

BOOK REVIEW

The Role of the Monarchy in Modern Democracy: European Monarchies Compared

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Embarking on his towering biography of the Queen, the labour historian Ben Pimlott met with surprise from people who wondered whether it could be ‘a serious or worthwhile enterprise’ (Pimlott, 1996, p. xix). Possible reasons for these responses are, as the historian David Cannadine notes, that

‘The left – certainly the far left – finds the very idea of monarchy baffling, indefensible, and thus of no significant interest On the other hand, the right – and certainly the far right – believes monarchy to be self-evidently the best of all possible worlds, an unchanging symbol of national unity and continuity.’ (Cannadine, 2004, p. 312)

Both these eminent historians have demonstrated that taking the monarchy seriously, regardless of whether one agrees with it or not, provides a vantage point for asking a wide variety of questions about social and political history, and a particularly insightful perspective for exploring the deep-seated myths about ‘stability’ and the more complex relationship between change and continuity. Equally enlightening, albeit often from a more avowedly republican stance, are film and media studies about the monarchy and in particular of Princess Diana (Merk, 1998; 2016). So, it is a surprise to realise how little legal scholarship exists in this field. Exceptions are studies of specific issues: wills (Nash, 2017) and marriages (Probert, 2011). But legal scholarship about the institution of monarchy per se, of any variety – black-letter, critical, socio-legal – is curiously absent. For example, a search of this Journal’s contents using the terms ‘monarchy’ and ‘royalty’ reveals zero papers. As the editors of this much-needed collection explicitly note, there is not just ‘a serious gap in the literature’, but ‘a gaping void’ (p. 4).

While forty-four countries around the world and twelve in Europe are monarchies, the focus here is on the eight in Europe that can lay claim to being ‘constitutional monarchies’: Belgium, Denmark, Luxembourg, the Netherlands, Norway, Spain, Sweden and the UK. (The omitted four are the small and distinctive states of Andorra, Liechtenstein, Monaco and the Vatican.) The focus on ‘constitutional’ is key here, as the overarching paradox and contradiction explored in this collection is the survival of monarchies in countries that lay claim, with some justification, to being advanced democracies. Indeed, one could add that many of them are in many ways also the most egalitarian societies. ‘Constitutional’ is also central here, as the majority of the twenty contributors, who come from all of the eight countries studied, are constitutional lawyers and the editors, both previously eminent civil servants, are based at the Constitution Unit at University College London. The exceptions, whose contributions add breadth and rich context to the subject matter, include scholars of media and cultural history, public opinion, religion and the law as well as well-placed practitioners, including a Dutch senior civil servant and, from Sweden, the current ‘Solicitor to the King’.

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Helpfully, for a comparative study, the contributions are presented thematically, rather than nationally, with fifty-four short contributions spread over three sections and seven substantive chapters; and these are complemented by the inclusion of exceptionally helpful tables. The themes relate to the key questions posed by the editors about the role and power of the monarchies and about the forms and methods of regulation of and limitations placed on them, and the overarching question seeking to explain ‘the secret of their survival’ (p. 6) and the potential perils and pitfalls facing them in the future.

The book begins by examining the functions of the monarchies: their formal constitutional functions and their less formal, but, as is made clear, no less important, day-to-day political, ceremonial and service and welfare and international functions. The descriptive accounts of the powers of the monarchs are illuminating, as they provide an insightful comparative overview of the origins of the monarchies. The distinction between the older monarchies of the UK and Scandinavia and the post-Napoleonic settlement monarchies is key here and is a reminder of Britain’s interventionist role in establishing ‘sympathetic’ regimes and providing the model for constitutional monarchies. The overarching story here is one of a gradual reduction in formal constitutional powers; indeed, it is identified as key to their survival. But, as Hazell notes in his survey of the formal constitutional texts, ‘an outsider could be given the impression that the monarch has wide ranging and significant political power’ (p. 13). The odd man out here is Sweden, where the monarch’s constitutional powers were explicitly removed by an Instrument of Government (*Regeringsform*) in 1974, as part of a compromise with the Social Democratic Party, which was in favour of a republic. Whether that provides a favourable precedent for reform in other countries is a matter of debate, for, while the exercising of formal powers, in particular assenting to legislation and the appointment of ministers, is, according to Andeweg from the Netherlands, ‘the nuclear option’ (p. 39), the existence of these powers, especially the former, according to Heuschling from Luxembourg, ‘belittles how dangerous such an outdated legal situation may be – not so much for the monarchy, but for democracy’ (p. 57). The best defence of the ‘deep reserve powers’ is that they are, according to Hazlett, ‘the ultimate constitutional longstop’ (p. 26) and, for Krunke from Denmark, potentially of value in a ‘constitutional emergency’ (p. 31). Smith cites the role of Norway’s King Haakon during World War II as a prime example and King Juan Carlos of Spain’s role in defeating a military coup in 1981 is a more recent example, examined by Powell. That new monarchs in all the countries are required, in some form or other, to make an oath to protect the Constitution provides a degree of legitimacy for these powers, which otherwise all the contributors agree are at the very least problematic. In recent years, these theoretical debates have taken on a new urgency, especially in the UK, where Hazlett notes that

‘The fevered politics of Brexit have seen conventions being stretched to the limit and beyond. Conventional wisdom is that reserve powers should remain in the background, never needing to be deployed because politicians will not wish to push the boundaries, and will certainly want to avoid dragging the Queen into politics. But Brexit has smashed that wisdom and those certainties.’ (p. 26)

Similarly, Seaton concludes that ‘if scandals used to be about frocks and relationships, they are going to be about politics and the Constitution for the foreseeable future’ (p. 264). A key reference point here is the decision of the Supreme Court in *R. (Miller) v. The Prime Minister* [2019] UKSC 41. And, post publication, the current government has announced its intention to revisit the Fixed Terms Act 2011, which removed the monarch’s power to dissolve parliament. Whether that will result in a return to the earlier position is not known. Nor whether Prince Charles will be a more interventionist monarch.

While, in the UK, the last monarch to refuse to grant royal assent to a Bill was Queen Anne in 1708, and that was on the advice of her ministers, far more recent examples exist in other countries and the detailed discussions provide an insight into how democracies respond to the ‘unthinkable’ and how the monarchies have survived.

Andeweg and Bovend'Eert both recount how Queen Juliana of the Netherlands' objection to the death sentence, which had been reintroduced for war criminals after World War II, resulted in the sentences being commuted to life sentences. Ministerial standing-down similarly averted a constitutional crisis in 1971–1972 when she refused to support legislation reducing the size of the royal family and the introduction of a second rank of princes and princesses. But, in Belgium in 1990 and Luxembourg in 2008, a clash between elected representatives and the personal consciences of the Catholic monarchs did not prevent the legalisation of, respectively, abortion and euthanasia. While it is often thought that the solution found in Belgium was for King Badouin to abdicate for a day, Pironnet's examination reveals that it was in fact the provision of *impossibilite de regner* 'directly inspired by British constitutional law and the experience of the "mad" King George III' (p. 46) that was relied on. Heuschling makes it clear that Grand Duke Henri's refusal to grant his assent to the euthanasia legislation was distinct because, unlike Badouin, it is suggested that he hoped his refusal would prevent the law being passed. The consequence of this was that the Constitution in Luxembourg was amended removing the monarch's right to sanction legislation and the incident also led to a significant rise in support for a republic. A similar outcome emerged in the Netherlands after the general election in 2010, when Queen Beatrix was perceived to have taken a partisan position in the timing and choice of appointment of the *informateur* to chair the negotiations to form a new coalition government; parliament simply claimed the monarch's traditional power for itself. Although Andeweg suggests that 'increasing electoral fragmentation' (p. 39) might result in the monarch being called upon to play a role in the future. In febrile political times, predictions are hard, but the experiences of Henri and Beatrix serve as a reminder to monarchs of the potential consequences of flexing their constitutional muscles.

The Dutch contributors, Andeweg and Bovend'Eert, make it clear that Queen Beatrix's political intervention in 2010 was widely understood to have been motivated by her distaste for Geert Wilders and his far-right Freedom Party. And the tendency for many of the monarchs studied here to align themselves against the far right is a recurring theme throughout this collection. King Juan Carlos of Spain's role in 1981 noted above is the most vivid example, but it is evident in less explicitly constitutional ways, such as annual speeches or in response to particular events. For example, Andeweg notes that Wilders was 'a staunch critic of Queen Beatrix's televised Christmas messages' (p. 38), which celebrated 'multiculturalism and tolerance of minority beliefs' (p. 71). Similarly, Krunke recalls Queen Margarethe of Denmark's urging of tolerance towards asylum seekers, refugees and immigrants in her New Year speech in 1984. Apparently surprised by the attention it received, Krunke notes that she responded by saying that 'it had to do with human rights, and as head of state, she had signed Denmark's accession to the UN Human Rights Charter. If the head of state could not discuss human rights, her signature was pointless' (p. 216).

Similarly in the UK, Hazell notes the well-documented tension and at times fraught relationship between Queen Elizabeth and Mrs Thatcher, and Seaton observes that 'Mrs Thatcher's reinvigorated conservatism saw the monarchy as "wet" and part of the enfeebled establishment' (p. 257). Most notably in Norway, Smith details how, during the *Brevik* trial in 2011, King Harald and Queen Sonja made pointedly supportive visits to neighbourhoods with high numbers of immigrants and how the family has emphasised its own immigrant background. Both Smith and Cranmer quote from a speech that Harald made at a royal garden party in 2016:

'Norwegians have immigrated from Afghanistan, Pakistan and Poland from Sweden, Somalia and Syria ... Norwegians are single, divorced, families with children, and old married couples. Norwegians are girls who love girls, boys who love boys, and girls and boys who love each other. Norwegians believe in God, Allah, the Universe and nothing.' (pp. 98, 203)

The emphasis on immigrants and minorities might surprise some but, although it is not discussed here, the relationship between European monarchy and nationalism has always been highly ambivalent and, certainly prior to the First World War, more often in direct conflict. Moreover, in the UK,

Belgium and Spain, increasingly popular separatist nationalist movements pose a real challenge to the monarchies.

Hazlett suggests that the outspoken approach in Norway might be more acceptable in that country and indeed Krunke, commenting on Queen Margarethe's speech noted above, suggests that today she would 'probably not express such a view, though, because integration is clearly regarded as a political issue' (p.75). Complicating the picture further, Pironnet notes that King Philippe of Belgium broke an unwritten rule in 2019 when he met with the leader of the VlaamsBelang Party, after it dramatically increased its seats in parliament; at the same time, most other political parties still perceived that party as 'unacceptable' (p. 89). Whether that decision was informed by the distinctive binational nature of Belgium and the traditional alliance of the monarchy with the French-speaking elite is not discussed.

The motives for modern monarchies adopting progressive positions are similarly complex. Prochaska's illuminating study suggests that, after the First World War, the royal family in the UK adopted a clear policy 'to disarm republican threats through the cultivation of the working classes through good works and visits to industrial areas' (p. 123). From this perspective, Harald's claim, recorded here, that he is the king of all Norwegians, including the communists, is informed by strategic expediency as much as by the principle of inclusivity.

The pragmatism of modern monarchies emphasises how increasingly reactive they have become as a method of survival. Indeed, 'popularity' is a recurring theme: how to measure it, read it, enhance it, are key questions. Mortimore's detailed analysis of polls and public opinion provides fascinating insights into the productive and inherently political nature of polls and their role in democracies generally. The overwhelming support for the monarchies studied here is as much a source of legitimacy as any constitutional or other utilitarian arguments. Sweden, where the monarch has less formal powers than in any other, and Spain, the most recent of monarchies, are where their popularity is weakest, although, even in those countries, only a relatively small minority, well below a third, support abolishing them. Mortimore suggests that 'monarchists are in the majority even among those who vote for less conservative mainstream parties, and this indeed probably acts as a restraint upon parties whose ideologies might otherwise dictate that they should actively campaign for a republic' (p. 224).

In understanding the divergence between leaders and intellectuals on the left and most ordinary people, there are echoes here of the social historian Raphael Samuel's wider despair of the 'heritage baiting' within parts of the left – an inability to comprehend and understand or respect ordinary people's attachments to and the pleasures derived from historic institutions (1994). Hazell adds an important distinction that 'support for a monarchy is a value, not an opinion or an attitude; and as such it is well established and not easily swayed' (p. 265). Moreover, where popularity is at serious risk, the focus is primarily on the behaviour of an individual rather than the value of the institution. Consequently, in extreme cases, abdications rather than republicanism suffice as a solution and have provided an effective tool for the survival of monarchies. Examples discussed here are the abdications of Grand Duchess Marie-Adélaïde of Luxembourg in 1919, King Leopold III of Belgium in 1951 and, most recently, in light of financial and personal scandals, King Juan Carlos of Spain in 2014. The freezing-out of other members of royal families is a similar tool. As Seaton notes here, 'the character, interests, feelings and work ethic of the royal family matter constitutionally' (p. 257).

The centrality of individual attributes is apparent in the earlier sections that look at how monarchs have exercised their constitutional functions, but it becomes more acute in discussions of their other functions: their informal influence, public speeches and choice of service and welfare activities. Emphasising the all-encompassing nature of the attention, especially for women, and the centrality of visibility, Morris and Seaton highlight the significance of dress, the latter explaining that 'Dresses matter now because they are a means of projecting similarity (royals buy dresses in shops, like you do) and glamour (royals buy dresses in shops of which you could not dream, but of which you approve)' (p. 258).

Hazell identifies the extent to which the constraints placed on members of royal families represent a significant erosion of their human rights – as Seaton pithily puts it, 'sacrificed ... though sacrificed with a lot of Givenchy thrown about the shoulders' (p. 264). In the analysis here of their less formal

and personal activities, what emerges is a crucial distinction between their role as head of state and their more ambiguous, but increasingly crucial, role as head of the nation – a role that has required a conscious uncoupling of their older role as head of society (Cannadine, 2004).

Krunke captures the dilemma facing them in noting that ‘it can be extremely difficult to appear politically neutral while at the same time having to appear useful to society and the state’ (p. 220) and, more critically, suggests that ‘when the royal family chooses which subject areas are political and which are not, this in itself is a political statement’ (p. 76). A contemporary example from the UK, not discussed here, is the focus of the Duke and Duchess of Cambridge on mental health. While commendable and of value, it can also be understood as enabled by or contingent on a degree of depoliticisation. Merk and others have elsewhere identified the death of Diana as a key moment for this shift (1998). At the heart of their critique is the concern that the legitimising of individual feelings and the pre-eminence of emotions coincided and were aligned with a rejection of a commitment to a social collective and the increasing privatisation of care. As Gilles *et al.* (2013) have argued, the early feminist slogan ‘the personal is political’ has increasingly been articulated as ‘the personal is the only political’, or, for the young royals, the limit to their ‘political’. Consequently, challenging the personal stigma of mental health is possible, but not the impact of austerity on mental health services, even if they share that concern. There is an irony here that, while Foucault famously demanded that we need to cut off the king’s head and move beyond sovereignty to understand modern techniques of power, monarchies have, in order to save themselves, become adroit at navigating the shift to self-governance.

A number of contributors here in different ways offer a deeper contextual analysis, each of which throws light on the key question of legitimacy, the strategies deployed and the pitfalls and challenges. Bradley explores the religious dimension of monarchy and identifies the ‘exciting and demanding task’ (p. 106) facing monarchies as they embrace secularisation and multifaith celebration alongside the formal requirements in most of the constitutions that monarchs not only belong to, but uphold particular faiths. His suggestion that Bagehot’s sacred and religious role for monarchy is expressed in subtle seemingly secular ways through an emphasis on the emotional and familial complements Prochaska’s illuminating argument that the embracement of social-welfare projects represents a feminisation of the monarchy. Taking the long view, in relation to Queen Victoria, he notes that ‘the atavistic warrior tradition of kingship ... collapsed into niceness’ (p. 122). He goes so far as to suggest that ‘it is the monarchy’s civic purpose which underpins Britain’s social democracy’ (p. 125). Some might question this but, either way, how monarchies respond to the neoliberal erosion of post-World War Two social democracy will undoubtedly create a challenge for the future.

Gender is explicitly addressed by Hepsworth in her detailed discussion of the move from male to female primogeniture in all of the monarchies studied here, apart from Spain, beginning with Sweden in 1979 and most recently with the UK in 2013. In the latter, it arguably cohered with the then Prime Minister David Cameron’s championing ‘as a Conservative’ of gay marriage – a classic example of Whiggish reform legitimising, and thereby saving, traditional institutions for, as Hepsworth suggests, the extent to which formal human rights has informed the move towards gender equality is questionable. Rather, as other contributors identify in different ways, it might reflect the way in which royal personal lives and the formal and informal restrictions on them have adapted to and mirrored wider social changes in familial norms and structures, such as a move from extended to smaller family units and the gradual normalisation of divorce and remarriage. The marriage in 2001 of Crown Prince Haakon, the heir to the Norwegian throne, to a single mother with an illegitimate child is the most pronounced example of this. At the same time, limits remain. Most recently, post publication, Delphine, an illegitimate daughter of Albert, the former king of the Belgians, established through lengthy legal action a right to her name and the title of princess. But the constitutional rules of all the countries ensure that, in the context of succession to the throne, discrimination against illegitimate children remains firmly in place, despite clear human rights case-law to the contrary. It is a reminder of the deep connections – however modernised – between the institutions of monarchy and marriage.

Hazell and Morris have provided an essential resource for anyone interested in monarchy and, perhaps more importantly, the collection effectively demonstrates why it matters now and why, for

constitutional lawyers in particular, it is likely to matter more in the future. But the collection as a whole also presents an invitation to critical and socio-legal legal scholars interested in nationalism, celebrity, the media and the family, to name just a few issues, to consider looking more closely at the monarchy. Finally, Hazell and Morris' conclusions ought to be required reading for any monarch intent on keeping his or her throne, but they might not be readers of this Journal.

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