labour governments.

In an era, when since 9/11 international institutions and international law have been damaged, particularly by the actions of the United States and the United Kingdom, it behoves us to bear in mind the internationalist approach of Attlee. He took the view that excessive emphasis on national sovereignty encouraged aggression. Giving up part of that sovereignty to an international organisation was in his view the key to world peace. In an era when it is widely considered the United Kingdom government has not, since 9/11, stood up against the present United States in its many erosions of the international rule of law, it is of interest to note the firmness and resolve of Attlee. Although he valued the special relationship between the United States and the United Kingdom, in November 1945 in an address to the Houses of Congress he said:

> "You will see us embarking on projects of nationalisation, on wide all-embracing schemes of social insurance designed to give security to common man. We shall be working out a planned economy. You, it may be, will continue in your more individualistic methods."

These remarks are today, of course, very dated. But the plain speaking and forthrightness of Attlee is an example to politicians in the modern world.

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* A former Lord of Appeal in Ordinary; now Chairman of JUSTICE.

[1] I have used the entry for Attlee in the latest edition of the Oxford Dictionary of National Biography.

The subject of tonight's lecture is worthy of Attlee. But my record does not suggest that I am the right person to address the subject. One of my antecedents will be enough. Three years ago, in the McFarlane case, there was before the House of Lords a case of parents of an unwanted healthy child born as a result of negligent sterilisation advice.[2] The parents wanted compensation for the cost of bringing up the child. Unanimously, but for bewilderingly different reasons, the House of Lords ruled against the claim. Our decision was unpopular at the bar and among academics. Professor Thompson savaged our reasoning. He was very severe on my colleagues. He said that they had abandoned all principles of tort law. I thought he was going to say my judgment was a notable exception. Not a bit. He said I not only abandoned the law of tort but the law itself.[3]

I now turn to my subject: democracy, the rule of law and the role of judges. In the western world, the view prevails that democracy is a better form of government than any other. Probably it is. But the assertion of the superior moral value of democratic government compared, for example, with the organisation of society according to moderate Muslim principles, ought not to be conceded without examination. In the light of Guantanamo Bay, Abu Graib, Fallujah, the other horrors of the Iraq war, and the continuing revelations about so-called extraordinary rendition – a fancy phrase for kidnapping – the Muslim world may not be over impressed with protestations about the rule of law. Muslims generally regard such ideas as self-serving hypocrisy. The scale of the outrage in the world of Islam is enormous. The outcome for world peace and stability is the great question of our time. Let me, however, examine the problem of the rule of law from a western perspective.

The question is whether foreign governments have used 9/11 as cover to justify their crackdown on human rights. Let me turn to a sober and balanced assessment of the consequences of 9/11 given by Mrs Mary Robinson, one of the great lawyers and international public servants of our time in a lecture given under the auspices of JUSTICE on 20 March 2006. She said:

> "Unfortunately, what I saw and heard was undemocratic regimes using the tragedy in the United States of 9/11 to pursue their own repressive policies, secure in the belief that their excesses would be ignored. New laws and detention practices were introduced in a significant number of countries, all broadly justified by the new international war on terrorism. The extension of security policies in many countries has been used to suppress political dissent and to stifle expression of opinion of many who have no link to terrorism and are not associated with political violence. I will never forget how one Ambassador put it to me bluntly in 2002: 'Don't you see High Commissioner? The standards have changed.'"

It is a contemporary verdict which nobody can seriously challenge. That is how it came about that the euphoria ushered in by the fall of the Berlin Wall, and the end of one form of totalitarianism, has been dashed by repressive and often illegal responses to 9/11.

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[2] [2002] 2 AC 59.
[3] Abandoning the Law of Delect? [2002] Scot L. T.

History has shown that majority rule and strict adherence to legality is no guarantee against tyranny. Hitler came to power by democratic vote. Moreover, in Nazi Germany, amid the Holocaust, pockets of the principle of legality (for what it was worth) sometimes survived. In Nazi Germany defendants sentenced to periods of imprisonment before the Second World War were left alone during the terms of their sentences. Only when their sentences expired did the Gestapo wait for them at the gates of the prisons and transport them to the death camps. So even in Nazi Germany an impoverished concept of legality played some role. The role of judges in this period is, of course, part of the Nuremberg story. But at or after Nuremberg nobody had any doubt what is torture. That at the highest levels the United States Administration has recently persistently tried to water down what is torture is deeply depressing for our times.

In the apartheid era millions of black people in South Africa were subjected to institutionalised tyranny and cruelty in the richest and most developed country in Africa. What is not always sufficiently appreciated is that by and large the Nationalist Government achieved its oppressive purposes by a scrupulous observance of legality. If the judges applied the oppressive laws, the Nationalist Government attained all it set out to do. That is, however, not the whole picture. In the 1980s during successive emergencies, under Chief Justice Rabie, almost every case before the highest court was heard by a so called "emergency team" which in the result decided nearly every case in favour of the government. Safe hands were the motto. In the result the highest court determinedly recast South African jurisprudence so as to grant the greatest possible latitude to the executive to act outside conventional legal controls.[4]

Another example is Chile. Following the coup d'etat in September 1973, thousands were arrested, tortured and murdered on the orders of General Pinochet. The civilised and constitutionally based legal system of that country had not been formally altered. It was not necessary to do so. The police state created by General Pinochet intimidated and compromised the judiciary and deprived citizens and residents of all meaningful redress to law. Fortunately, despite failings, our legal system helped restore the authority of the rule of law.

Here I pause to summarise why I regard these examples of some of the great tyrannies of the twentieth century as containing important lessons. They demonstrate that majority rule by itself, and legality on its own, are insufficient to guarantee a civil and just society. Even totalitarian states mostly act according to the laws of their countries. They demonstrate the dangers of uncontrolled executive power. They also show how it is impossible to maintain true judicial independence in the contaminated moral environment of an authoritarian state.

It is our great privilege to live under a benign constitutional monarchy which has the hallmarks of a European liberal democracy. Long may it so endure. For my part, I see

[4] Nicholas Haysom & Clive Plasket "The War against Law: Judicial Activism and the Appellate Division" (1988) 4 SA Journal on Human Rights 303; Michael Kidd "Internal Security and Specialist Judges" (1990) 6 SAJHR 417.

no need for a written constitution even if it were practical to devise one. Such adaptations as are necessary can be accommodated in our pragmatic traditions. There are two strands to our present day democracy. The first is the principle of majority rule. The departments of state are Parliament, the Executive and the Judiciary. Generally speaking Parliament is the supreme law maker. The Executive carries on the business of the country. The Judiciary adjudicates on disputes between the state and individuals, and between individuals and corporations. It is said to be the weakest department of State. But nobody is above the law and nobody is outside the law. The second premise of the democratic idea is that the basic values of liberty and justice for all and respect for human rights and fundamental freedoms are guaranteed. It is enshrined in the Human Rights Act 1998 which is our Bill of Rights. The guarantor of those rights is and can only be an independent, neutral, and impartial judiciary.

Subject to two exceptions, namely the concession by Parliament of sovereignty to the European Union and conferment of a right by statute on the courts to review legislation for conformity with rights under the European Convention on Human Rights, it has been assumed that the sovereignty or supremacy of Parliament is absolute. It is a matter for examination whether this proposition can still be accepted in absolute terms.

In matters of constitutional law the way in which government is actually conducted is of great importance. For the last 25 years, under Conservative and New Labour governments the pattern has been administration by governments with large majorities. The power of a government with such a majority over the affairs of the nation and the lives of people is enormous. In 1978, a book called the Dilemma of Democracy, Lord Hailsham described the Westminster system as "an elective dictatorship".[5] Those were his words. He said "we live under the authority of a rule [of parliamentary supremacy] absolute in theory if tolerable in practice". He explained:

> "In our lifetime the use of its powers has continuously increased, and the checks and balances had been rendered increasingly ineffective by the concentration of their effective operation more and more in the House of Commons, in the government side of the House of Commons, in the Cabinet within the government side, and to some extent the Prime Minister within the Cabinet. The sovereignty of Parliament, absolute in theory, has become more and more the sovereignty of the House of Commons, and like all absolute rulers, having more and more to do, and in consequence less and less time within which to do it, is becoming more and more the tool of its professional advisers, more and more intolerant of criticism, and less and less in control of the detail of what is done in its name."

The process which Lord Hailsham described in 1978 has continued and accelerated remorselessly. It has caused knowledgeable observers to describe our system of government as becoming in substance ever more presidential.

Voltaire said that England is the land of liberty. So it is. The spirit of liberty is the dominant theme of the common law. Whatever is not specifically forbidden, individuals

[5] p 126.

and their enterprises are free to do. By contrast the government and its agencies may only do what the law permits; what is done in the name of the people requires constant examination and justification. Unfortunately, as was recently demonstrated by the Hunting Act 2004, even ancient liberties are not immune from abolition by a government set on doing so for party political reasons. Widely it was thought to be a pay-back for backbenchers supporting the unpopular Iraq war. It is, however, a fact that in the last 25 years, in the very period when the power of the executive over the affairs of the nation and the lives of individuals grew inexorably, the role of judges has also changed. The European Union and the Human Rights Act 1998 contributed to this process. But there has been a general expansion of the power and influence of the judiciary in Britain as discontent with the working of our democracy increased.[6] What Lord Hailsham called the elective dictatorship played a decisive role in this process. Moreover, Britain has become a multi-cultural society in which the need to protect the rights of minorities has become ever more important. Generally the need to protect individual rights has come centre stage. The public is now increasingly looking not to Parliament, but to the judges to protect their rights. In this new world, judges nowadays accept more readily than before that it is their democratic and constitutional duty to stand up where necessary for individuals against the government. The greater the arrogation of power by a seemingly all-powerful executive which dominates the House of Commons the greater the incentive and need for judges to protect the rule of law.

It will only be possible to touch briefly on some strands of this development. It used to be said that the doctrine of separation of powers is a comparatively weak principle in the English constitution. As between the legislature and the executive that is still so. I do not intend to examine that point. But the separation of powers as between the legislature and executive, on the one hand, and the judiciary, on the other hand, has been greatly strengthened. In 2002 the House of Lords ruled in *Anderson* that under the Human Rights Act 1998 the Home Secretary's traditional right of setting the tariff for prisoners convicted of murder was no longer acceptable. The rationale was that it was contrary to the rule of law.[7] Subsequently, in *Director of Public Prosecutions of Jamaica v Mollinson* Lord Bingham of Cornhill examined the separation of powers under a Westminster constitution, viz the Jamaican Constitution.[8] In a unanimous judgment of the Board Lord Bingham observed [at para 13]:

> "Whatever overlap there may be under constitutions on the Westminster model between the exercise of executive and legislative powers, the separation between the exercise of judicial powers on the one hand and legislative and executive powers on the other hand is total or effectively so. Such separation, based on the rule of law, was recently described… as 'a characteristic feature of democracies'."

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[6] Professor Vernon Bogdanor, Sunningdale Accountability Lecture: "Parliament and the Judiciary: The Problem of Accountability, 9 February 2006."
[7] [2003] 1 AC 837.
[8] [2003] 2 AC 411, at para 13.

Under our constitution the separation of powers protecting judicial independence is now total and effectively so. This constitutional principle exists not to eliminate friction between the executive and judiciary. It exists for this reason only: to prevent the rise of arbitrary executive power. The importance of this exposition of this core principle in our constitution is enormous. The foundation of this development was broadly based: it was anchored on the rule of law.

In passing I must, however, point out that ministers do not always understand the principle of the separation of powers so far as it affects the judiciary. In a recent interview with The New Statesman the Secretary of State for Home Affairs explained:[9]

> "I have been frustrated at the inability to have general conversations of principle with the law lords…because of their sense of propriety. I do find that frustrating. I have never met any of them. I think there is a view that it's not appropriate to meet in terms of their integrity. I'm not sure I agree…and I regret that. I think some dialogue between the senior judiciary and the executive would be beneficial, and finding a channel is quite important."

Mr Clarke apparently fails to understand that the Law Lords and Cabinet Ministers are not on the same side. In the public interest the principle of the separation of powers requires that it should be so. A cosy relationship between ministers and Law Lords would be a worrying development.

One may now pose the question how wide-ranging and strong the rule of law is when measured against parliamentary supremacy. Since Dicey's influential book *The Law of the Constitution* (1885) the rule of law has played a pervasive role in our constitutional thinking. But, until recently it was confidently assumed that Parliamentary supremacy ultimately always trumps the rule of law. There has been a long debate, judicially and academically. As the scope of judicial review came to be broadened the rule of law has played an ever larger role. Initially, its role was largely restricted to ensuring procedural fairness. Gradually, the rule of law acquired substantive content. For example, the rule of law was the foundation of a decision upholding access to justice where a prison governor refused a prisoner access to his lawyer.[10] Another case was where it was held that the Lord Chancellor's imposition of substantial court costs unlawfully impeded access to the courts.[11]

Until recent times, however, it was widely believed that the rule of law could never prevail against an express enactment of Parliament. Moreover, it was thought that the rule of law does not cover all the elements of a rights based democracy. In general terms that may still be right. But a series of decisions of the House of Lords in the last few years have breathed new life into the rule of law.

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[9] 26 September 2005.
[10] *R v Secretary of State for the Home Department ex parte Leech (No 2)* [1994] QB 198.
[11] *R v Lord Chancellor ex parte Witham* [1997] 1 WLR 104.

The decisions of *Anderson* and *Middleton* have demonstrated how judicial independence is now insulated from other branches of government by the rule of law. This may be called a constitutional fundamental of our system of government. Challenging that system would now be difficult.

In *Anufrijeva* (2004) the question came before the House of Lords whether the withdrawal of income support by an internal note on a departmental file from a date before notification of the decision was lawful. By a majority of 4:1 the House held that the uncommunicated decision had no legal effect. The House stated that the decision may have a more general bearing on the development of our public law. The House observed:

> "The arguments for the Home Secretary ignore fundamental principles of our law. Notice of a decision is required before it can have the character of a determination with legal effect because the individual concerned must be in a position to challenge the decision in the courts if he or she wishes to do so. This is not a technical rule. It is simply an application of the right of access to justice. That is a fundamental and constitutional principle of our legal system."

The House invoked the constitutional principle requiring the rule of law to be observed. In the leading judgment, I observed:

> "That principle too requires that a constitutional state must accord to individuals the right to know of a decision before their rights can be adversely affected. The antithesis of such a state was described by Kafka: a state where the rights of individuals are overridden by hole in the corner decisions or knocks on doors in the early hours. That is not our system. I accept, of course, that there must be exceptions to this approach, notably in the criminal field, e.g. arrests and search warrants, where notification is not possible. But it is difficult to visualise a rational argument which could even arguably justify putting the present case in the exceptional category."

Clearly this is a wide application of the rule of law, beyond earlier categories. The constitutional impact of the decision is clear.

The recent decision of the House of Lords in the Belmarsh case is also of fundamental importance.[12] The House of Lords decided by an 8:1 majority that the indefinite detention of foreigners, but not nationals, on the ground of suspicion that they were involved in terrorism was a breach of the European Convention on Human Rights. In the course of discussing the role of judges under the Human Rights Act 1998, and testing governmental action against the requirements of the European Court of Human Rights, Lord Bingham of Cornhill said (at [42]):

> "…I do not accept the full breadth of the Attorney General's submissions. I do not in particular accept the distinction which he draws between democratic

[12] *A v Secretary of State for the Home Department* [2005] 2 WLR 87.

> institutions and the courts. It is of course true that the judges in this country are not elected and are not answerable to Parliament. It is also of course true…that Parliament, the executive, and the courts have different functions. *But the function of independent judges charged to interpret and apply the law is universally recognised as a cardinal feature of the modern democratic state, a cornerstone of the rule of law itself.* The Attorney General is fully entitled to insist on the proper limits of judicial authority, but he is wrong to stigmatise judicial decision-making as in some way undemocratic. It is particularly inappropriate in a case such as the present in which Parliament has expressly legislated in section 6 of the 1998 Act to render unlawful any act of a public authority, including a court, incompatible with a Convention right, has required courts (in section 2) to take account of relevant Strasbourg jurisprudence, has (in section 3) required courts, so far as possible, to give effect to Convention rights and has conferred a right of appeal on derogation issues… The 1998 Act gives the courts a very specific, wholly democratic, mandate…"
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> (My emphasis)

The decision goes to the very heart of our democracy. It anchors our constitutional system on the rule of law. Britain has become a constitutional state.

Then I come to the *Jackson* case.[13] It involved a challenge to the validity of the Hunting Act 2004, which makes it an offence to hunt most wild mammals with dogs. The case was of great importance to the relationship between the House of Commons and the House of Lords. In order to overcome that obstacle, the government invoked the Parliament Acts of 1911 and 1949. The Countryside Alliance challenged the validity of the Hunting Act on the ground that the Parliament Act 1949 was itself invalid. A unanimous 9-member House of Lords Appellate Committee held the 1949 Act was not invalid, and therefore upheld the validity of the Hunting Act 2004.

Logically, the use made of the Parliament Act and the decision of the House of Lords to uphold the Hunting Act gave rise to the question whether the Act may be used to alter the composition of the House of Lords. The Attorney General said at the hearing that the government could use the Parliament Act to bring about constitutional changes such as altering the composition of the House of Lords. If this proposition is accepted, it seems to follow that the Parliament Act could also be employed to destroy the fundamentals of our European liberal democracy. Judged from the point of view of pure legality, the Parliament Act could be used to end the system of 5 year Parliament thereby draining the lifeblood from our democracy. Pure legality suggests that by the route of the Parliament Act the government could abolish the ordinary courts and provide for decisions in whole or part by civil servants or government advisers. For an all powerful executive the system of judicial review of abuse of power by the government is troublesome. What legal impediment is there to the government using the Parliament Act to abolish judicial review in whole or in part. The Argument of the Attorney General offered no constitutional reassurance or comfort by way of the conventions of our constitution.

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[13] *R (Jackson) v Attorney General* [2006] 1 AC 262.

One's first instinct may be that undemocratic legislation is unthinkable in our country. We should trust the government. But is that a sufficient answer when the people expect, and are entitled to expect, objective accountability from those in power. In any event, in recent times measures have been placed before Parliament and enacted which do not accord with the views of Churchill which I have set out. But it must also be remembered that absolute power encourages authoritarianism which is a creeping phenomenon. Our government has been prone to it.

Let me give one recent example of wholly oppressive legislation. Section 81(6) of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 inserts s 103A into the Nationality, Immigration and Asylum Act 2002. The section replaced immigration adjudicators and tribunals with a single tier appeal tribunal. In isolation it may be unobjectionable. But the section seeks in effect to oust the jurisdiction of ordinary courts in all but limited cases, for example bad faith. It will preclude judicial review on the ground of lack of jurisdiction, irregularity, error of law, breach of natural justice and any other matter. These are the very areas in which the higher courts have repeatedly been called on to assert the sovereignty of the law. The section attempts to immunise manifest illegality. It is an astonishing measure. It is contrary to the rule of law. It is contrary to the constitutional principle on which our nation is founded that Her Majesty's courts must always be open to all, citizens and foreigners alike, who seek just redress of perceived wrongs. It is a wholly disproportionate approach to the undoubted abuses in the immigration system. Instead of addressing those abuses the section by and large abolishes justice and due process. If such legislation is effective in this corner of the law – not even involving the endless war against terrorism – what are the portents for our democracy? Why should the section not serve as a model in other areas?

This is the context in which trenchant dicta in *Jackson* must be seen. In my view the observations of Lord Hope of Craighead were particularly important. Lord Hope was critical of Parliamentary sovereignty. He said:[14]

> "Our constitution is dominated by the sovereignty of Parliament. But Parliamentary sovereignty is no longer, if it ever was, absolute. It is no longer right to say that its freedom to legislate admits of no qualification whatever. Step by step, gradually but surely, the English principle of the absolute legislative sovereignty of Parliament which Dicey derived from Coke and Blackstone is being qualified."

Lord Hope also said:

> "The rule of law enforced by the courts is the ultimate controlling factor on which our constitution is based."

And he added:

[14] Paras 107, 120 and 126.

> "Parliamentary sovereignty is an empty principle if legislation is passed which is so absurd or so unacceptable that the populace at large refused to recognise it as law."

Baroness Hale of Richmond said:[15]

"The courts will treat with particular suspicion (and might even reject) any attempt to subvert the rule of law by removing governmental action affecting the rights of the individual from all judicial powers."

It is to be noted that both Lord Hope and Baroness Hale took the view that Parliamentary supremacy may in exceptional circumstances have to yield to the rule of law. With some hesitation I draw attention to my own observations.[16] I said:

> "We do not in the United Kingdom have an uncontrolled constitution as the Attorney General implausibly asserts…The classic account given by Dicey of the doctrine of the supremacy of Parliament, pure and absolute as it was, can now be seen to be out of place in the modern United Kingdom. Nevertheless, the supremacy of Parliament is still the general principle of our constitution. It is a construct of the common law. The judges created this principle. If that is so, it is not unthinkable that circumstances could arise where the courts may have to qualify a principle established on a different hypothesis of constitutionalism. In exceptional circumstances involving an attempt to abolish judicial review or the ordinary role of the courts, the Appellate Committee of the House of Lords or a new Supreme Court may have to consider whether this is a constitutional fundamental which even a sovereign Parliament acting at the behest of a complaisant House of Commons cannot abolish."

Lord Walker of Gestingthorpe and Lord Brown of Eaton-under-Heywood reserved their position on these wide-ranging matters. Lord Carsell expressly reserved his position on whether a legal challenge could succeed to the use of the Parliament Act 1911 that aimed to bring about what he described as "a fundamental disturbance of the building blocks of the constitution".[17] Standing back from the detail, it will be observed that there is a degree of synthesis between the views of Lord Hope, Baroness Hale and myself on this aspect.

It is to be noted how distinguished constitutional lawyers approached the dicta in *Jackson.* Professor Anthony Bradley discussed the legislative supremacy in an essay which largely agrees in substance with the points I made.[18] Professor Jeffrey Jowell QC produced an important analysis of the dicta in *Jackson*[19]. He ends by observing that some of the dicta in *Jackson* confirm the real possibility that, in the words of Lord Hope, "The

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[15] Para 159.
[16] Para 102.
[17] Para 178.
[18] See *"Constitutional Aspects of the challenge to the Hunting Act 2004"*, HL Paper, at 31.
[19] Parliamentary Sovereignty under the New Constitutional Hypothesis, April 2006, unpublished.

rule of law enforced by the courts is the ultimate controlling factor on which our constitution is based."

It is now opportune to return to Lord Hailsham's description of an elective dictatorship. Since 1978 there has been an evolutionary process of great constitutional change. We have arrived at the position where a fundamental "disturbance of the building blocks of our constitution" would not be permitted. For my part the dicta in *Jackson* are likely to prevail if the government tried to tamper with the fundamental principles of our constitutional democracy, such as 5 year Parliaments, the role of the ordinary courts, the rule of law, and other such fundamentals. In such exceptional cases the rule of law may trump parliamentary supremacy.

One cannot, however, leave the topic of the rule of law without referring to Guantanamo Bay, an event which will forever be an historical reference point for our time. As a lawyer brought up to admire American democratic values, I feel compelled to say that Guantanamo Bay is a stain on American justice. Only the present administration of the United States tries to defend the utterly indefensible. Unfortunately, our Prime Minister is not prepared to go further than to say that Guantanamo Bay is an understandable anomaly. In its feebleness this response to a flagrant breach of the rule of law, reminiscent of the worst actions of totalitarian states, is shaming for our country. While our government condones Guantanamo Bay the world is perplexed about our approach to the rule of law. But I hope the world also knows that if the matter was within the jurisdiction of the British courts our judges would unanimously condemn Guantanamo Bay. You may ask: how will it help in regard to the continuing outrage at Guantanamo Bay for our government now to condemn it? The answer is that it would at last be a powerful signal to the world that Britain supports the international rule of law. Nothing less would be worthy of the traditions of Attlee and Churchill.