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Construction, Deconstruction and Remodelling: Reform of English Judges' Costume and the Change of Public Image

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Abstract

The evolution of judicial dress in England and Wales reflects the changing relationship between judicial authority and public expectations. Judicial dress has functioned both as an instrument in constructing judicial authority and as an outward expression of the judges' public image. In the early modern period, the elaboration of judicial robes and the adoption of wigs helped to shape the judge as an "embodiment of justice", a figure invested with solemnity, sanctity, and authority. After World War II, however, the traditional dress regime became a focal point of criticism: recurring problems within the judiciary, amplified by the media and by postmodernist critiques of authority, contributed to the deconstruction of the traditional image and to the emergence of the "Old White Men" stereotype. This controversy and the subsequent evolution of judicial dress reflected a shift in public expectations, from solemnity towards accessibility, and judicial authority itself became increasingly bound up with that expectation. In 2008, the reform simplified civil gowns and abolished the civil wig while retaining the wig in criminal proceedings, seeking a balance between tradition and accessibility. The historical experience of England and Wales also offers a comparative reference for other legal systems.

Keywords

judges' dress, public image, England and Wales

1. Introduction

English time-honoured judicial dress has a history of nearly a thousand years and distinct national characteristics. It consists of robes, wigs and other accessories. With its solemn and holy symbol characteristics, it has become the explicit form of the judges' "justice incarnation" image. Since the formation of professional judges in England in the 13th century, the development pattern of judges' attire has generally shown a trend of institutionalization and complexity. By the 17th century, with the promulgation of *The Judges' Rules of 1635* and the introduction of wigs, a relatively stable tradition of judges' dress finally emerged in England. After World War II, under the impact of postmodernism, the traditional image of judges was dismantled, and the elaborate clothing corresponding to the image of judges also faced considerable controversy. Ultimately, after several rounds of discussion within the judiciary and among the general public, English judges' dress was simplified.

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The academic circles' scholarly literature on English judicial dress falls broadly into two main approaches. The first consists of descriptive accounts of the history of English judicial dress, most of which take the promulgation of *The Judges' Rules of 1635* and the introduction of wigs from France in the mid-seventeenth century as the two major turning points in that history [1–3]. The second approach discusses the significance of judicial dress. Some scholars stress its positive role in shaping the image of justice, arguing that it heightens the sense of ritual and sanctity in judicial proceedings, and also serves to protect the judge [4, 5]. Other scholars, however, have drawn attention to the negative impact of judicial dress on the public image of judges, describing it as "judicial drag" and arguing that it reinforces the sense of distance and threat that the public feels towards them [6, 7]. In a related vein, Darbyshire, from a socio-legal perspective, analysed the divisions within the judiciary over judicial dress reform [8].

This article aims to examine the history of the construction, deconstruction, and reconstruction of the public image that lay behind the reform of English judicial dress, and to elucidate the internal logic between dress reform and the transformation of that image.

2. "Embodiment of Justice": Early Dress Reform and the Construction of the Traditional Image of the Judge

The modern legal profession emerged in the Middle Ages, and in the early days, almost all judges were members of the church. With the decline of ecclesiastical authority and the expansion of the Crown, the power to appoint judges was transferred to the Crown, and judges gradually became its judicial mouthpiece. Paralleling the rise of the judicial profession, judicial dress likewise originated in medieval clerical dress and was subsequently influenced by the Crown as it expanded. For the reason of distinguishing the justices from others and giving this profession a sense of dignity, the Crown assigned such grave and venerable garments for the civil magistrate in all courts of justice in this realm, which were judged most likely to excite awe and reverence [9, 10]. Judicial dress, the external symbol of the judicial profession, consisted primarily of the judicial robe and its associated accessories, its materials and styles reflecting the judge's rank. The accessories, in turn, were divided into robe ornaments and headwear. The former mainly comprised different types of cloaks and mantles, and the latter included the coif, the hood, and the like. After wigs were introduced to England and became popular among the judiciary, they gradually became a fixed part of judicial headwear. With the institutionalization of judicial dress, judicial robes and wigs became the two most representative symbols of the judges' external professional image.

The English antiquary William Dugdale held that the earliest record concerning the style and material of judicial dress is to be found in the Close Roll of 20 Edward III[1]. It records that the King ordered Master John Cook, the keeper of the great wardrobe, to provide the justices of the Bench and the justices of the Common Bench with materials for making robes and headwear for the summer session, the winter session, and Christmas [11, 12]. Similar incidents were also recorded in the following years. Also during the reign of Edward III, judicial dress began to take its initial standardised form. It typically consisted of a judicial robe, a hood with a cowl worn around the shoulders, and a mantle worn over the hood, all three made of the same fabric [13]. Although judicial dress in this period remained not markedly different from ecclesiastical dress, the Crown's provision of materials for its production indicated the increasingly close relationship between the Crown and the Justices. Thereafter, judicial dress gradually came under the influence of the secular Crown, becoming sumptuous, luxurious, and varied in colour, and its design incorporated many secular elements. Moreover, although the Crown no longer provided materials for judicial dress, its production costs were met by a robe allowance that had evolved out of this practice.

The regulation of judicial dress-wearing came later than the development of the dress itself. From the 13th to the 16th century, although the nature and fashion of the judicial dress remained consistent, its style and shape had not yet become fixed [14, 15]. Similarly to the fabric, the colours of judicial robes varied with the

[1] Dugdale placed it in the reign of Edward I for mistake. This typographical error was corrected by W. Herbert in his book, but reappeared in D. Yazdani's. See HMSO. (1905). *Calendar of the Close Rolls Preserved in the Public Record Office. Edward III. Volume VIII. A.D. 1346–1349* (p. 20). HMSO; Dugdale, W. (1671). *Origines Juridiciales* (2nd ed.). (p. 98). Printed by Tho. Newcomb, for Abel Roper, John Martin, and Henry Herringman; Herbert, W. (1804). *Antiquities of the Inns of Court and Chancery*, (p. 92). Printed for Vernor and Hood; Yazdani, D. (2019). *The Habit of a Judge: A History of Court Dress in England and Wales, and Australia* (p. 5). Talbot Publishing.

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season and largely according to the monarch's taste, with no clear institutional rules; they included scarlet, green, violet, and the like [16–18]. By the 17th century, under the steady consolidation of royal authority, the wearing of judicial robes gradually came under effective regulation by the Crown. On 4 June 1635, the Westminster Commission formally issued *The Judges' Rules*, which regulated judicial dress for all ranks of judges, covering its colour, material, composition, and the wearing occasions. The rules stipulated that the judicial robes were of three colours: scarlet, black, and violet. Black and violet were for ordinary wear, while scarlet was the full-dress gown, worn on ceremonial occasions. The judges should wear their black or violet gowns when they were to sit at Westminster in the courts. While the judges should wear scarlet gowns on holy days, the day when the lord mayor of London came to Westminster to take his oath, Gunpowder Day, and similar festive or important occasions:

"The judges in term-time are to sit at Westminster in the courts, in their black or violet gowns, whether they will…Upon all holydays which fall in the term, and are hall-days, the judges sit in scarlet faced with taffeta, when taffeta facing is to be worn; and with furs or minever, when furs or minever are to be worn…Upon the day when the lord mayor of London comes to Westminster to take his oath, that day the judges come in scarlet; and upon the fifth day of November, being gunpowder-day, unless it be Sunday, the judges go to Westminster abbey in scarlet to hear the sermon, and after go to sit in court…When the judges go to St. Paul's to the sermon, upon any Sunday in the term-time, or to any public church, they ought to go in scarlet gowns [19]."

Moreover, the circuit judge wore the scarlet robe during court proceedings, on Sundays, at public feast, and the like:

"In the circuit the judges go to the church upon Sundays in the forenoon in scarlet gowns, hoods, and mantles, and sit in their caps; and in the afternoons to the church in scarlet gowns, tippet, and scarlet hood, and sit in their cornered caps. And where the judges in circuit go to dine with the shire eve, or to a public feast, then in scarlet gowns, tippets, and scarlet hoods; or, casting off their mantle, they keep on their other hood. And the first morning at the reading of the commissions they sit in scarlet gowns [19]."

The trimmings consisted of taffeta or white furs of minever, worn according to the season. From Ascension-day to Simon and Jude's day, the gowns should be trimmed with taffeta; at other times, they should be trimmed with white furs of minever:

"The facing of their gowns, hoods, and mantles, is with changeable taffeta, which they must begin to wear upon Ascension-day, being the last Thursday in Easter term, and continue those robes until the feast of Simon and Jude; and upon Simon and Jude's day the judges begin to wear their robes faced with white furs of minever, and so continue that facing till Ascension-day again [19]."

The Judges' Rules of 1635 remained the foundational formal regulation of judicial dress in England and Wales for centuries. Its core principles were subsequently supplemented by later practice directions, most lastly the *Practice Direction (Court Dress) (No. 5)* issued in 2008. It laid the foundation for the judicial dress system of modern England, and subsequently of the United Kingdom and some of its colonies, and the core principles of this rule have been followed ever since. The adoption and content of the Rules also emphasized the royal character of the courts, further demonstrating the close relationship between the judges and the Crown. The dress worn by a judge depended to some extent on the nature of the cases he heard, and the requirements were less strict for judges sitting in civil cases. In the mid-18th century, some judges began wearing black silk gowns in civil trials [20, 21]. The widespread use of these non-regulation black silk gowns in civil trials foreshadowed the subsequent changes in judicial dress that accompanied the institutional reform of the courts.

Because wigs had not yet been introduced into England when *The Judges' Rules of 1635* was made, the headwear prescribed for judges at the time still consisted of hoods, together with velvet caps and cornered caps worn over them. In the 1660s, however, wigs were introduced into England from France and gradually became popular among the judges, eventually becoming another distinctive symbol of the professional English judge.

The English Forensic Wig originated in the wigs of the French royal court, and its introduction into England was inseparable from the exile experience of Charles II. The word "wig" in "forensic wig" is a shortened form of "periwig", which derives from the French word "perruque". The wearing of wigs at the French court began with Louis XIII's use of a wig to conceal his baldness and became even more fashionable under Louis XIV. The elaborate and exaggerated long curly wig, known as the *Allongeperücke*, became one of the striking symbols of the Sun King's absolute power, was imitated by the nobility, and developed into an essential

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component of social etiquette. Louis XIV's powerful monarchy and the luxurious, fashionable image of his court left a deep impression on Charles II. He believed that restoring an affluent, fashionable, and dignified outward appearance for the royal family and courtiers was an indispensable part of re-establishing a powerful monarchy, and wigs, in his thought, symbolized the strong political authority [22].

Charles II, having returned to England for the Restoration and firmly established on the throne, introduced wigs into England in 1663, and they soon became fashionable among the aristocracy [23]. Wigs became a symbol of noble birth and high social rank since then. Although many older judges of high standing refused to wear them during this period, nearly all judges of the new generation embraced and championed them, making the wearing of wigs gradually become a new fashion among the judges [24]. Unlike modern judges, who all wear wigs of the white colour, early judges were free to choose the colour of their wigs. White wigs began to appear from 1685. Although originally intended to help conceal baldness in the elderly, they gradually spread across all age groups, incongruously becoming the covering of the young as well as the old [25]. In 1705, white and grey powdered wigs were introduced into England and gained popularity, but at this time judges were not yet officially required to wear wigs, nor was the colour of their wigs prescribed [24]. However, because white and grey harmonised with the pure image of the white trimmings on judicial robes, and the white hair was regarded as the most direct and tangible embodiment of seniority and experience, white and grey wigs were particularly favoured within the legal profession. By the 1720s, they had gradually come to be seen as special wigs reserved exclusively for judges and barristers.

Figure 1: The full-length figure of a judge wearing a robe, a cloak, a ruff and a cap, holding a document in his right hand



Source: The British Museum. (n.d.). Object: The Habit of a Judge, printed by John Bowles. https://www.britishmuseum.org/collection/object/P_1866-0512-1791

From the 19th century onwards, wigs gradually became an exclusive feature of the judicial dress in England and Wales. The French Revolution brought the fashion for wigs to an end across Europe, and most judges on the Continent likewise abandoned them. In Britain, in order to raise funds for the war against France,

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Parliament passed *The Duty on Hair Powder Act 1795*[2]. The requirement that hair powder could be purchased only upon payment of the duty significantly increased the financial burden of wearing wigs, prompting the opposition Whigs and much of the general public to give them up. Wigs consequently became an element of dress confined to a few occupational groups, such as bishops, court attendants, and legal practitioners. After the mid-19th century, only legal practitioners — judges and barristers — were still required to wear wigs, and from this point onwards, wigs formally became the exclusive attire of the judiciary.

English judges continued to wear white and grey wigs widely after the French Revolution, making the wigs an important distinction between the image of English judges and that of their Continental counterparts. In 1835, Humphrey Ravenscroft invented a new full-bottomed wig for forensic use and patented it. Compared with the common ones, this improved wig had the advantages of maintaining an even curl all over, preventing the powder from dislodging and soiling the robes, offering minimal interference with hearing, and the like [26]. It gradually became the established form of forensic wig in the English courts, reserved for state and ceremonial occasions, while shorter wigs covering only the crown of the head were used for everyday appearances in court, including the "Tie wig" and the "Bench wig".

Figure 2: Full-bottomed wig made by George Ravenscroft



Source: London Museum. (n.d.). Fashion— 1881-1885, Wig, court wig. https://www.londonmuseum.org.uk/collections/v/object-91785/wig-court-wig/

[2] *The Duty on Hair Powder Act 1795* (35 Geo. III. c.49.) stipulated that, "from and after the fifth Day of May, every Person who shall use or wear any Powder commonly called *Hair Powder*, of whatever Materials the same shall be made, shall previously enter his or her Name and Place of Abode, and annually take out a Certificate thereof, in the Manner herein mentioned; and that upon every Piece of Vellum or Parchment, or Sheet or Piece of Paper, upon which any Certificate issued to any such Person shall be ingrossed, written, or printed, there shall be charged a Stamp Duty of one Pound and one Shilling. The exemptions were as followed: the Royal Family and their servants; clergymen with an income of under £100 a year; and members of the armed forces who were privates in the army, artillery soldiers, mariners, and the like." *The Hair Powder Certificates, etc. Act 1795* (35 Geo. III. c.112.) was passed in the same year to facilitate tax payments by the public. The acts were repealed by *Statute Law Revision Act 1861*. See D. Pickering (Ed.) (1795), *The Statutes at Large, from Magna Charta, to the End of the Eleventh Parliament of Great Britain, Anno 1761. Continued, Anno tricesimo quinto Georgii III. Regis: Being the Fifth Session of the Seventeenth Parliament of Great Britain*, Vol. XL. Part I. (pp. 176–190, 374–376). Printed for Charles Bathurst (by assignment from his executor).

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In brief, the decline of wigs as a social fashion, their abandonment by other professions, and the invention of the specialised forensic wig turned the wig into yet another symbolic emblem of the English judicial image. To some extent, it can be said that it was precisely the obsolescence of the wig that created its distinctiveness, enabling it to attain a status in judicial image equal to that of the judicial robe.

After *The Judges' Rules of 1635* were issued and wigs became exclusive judicial attire, the judicial dress system of English professional judges achieved basic stability. Thereafter, only a few events had some influence on judicial dress, such as the enactment of *the Judicature Acts of 1873 and 1875*, the relocation of the courts in 1882, and the establishment of the Court of Criminal Appeal in 1907. *The Judicature Acts* abolished all the former superior courts and established a single Supreme Court of Judicature [27, 28]. Thereafter, *The Judges' Rules of 1635* came to apply to all judges of the Supreme Court, although in practice a certain latitude was preserved with regard to the use of the black silk gown [29]. In 1882, when the Supreme Court of Judicature moved from Westminster Hall into the newly built Royal Courts of Justice on the Strand, the judges of the Queen's Bench Division reverted to the robes prescribed by *the Judges' Rules of 1635*, rather than the black silk gowns adopted in the early 19th century [30]. When the Court of Criminal Appeal was established in 1907, its judges adopted the traditional scarlet robes. In 1966, when its jurisdiction was transferred to the Court of Appeal, the black silk gowns of the Court of Appeal were adopted for the Criminal Division as well [30].

Figure 3: The Lord Chief Justice of England in his Robes



Source: The British Museum.(n.d.). Object: The Lord Chief Justice of England in his Robes (second half 18th century). https://www.britishmuseum.org/collection/object/P_1866-0512-1824

In summary, the judicial robe and the wig, over the course of their historical evolution, gradually became the two principal external symbols of the professional image of the English judge. The white and grey wig signified the judge's seniority and experience, while the robe highlighted the sanctity and authority that the judiciary derived from the Church and the Crown; the symbolic meaning of judicial dress as a whole was that of the "embodiment of justice", transcending the mortal body. This dress regime became the foundation and outward expression of the construction of the traditional public image of the English judge.

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3. "Old White Men": Judicial Dress Controversy and the Deconstruction of the Judges' Traditional Image

However, the English judicial dress regime has attracted a degree of controversy ever since its formation. Particularly after World War II, the image of the professional English judges gradually fell into crisis. This traditionally respected group was accused of problems such as class bias, detachment from ordinary life, discrimination against women and the public, racism, and arrogance and harshness. Against this backdrop, the judicial dress regime, as the outward expression shaping the traditional image of judges, came under sharp criticism, and its symbolic function of "authority", "sanctity", and "justice" was gradually deconstructed.

The perennial debates over the merits and drawbacks of the judicial dress regime constituted the historical origins of the post-war reform of judicial dress and the deconstruction of the traditional image. Proponents of the traditional judicial dress regime held the following views: firstly, the dress has long been regarded as a symbolic emblem of "justice", and is an indispensable element of the judges' image. In terms of shaping courtroom culture, the judicial robe and wig can add a solemn sense of ritual, authority, and sanctity to the proceedings, and prevent differences in physical appearance from interfering with the trial. From this perspective, it is precisely the obsolescence of judicial dress that constitutes its distinctiveness and necessity. As Hobsbawm said in *The Invention of Tradition*: "the wigs of lawyers could hardly acquire their modern significance until other people stopped wearing wigs [31]." Secondly, as regards the judge and the judicial act itself, the judicial dress not only prevents differences in physical appearance from interfering with the trial, but also obscures the judge's personal features, thereby reducing the likelihood of retaliation against the judge outside the courtroom and serving a protective function[3]. With the emergence of women judges after World War II[4], the women judges wore the same robes and wigs as their male counterparts, which to some extent concealed their gender and made them less vulnerable to attack or discrimination on the basis of sex [32].

Opponents of the traditional judicial dress regime, on the other hand, argued that the elaborate and ostentatious judicial attire caricatured the judge's image. This view was later magnified after being taken up and embellished by a number of well-known foreign figures. Thomas Jefferson, one of the Founding Fathers of the United States, mocked English judges as "like mice peeping out of oakum". Alexander Herzen, the Russian philosopher, derided them as "wearing a fur coat and something like a woman's dressing gown [33]". Once these derisive remarks by prominent foreign figures reached Britain, they went some way toward shaping the popular perception of the judicial image.

In the centuries-long debates over judicial dress, the opposition to the wig was the most acute. For one thing, the wig posed the problem of being extremely costly. According to Samuel Pepys, he paid four pounds ten shillings for two wigs in 1667 [34]. Forensic wigs were generally made of white-grey horsehair. Although the raw material was relatively easy to obtain, the manufacturing process was exceptionally complex, with each wig requiring approximately forty-four hours of skilled manual labour. It was not until the late nineteenth century that some steps in wig production could be performed by machine. Moreover, the wigs were not purchased at the judges' own expense; instead, they were paid for out of an allowance provided by the Crown, that is, the country, for this purpose[5]. Although some steps in wig production have now been mechanised, the stereotype that wigs are prohibitively expensive remains deeply ingrained. Ultimately, this substantial allowance is funded by taxation and has therefore provoked discontent among taxpayers. For another, from a social perspective, wigs were often

[3] In Australia, a judge was once murdered after his personal identity had been exposed. *The Family Law Act 1975* provided that judges of the newly established Family Court of Australia were prohibited from wearing robes and wigs. Subsequently, after a Family Court judge was killed by a litigant outside the courtroom, the Family Court reintroduced traditional judicial dress in 1988. This incident attracted considerable attention within the English judiciary.

[4] The first woman judge was Elizabeth Lane, who became the first female county court judge in British history in 1962, and in 1965 became the first woman to enter the High Court, sitting in the Probate, Divorce and Admiralty Division. See Lane, E. (1985). *Hear the Other Side, Audi Alteram Partem: The Autobiography of England's First Woman Judge*, (pp. 122, 132). Butterworth.

[5] Senior and circuit judges received a one-off payment of £5,000 to £7,000 to help dress themselves for work in 1990s. Now, judges are entitled to receive court dress on appointment. See Seamark, M. & Connett, D. (1994, September 23) The Pampered Life of M' Lud. *Daily Mail* (pp. 14–15), cited in Yablon, C. (1995). Judicial Drag: An Essay on Wigs, Robes and Legal Change, *Wisconsin Law Review*, *1995*, p. 1134; Ministry of Justice (2024, February 29) *Ministry of Justice Evidence Pack: Judicial Pay 2024/25*, Ministry of Justice. https://assets.publishing.service.gov.uk/media/65e092802f2b3b00117cd795/moj-written-evidence-ssrb-2024-25.pdf

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regarded as a "cover-up" for baldness among the upper classes caused by diseases like syphilis [35]. After the French Revolution, wigs were also frequently associated with backwardness, conservatism, and despotism. Moreover, the wigs introduced from France were originally a product of wearers' desire to flaunt their elevated status over others. Consequently, after other professional groups had abandoned wigs, the wig came to be increasingly seen as a symbol of the English judge's hidebound conservatism.

Taken together, the debates over judicial dress before World War II centred on three issues: the symbolic meaning and practical effects of judicial attire, the financial and material waste it entailed, and whether the dress regime was in keeping with the times, all of which were closely bound up with the image of the judge. After the war, under the impact of postmodernism, the deconstruction of judicial authority by various sectors of society and the accumulated failings of the judges themselves precipitated a crisis in the judicial image, and the accompanying dress regime came under unprecedented criticism. Moreover, unlike the pre-war debates, which largely revolved around how judicial dress should be modified, the post-war debate shifted to the question of whether the distinctive judicial dress, especially the wig, should be retained or abolished, and the interaction between judicial dress and public image became increasingly negative.

Postmodernism is a socio-cultural trend of thought that emerged in Western societies in the post-industrial era. Its precise concept is difficult to define, but one scholar described it in these terms, "the problem with postmodernism is that it relegates history to the dustbin of an obsolete epistémè [36]." Broadly speaking, it presents itself as a set of ideas: an emphasis on anti-rationalism, a value orientation of decentring, de-authorisation, and de-hierarchisation, including the subversion of traditional relationships such as those between centre and periphery, aristocracy and commoners, and mainstream and minority groups, and a further extension of the Enlightenment notion of equality. Against this backdrop, public perception of the judicial image underwent a dramatic transformation. Judges were no longer the "embodiment of justice", but were increasingly seen as a group of "Old White Men"[6], detached from the people.

This transformation in the judicial image can be attributed chiefly to the following factors. First, English judges enjoyed a relatively high socio-economic status and were perceived as an "old boys' network" composed of educational elites from the privileged class. Most of them came from distinguished family backgrounds and had excellent educational records, and a clear class divide existed between them and the general public. In particular, the appointment of senior judges was marked by class bias: they had almost invariably been educated at private schools from an early age and were graduates of prestigious institutions such as Oxford and Cambridge, and their hobbies, discourse, and general outlook often exhibited the unmistakable characteristics of the "privileged class". In the cases they tried, judges inevitably tended to uphold the interests of their own class. In the post-war period, the rigidification of the social hierarchy in Britain and mounting social pressures objectively fuelled a growing disdain for the rich and the elite.

Second, the problems exposed by judges in the course of trying cases, particularly the occurrence of miscarriages of justice, frequently provoked public censure. Among these, discrimination by judges against vulnerable groups was the most conspicuous. For example, in 1982, Judge Bertrand Richards, when trying a rape case, imposed only a fine of £2,000 on the rapist, because he considered that the 17-year-old victim was "guilty of a great deal of contributory negligence [37]." While Judge Richards was condemned by the media for this sentence, some senior judges openly defended him. Similar discriminatory practices were also widespread in a wide range of cases, including those involving rape, parties of non-British ethnicity, young victims, and a steep class gap between litigants [38]. Thus, fuelled by the media, the general public grew ever more convinced that judges were guilty of sexism, racism, and classism, and that, far from being protectors of the vulnerable, they were even their oppressors.

Third, scandals occurred frequently among the judiciary, and the development of the news media also made them easier to uncover and publicise. After World War II, various judicial scandals became important material for newspapers such as *The Daily Mail*, *The Times*, and *The Sun*, chiefly including sex scandals, drunkenness, getting off lightly, and soft on sentencing [39]. Taking *The Sun*, whose readership was predominantly from the lower-middle classes, as an example, its coverage of judicial scandals often used more sensational or eye-catching headlines and images, and linked judicial issues to the judges' identity and physical appearance. A typical headline ran, "Pig in a wig: Love rat judge [40]". News stories accompanied by images further

[6] Old white men, that is, the image of judges as a privileged, elderly, and socially detached elite.

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reinforced the link between judicial dress and judicial scandal through visual impact, such as "JUDGES ON TRIAL: We demand an end to soft sentences"[7], which appeared alongside a photograph of a judge wearing a full-bottomed wig, stamped with a "guilty" seal [41].

As the crisis of the judicial image became increasingly pronounced, judicial dress, as the outward expression of that image, also, to some extent, reinforced the public's questioning of judges. At the end of the 20th century, a survey interview conducted by Hazel Genn, which asked respondents "whether or not they agreed with the statement that most judges are out of touch with ordinary people's lives", showed that 65% of those interviewed agreed, with 24% strongly agreeing, while only 14% disagreed with it [42]. When discussing this, respondents commonly brought up the issue of judicial dress, arguing that wigs and robes made judges appear older and further intensified the sense of distance and threat that the public felt toward them. As one respondent put it, "I don't think they need them wigs. I think that's really outdated and I just don't think we need that and all the robes. Make them more like normal human beings I think… I just don't like that feeling, that they are so grand and you're just this small little person, I think that's what it is [43]." Therefore, as the public increasingly stereotyped judges as haughty "Old White Men", the dress, which was the very antithesis of being approachable, came under even fiercer criticism, and reform became imperative.

Opposition to traditional judicial dress also continued to emerge from within the judiciary itself. Since the 1980s, some senior judges, notably Peter Taylor, Baron Taylor of Gosforth, have called for the abolition of traditional dress. They believed the dress, especially the wigs, damaged judges' image. In 1990, Taylor, the Lord Justice of Appeal, stated in a BBC interview, "I believe that at a stroke we could disarm a good deal of public misunderstanding of the legal profession if we stopped wearing wigs and gowns in court [44]." Although Baron Taylor's public call for the complete abolition of judicial dress was relatively radical, shortly before becoming Lord Chief Justice in 1992 he indicated that he "would not fire into doing that without consultation and without seeing what we are going to do, which is not quite as simple as it may seem [45]." This cautious approach also reflected the principle that reform must give priority to social stability and judicial order. In short, the internal reformist wing led by Baron Taylor pulled the rug from under the traditional dress regime, fundamentally undermining its foundations and making its reform appear all the more urgent.

Figure 4: The collars of SS[8]



Source: Royal Courts of Justice Legal Costume Collection. (n.d.). The Main Exhibition. https://www.rcjlegalcostume.co.uk/main-exhibition

In summary, the traditional judicial dress regime had long been a subject of controversy. Particularly after World War II, as the crisis in the public image of the judiciary intensified, traditional dress increasingly became

[7] "Judges on Trial: We demand an end to soft sentences" was a three-day editorial campaign launched by *The Sun* from June 12 to June 14, 2006. The campaign featured daily front-page spreads demanding stricter sentencing and the naming and shaming of judges deemed lenient

[8] From the middle of the sixteenth century, the collars of SS were given only to the chief justices of the King' s Bench and Common Pleas and chief baron of the Exchequer. Since the merger of those courts in 1875 they have been worn only by the Lord Chief Justice.

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the outward expression of the "Old White Men" stereotype, and the debate accordingly shifted to the question of whether the distinctive judicial attire should be retained or abolished. Opinion polls at the end of the 20th century showed that a majority of the public considered traditional dress not only a waste of resources, but also something that exacerbated the sense of distance between judges and the public. At the same time, opposition from within the judiciary itself also played a critical role. These internal and external pressures became the driving force behind the reform of judicial dress in the early 21st century.

4. "Approachability": Judicial Dress Reform in the New Century and the Reconstruction of the Public Image of the Judge

After half a century of debate following World War II, by the end of the 20th century the reform of the traditional judicial dress regime, intended to remedy the crisis in the judicial image, still faced considerable resistance from the conservative quarters. Nevertheless, the intensity of the debate had already compelled Parliament and the government to issue an official response. The reform plan settled in the early 21st century was developed precisely under official organisation, by fully integrating the views of the general public and the judiciary.

The internal and external debates over judicial dress reform eventually drew the attention and response of the House of Lords. As the de facto highest judicial authority in the United Kingdom, the House of Lords had the final say on this matter.[9] Chaired by the Lord Chancellor, Lord Mackay, the House of Lords debated the wearing of judicial dress on 22 June 1992. The views of the peers were broadly divided into three categories: the first view was to wear neither the robe nor the wig. The second was to keep the traditional judicial dress, holding the view that "we ought to retain an air of dignity, anonymity and authority which the uniform of this type of public service commands," and that the dress can also keep judges impartial, because "the wig reminds the judge that he is there as the representative of society and to apply the law, not to apply his version and view—which may be somewhat eccentric —as to what the justice of the case calls for." While the third view represented a compromise between the above two, holding that they should give up the wig but retain the gown [46]. The peers who held the second view were in the majority. In addition to the arguments concerning judicial dress itself, Lord Fraser of Kilmorack further stated, "I do not like interfering in any way with established institutions and customs which have sound foundations in the successful running of this country over many centuries, whether it be in the law or government [47]." This view has been a recurring theme throughout British history.

At the conclusion of the debate, the Lord Chancellor proposed that the question of judicial dress rules would be "wise to consult publicly and in some detail on this subject [48]". In August 1992, the question was circulated for discussion among all sectors of society in the form of a consultation paper. The paper set out the history of judicial dress, the current costs of the judicial dress, together with the arguments for its retention and for its abolition [49]. The findings revealed a striking "silent majority" phenomenon. Despite the persistent calls for reform, the results showed that "67% favoured retention of court working dress; 15% favoured abolition in all respects; and the remainder favoured some simplification, including 14% who advocated abolishing the wig [50]." These findings indicated that traditional judicial dress retained considerable public support, and that the moment for reform had not yet arrived. Given the results, the official position was that no changes would be made to judicial dress as a result of the consultation exercise. However, the debate over the judge's attire has not ceased.

With the advent of the 21st century, and particularly following the radical political and judicial reforms introduced after the Labour government came to power, [10] calls for judicial dress reform began to rise once

[9] In the late seventeenth century, the House of Lords became the common court of appeal for both the common law courts and the courts of equity. After the judicial reforms of the nineteenth century, although a dedicated Court of Appeal was established, the House of Lords retained its supreme appellate jurisdiction. From the late nineteenth century onwards, this jurisdiction was exercised chiefly by the Appellate Committee of the House of Lords, presided over by the Lord Chancellor. *The Constitutional Reform Act 2005* established a separate Supreme Court to replace the Appellate Committee. The tradition of the House of Lords serving as the highest judicial authority continued until the Supreme Court of the United Kingdom formally began operating in 2009.

[10] In 2005, the Labour government secured the passage of *The Constitutional Reform Act 2005*, which separated the judicial, legislative, and executive powers of the Lord Chancellor, and established the Supreme Court of the United

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more. Against the background of the mounting crisis in the judicial image, judges had come to recognise that the form of court dress concerned not only its wearers, but also the public perception of the judiciary as a whole. The discussion of judicial dress reform continued to be conducted among two major groups, the legal profession and the public. In 2002, the Lord Chancellor's Department once again organized a national public opinion survey on the issue of court dress reform to gather the opinions of all sectors of society. The survey was conducted simultaneously in England and Wales, involving 1,571 members of the general public who had never attended court and 506 court users who had previously done so. The survey was more detailed in scope, covering the attire of five categories of judicial practitioners: Criminal Judges, Civil Judges, Advocates, Court Ushers, and Court Clerks. The survey options included whether to wear wig and robe, whether to wear robe without wig, whether the robe should be replaced by business dress, and the like[11]. The results of the survey showed that 68% of respondents favoured criminal judges continuing to wear wigs, while only 31% supported civil judges wearing wigs. As for the retention of the gown, 34% suggested that judges hearing civil cases, having abandoned the wig, should also replace the gown with business dress [51]. In addition, since the judge's attire is an integral part of shaping the image of the judge and the court culture, the survey also touched upon the respondents' impressions of the courts. They were asked, "Which three words would you use to describe the courts in England and Wales?" "Traditional", "Formal", "Intimidating" were selected the most times by both court users and the general public. "Modern" and "User friendly", on the contrary, were the least selected. The former was chosen by only 9% of the general public and 16% of court users, while the latter by only 7% of the general public and 12% of court users [51]. Compared with the 1992 survey, this survey showed that public support for reforming traditional judicial dress had increased, while establishing a sharper distinction between the attire of criminal and civil judges emerged as a key issue in this consultation.

After several rounds of discussion and survey at the turn of the century, the true attitudes of all sectors of society towards traditional judicial dress gradually became clear, while also revealing the changes that had taken place over time. The two surveys discussed above revealed a clear division over the question of judicial dress reform: on the one hand, most legal practitioners remained conservatively attached to traditional dress; on the other, the general public supported reforming it. This divide reflected the estrangement between legal practitioners, including judges, and the general public, which in itself pointed to the need for reform. The findings of this survey provided an authoritative basis for the reform of judicial dress.

Building on the 2002 public survey, the Lord Chancellor's Department issued another consultation paper to the public in the following year. The reform was finalised on 12 July 2007 after four years of discussion, with an original implementation date of January 2008 [52]. In December 2007, however, the implementation was postponed to 1 October 2008, as the manufacture of the new gowns could not meet the demand in time [53]. On 31 July 2008, the Lord Chief Justice of England and Wales, Baron Phillips of Worth Matravers, announced that, from 1 October 2008, in respect of criminal jurisdiction, "there will be no change of court dress worn in the exercise of the criminal jurisdiction save that High Court Judges will wear their winter robes in winter and summer alike." In respect of civil jurisdiction, he announced that "all judges and members of the High Court Masters Group, (other than Circuit Judges) will wear the new civil gown without a wig (or bands, wing collar or collarette)", and that Circuit Judges "will wear their existing gown and lilac tippet without a wig (or bands, wing collar or collarette) [54]." The new civil gown was designed without charge by Betty Jackson, CBE, a British fashion designer [55].

The new civil gown was simpler and more comfortable than the traditional ones, and its cost was significantly lower. In terms of identity distinction, the design favoured by a judicial working group incorporated coloured bands to identify seniority: gold for Heads of Division and Appeal Court Judges, red for High Court Judges, blue for District Judges; pink for Masters and Registrars [55]. In addition, Sir Mark Potter, President of the Family Division and also President of the Court of Protection, added that special rules applied to judicial dress in the Family Division and the Court of Protection: "a gown should not be worn by any of the judges listed in the said paragraph 2[12] when the judge is sitting in family proceedings or the Court of Protection, otherwise than in open court [56, 57]." Under the influence of the reform of judicial dress, the Bar Council's

Kingdom to replace the House of Lords' supreme judicial jurisdiction. See Great Britain. (n.d.). *Constitutional Reform Act* 2005. Legislation.gov.uk. https://www.legislation.gov.uk/ukpga/2005/4/contents

[11] For Criminal Judges, however, the attire was prescribed as robes, and no option for business dress was provided.

[12] That is, the paragraph 2 of *The Practice Direction (Court Dress) (No. 5) and amendment no. 20 to the Consolidated Criminal Practice Direction (Court Dress)*.

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guidance to the court working dress of advocates would take effect on the same date, which had reached agreement with the Law Society and Institute of Legal Executives before its publication [58].

Figure 5: Lord Chief Justice, Lord Phillips wearing the new civil robe, and the robe's designer, Betty Jackson CBE



Source: Daily Mail. (2008, 13 May). Pictured: Judges throw away 300 years of tradition and reveal their new bare-headed 'Star Trek' look. https://www.dailymail.com/news/article-1019342/Pictured-Judges-throw-away-300-years-tradition-reveal-new-bare-headed-Star-Trek-look.html

Figure 6: Examples of the new civil robes, Male robe (left), Female robe (right)



Source: Courts and Tribunals Judiciary. (n.d.). Examples. https://www.judiciary.uk/about-the-judiciary/history-of-the-judiciary-in-england-and-wales/court-dress/examples/

The design of the new civil gown and the partial abolition of the wig saved costs for the judicial system in England and Wales and were supported by the majority of the public. The judicial dress reform in 2008 clearly embodied a distinctly British approach to reform, one that seeks a balance between tradition and change. The fact that the new civil gown was designed by a female designer also helped to break the stereotype that the judiciary was monopolised by "Old White Men". At the same time, the new civil gown was derived from the traditional robe's form and was then given a simplified adaptation, striking a balance between preserving a solemn image and reducing the sense of distance. The centuries-old traditional judicial dresses were housed in the Royal Courts of Justice Legal Costume Collection, as a mark of respect and reverence for the dignity of justice.

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Figure 7: District Judge John Bailey wearing the new civil robe with blue tabs at the neck



Source: Courts and Tribunals Judiciary. (2022, 18 July). Interview with District Judge John Beckley for Pride Month 2022. https://hcojusticeuk.org/guidance-and-resources/interview-with-district-judge-john-beckley-for-pride-month-2022/index.html

In the course of the reform, the reformist forces within the judiciary and the general public were equally important. On the one hand, the change in public perception of judicial dress reflected a shift in society's expectations of judges from divine authority to approachability and equality. The public expected judges to be the dispensers of justice for the wider community, rather than the privileged class's defenders of the interests. The traditional gown and wig, however, amplified the judges' air of isolated nobility, making it harder for them to gain the trust and support of the people. On the other hand, the reform of judicial dress was also a product of the broader public engagement in the political process that followed World War II. The reform not only originated in public dissatisfaction with judges, but the various official and unofficial public opinion surveys also reflected the public's views on reform.

In conclusion, the 2008 judicial dress reform preserved, to some extent, the judicial cultural significance that traditional judicial attire had long fostered, while also, through simplification, temporarily ending the reform debates that had persisted for over half a century since World War II. It altered, to a degree, the "Old White Men" image of a judiciary alienated from the public, and helped to shape a more approachable image for judges.

5. Conclusion

The history of judicial dress in England and Wales is not merely a history of sartorial change. It reveals a deeper transformation in the basis of judicial authority itself. In the early modern period, the authority of the judge was sustained by distance, solemnity, and sacrality: the robe and the wig set the judge apart from the ordinary world and invested the office with an aura of sacred justice. After World War II, this model of authority came under sustained pressure. The deconstruction of the traditional judicial image, driven by internal failings, media scrutiny, and postmodernist critiques of authority, exposed the fragility of an authority that depended on separation from the public rather than on public trust.

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The 2008 reform should be understood not simply as a response to changing fashion or administrative convenience, but as an attempt to renegotiate the terms on which judicial authority is sustained. By simplifying civil gowns, abolishing the requirement of wearing the wig in civil cases, and retaining the wig in criminal proceedings, the reform sought a balance between two imperatives: preserving enough ceremonial authority to sustain judicial legitimacy, and responding to public expectations of accessibility and equality. The simplification of judicial dress thus reflects a developmental path that continuously seeks a balance between tradition and change. It has also shifted the basis of judicial authority further towards judicial professionalism, and forms part of the broader modernisation of the judiciary, in keeping with current social trends. The English and Welsh path was characteristically gradual and consultative, developed through official surveys, public consultation papers, and sustained debate within the judiciary.

The reform was intended to project a more approachable image of the judge, and the available evidence suggests that it responded to public preferences expressed in the 1992 and 2002 surveys. The reform successfully projected a more approachable image of the judges in outward appearance and substantially reduced the financial expenditure on judicial dress. However, public perceptions of the judicial system are not determined solely by dress. The distinction between the symbolic meaning of judicial dress, public perceptions of judges, and the demonstrated effects of reform must be kept in view. The reform has also prompted new reflection on how far the symbolic forms of judicial authority can be reformed without undermining the authority they sustain, and on how tradition can be adapted to meet the expectations of a changing public. These questions are likely to shape future debates on judicial dress in England and Wales and beyond.

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