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Rt Hon. Chris Grayling MP, Esq,  
Lord Chancellor,  
Ministry of Justice,  
102 Petty France  
London  
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## Constitutional Reform Act 2005

I am writing to you in relation to legislation to comply with the decision of the European Court of Human Rights on prisoner voting.

The Attorney General, Dominic Grieve QC, gave evidence to the House of Commons Justice Committee on this matter yesterday. He expressed the matter in terms of maintenance of the rule of law: 'The issue is whether the United Kingdom wishes to be in breach of its international obligations ... We live in a world where international law matters increasingly'.

As you will remember, the terms of your statutory oath of office, set out in s17 Constitutional Reform Act 2005 require you to 'respect the rule of law'. S1 of the Act states that the modification of the Lord Chancellor's role by the statute does not affect either 'the existing constitutional principle of the rule of law' or 'the Lord Chancellor's existing constitutional role in relation to that principle'.

Lord Bingham gave a widely applauded lecture on the rule of law in 2006. He made two relevant remarks. First, s1 of the 2005 Act created enforceable duties:

the Lord Chancellor's conduct in relation to that principle would no doubt be susceptible, in principle, to judicial review.

Secondly, he dealt with the extent of the rule of law. In his view, this

requires compliance by the state with its obligations in international law, the law which whether deriving from treaty or international custom and practice governs the conduct of nations. I do not think this proposition is contentious. Addressing a joint session of Congress in September 1990 after the Iraqi invasion of Kuwait, the first President Bush said that a new world was emerging,

"a world where the rule of law supplants the rule of the jungle. A world in which nations recognize the shared responsibility for freedom and justice. A world where the strong respect the rights of the weak ... America and the world must support the rule of law. And we will."

Chair of Council **Baroness Kennedy of the Shaws QC** Director **Roger Smith OBE**

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President George W Bush, in his State of the Union Address of 29 January 2002, speaking of the international, not the domestic, scene, echoed the same sentiment:

"But America will always stand firm for the non-negotiable demands of human dignity: the rule of law; limits on the power of the state; respect for women; private property; free speech; equal justice; and religious tolerance."

British statesmen today would, I think, share this belief.

Accordingly, the duty on the Lord Chancellor requires you to uphold the rule of law and, therefore, publicly support a government response to the decision of the European Court of Human Rights that complies with its ruling.

Yours sincerely

Roger Smith OBE  
Director