

Consult beyond the usual suspects to renew the constitution


The Prime Minister has delivered on his General Election promise of "getting Brexit done". Having completed one totemic mission, he must now salve tensions that have been exposed by Brexit.

The Queen's Speech contained a pledge to establish the Constitution, Democracy and Rights Commission to "develop proposals to restore trust in how our democracy operates". This is a tough ask. If this Commission is going to deliver then the Government should make sure that it is set up to empower citizens from different walks of life to contribute to the conversation.

The now well-worn page 48 of the 2019 Conservative Party General Election Manifesto promised to establish the Commission to examine "the relationship between the Government, Parliament and the courts; the functioning of the Royal Prerogative; the role of the House of Lords; and access to justice for ordinary people." All of these issues have been discussed extensively within the Westminster establishment since 2016, which begs the question whether the proposed Commission will be the best way to engage the broader public on the right way forward for our democracy.

A government commission normally refers to a form of non-statutory inquiry. They are typically led by a senior public figure (such as a retired civil servant) who chairs a group of experts tasked with producing recommendations based on terms of reference following consultations.

A traditional commission, akin to that set up to consider the case for a British Bill of Rights by the Coalition Government in 2011, may not be capable of engaging on the scale that is needed to meet the challenge. A traditional consultation will undoubtedly draw responses from 'the usual suspects', being interest groups, civil servants and academic researchers.



The risk is that this will exclude groups that do not actively participate in public discourse, precisely those that must be reached.

Another problem is that the rigorously structured nature of a traditional commission could fail to unearth the true complexity of public views on the constitution.

The Government should capitalise on the renewed interest in the constitution in the wake of Brexit by establishing an open and deliberative form of investigation, such as a series of citizens' assemblies, to develop reform proposals. Citizens' assemblies offer a mechanism to engage in a genuinely open discussion with the public on the best way forward for our democracy.

Since 2014 the Bingham Centre has coordinated a programme called 'Citizenship and Rule of Law' in which we convene discussions between young people, diverse communities and activists about democracy and rights. No two discussions are the same and there is a rich tapestry of views about the constitution and democracy in the UK.

Without taking deliberate steps to enable all voices to be heard, there is a risk that the proposed Commission will exclude crucial perspectives, failing the most disenfranchised groups in society and eroding the legitimacy of its final recommendations. Citizens'

assemblies emphasise the process of deliberation, acknowledging that providing people with the opportunity to share and critically debate their lived experiences is as important as the concluding recommendations of the process. Bringing communities together is the distinguishing feature of deliberative citizens' assemblies and is arguably needed in the polarised post-Brexit context.

If you are interested in building your capacity as an empowered active citizen capable of engaging with modern Rule of Law issues, learn with us through a Massive Open Online Course that we launched last week:

<https://www.coursera.org/learn/citizenship-rule-of-law>.

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