

Du pouvoir de la Reine de distinguer ses sujets

Cahill, Dermot; Clear, Stephen

Pouvoirs: Revue Francaise d'etudes Constiutionnelles et Politiques

Published: 01/09/2022

Peer reviewed version

[Cyswllt i'r cyhoeddiad / Link to publication](#)

Dyfyniad o'r fersiwn a gyhoeddwyd / Citation for published version (APA):

Cahill, D., & Clear, S. (2022). Du pouvoir de la Reine de distinguer ses sujets. *Pouvoirs: Revue Francaise d'etudes Constiutionnelles et Politiques*, *ÉLISABETH II*(182), 101-110. <https://revue-pouvoirs.fr/The-Queen-s-Power-to-Distinguish.html>

Hawliau Cyffredinol / General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal ?

Take down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

Un chef d'État au rôle uniquement protocolaire? Retour sur le pouvoir d'anoblir, pouvoir politique

Dermot Cahill & Stephen Clear

1. Introduction

In this Jubilee Year, commemorating 70 years on the throne of Queen Elizabeth II, this short piece offers some reflections on the role of the Monarch in the British honours system, which has a long history, commencing with the appointment of Knights Bachelor dating back to the Norman conquest in 1066.

The authors will consider the role that the honours system plays in British life; how honours bind the Queen to her subjects; and how consistent criticisms of the honours system have often been ignored by Government. It shall conclude that while outwardly some steps have been taken which appear to convey the appearance of reform, there is still much about the honours system that calls for better governance and transparency.

2. The Queen as the “Fount of Honour”

Under the Royal Prerogative¹, the power *to confer* an Honour is a power which the Monarch alone enjoys. The Monarch is accordingly referred to as “the fount of honour”.² Historically the Monarch also decided *who* should receive an Honour. However, that changed in the 18th and 19th centuries, which saw the *honours selection process* being taken over by the Cabinet Office (i.e., by the elected Government): consequently, apart 4 Orders of Chivalry in which the Monarch retains the selection role to this day³) those henceforth selected for honours were advised to the Monarch *on the advice of the Government*, with the Monarch only retaining the *conferral* of honours role.

3. Honours personally chosen by The Queen

Prior to the introduction of the Order of the British Empire in 1917 by King George V, the award of honours went largely to aristocrats and senior public figures. Now however, in more recent times, recipients of honours include a far broader community, including those honoured for community and voluntary contributions, sporting contributions, media and artistic contributions, etc., and the public can participate in the nominations process. The number of recipients for honours forwarded to the Queen by the Prime Minister annually are far more numerous than those she selects personally, and the memberships of the honours selection committees no longer remain secret from the public.

¹ See further Mark McKeown and Stephen Thomson, *Sources of Law & the UK Honours System*, S.L.T (2012), vol 14, 81-85.

² As 'fountain of honour' in the UK, The Queen has the sole right of conferring titles of honour: www.royal.uk. At the most senior levels of honour, those awarded a Knighthood are titled “Knight or Dame Grand Cross”; “Knight or Dame”; or Commander of the British Empire. Lesser titles are Officer of the British Empire (OBE) and Member of the British Empire (MBE). Knights Bachelor can style themselves as “Sir”.

³ The Order of the Garter, The Order of the Thistle, The Order of Merit and The Royal Victorian Order.

However, honours which the Queen bestows personally, without the advice of the Government, are naturally the most prestigious honours, being the personal selection of the Monarch herself:

- i. *The Order of the Garter* (founded in 1348 by King Edward III of England is the most “senior” order, limited to only 24 members at a time, recent members including Prince Charles, ex-Prime Ministers John Major and Tony Blair. Camilla, Duchess of Cornwall was admitted in 2022.
- ii. *The Order of the Thistle* (founded in 1687 by King James II of Scotland and James II of England) is limited to 16 members, to reward Scottish citizens for their service to the Crown.
- iii. *The Order of Merit* (founded in 1902 by King Edward VII) honours exceptional service in the army or navy or air force, and more lately artistic, business and cultural icons, e.g., Sir David Attenborough globally known naturalist.
- iv. The Royal Victorian Order (founded in 1896 by Queen Victoria) recognises those who have given personal service to the Sovereign. Princess Anne, The Princess Royal, is the Order Grand Master.

Award of these prestigious honours brings the recipient into close contact with the Monarch and the Royal Circle, boosts their personal prestige, with recipients’ names “announced” in the London Gazette and UK government website. Recipients are invited to an investiture ceremony at Buckingham Palace or Windsor Castle. The recipient receives the Insignia of their Honour *in person* from the Queen or a member of the Royal Family. Each Order is connected to a prestigious “home chapel”, which allows Order Members to arrange weddings, baptisms and memorial ceremonies at the Order's prestigious home chapel. For example, the Order of the Garter home chapel is St George’s Chapel in Windsor Palace.

Even those awarded honours in Orders which are not the personal selection of the Queen e.g., Order of the Bath, brings those awarded higher honours within those Orders (such as those conferred with higher titles, such as Knight / Dame Grand Cross) into close contact with the Monarchical circle, because the Orders are headed up by members of the Royal Family or their relatives, thus ensuing continuity and contact between the Royals and the elite levels of the political, civil service and diplomatic and military classes, as well as with their respective Order peers. For example, the Duke of Kent has served as Grand Master of The Order of St Michael and St George (civil service and diplomats); The Order for the Bath has Prince Charles as Grand Master; The Order of the British Empire Grand Master was the late Prince Philip Duke of Edinburgh.

Honorary awards are given for service to the UK where the person is not British or a national of a country where the Queen is Head of State, and provides an avenue to recognise persons overseas for service given overseas which have made a significant contribution to the UK and or which has a significant international element. In the days of Empire, it also served as a means of binding the elites of the Empire together, with the Order of St. Michael and St. George adapted so that it was as conferred on senior political figures in many parts of the

Empire, with recipients including the Prime Minister of Canada, Indian Princes, Malayan Sultans, Nigerian Emir's. According to Cannadine, this served as a means of bringing the British consular elite and the indigenous colonial elites into a unified, ranked, honorific body in one vast interconnected world, which saw the colonials being treated as “social equals”.⁴

4. The role of the Honours System in British Public Life:

In 2004, the House of Commons Public Administration Select Committee's published a Report, “A Matter of Honour: Reforming the Honours System” (hereafter referred to as “Wright”⁵). Wright found that there was widespread public acceptance of the value of the honours system. It helped the country feel good about itself. There was no evidence of the “pervasive and systematic corruption” (para. 127) unlike as prevailed in the 1920s, which saw the honours system's reputation tarnished when Parliament had to legislate to ban the buying and selling of honours. This episode led to the enactment of the Honours Prevention of Abuse Act 1925, which made it a misdemeanour to act as an agent for procuring honours or to attempt to do so. Notwithstanding same, the popular press does run stories periodically describing efforts by parties offering to help those seeking honours to find out how the honours system works and to help prepare their nomination papers in return for substantial sums.

The Select Committee also heard evidence of concerns about the use of honours system as the “lubricant of the State” (Professor Hennessy, para.40); as well as the fact that it is still seen as a key privilege to be shared among the elite classes of the civil service, military and diplomatic services, the political classes, and elite technocratic groups such as academics, while ostensibly honouring the contribution of ordinary members of society. Others has other criticisms, depicting the honours system as a tool of political patronage that promotes social hierarchies, while others saw it as an expression of national culture that shows gratitude publicly to those who have demonstrated achievement and exceptional service, particularly in the community and voluntary charity sectors. Harper says there is relevance in both of these depictions of the system as it is used as political and social currency, while also distinguishing worthy people.⁶

5. The 3 Lists

Although the Queen as “the fount of honour” selects and makes appointments to the 4 senior Orders of Chivalry mentioned above without requiring *the advice of the Government*, the majority of Honours recipients come from 3 Lists, which are generated by 10 honours committees. The 10 honours committees cover: Arts and Media; Community and Voluntary Service; the Economy; Education; Health; Parliamentary and Political Service; Public Service; Science and Technology; Sport; and State service. The Secretary to the Cabinet coordinates the whole process via a Main Honours Committee who consider the 10 lists produced by the sectoral committees. These Lists are transmitted to the Prime Minister's Office for onward

⁴ David Cannadine, *Ornamentalism: how the British saw their Empire* (London, 2001) p. 88. Also see Noel Cox, The Dichotomy of Legal Theory and Political Reality: The Honours Prerogative and Imperial Unity, 14 Australian Journal of Law and Society, vol. 15 (1998-99) 15-42.

⁵ Wright Report: House of Commons Public Administration Select Committee: “A Matter of Honour: Reforming the Honours System” (2004: HC: 212-I), chaired by Tony Wright Member of Parliament.

⁶ Tobias Harper, Voluntary Service and State Honours in Twentieth Century Britain, (2015) The Historical Journal, vol 58(2) 641 at 643.

transmission to the Monarch for the conferral of the honours.⁷ By convention it is said that the Prime Minister only makes minor adjustments before Lists are conveyed to the Queen for the conferral of honours, though the Wright Report (para 80) stated that the PM can add or subtract names from the List, plus the fact that a No.10 Downing Street representative (Office of the Prime Minister) is invited to attend honours committees' meetings, suggests a more active involvement.

Accordingly, the vast majority of the approximately 3,000 or so honours conferred by Her Majesty on her subjects in either the New Year's Honours List or the Queen's Birthday Honours List are selected not by the Monarch personally, but rather by the honours committees process, a process overseen by the Government's Cabinet Office. The vast majority of honours recipients therefore (around 90% annually), are not the personal choice of the Monarch. Yet this does not affect their prestige nor desire among elite groups to receive an honour: among certain groups honours are not only expected (senior civil service, military and diplomats, termed as 'automaticity' by former Prime Minister John Major, and highly criticised by Wright) but are regarded as being highly desirable. 98% of recipients awarded an honour accept them.

6. Reduced Dominance of the Civil Service over the Selection Process

The dominance of the civil service historically in the honours selection process has long been criticised as no longer being in touch with good governance and transparency (as per the Wilson Review (2003)⁸, Phillips Review (2004)⁹ and the Wright Report (2004)). Wright recommended ending the dominance of the civil service over the Honours selection process, by proposing an independent Honours Commission¹⁰ be established, independent of the Cabinet Office (para 40). Wright particularly objected to civil servants having exclusive honours (Order of the Bath, St Michael and St George) open to them (while at the same time they (over time) also became eligible to be awarded honours under other Orders meant for honouring the general public (e.g., Order of the British Empire), *particularly when* senior civil servants *themselves* were so prominent on the honours awards committees (par 48). This was contrary to the notion of meritocracy according to Wright. Wright proposed that titles be discontinued (titles were seen as class divisive and an anachronism of Empire "redolent of past preoccupations with rank and class" (para 155)); but was very careful to emphasise that the recommendations *did not touch on any* of the honours conferred as the personal choice of the Monarch.

7. Impact of Reforms in the 2000's – Smoke and Mirrors?

⁷ 1. the Diplomatic & Overseas List (honours 150 diplomatic recipients approximately); 2. the Defence Services List (honours 200 defence forces recipients approximately); and 3. the Prime Minister's List (honours 1,000 recipients approximately).

⁸ The Wilson Review, published in 2003, conducted by David Wilkinson a senior official, made a series of proposals for reforming the honours system including ceasing the award of honours for which only civil servants could be eligible; enhancing independence in the honours selection procedures; and called for improved publicity to encourage more public nominations of candidates for honours.

⁹ The Phillips Review, published in 2004, conducted by Sir Hayden Phillips, Permanent Secretary to the Dept for Constitutional Affairs, who oversaw the honours selection process, concentrated in particular on proposals for increasing the diversity of honours recipients; enhancing transparency in the section process; and strengthening the independence of the honour system generally.

¹⁰ The Phillips Review did not call for an Honours Commission, but did recognise that more transparency in the honours selection process was required, and also that domination by the civil service of the different honours committees be reduced.

Most of the recommendations of Wright were not taken on board by the Government. However, two reforms did occur which could be presented as strengthening the bond between the Monarch and her subjects: the first was the acceptance of Prime Minister John Major's 1993 initiative (prior to Wilson, Wright and Phillips) that the public be allowed nominate persons to receive an Honour. Second, attempts were made after Wilson, Wright and Phillips to reduce Civil Service dominance on honours selection committees.

The first reform, involving the public in the nominations process was seen as reducing class divisions¹¹, a "win" for the Government, yet closer examination of whether this brought substantive changes vis a vis *who received senior honours* (i.e., whether that yielded more diversity in terms of those honoured), did not result in a corresponding diversity.¹² Although conceding that (over the previous 50 years) the proportion of honours recipients coming from the civil service, diplomatic corps and military personnel had declined from 41% to 14%, both Wright (para 43) and Wilson noted that the elite political, administrative and civil service/diplomatic/ military communities continued to dominate the Honours *at the higher honours levels*. Harper supports this conclusion: according to his analysis, the honours system reinforces a hierarchical view of British society where (non-elite) 'volunteers' in the community and charity sectors rank below professionals and philanthropists *because* non elite groups were, in general, awarded the "lower" levels of honours, such as OBE and MBE, admittedly in great numbers, whereas the elite groups still managed to garner generous numbers of the "higher" levels of honours ("Sir", "Knight Grand Cross / Dame Grand Cross", "Knight/Dame", "CBE", etc.).¹³ Recent statistics confirm this trend continues to the present.¹⁴

8. Honours for Political Services

What the Monarch thinks of conferral of honours on political party donors under the "honours for political services" category (a term of art often used to denote the making of substantial donations to political parties), we do not know. Wright found that the honours system's integrity could be jeopardised by the Prime Minister's Office retaining oversight of the main Honours Lists prior to their transmission to the Queen (para 129), and also that conferring honours on political party donors could bring the honours system into disrepute (para 36). This calls into question the appropriateness of using the honours system to reward political party donors who sometimes can be very controversial characters, with colourful backgrounds. Involving the Monarch into conferral of such honours could adversely affect public credibility and the reputation of the honours system, and demonstrates the need for introduction of a significant measure of independence into the honours system.

9. The Honours Committees

¹¹ Tobias Harper, Voluntary Service and State Honours in Twentieth Century Britain, (2015) *The Hist. J'nal*, 58(2) 641 at 642.

¹² This is confirmed by UK Cabinet Office Statistics for January 2022 in respect of only slight improvement in terms of awards to ethnic recipients: <https://www.ethnicity-facts-figures.service.gov.uk/culture-and-community/civic-participation/honours-recipients/latest#download-the-data>. For gender, disability, geographical spread, and sexual orientation statistics, see: <https://honours.cabinetoffice.gov.uk/about/diversity/>.

¹³ Harper, pp. 660-661. This was borne out in Wilson.

¹⁴ 87% of awards were at (lower) OBE or MBE honours levels: The Cabinet Office's Fourth Report on the Operation of the Honours System (between 2015-2019).

10 honours selection committees review nominations which are then sent on to the main honours committee.¹⁵ More independence (i.e., less civil service dominance) has been introduced to the committees, with the majority on each committee being composed of non-civil servants, headed by an independent chair.¹⁶ Although the membership list of the individual 10 committees appears to vary, depending on which published source one consults¹⁷, nevertheless is clear from the backgrounds of those listed as members that committees' members are not yet sufficiently diverse so as to represent a broader reach of citizens from beyond the core administrative / civil service / diplomatic / military/ academic / and technocratic elites of UK society. Diversity progress, beyond reducing civil service members numbers on honours committees, is not impressive. The authors examination of the 10 committees' membership lists has ascertained that: 80 out of the 91 committee members are of white ethnic background; 4 of the 10 committees are exclusively white (State, Science & Technology; Parliamentary and Public Service); all 10 committees are chaired by White British members, 5 of whom are graduates of the most elite UK Universities. Females have significantly increased in recent years (42 females and 49 males).¹⁸ However, only 10 of 91 committee members are non-white: 3 are of Black African descent; 5 British Pakistani; 1 Jewish and 1 Indian.¹⁹ Wright's recommendation (para. 163) that there be far more diversity and representation amongst the expert membership of the honours selection committees deserves to be revisited.

Another point of contention is the fact that there appeared to be discrimination regionally in that more honours, especially the more senior honours, appeared to be awarded to residents of England's South East (i.e., centred around London). Far fewer honours went to recipients in the North of England, Wales and Scotland, Wright's statistics demonstrated that regionally the North West of England fares far worse than any other English region when it comes to awards of honours, with 11% of the population, yet it receives only 7% of the awards; Scotland by comparison received 13% of awards despite having just 9% of the population; Northern Ireland, with only 3% of the population received 6% of the awards; London and the South East, with only 27% of the population, received 31%. Taking the New Year List in 2019 as a comparison: Scotland made up 10.43%, Wales 4.9%, London 18.2%, South East 11.7%, North East 2.6%, North West 8.8%.²⁰ In the New Year's Honours List for 2022, Scotland received even fewer awards: 6.4% of awards; Wales 3.8%; Northern Ireland 7.4%; London 20.8%; South East 15.7%; North East 2.5%; and North West 7.3%. The above confirm trends that more awards are going England's south, and less to Scotland, England's Northern regions.²¹

¹⁵ The main honours committee is chaired by the Permanent Secretary to the Treasury and includes the Government's Cabinet Secretary, the Chairs of the 10 Honours Committees, a Permanent Under-Secretary from the Foreign & Commonwealth Development Office and the Chief of Defence Staff.

¹⁶ This markedly appears to meet Wright's criticism that the high proportion of senior honours awarded to civil servants (paras 74-75) was in part due to civil service domination of the honours selection system.

¹⁷ www.royal.uk exhibits the membership of each honours committee, but as noted elsewhere Cabinet Office exhibits committee membership lists that are not always identical to those listed on the Royal website.

¹⁸ Wilson (2003) and Wright's (2004) observed that honours committee members were predominantly male (with only 15 female members). By 2021 however, there were 42 female committee members (as against 49 males).

¹⁹ Hardly a significant improvement since Wright when four members were from an ethnic minority.

²⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/807228/Report-on-the-Operation-of-the-Honours-System-Final-for-Publication-1.pdf.

²¹ <https://honours.cabinetoffice.gov.uk/about/diversity/>.

Improvements in recipients' ethnic diversity has been poor. Although 8% of the UK population in the 2001 census were of black or ethnic minority origin, only between 4% and 7% of awards went to persons from such backgrounds (Wright), especially in the senior categories of honours brackets.²² Little appears to have changed: in the 2022 New Year's Honours List, only 3.6% Black; 8.4% Asian; 2.4% mixed ethnicity and 0.6% other ethnic group²³ received honours. By contrast 85% of recipients were white and they garnered 82.4% of higher honours. Confirming the poor trends, the August 2019 Cabinet Office statistics state: "In every honours list since June 2014, less than 10% of honours were awarded to people from ethnic minorities (except June 2015, 15.45%)."²⁴ Similarly, women benefit less than men (Wright, para. 53) and as acknowledged by the Diversity Committee in 2022, "Women tend to receive fewer awards than men at the higher honours levels (38.2%)".²⁵

10. Conclusion

The Honours system has long been a feature of British life for centuries. It was once the preserve of the Monarch and conferred titles on aristocrats and nobles. In more modern times it became a tool of patronage for elite groups in the service of Empire, and more lately has broadened to recognise service outside of government and state service. There is great respect for titles and honours in the Kingdom. The Monarch has a conferral power for a small number of prestigious Orders' honours, and the bulk of the remainder are conferred by the Monarch on the advice of the Government.

The question of "Who is the honours system for?", and "Whose interests does it serve?" seem pretty clear from the statistics available. The honours system has been scrutinised on multiple occasions, yet resistance to change is strong. The higher honours are still seen as the preserve, even as the entitlement, of elite groups, who treasure and value them highly for their prestige and peer value. Although the greater public are now honoured in large numbers, they generally receive the lower honours. Honours committees, overseen by the Cabinet Office, do not adequately reflect the diverse ethnicities of modern Britain. The white ethnicity of those receiving the bulk of senior honours cannot be denied for much longer. When the Monarch surveys her subjects across her Kingdom during her Jubilee Year, Her Majesty might do well to advise the Prime Minister to commence real and genuine reform before the institution of the honours system, despite centuries of operation, goes the way of many other venerable institutions have of late, once their origins and produce were open to scrutiny.

²² i.e., honours from CBE level (or above) were more likely to go to white persons than ethnic background recipients, with levels below CBE (MBE and OBE) more likely to be the honours awarded to those hailing from ethnic minority backgrounds.

²³ <https://honours.cabinetoffice.gov.uk/about/diversity/>.

²⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/807228/Report-on-the-Operation-of-the-Honours-System-Final-for-Publication-1.pdf p.9 onwards.

²⁵ <https://honours.cabinetoffice.gov.uk/about/diversity/>.

