

## Harry and Meghan shine a light on monarchy, and its demands

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### ABSTRACT

The Netflix documentary *Harry and Meghan* conveys the impression that they have been uniquely victimised. But the difficulties they faced are shared by all the royal families of Europe. It is monarchy which is unique, in the extraordinary demands which it makes of close members of the royal family. They lack freedoms which ordinary citizens take for granted: privacy; free choice of career; freedom of speech; freedom to marry whom they like; freedom of religion; and freedom to travel. It is not surprising if individual royals wish to escape the gilded cage. But as Harry and Meghan have shown, opting out is easier said than done.

**KEY WORDS** Monarchy; Privacy; Lack of Freedoms; Size of Royal Family

In the Netflix documentary *Harry and Meghan* the Duke and Duchess of Sussex had two main targets in their sights: the press, and the Palace. But while considering themselves unique victims, they also shed light on monarchy as an institution, and the toll it takes on all members of the royal family. In our book *The Role of Monarchy in Modern Democracy*, we found that lack of privacy is a serious problem across all European monarchies.<sup>1</sup> Nor is lack of privacy the only restriction suffered by royal families: they lack many of the freedoms which ordinary citizens take for granted. One possible solution is to reduce the size of royal families; another is to allow individual royals to opt out. But as Harry and Meghan have shown, opting out is easier said than done.

### All royal families suffer from lack of privacy

Our book was a comparative study of the other monarchies in Western Europe, as well as the UK: Belgium, Denmark, Luxembourg, the Netherlands, Norway, Spain, and Sweden. It showed that monarchy makes extraordinary demands not just of the monarch, but of other close members of the royal family, whose lives are restricted from the moment of their birth. The biggest restriction is that all royals suffer from constant intrusion of the press into their private lives. The worst cases come from the UK, where intense competition in the tabloid press has led to extraordinary invasions of their privacy. These range from Camillagate, when *The People* published a transcript of a late night conversation between Prince Charles and Camilla Parker-Bowles in 1993; to illegal hacking by the *News of the World* of the phones of staff to Prince William; to paparazzi using dangerous tactics to get photos of the two-year old Prince George.<sup>2</sup>

But harassment of the royals in pursuit of stories about their private lives is not confined to the UK. In the Netherlands, gossip magazines have published unauthorised photos of

Princess Amalia, nine-year old daughter of the Crown Prince, in a breakdown of a media code intended to allow the young royals to lead as normal lives as possible. Despite court cases in several countries, it has proved impossible to protect the royals from constant intrusion by the press. Princess Caroline von Hannover has even taken cases to the European Court of Human Rights, which ruled that 'photos appearing in the tabloid press are often taken in a climate of continual harassment which induces in the person concerned a very strong sense of intrusion into their private life or even of persecution'.<sup>3</sup> Even if the press in one country are restrained, other countries may not follow suit: in 2012 topless photos of the Duchess of Cambridge which were turned down by British papers were published in France, Denmark and Sweden. And even if legal action is successful, it takes years to obtain a judgement: the topless photos were judged an invasion of privacy by the French courts, but it took five years for the Duchess to obtain a judgement and damages.<sup>4</sup>

There is a symbiosis between monarchy and the media which makes it difficult for royals to criticise the press. If they do so, they risk getting a bad press; and monarchy depends on the press to publicise what it does and to maintain popular support. The Queen famously said, 'To be seen is to be believed', and to be seen the British royal family conduct some 2000-3000 engagements a year. To maximise publicity for those engagements, the Palace tries to co-ordinate the activities of different members of the royal family so that they do not compete or clash. Royal press offices have become increasingly professional, and they try to co-operate with the press corps to ensure a steady stream of royal news stories, and a steady stream of positive stories.

The media do not always co-operate in return; and do not simply accept the line they are fed. The royals can also be subject to probing scrutiny: alongside all the fawning coverage and glossy pictures, there is more serious investigative journalism which keeps all the monarchies on their toes. It scrutinises their expenditure, their staffing, their use of helicopters, their fundraising, their choice of friends. The media also commission regular opinion polls in all the European monarchies, asking if people are satisfied with the monarch's performance; is the royal family paid too much; who are your favourite royals; should the monarch abdicate; should the country become a republic. Support for the monarchy remains high in all countries, with polls regularly showing that between 60 and 80% of the people wish to retain the monarchy – ratings which politicians would die for.<sup>5</sup>

### **Royals lack five other fundamental freedoms**

Privacy and freedom from press intrusion is not the only freedom which the rest of us take for granted, but the royals lack. They also lack free choice of career; freedom of speech; freedom to marry whom they like; freedom of religion; and freedom to travel. In all European monarchies the heir and others close in the line of succession cannot choose a profession or pursue a business career, lest they be accused of exploiting their position for commercial gain. Minor royals are less constrained, and some do pursue a business career; but there is a grey area about what is acceptable and what is not. Princess Mårtha Louise of Norway and Prince Edward in the UK have been accused of using their royal connections for commercial gain, as have several spouses of minor royals. In the Netherlands, members of the royal family and their spouses cannot take a job without first seeking government approval. To escape these restrictions in order to pursue a wider career, they would need to

step out of the line of succession and shed their royal connections. In practice very few royals have done so.

Next, freedom of speech. The monarch and close members of the royal family have very little freedom of speech. All their public speeches are scripted by the government, or require clearance from the government. The one exception where the monarch has greater freedom is the annual Christmas or New Year speech, broadcast to the nation. In all countries the speech is shown in draft to the government, but the final version always has the monarch's personal touch. Queen Elizabeth became increasingly open about her religious faith; Queen Margrethe of Denmark has urged the Danes to be more tolerant towards asylum seekers, refugees, and immigrants. It caused a big political stir, which surprised her. It shouldn't have done: as an experienced monarch she must have known the strict limitations on royals' freedom of speech. Because of the relentless scrutiny from the media, one misjudged phrase, one stray remark can land them in trouble. In the Netherlands their speech is so tightly controlled that royal communications are managed not by the Palace, but by the Office of the Prime Minister.

Freedom to marry is restricted in all eight monarchies, as part of the constitution. In the UK the first six in line of succession now require the consent of the monarch before marrying.<sup>6</sup> Famously, in the 1950s, Princess Margaret's wish to marry a divorced royal equerry, Peter Townsend, was frustrated by the statutory consent rules and the then unwillingness of the Church (of which her sister, the Queen, was head) to marry divorcees where the former spouse was still alive. Similar restrictions in the Netherlands have led three Princes to lose their place in the line of succession in the last 20 years. There have also been difficulties in the Scandinavian countries, particularly in Sweden. The original Swedish Act of Succession of 1810 required Swedish Princes to marry people of equal rank, and during the twentieth century four Swedish Princes were excluded from the line of succession due to their choice of spouse. In recent times, there has been greater acceptance of royals marrying commoners, and also of divorce. So Prince Charles felt able to marry Camilla Parker-Bowles in 2005; and in 2018 Prince Harry married a divorced woman in Meghan Markle.

There are constraints on the monarch's freedom of religion in the three Scandinavian constitutions, and the UK. In Britain, the monarch upon accession must swear to be a faithful Protestant, and to uphold the Protestant succession to the throne. The monarch must also be in communion with the Church of England; and swear at his coronation to maintain the settlement of the Church of England, and its doctrine, rights and privileges.<sup>7</sup> The restrictions in the Scandinavian countries are no less strict, requiring the monarch to profess the Evangelical-Lutheran religion. A monarch who failed to meet the religious requirements would have to renounce the throne. And in Sweden, other members of the royal family would lose their rights of succession.<sup>8</sup>

Royals also lack freedom to travel where they like. Sweden is the only country where travel is restricted under the constitution. But in the other monarchies it is restricted by convention: the monarch and members of the royal family require consent to travel abroad. Consent may be withheld for security reasons (the risk of terrorism, or kidnapping), or for policy reasons: in the first month of his reign King Charles was told by No 10 not to attend COP27 in Egypt.<sup>9</sup> Consent may also be withheld simply out of spite: after de Gaulle refused Britain's application

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to join the European Community in 1961, Princess Margaret was required by Harold Macmillan to cancel a visit to Paris.

In addition to not being able to travel where they like, royals can be required to go on state visits or trade missions to countries which they may not like. The monarchy in Spain has got into trouble for promoting trade deals in Saudi Arabia: links which helped Spain win big infrastructure contracts and arms deals.<sup>10</sup> In Sweden, the King was similarly criticised after praising the Sultan of Brunei on a state visit there in 2004; and in Denmark the Queen incurred criticism for bestowing a medal on King Khalifa during her state visit to Bahrain in 2011. On all these occasions, the monarch was simply acting on the instructions of the government, but was heavily criticised for doing so.

### **Reducing the size of the royal family**

The harsh reality is that younger sons like Prince Harry are spares who are ultimately dispensable from a hereditary monarchy: it is only those in direct line of succession who count. As spares they are subject to the same personal restrictions as the immediate heirs, without either the prospect of succession or the freedom to develop truly independent careers of their own. Other European monarchies (encouraged by parsimonious governments and legislatures) have learned to keep the core team as small as possible. It can be just four people – in Norway and Spain it is the King and Queen, the Crown Prince (in Spain, the Crown Princess) and their spouse. In 2019, the King of Sweden removed five grandchildren from the royal house, under parliamentary pressure to reduce its size and its cost.<sup>11</sup> In 2022, Queen Margrethe of Denmark followed suit, stripping four grandchildren of their royal titles. They are the children of her younger son Prince Joachim, and the decision caused a serious rift in the royal family; but the Palace said it would enable the children ‘to be able to shape their own lives, without being limited by the special considerations and duties that a formal affiliation with the Royal House of Denmark involves’.<sup>12</sup>

The UK is also following suit in slimming down the monarchy, partly by accident, partly by design. King Charles has long been said to want a smaller, streamlined monarchy, of perhaps just half a dozen people: King Charles and Camilla, William and Kate, Princess Anne, Prince Edward and his wife Sophie.<sup>13</sup> Until 2020 the team was much larger, with 15 royals who carried out public engagements. It has since shrunk with the departure of Harry and Meghan, and Prince Andrew, and now the death of the Queen. It will soon shrink further with the eventual retirement of the older royals who still undertake some public engagements (the Duke of Kent (80), Princess Alexandra (85), the Duke (78) and Duchess (76) of Gloucester). But with a smaller team the royal family will be able to fulfil far fewer engagements and accept fewer royal patronages. Gone will be the days when the royal family carried out almost 4000 visits a year. That will require careful management of public expectations, not just in the UK but in the other countries around the world where Charles is now King.

The King’s plans to reduce – ‘streamline’ – the monarchy have wider implications. The Queen presided over empire’s modification into the Commonwealth: a quarter of whose states – the realms - retain the British monarch as head of state. The King’s vision implies a further programme of change, toward a more domesticated, less international monarchy. With fewer working royals it will not be possible to service the remaining 14 realms as in the

past: the Queen's platinum jubilee is likely to be the last occasion when almost all the realms received a royal visit.

Greater domestication could have implications for the careers and lifestyles of royal family members. Hitherto there would have been siblings and aunts and uncles supporting royal functions in the UK and abroad. In future they could be expected to develop independent careers of their own: like Princess Margaret's children, although still members of the royal family, they could flourish as private citizens. Such a possibility would need to be explained before they reached an age when they had become so attached to a privileged life of service that it would be painful to renounce. In due course, some formal steps might be necessary, for example to change the 1917 Letters Patent prescribing the rules for assuming the title of His/Her Royal Highness.<sup>14</sup>

A final comment on Harry and Meghan is this. The Netflix documentary conveys the impression that they have been uniquely victimised. But this article has shown that the difficulties they faced are shared by all the royal families of Europe. It is monarchy which is unique, in the extraordinary demands which it makes of close members of the royal family. The public tend to think that royals lead very privileged lives, in glittering palaces with lots of servants. But in truth it is a gilded cage, and it is understandable if sometimes the inhabitants might want to escape. In a blog in 2020 I wrote this about the departure of Harry and Meghan:

... it should be possible for minor royals to opt out of the gilded cage if they find the restrictions too great. But opting out would need to be total: giving up not just their public duties but their public funding, their royal titles, their security – trying as far as possible to become private people. It would not be easy to undergo such a complete change of lifestyle. And it may not prove possible.<sup>15</sup>

Viewers of the Netflix series must judge for themselves to what extent that has proved possible.

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<sup>1</sup> R Hazell and R Morris (eds), *The Role of Monarchy in Modern Democracy: European Monarchies Compared*, Hart Publishing, 2020. Now available in paperback with a 30% discount for PQ readers: use the code **RMMD30**.

<sup>2</sup> *Daily Mirror*, 'How the Camillagate tapes exposed the secret bedtime chat between Prince Charles and Camilla Parker Bowles' 10 August 2017, <https://www.mirror.co.uk/news/uk-news/how-camillagate-tapes-exposed-secret-10958350>. *The Guardian*, 'Palace warns of "increasingly dangerous" paparazzi tactics targeting Prince George', 14 August 2015, <https://www.theguardian.com/uk-news/2015/aug/14/palace-increasingly-dangerous-paparazzi-tactics-prince-george-duke-duchess-cambridge>.

<sup>3</sup> *Von Hannover v Germany* [2004] EMLR 379; (2005) 40 EHRR 1.

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<sup>4</sup> *The Guardian*, 'Court awards Duchess of Cambridge damages over topless photos', 5 September 2017: <https://www.theguardian.com/uk-news/2017/sep/05/topless-photos-of-duchess-of-cambridge-were-invasion-of-privacy>.

<sup>5</sup> Hazell and Morris *op cit* n1, ch 9.

<sup>6</sup> Succession to the Crown Act 2013 section 3.

<sup>7</sup> R Hazell and R Morris, *Swearing in the new King: the Accession and Coronation Oaths*, London: the Constitution Unit, October 2022.

<sup>8</sup> Danish constitution, article 5; Norwegian and Swedish constitutions, article 4.

<sup>9</sup> *The Guardian*, 'King Charles will not go to COP27 in Egypt, No 10 confirms', 28 October 2022: <https://www.theguardian.com/uk-news/2022/oct/28/king-charles-will-not-attend-cop27-in-egypt-no-10-confirms>.

<sup>10</sup> *The Times*, 'Spanish King charms Saudis for arms deal', 12 April 2018.

<sup>11</sup> BBC News, 'Swedish King Carl Gustaf removes grandchildren from royal house', 7 October 2019: <https://www.bbc.co.uk/news/world-europe-49958085>.

<sup>12</sup> *The Guardian*, 'Move over Brits: Danish royals in crisis after decision to strip titles', 7 October 2022: <https://www.theguardian.com/world/2022/oct/07/danish-royals-in-crisis-as-grandchildren-stripped-of-titles-queen-margrethe>.

<sup>13</sup> *Evening Standard*, 'King Charles III plans for slimmed-down coronation and monarchy', 21 September 2022: <https://www.standard.co.uk/news/uk/king-charles-coronation-monarchy-slimmed-down-queen-death-funeral-buckingham-palace-b1027005.html>.

<sup>14</sup> C Prescott, 'Modernising the Monarchy: Moving beyond the 1917 Letters Patent and the George V Convention', UKCLA Blog 23 March 2021, <https://ukconstitutionallaw.org/2021/03/23/craig-prescott-modernising-the-monarchy-moving-beyond-the-1917-letters-patent-and-the-george-v-convention/>.

<sup>15</sup> R Hazell and R Morris, 'Prince Harry and Meghan Markle: Why half in, half out just isn't an option for royals', *The Conversation*, 10 January 2020, <https://theconversation.com/prince-harry-and-meghan-markle-why-half-in-half-out-just-isnt-an-option-for-royals-129726>.