

Chapter 1: Genesis of the Book

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We decided to embark on this project to fill a serious gap in the literature: and not just a gap, but a gaping void. Lots of popular books are written about the monarchy; and lots of history books, both popular and academic. But in the academic disciplines of law and politics, monarchy is almost non-existent as a subject. In constitutional law books, the Crown or the sovereign typically rates just a few pages; in politics, the topic is ignored. Yet to the general public the monarchy commands a loyalty and fascination which politicians would die for, with opinion poll ratings in the European monarchies showing that between 60 and 80 per cent of the people wish to retain the monarchy. Details of the opinion polling in each country are given in Chapter 9.

Political science has devoted extensive studies to the other institutions of the state, including the presidency in republics, but has a blind spot about monarchy. This is not the place to speculate on the reasons why. Suffice it to say that 44 countries around the world are monarchies, with a dozen of them to be found in Europe. We have chosen European monarchies for this comparative study, because they are amongst the most advanced democracies in the world: one of the issues we wish to explore is the paradox of an ancient, hereditary institution surviving as a central part of modern democracies.

Our primary purpose is academic, but the topic also attracts great public interest. The monarchy is the subject of endless fascination and media speculation, but also subject to myths and misunderstandings. The public tend to attribute more power and autonomy to monarchs and royal families than in fact they possess: whether it involves the formation of new governments, opening parliament or giving assent to laws, the choice of state visits, or the award of honours. Another paradox is that the public look to the monarchy to represent continuity, stability and tradition, but also want it to be modern and to reflect modern values. The whole institution of monarchy is shot through with contradictions and unrealistic expectations. Our wider purpose in this study is to help to develop a better informed public debate about our expectations of the monarchy, its role and its future. In that task we hope to widen the insular British debates about the monarchy by including European perspectives supplied by our European counterparts.

Survival of monarchies in Europe

Monarchy has a long history in Europe, being the predominant form of government from the Middle Ages until the French Revolution. That led to some states becoming republics under French influence during the Napoleonic wars, but after the Congress of Vienna in 1815 they reverted to being monarchies. Despite the revolutions of 1848, at the turn of the twentieth century every country in Europe was a monarchy with just three exceptions: France, Switzerland and San Marino. The abolition of the monarchy in most European countries during the twentieth century occurred mainly as a result of defeat in war, sometimes accompanied by a revolution. The First World War led to the collapse of three very large monarchies, in the Austro-Hungarian, German and Russian empires; the Second World War resulted in the disappearance of the monarchy in Italy and five other countries in Central and Eastern Europe. By the turn of the twenty-first century, most European countries had ceased to be monarchies, and three quarters of the member states of the European Union (21 out of 28) are now republics. That has led to a teleological assumption that in time most advanced democracies will become republics, as the highest form of democratic government.

But there is a stubborn group of countries in Western Europe which defy that assumption, and they include some of the most advanced democracies in the world. There are many different indices compiled by academics and NGOs to judge the state of democracy, judged by human rights, economic freedom, press freedom, free elections and so on. To take just one, the Democracy Index compiled by the Economist Intelligence Unit, in their 2018 survey four out of the top five democracies in the world were monarchies, and nine out of the top 15. They include six of the countries in this study: Norway, Sweden, Denmark, the Netherlands, Luxembourg and the UK.

Of the 12 surviving monarchies in Europe, we decided to focus on these six countries, plus Belgium and Spain. We have excluded the remaining four European monarchies (Andorra, Liechtenstein, Monaco, the Vatican) mainly on grounds of size, but also because they are not constitutional monarchies in the same sense as the eight larger countries. It is the strictly limited role of the monarch, either under the law and the constitution, or in political practice by the parliament and the government, which characterises the eight larger European monarchies. Given their strictly limited role, we wanted to ask what constitutional and political functions they still perform; how much autonomy, if any, they still enjoy; and if they have no political power, what is the point of these modern monarchies – what other purposes do they serve?

No new theory of monarchy since Bagehot

Another reason for embarking on this study is that no new political theory has been developed in the UK since Bagehot wrote about the monarchy in *The English Constitution* (1867). And not just in the UK: Bagehot holds sway in much of Europe as well, and is still widely quoted in countries like Belgium, Luxembourg and the Netherlands. He distinguished between the dignified and the efficient constitution, and suggested that the monarch has three rights: to be consulted, to encourage and to warn. But a lot has changed since Bagehot's day; even in the dignified part of the constitution, Queen Victoria had far greater discretion in the exercise of her formal powers than does Queen Elizabeth II. The same is true of the other European monarchies. 150 years on, with their formal powers greatly reduced, what is the role of the modern monarchy in advanced democracies?

To answer that question we invited the leading experts on the monarchies of Western Europe to a conference in London, held in March 2019, and their conference papers have provided the basis for this book. In writing their papers, we asked them to address the following questions.

- What is the monarch's constitutional and political role? How is this exercised in practice: what are the main day-to-day functions?
- How much power does the monarch have? How much autonomy in the exercise of their different functions?
- How is the monarchy defined, and regulated? What are the laws of succession? The limits to the size of the royal family, and their finances?
- What are the limits on their travel, marriage, religion, choice of career, freedom of speech?
- What explains the survival of the monarchy in these eight European countries? What lessons can the different European monarchies learn from each other?

The monarchies themselves are not entirely uniform. They fall into three groups: the older monarchies of Denmark, Norway, Sweden and the UK; the post-Napoleonic settlement monarchies of Belgium, Luxembourg and the Netherlands; and the monarchy of Spain restored in 1976, after almost half a century of authoritarian rule. Following Besselink (2010), we can also divide them into countries with evolutionary, and those with revolutionary constitutions. An evolutionary constitution is incremental, adapting to political changes and weaving the outcomes into an overall

longer term constitution that codifies rather than modifies. The prototype is the British Constitution. The Scandinavian constitutions, though not uniformly, are also varieties of the evolutionary type; as is the Constitution of the Netherlands. The counterpoint is a constitution which represents a clean break, a radical departure from the previous system of government: the archetype in our sample would be the Spanish constitution of 1978, designed to lay the foundations for a fresh start after 40 years of dictatorship under General Franco.

One feature the monarchies do share, however, is that succession is determined by primogeniture. Although it involves a step back to an earlier age, it is worth taking a little time to explain how European monarchies became hereditary. In the early Middle Ages, many of them were elective, or contained persistent elective elements. Writing about medieval Germanic monarchies, Kern says 'The part played by the people or their representatives in the elevation of the monarch fluctuated between genuine election and mere recognition (or acceptance) of a king already designated' (Kern 1948: 12). The Holy Roman Empire remained elective until the fifteenth century, and in England primogeniture did not become firmly established until the thirteenth century: of the six kings who followed William the Conqueror, only Richard I succeeded in accordance with the strict rules of hereditary succession (Pool 1951: 3).

To the modern mind election appears preferable, to choose the ruler best suited to be the successor, rather than rely on the lottery of heredity. But these were autocratic rulers, and warrior kings, and in autocracies arranging the succession is difficult. If the autocrat designates a successor, that person might be tempted to depose the autocrat and take power. If the autocrat fails to appoint a successor, the elite have few incentives to remain loyal when he grows old. Tullock (1987) has argued that succession based on primogeniture offers a solution to the dilemma. It provides the autocrat with an heir, who can afford to wait to inherit power peacefully; and it provides the elite with assurance that the regime will live on, and continue to reward their loyalty.

The counter-intuitive theory that primogeniture might be a preferable order of succession, despite the risk of producing incompetent rulers, was tested recently by Kokonnen and Sundell (2014). They compiled a dataset covering 961 monarchs ruling 42 European states between 1000 and 1800, and found that fewer monarchs were deposed in states practising primogeniture than in states with alternative orders of succession. Primogeniture also contributed to building strong states: by 1801 all European monarchies had adopted primogeniture or succumbed to foreign enemies.

As mentioned above, while in 1900 every country in Europe was a hereditary monarchy, with just three exceptions, during the twentieth century most of those monarchies disappeared, after the First and Second World Wars. That has led to the teleological assumption that in time most advanced democracies will become republics. But this assumption is challenged by the continued existence of the group of eight European monarchies which form the subject of this book, and which include some of the most advanced democracies in the world.

The secret of their survival has been continuous adaptation to the needs of modern democracy. All these monarchies, ancient and modern, have witnessed a growing gap between the formal political power conferred on them by the constitution, and the actual power they wield in reality. Sweden is the only country to amend the Constitution to match the political reality, in the new Instrument of Government adopted in 1974 which reduced the monarchy to a purely ceremonial role. In the other countries changes in conventions and in political practice, accompanied occasionally by changes in the law, have seen the monarch retaining a constitutional role, but in practice enjoying little or no discretion in how their formal powers are exercised. Allowing their

political power to shrink virtually to zero has been the key to their continuation. And as their political power has shrunk, new roles and new expressions of old roles have emerged to re-legitimize their existence.

The structure of this book

The book is divided into four parts. The first part is very short, consisting simply of this chapter and chapter 2, which summarises the position of the monarchy in the different constitutional texts. What is striking in reading the different texts is how central the monarchy is in each country's constitution: in terms of the prominence given to the monarchy, which often appears very early; and in terms of the space given to it, which is extensive. To take the most extreme example, just under half of the 110 articles in the Norwegian Constitution of 1814 are devoted to the role and powers of the monarchy, or mention the King. The other striking thing is how similar are the powers of modern constitutional monarchs in Europe (again, with the exception of Sweden), and how in many of the constitutional texts, they are specified in near identical terms.

The second part of the book opens with Chapter 3 on the constitutional functions of the monarchy, followed by Chapter 4 on the political functions. The constitutional functions are the power to appoint and dismiss ministers, and so to form new governments, and to bring them to an end; the power to summon and dissolve parliament; and the power to give royal assent to laws and decrees. Chapter 4 on the day-to-day political functions covers working with the prime minister, with other ministers, and with senior officials; chairing the Council of State; countersigning government decisions and decrees; and the appointment of senior officials and judges. In all countries both the constitutional and political functions of the monarchy have become tightly circumscribed by convention, and in some cases regulated by law, so that the monarch is left with little or no discretion.

Chapter 5 looks at the ceremonial functions of the monarchy, including its links to religion, which are stronger in the UK and Scandinavia than in the other four monarchies. It explores the monarch's wider role as head of the nation as opposed to head of state, and asks how far monarchical ceremonial contributes to support for the legitimacy of the state and its political system. Chapter 6 then looks at other softer roles of the monarchy in supporting public service and other welfare and charitable activities, through patronage and through royal visits, with analysis of the royal calendar in the different countries. We then move on in the second part of Chapter 6 to study foreign state visits, incoming and outgoing, their use in the promotion of trade, and how the reputation of the monarchy can thereby be put at risk.

The third part of the book is about the regulation of the monarchy. Chapter 7 discusses how the line of succession was changed between 1979 and 2013 in all countries (except Spain) to introduce gender equality. The size of the royal family is also regulated, in some countries by law, in others by the reigning monarch; it is normally limited to those royals who carry out public duties, as is public funding for those duties. Size varies in part with the size of the country: the UK, with the largest population, has 15 royals performing public duties, while Norway has five. Chapter 8 then looks at regulation of the individual behaviour of the monarch and other members of the royal family, finding that they are severely constrained in terms of their freedom of speech, freedom to travel, freedom to marry, freedom of religion, free choice of career, and the right to privacy and family life.

The final part of the book is about the popularity of the monarchy, and its legitimacy as an institution. Chapter 9 suggests that new legitimisation arguments have been developed: that the monarchy is a neutral protector and guardian of democracy; a symbol of continuity and stability; a

contributor to society, through royal visits and patronage, and to the economy, as a tourist attraction. To demonstrate its contribution to society, the monarchy is heavily dependent on the media, who can hold the monarchy to account, and also frame perceptions of the monarchy through commissioning opinion polls. These do more than simply measure public opinion; they also help to frame the terms of debate about the monarchy and its future.

Chapter 10 concludes with further reflections on legitimation. Formal legitimation in some countries derives historically from referendums: in the twentieth century 18 referendums were held on the future of the monarchy in nine different European countries, including five of the countries studied in this book. Monarchies survive only with the continuing support of government and the people. Governments support a hereditary monarchy because it has popular support; it lends legitimacy to the other institutions of the state; it is likely to be less interfering than an elected or appointed president. Public support for the monarchy depends more on the roles performed as head of nation rather than head of state, the ceremonial roles, speaking to and for the nation at times of crisis and of celebration, bringing glamour and stardust to national and local events.

Monarchy may be ancient, but it has proved adaptable in response to enormous social and political change. Five of the eight monarchies were occupied during the Second World War, and came through even that experience. As we showed at the start of this chapter, many of the previous monarchies in Europe disappeared following defeat in war. In the chapters which follow, we hope to show how the eight monarchies which remain have survived through tight regulation and controls on their behaviour, combined with gradual changes in their constitutional, political, ceremonial and other functions.