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Blair's Guantánamo 'Shame' - Ex-Law Lord

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An eminent former law lord attacked GuantánamoBay as "a stain on American justice" last night and said Tony Blair's refusal to condemn it was "shaming for our country".

Lord Steyn, who retired from Britain's highest court last year, said: "As a lawyer brought up to admire American democratic values, I feel compelled to say that GuantánamoBay 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 GuantánamoBay 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 GuantánamoBay 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 British courts, our judges would unanimously condemn GuantánamoBay.

"You may ask: how will it help in regard to the continuing outrage at GuantánamoBay 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."

Lord Steyn, who made international headlines in 2003 when he described the indefinite detention of terror suspects without charge or trial at GuantánamoBay in Cuba as "a legal black hole", was delivering the Attlee Foundation lecture, Democracy, the Rule of Law and the Role of Judges, to the Royal Over-Seas League in central London.

He added: "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 [Clement] 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."

Lord Steyn, now chairman of the civil rights group Justice, accused Mr Blair's government of being prone to authoritarianism, which was a "creeping phenomenon" encouraged by absolute power. He said the government had introduced "wholly oppressive" legislation such as the 2004 Asylum and Immigration Act, seeking to oust the jurisdiction of the ordinary courts in all but limited cases. This was "an astonishing measure" which attempted to "immunise manifest illegality". He added: "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?"

Lord Steyn warned the government that Britain had arrived at the position where a fundamental "disturbance of the building blocks of our constitution" would not be permitted. The judges would be likely to step in if ministers tried to use the Parliament Act to "tamper with the fundamental principles of our constitutional democracy, such as five-year parliaments, the role of the ordinary courts, the rule of law, and other such fundamentals". He added: "In such exceptional cases the rule of law may trump parliamentary supremacy."

He said ministers did not always understand the principle of the separation of powers as it affected the judiciary. The home secretary, Charles Clarke, had complained in a recent interview that he was "frustrated" that the law lords would not meet him for discussions "because of their sense of propriety".

Mr Clarke "apparently fails to understand that the law lords and cabinet ministers are not on the same side," said Lord Steyn. "A cosy relationship between ministers and law lords would be a worrying development."