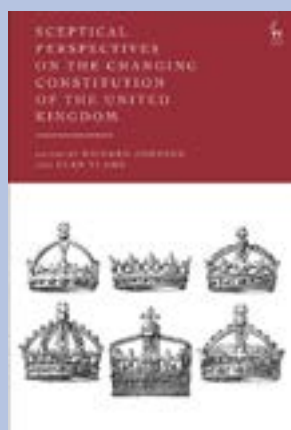


**SCEPTICAL PERSPECTIVES ON THE CHANGING  
CONSTITUTION OF THE UNITED KINGDOM, EDITED  
BY RICHARD JOHNSON AND YUAN YI ZHU**

PATRICK BIRKINSHAW  
University of Hull



*Sceptical Perspectives on the Changing Constitution of the United Kingdom*, edited by Richard Johnson and Yuan Yi Zhu (eds) (2023) is published by Hart—hardback £100/ebook £72.

ISBN 9781509963713

This is an oddly entitled book of edited essays. The back cover states that it focuses on the Human Rights Act 1998 (HRA) and the United Kingdom (UK) Supreme Court—it does no such thing. One is led to believe that it will focus on the attempt to shift the “political constitution” to a “legal one” brought about by judicial decisions “from the 1960s” and the Blair Government’s constitutional reforms. The editors set up their straw men and women who decry our unwritten constitution, and its often-cited tendency to encourage populism, manipulation and even tyranny. They share a “suspicion of legalistic remedies for problems that are inherently political”. For them the “old constitution” maximizes “usable political power” (p 3). Parliamentary legislation as the supreme voice of law is deemed *ipso facto* “constitutional” for there is no hierarchy of laws (p 3)—nothing to strike down legislation as unconstitutional. *Thoburn v Sunderland City Council* (2002) ruled that there is such a thing as legislation with constitutional status, and this had important legal consequences which were not confined to European Union (EU) law. The courts have not gone the further step of ruling legislation unconstitutional or refusing to enforce such legislation although there are *obiter* that the latter may

be possible.<sup>1</sup> Such action would be met with apoplexy by several of the contributors to this edited work.

The British constitution is, continue the editors, a “political constitution”, and it is a “profoundly democratic system” (p 4). But be reassured, this is not a “partisan book” (p 5). All participants take the political constitution seriously and view a movement to a “legal constitution” with “healthy scepticism” (p 5). As if to prove the point, Labour Governments with scarcely a majority in the Commons have benefited from the political reality of the political constitution, the editors argue—the people are in charge. What of the Tory-dominated fourth estate? What of financial markets? Now, they argue, the left (Blairites) are prepared to move to a more legally determined constitution to prevent the Tories getting their way.

Is there not “something to be said for the old constitution” they ask? (p 8) At the height of Johnsonian and Trussian irresponsibility, the editors may have hit a *leitmotif*. These messages are now beginning to sound distinctly discordant.

The tenor of the editors’ opening chapter is taken up in Part One “The Political Constitution and the Law” on which I will concentrate. Part Two on “Westminster and Whitehall” contains some contributions seeking to defend the *status quo*—on the bifurcated position of the Attorney General for instance (Conor Casey) and a celebration of the repeal of the Fixed-term Parliaments Act 2011 by the Dissolution etc Act 2022 (Robert Craig) which restored prime ministerial prerogative via the King to dissolve Parliament—but it also offers serious and useful discussions on reform of the Commons (Tony McNulty) and Lords (Philip Norton), desperately needed I argue in the latter case, electoral reform (Jasper Miles), and very good chapters on delegated legislation (Hayley Hooper), the public appointments system (John Bowers) and standards in the British constitution (Gillian Peele).

Part Three on “Beyond Westminster and Whitehall” has interesting analyses of devolution by Vernon Bogdanor, in which he cites the Bingham Centre’s call in 2015 for a Charter (in the absence of a written constitution) to lay down the basic principles of devolution and division of powers to replace the “ad hoc and unplanned” devolution process to date; on Scottish secession by Peter Reid and Asanga Welikala in which “secessionist diplomacy” has ceded devolution by Whitehall and Westminster “while

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<sup>1</sup> See Birkinshaw & Varney 2016: ch 1; *Moohan v Lord Advocate* (2014): para 35, Lord Hodge; *R (Public Law Project) v Lord Chancellor* (2016): para 20, Lord Neuberger; Hodge 2021; see contra *Privacy International* (2019): paras 207-211, Lord Sumption.

still giving away the least amount of power possible” (pp 307-308); and what can only be described as Northern Ireland Unionist drum beating by Baroness Kate Hoey. I will say a little more on this chapter later. Wales does not have a separate chapter. Gisela Stuart writes on the EU and the British constitution though she states that David Cameron vetoed the 2012 Fiscal Compact Treaty—he didn’t sign up so they proceeded without him outside the EU framework. Not much of a veto. Richard Tuck argues for a rejection of proportional representation and citizens’ assemblies and “sortition” (random selection of such assemblies), and while referenda may be here for the medium future (?), his heart is really with a first-past-the-post form of election.

My review will concentrate on the essays in Part One as these take up the themes celebrating the “old constitution”. What however, is meant by “old constitution”? I taught constitutional law for over forty years and spent a good deal of time explaining its historical foundations. For better or worse it is a developmental constitution. Like many others I have written of the juridified constitution where judicial decision has played an increasingly important, some would say forthright, role in tempering governmental powers (Birkinshaw & Ors 2019). *Miller No 1* (2017) on the unlawful attempt to use the prerogative to sign Article 50 of the Treaty on European Union 2009 to notify the European Council of the UK’s intent to leave the EU, along with *Miller No 2* (2019) where Boris Johnson was ruled to have acted unlawfully in advising the Queen to prorogue Parliament for five weeks at a crucial stage of the withdrawal negotiations, are the most dramatic moments in this denouement. What precisely would the advocates for the old constitution (AOC) have us return to?

The AOC are not at all forthcoming on what is meant by “old constitution”. It certainly embraces more than pre European Communities Act 1972 through which the UK legal system was transformed by our accession to the European Economic Community. Does it mean pre 1922 when all of Ireland, and not just Northern Ireland, was a part of the UK? Pre 1911, when the House of Lords possessed greater legislative powers than those curtailed by the Parliament Act of that year? Pre 1832 and the Great Reform Act which introduced changes to our parliamentary constituencies enfranchizing 217,000 male adult voters in England and Wales (Woodward 1962: 88). Pre 1688 and the Bill of Rights setting out relationships between the Crown and Parliament? Pre 1649 and governance by the divine right of kings, or pre 1215 before Magna Carta and the jungle? And so on. There will be no return to an old constitution. The phrase has no meaning. There will be developments to the present constitution in which judges will continue to play a central role.

In the first chapter in Part One, Brian Christopher Jones argues against a written constitution. Although the UK has no “We the people” incantation, parliamentary sovereignty, he claims, preserves elected representative’s status “as the most important voice of citizens and the most direct connection to the people” (p 24). A “we the people” moment would lessen the status of Members of Parliament (MPs) and legislation and lead to judicial supremacy and judicial paternalism, he believes. The losers would be, he argues, citizens and democracy. A written constitution does not entail a better-informed citizenry. One need look no further than the frequent ignorance of ministers and MPs in the UK to our own constitutional truths so that they frequently confuse the executive with Parliament (House of Lords Constitution Committee 2022; q 5, Lord Reed) before one goes on to ask about the knowledge of UK citizens of their unwritten constitution and its labyrinths. In times of crisis, he continues, the UK has managed successfully to overcome disasters with flexibility and pluck. Brexit and coronavirus are cited. Let’s leave alone the chicanery and lies that manufactured Brexit and the lack of control over purchasing PPE (personal protective equipment), the closeted making of crucial appointments and the pervasive resort to executive law-making in the epidemic; these do not portray a picture of order and integrity. The failures to prevent Johnson’s abuses would not have been prevented had we possessed a written constitution, he continues, and even in the United States (US) their constitution did not prevent Trump’s excesses. The jury is still out on that and the US constitution may yet face the strongest of challenges. It might have been useful to have explained how a written constitution would be produced in the UK given parliamentary sovereignty and our historical background.

Carol Harlow’s is the most elegant essay in Part One and the most balanced. One would expect no less from this doyenne of administrative law and seasoned observer of the constitution. She writes on judicial encroachment on the political constitution, harking back to the essay by her former colleague at the London School of Economics, John Griffith, and more latterly the debate between Griffith and Stephen Sedley. Griffith bitterly denounced the English judiciary for affecting political neutrality in their judgments, whereas their judgments, and world vision, showed them to be highly politicized. Griffith wrote in a different era redolent of memories of judges as a threat to executives committed to social change and then to groups or “outsiders” seeking to modernize social mores, radicalize universities or advance collective employee power. She cites Griffith’s belief that the judges withdrew in the Conservative years, but

there were remarkable judgments in that era too.<sup>2</sup> In his more recent writing, though that was over twenty years ago, and several years before his death, Griffith railed against the “celestial jurisprudence” which saw law as morally based on principles, like those at the heart of the common law, and which promoted judges to interpreters of the constitution and not simply the law.

Harlow was a member of the independent commission set up by the Ministry of Justice to examine judicial review. Her appointment was greeted in some quarters as evidence of the Government setting out to “get” the judges after *Miller* because of her association with Griffith. This was unfair and inaccurate, and the report of the commission was far from the hatchet job the Government clearly hoped for. Despite raising questions about “What is the political constitution?” and “What is the judicial role?”, one doesn’t get the clearest idea of these phenomena. Her chapter contains a lucid account of the post 1960s advance of judicial review, but I’m left with the impression that her message is that everything is political, just as Griffith said everything that happens is constitutional in his 1979 article. And if nothing happens, he added, that is constitutional too. Political claims should not be confused with inherent rights, he claimed. Political decisions, he believed, should be taken by politicians.

Does this simply amount to: rights are only what actually exist in law? If it doesn’t exist, it is merely a contestable claim. Perhaps legal positivism is coming back into vogue. Surely a life free from slavery and a non-toxic environment are correctly couched in the language of rights, even where society denies these things. Morality lies at the heart of contestable claims. But that doesn’t mean a moral claim must always be satisfied. Or that because it’s called “moral” it must be right.

Harlow ends by claiming that, following the Brexit maelstrom, the Reed court operates in a very different manner to its predecessor and cites case law that has rolled back the court’s inclination to rule social and economic measures unlawful despite the effect they purportedly had on increasing child poverty, and to rein in the tests for reviewing government guidance as unlawful in case it encouraged campaigning groups driven, one supposes, by moral impulses. The AAA decision of the court of appeal (*R (AAA Syria) v Secretary of State for the Home Department* 2023), which ruled the Rwanda policy of the Government unlawful because the treatment

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<sup>2</sup> *Raymond v Honey* 1982; *CCSU v Minister for the Civil Service (GCHQ)* 1984; *Factortame v Secretary of State for Transport* 1991, the latter deriving from our presence in the European Community; *M v Home Office* 1993, etc.

of asylum claims by Rwandan judiciary risked breaching article 3 of the European Convention on Human Rights, will be an interesting gauge on the bearing of the Reed court.

What is crucial in the rule of law is the independence of the process of judicial appointment. So far so good. And that depends on lawyers who form the recruitment pool for appointment, and that significantly depends upon social class and elite institutions, many of which are coddled in privilege and wealth. There has been progress but there is still levelling-up (to use a Johnson phrase) to do.

Richard Ekins argues that parliamentary sovereignty is still unqualified in the political constitution. A declamatory style means that much of his chapter comes across as opinionated and headstrong. His claim that it is not open to Parliament to change constitutional convention by legislating but it can displace (override) convention with a legal rule or replace (supplement) a convention with a legal rule seems to me to be a change by legislation. The Parliament Act 1911 which reduced the veto power of the House of Lords is an example of such. Omnipotence must entitle Parliament to legislate that “Henceforth ministerial responsibility shall not mean ..... but shall mean ...”. Parliament’s ability to change the law is self-tempering (p 57) he asserts—then followed by the claim on page 61 that the relevant provisions of the devolution legislation on self-determination for the devolved peoples are “contingent” and can be repealed at Parliament’s will. So, in that sense, could the 1783 Treaty of Paris ending the American war of independence, and the 1931 Statute of Westminster!

Parliamentary sovereignty was an English doctrine, and its presence means Westminster can govern through legislation without consent though “with much respect for devolved institutions”. The decision to hold an EU referendum was an exercise of sovereignty and democracy not its abdication, he writes, so presumably was Parliament’s and the Government’s decision to treat the outcome as binding even though only legally advisory. Likewise, he continues, the threats to breach the Northern Ireland Protocol (NIP) were legitimate exercises of legislative freedom. It’s only “foreign law” after all, as Lord Frost used to say! The HRA interferes with legislative freedom because it discourages “parliament’s responsibility to legislate for the common good” (p 69). The Act protecting human rights has made MPs mice, seems to be the message. The Act “distorts” the political constitution. Never mind that egregious abuses in the past showed how lawless UK governments could be and how emasculated Parliament was to prevent this. It descends into chest-

beating bravado, and the author really would be at home advising the more extreme elements in the Tory party including the Home Secretary! As a parting shot he opines that withdrawal from the ECHR could be achieved by prerogative—the armoury of real titans! As I suppose, come to think of it, could the Treaty of Paris!

Let's just pause from all this gush for reflection.

Donald and Grogan (2022) make the following points. The NIP and the UK–EU Withdrawal Agreement require a continuing commitment to the ECHR and the earlier Good Friday/Belfast Agreement requires the ECHR to be part of law in Northern Ireland. Devolution legislation requires compliance with the ECHR. The HRA requires compliance with the ECHR and so would have to be repealed—by legislation. The UK–EU Trade and Cooperation Agreement (TCA) “requires a shared commitment by EU & UK with ECHR as an essential element”, and a “serious and substantial” failure to fulfil this obligation which “threatens peace and security or that has international repercussions” could lead to the suspension or termination of the agreement by the other party. Part 3 TCA makes it an essential component in enforcement and judicial cooperation in police matters—ie exchange of intelligence, evidence, data, extradition, enforcement of arrest warrants etc. The EU has stated that it “would terminate cooperation on criminal matters” if the UK were to leave the ECHR.<sup>3</sup>

The European Court of Human Rights is a “politicised court” said Braverman in a characteristic outburst (*BBC News* 2023). Ekins wants to uphold “public action” in defiance of “political litigation” (p 71). On judicial review, the development has been questioned both vis-à-vis merits and its extent. The expansion is “decades long” (p 72)—I would have thought Coke CJ in the early 17th century would have a comment on that! This is all opinionated drivel! Carnwath’s judgment in *Privacy International* is “unconstitutional”, and judges should return to a “more disciplined understanding of their constitutional role” (p 74). Constitutional law is “contingent”, and legislative freedom guarantees the primacy of the political constitution (p 75). I have to say I find this all rather depressing. Perhaps with Johnson’s demise these sentiments will increasingly appear outlandish.

Michael Foran’s chapter is over-long and sets within its sights several targets: the most important is the false perception of the “inadequacy of common law rights” compared with Convention rights (p 77). But the

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<sup>3</sup> “[Joint Statement of the Council and the Commission](#)” from Steve Peers.

frailty of common law rights should not be overlooked, I add. *Entick v Carrington* (1765) could be, indeed was, removed by legislation. Prisoners' rights did not exist until the later part of the 20th century; the *Sunday Times* thalidomide case brought home the pusillanimity of our freedom of speech; the common law could not protect us from phone taps and so on.

The Convention is an international treaty which, he argues, gives little guidance to domestic judges on filling in the values—unlike the common law technique. But that technique is precisely what domestic judges have been using to fill in gaps since 2000. In failing to give judges this guidance, Parliament abdicated its legislative responsibility in the HRA (p 100). This is reminiscent of Ekins. The community dimension of rights has been lost, he believes (pp 104-105). Does this mean that if a majority in the community don't want a human right to be protected, it can be overridden? The greatest happiness to the greatest number etc.

Sir Robert Buckland's chapter is on law and politics. As Lord Chancellor/Secretary of State for Justice, he set in motion the reviews on judicial review and on the HRA, part of the 2019 Conservative manifesto pledge to "update" administrative law and the HRA and to end "abuse of judicial review to engage in politics by another means", a component of the promise to look at "the broader aspects of the constitution" that Johnson delivered on. It was widely reported in the media, how reliably I don't know, that Buckland was replaced by Johnson because he had not produced sufficiently curtailing proposals. As I write, the reforms to judicial review are relatively modest, though not unproblematical, and the Bill to repeal the HRA was withdrawn when its ministerial sponsor Dominic Raab faced numerous allegations of bullying. The courts are accused of sleight of hand in their approach to judicial interpretation so that in no case has an ouster clause been clear enough in its language to successfully remove the jurisdiction of the courts (p 114). But one should note that attempts to limit judicial review have been successful (*R v Secretary of State ex p Ostler* 1976; *R v Cornwall CC ex p Huntington* 1994).

The rule of law, he asserts, has been subject to "conceptual creep" (p 116) leaving it open to high-jack by politically motivated interests—ie lefty lawyers and judges in Braverman's terminology. There is confusion about what the "rule of law" means, although he doesn't attempt to offer his own meaning of this "extremely powerful concept". It is quite clear his version is a rather narrow formalistic variety—non-retrospectivity is a core feature, although he does seem to go with the principle of legality as proffered by Lord Hoffmann in *R v Secretary of State for the Home*



*Department ex p Simms* (1999). But opponents of a broad conception of the rule of law would argue against Hoffmann that if Parliament has given the Government broad powers, which I add the Government gave to Parliament in the wording of its Bill, why should they not be taken literally to confer maximum discretion? Because, one adds, the judges would not put up with this where human rights are undermined. His narrow version comes home on page 117 when he states that the rule of law “is not a legal concept; it is a concept of ‘political morality’ about the way in which we are and should be governed”.

My view is that the rule of law is about legal morality. Even Parliament uses the epithet “Constitutional principle” to describe the rule of law in section 1 of the Constitutional Reform Act 2005. Previous iterations of the rule of law such as “law and order” or “the rule of law is the law of rules” (Scalia 1989), meaning any old rules will do so long as they are followed, seem to me to be closer to political morality. But in its modern significance the rule of law has substantive features—protection of human rights is not openly denied even by dictators, although they invariably breach them, only the means through which they are protected is contestable. The more successful the protection, the more powerful the toes that will be trodden upon and the more politicians of a conservative motivation will cry “Offside”. You are using law and legal processes for political objectives. This is not the game! Isn’t that what the slave traders would have argued? We thought slavery was justified and legal before these 18th-century lefty lawyers started invoking *habeas corpus*. One doesn’t need to get metaphysical to argue that dignity and respect have been driving forces impelling human development, as have oppression and exploitation, and lawyers’ craft is to shape the beneficent qualities around legal doctrine to a right to be treated as a full member of the human race. Pah! Humbug! “Political positions are not the preoccupation of the rule of law” (p 118). Having stated the rule of law is a political concept, he then states that it is “quite rightly above politics” (p 120).

Craig’s chapter is a paean to the revival of prerogative in the Dissolution and Calling of Parliament Act 2022 which repealed the Fixed-term Parliaments Act 2011. The latter was a compromise to assuage the Liberal Democrats in the Coalition Government of 2010-2015 that Cameron would not seek to dissolve Parliament and call an early election, basically ditching them. My own feeling is that there is something of a short-change when the Prime Minister (PM) calls for dissolution because of expedience, divination or poll readings, but Craig argues the case for such dissolution pretty convincingly. Craig is vehemently opposed to the arguments that the ouster clause in the statute preventing a dissolution

being called is judicially reviewable. On one thing I am pretty confident: we are far too far down the road of legality to say that prerogative powers are beyond review. If a power is seriously abused whatever its provenance it is potentially reviewable. Should such be the case, past case law suggests there is no way to protect it from judicial scrutiny. Dissolution stands at the apex of prerogative powers along with national security. Here I would say, “Review, most unlikely”. But never?

*Miller No 2*, an “alarming decision” opines Craig (p 150), which others believe to be a great judgment fully consistent with the flow of our legal history and doctrine (Birkinshaw 2020), was about prorogation by prerogative, thereby preventing Parliament sitting and performing its constitutional responsibilities. *Miller No 2* was a dramatic development, but it was justified by compelling and highly persuasive judicial reasoning to protect the constitutional position of Parliament, and ultimately to protect us all. The case is a high-water mark, but it was constitutionally and legally warranted as a reaction to extraordinarily autocratic executive action. When the Fixed Term Parliaments Act was repealed in 2022, dissolution of Parliament was rendered unchallengeable in the courts, as the courts had long suggested was the case (see Lord Roskill in *Council of Civil Service Unions v Minister for the Civil Service* 1985), but prorogation was not mentioned. It suggests the lesson had been learned. Dissolution is followed by a general election and a new Parliament. Prorogation means Parliament is in abeyance. An argument has been made that *Miller No 2* was unjustified because the Commons had it within its power to reverse the prorogation (Endicott 2020). Reed has recalled that no arguments on this were made to the court, although an argument based on a “no confidence” vote was made (House of Lords Constitution Committee 2022: q 6). The argument on Parliament remedying the situation seems highly unrealistic as the Commons was in disarray and seemed incapable of organizing the proverbial piss-up in the brewery let alone defiance of prorogation.

One more essay seems to fit into the AOC mould and that is by Casey on his defence of the dual legal-political nature of the Attorney General (AG) for England and Wales. The chapter is informative and well researched. Being a politician and sitting at the Cabinet the AG always runs the risk of appearing a political *parti pris* susceptible to PM pressure to colour their legal advice to government. This was true in Blair’s office (advice on legality of Iraq war, dropping of a criminal inquiry into BAE re Saudi Arabia arms contracts for corruption because of political sensitivity) and more recently the presence of individuals who had more of the music hall performance about them, and in Braverman’s case urging the Government

to breach international law for party political purposes. It is too invidious to expect such a party-political beast to be an impartial legal advisor and guardian of the public interest and rule of law. The record raises worrying illustrations of contamination of the rule of law (again), not assisted by the Commons ruling the government in contempt for failing to produce the AG's advice to the house on the EU-UK Withdrawal Agreement following an earlier Commons vote in favour of production. They are subject to something rarely heard these days—ministerial responsibility to Parliament—Casey argues in order to impose accountability. A neutral legal office under a non-partisan AG might, he argues, be too diffident and hesitant and fail to add drive and impetus to policies aimed at social and economic regeneration—reminiscent of Griffith.

Like so much in the old constitution it displays the virtues of a government of men (and women) not laws, where so much depends upon the character, integrity and capability of the individual. Take that away, as we saw with Johnson, and we are in trouble, although Johnson eventually met his nemesis.

The one further chapter I wish to return to is Hoey's on Northern Ireland's constitutional position. She is a passionate Northern Irish unionist who believes the NIP has sold the union with the UK down the river now that Northern Ireland is still subject to EU laws and the jurisdiction of the Court of Justice of the EU following Johnson's rejection of the back-stop negotiated by Mrs May and his acceptance of the NIP. This was forced upon him, Johnson claimed, by his weak parliamentary position pre the 2019 election, and whether he signed up to the protocol with his fingers crossed, as Ian Paisley junior claimed, he acted as if the international treaty had no consequences and could be ignored. Sunak's agreement in the Windsor Framework with the EU in February 2023 seems to have turned the corner on that episode, at least for the time being.

As I wrote earlier, one can hear the unionist drums beating in Hoey's chapter, and while hyperbole and chest beating are present in other chapters this seems to be the prologue to a bar room punch-up or worse: "Unionists feel betrayed by their own UK government, while the Irish government constantly backs up nationalists" (p 336). The Republic wants to achieve a "united Ireland"—pausing for just a second to note it was a united Ireland prior to events in 1920-1921 when Ireland was partitioned by the British Government following Unionist pleas to ensure a protestant hegemony in the six counties of the new country of Northern Ireland and excluding three Catholic-dominated counties from nine in

the province of Ulster. This led to shameful discrimination, favouritism and gerrymandering. That in turn led to internecine violence from the 1960s until the Good Friday Agreement in 1998, violence that still has not ceased. The agreement, she claimed, did not guarantee an open border in Ireland as its defenders claim. Does that mean a border controlled by police with military support can or should be re-established?

The AOC, and by no means are all contributors to this book members of that brigade, would no doubt give full vent to Braverman's Illegal Migration Act 2023, section 55 of which allows the home secretary to ignore interim injunctions from the ECHR. The ECHR only binds us to final judgments, writes Jonathan Sumption. Braverman has reiterated her call for the UK to leave the ECHR—along with Russia which was thrown out—if it prevents the UK breaching international law and international obligations. If you are incorrigible, don't make promises to be good.

The 2023 Act has been severely criticized. Donald and Grogan (2022) write that the United Nations (UN) High Commissioner for Human Rights and High Commissioner for Refugees issued a joint statement saying that the Act "is at variance with the [UK's] obligations under international human rights and refugee law and will have profound consequences for people in need of international protection". The Bill "extinguishes access to asylum in the UK for anyone who arrives irregularly", barring them from presenting claims for protection "no matter how compelling their circumstances" they report.

The UN High Commissioner for Refugees adds that the Act "sets a worrying precedent for dismantling asylum-related obligations that other countries, including in Europe, may be tempted to follow, with a potentially adverse effect on the international refugee and human rights protection system as a whole" (Donald & Grogan 2022).

*Qui ferit gladio, perit gladio.* I am fretful that this country's governmental behaviour since 2016 will confirm this country's position as a tiny and uninfluential land off the coast of Europe. Those essays in this book that long for a glorious past of sovereignty, prerogative and virtually unbridled executive power exemplify that arrogance and bombast that stands in sad contrast to this country's, and many of its inhabitants', more humane contributions to world order, including the ECHR. This criticism only affects a minority of the book's contributors. The majority have made readable and weighty contributions which one feels are better described as "critical" rather than "sceptical".

### **About the author**

**Patrick Birkinshaw** is Emeritus Professor of Public Law, University of Hull.

Email: [p.birkinshaw@emeritus.hull.ac.uk](mailto:p.birkinshaw@emeritus.hull.ac.uk).

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