

JASA

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The following letter was published in the Sunday Times on September 14 2008 in slightly abbreviated form

Sir,

In the impassioned debate about the judiciary, I wonder whether we do not forget the golden rule as to legitimacy of criticism of the judges.

By all means criticise their judgments, but never criticise the judges personally.

Of course lawyers, academics and every individual may criticise a judgment; the very fact that the matter has been to court means there is more than one view as to the law or its implications.

But judges themselves must be above criticism. They take an oath to abide by the three vital judicial qualities of integrity, independence and impartiality when sitting on the bench. Their private views are irrelevant when they interpret the law and dispense justice to all without fear or favour. Of course as human beings they will have beliefs, allegiances and even foibles, but they are trained to put all that aside when they sit as judges. In many countries the judge wears a wig to make him more anonymous.

Should a judge fall short of what is required on the bench, or indeed breach accepted standards of behaviour in private life, he must resign or be removed.

But what is intolerable is that a judge's *motives* should be questioned or his or her integrity, independence or impartiality be undermined. Recent events have made me wonder whether even the media should be more cautious about giving those who attack the judiciary the oxygen of publicity. It is vital for a democracy that the judges are held in highest regard. To breach this principle is to breach the rule of law. To continue down that road leads to Zimbabwe.

Yours etc

John Smyth QC

JASA
Upholding Justice in the Public Square

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