



First come, first served? Women and primogeniture in the 21st century

It seems extraordinary that in the 21st century women continue to be discriminated against in the context of their right to inherit a peerage or other hereditary titles. There was welcome news last month (reported in *The Times* on 20 February 2021) that the Government is finally proposing to abolish male primogeniture in this context, and plans to introduce a new bill of reforms in the next Queen's speech in Autumn 2021. Of course, this particular inequality is hardly a pressing personal concern for the vast majority of us. The impact of such inequality may only come to mind during escapist moments of watching *Downton Abbey* or *Bridgerton*. In fact though, the real impact is significant; even though only a few women are directly affected, the discrimination itself is a matter of public interest, and it disentitles first-born female children of the hereditary peers who still have a seat in the House of Lords from taking up a role in our political system.

The proposed reforms are, to put it mildly, overdue. It is to be hoped that the Government's move will be more effective than several Private Members' Bills introduced in Parliament during the last 30 years with the same purpose, all of which foundered in the early stages. In proposing new laws, MPs and peers have emphasised the importance of abolishing male primogeniture in order to build fairness, modernity and equality in our society, and highlighted the symbolism of making such a change within the aristocracy so as to demonstrate the importance of women in society.

The Royal Family has led the way; since the coming into force in 2013



of the Succession to the Crown Act, female descendants of monarchs have been on a level playing field with their male siblings. There is no denying that the practical realities of changing the rights of succession to hereditary titles would be more complex than the changes in succession to the monarchy (not least because when the Act came into force in 2013, before Prince George's birth, there was no-one whose expectations of succession to the monarchy would change). The origins of some baronies extend back to the Middle Ages when they were created by a writ of summons to Parliament. Such baronies were heritable through the bloodline, with preference for males but not always excluding females. Most more recent peerages have been created by letters patent, again usually with succession rights restricted to male heirs in order of age and proximity of kinship. The variety of considerations which might relate to any particular title would have to be taken into account in formulating new law which would be able to take effect in relation to any baronetcy or peerage, but this should be seen as a tempting challenge for legislators rather than an insurmountable obstacle.

A vocal group known as 'Daughters' Rights' has been gaining ground in its aim to achieve equal rights for women to stand in House of Lords by-elections for hereditary peers. It



has submitted a case to the ECHR in relation to the succession rights of daughters of 5 peers who would, if they were male, inherit their fathers' titles. The case is being led by Lord Pannick QC, and rests on Articles 3 and 14 of the Convention. It is to be hoped that changes in UK law will make that particular case unnecessary, although other modernisations will also need to be considered in order to avoid discrimination for children who are adopted, or who are born as a result of sperm or egg donation or surrogacy, and indeed possibly to abolish the age discrimination inherent in primogeniture itself.

The fact remains that titles attract national and international press and publicity, and to that extent are in the 'shop window' of the UK. Correcting the antiquated inequality of women in that context would be a welcome and symbolic step forward in achieving equality for women across society, and might have the added advantage of resulting in more women in the upper house.

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