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Press Notice

Lord Phillips: Judicial independence vital to upholding rule of law

The story of the Supreme Court project highlights the challenges and opportunities of securing the judicial independence necessary across the whole justice system for the protection of citizens' rights, Lord Phillips, the President of the Supreme Court, argues in a lecture today.

Speaking at the launch of a new programme of work at UCL's Constitution Unit, Lord Phillips explores some of the structural questions posed by the creation of the Supreme Court and the wider impact of "moving the UK's highest court out from under the shadow of the legislature". These include issues about the best way of funding the Court, and the relationship between the Court and the Lord Chancellor.

In his lecture, Lord Phillips stresses that each of the Lord Chancellors holding office since the Constitutional Reform Act 2005 has adhered to the oath they take upon appointment, in which they pledge to "defend the independence of the judiciary and discharge my duty to ensure the provision of resources" for the courts system. In this context, he goes on to urge caution against judges "overstepping their role" in judicial review, suggesting that seeking to deny ministers "proper latitude in the exercise of discretionary powers... [might lead Parliament] to attempt to restrict the powers of judicial review."

Responding to critics who challenge the right of "unelected judges who take it upon themselves to overrule the elected government", he points out that not only can Parliament overturn the Supreme Court's rulings by enacting fresh legislation, but that the administration of the Court is fully accountable through the usual channels such as the National Audit Office.

Lord Phillips also points out that the appointment of Justices is subject to a rigorous selection procedure involving consultation across the various UK jurisdictions, with the Lord Chancellor holding a right of veto. He argues that going further – pursuing some sort of process of Parliamentary scrutiny for the appointment of Supreme Court Justices, as practiced in the United

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States – could “lead to the politicisation of judicial appointments and to the Court being seen to divide on some issues on political lines”.

The full text of Lord Phillips’ address can be found at:
<http://www.supremecourt.gov.uk/news/speeches.html>

Ends

Notes to editors

This event launches Professor Robert Hazell’s new grant from the Arts & Humanities Research Council to fund a project on ‘The Politics of Judicial Independence’. The project team are Robert Hazell (UCL), Kate Malleson (Queen Mary, University of London), Graham Gee (Birmingham University) and Patrick O’Brien.

UCL’s Constitution Unit was set up in 1995 to conduct detailed research and planning on constitutional reform in the UK. The Unit has done work on every aspect of the UK’s constitutional reform programme: devolution in Scotland, Wales, Northern Ireland and the English regions, reform of the House of Lords, electoral reform, parliamentary reform, the new Supreme Court, the conduct of referendums, freedom of information, the Human Rights Act. The Unit is the only body in the UK to cover the whole of the constitutional reform agenda.

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