

Assessment of the legitimacy of the house of lords



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This essay assesses both the legitimacy and usefulness of the British House of Lords within a modern democratic state. It first turns to some broad theoretical background which should alert the reader to the deep-seated ideological biases that pervade this question. Next, this essay presents the case for opposing the House of Lords and produces a number of convincing rejoinders. Lastly, it outlines the critical contribution that this institution yields to the modern democratic state of Britain, both in offering expert insight and opinion but also in highlighting the need for policy to be air-tight and to cater to niche groups among the populous.

This question and analysis are permeated by more deep-seated ideological notions than meet the eye. It is tempting to overlook the historicity of this question whilst consumed in current noise and scandals. However, the common reaction and bias that many modern democratic citizens harbour against the House of Lords goes much deeper. The assertion that it is not elected and therefore not properly scrutinised by society is one that holds sway because of the way modern liberal states emerged.

Originally, dating back to the Enlightenment and the French revolution, democracy and gains in liberal thought were seen to exist in a zero-sum game against the authoritarian states that had up to that point suppressed systematically (McLean, 2009). The philosophical notions that were birthed restored the importance of the individual agent (aka citizen) at the heart of collective decision-making and therefore prioritised her over the arbitrary and tyrannical nature of an unelected state. An example of the previous line of thought is that of Immanuel Kant, whose ideas seeped into democratic discourse (Mouffe, C. and Holdengraeber, 1989). Namely, it is almost

impossible to imagine a democracy that does not take individual claims of citizens as being of utmost importance; an agent has to be empowered to dictate his own fate and government should be merely a facilitator.

Symmetrically, Rousseau (1920), another thinker of the era, maintained that the state should function as a reflection of collective will and thus the locus of collective decision-making. Equally, bolstering this idea, John Locke (1773), with his epoch-defining work 'The two treatises of the government', put forward the idea that democracy implies that people are governed by their voluntary consent and vest this power to the state. According to him, the individual is naturally free and becomes a political subject out of his own volition, something that every government should honour and adhere to.

These three prior notions that bring the individual back at the heart of the democratic future seem to be at play here. That is why a common stance towards the House of Lords is that it departs from these widely accepted social contracts; it is an institution that robs the individual of the ability to check it and does not therefore allow him to merge his personal destiny with that of the political community.

Going further, the UK is renowned for being the pinnacle of parliamentary supremacy (McLean, 2009). As has been seen by a multitude of examples, the UK has championed the idea that parliament should be put before other institutions and forces. Note that as a country it was very slow to adopt a supreme court (in 2009) and its reluctance to cede power to the European Union is also a testimony to the defence of parliamentary supremacy.

Having established these patterns of thought, it becomes intuitive to understand why the institution has indeed come under fire. Being the second largest legislative assembly and housing approximately 830 Lords, the institution has been widely criticised (The Week, 2015). A grand total of 781 eligible life peers are appointed by the Queen following the advice of the Prime Minister, while 87 of them are hereditary peers and 256 are bishops. To make matters worse, 75 per cent of them are men (ibid.).

Taking each objection in turn, it can firstly be seen that the second largest legislative assembly does not get elected while it claims momentous resources by its unconsented constituents and also a widely acknowledged and disseminated platform of discussion. Secondly, it is ironic that 781 of eligible life peers are single-handedly decided on by the Queen, who represents the monarchy, i. e. another unelected institution. Thirdly, people take issue with the fact that 87 peers gain their lordship at birth. It is natural that UK citizens foster resentment as that is seen as a profoundly unfair system that perpetuates filial privilege at the expense of everyone else. 256 Lords are bishops, embodying the church, which exists in an uneasy relationship with modern democracy, not least because it fails to keep pace with liberal reform. Lastly, three out of four members are men, highlighting a potentially sexist system that favours one sex over the other, augmenting the merit of the argument that marries the House of Lords with a bygone past.

These reasons appear quite damning for the institution as a whole, as they seem to suggest that it exists in its own bubble, detached from the demands and beliefs of citizens and reliant upon outdated notions. The House of Lords

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seems to be at variance with the ideas of fairness and justice, which are absolutely emblematic of democratic values. Specifically, hereditary privilege, lack of electoral accountability, appointment by the Queen, representative of the church and men, by and large, are all features that build the same narrative that runs counter to a democratic conception of fairness and equality. Building on the notions of his progenitors outlined above, John Rawls (2009) put this case perhaps more succinctly than anyone else. Before collective rules are set up, prospective citizens agree on them under the veil of ignorance. Blind to where they will end up in the society that they choose, citizens have an incentive, and one would argue a morally binding reason, to opt for a fair system, that allocates resources equitably and treats the most vulnerable with compassion. This thought experiment is relevant, as it means that modern citizens of Britain would a priori rule out the House of Lords, as it arbitrarily and haphazardly appoints and empowers individuals on grounds of factors that they had no control over (e. g. birth, sex, ties with the church, family). Therefore, it transpires that the House of Lords fails to meet these basic demands of fairness and renders itself the proper subject of censure.

What compounds these inherently anti-democratic practices is the House's failure to represent the nation in all its diversity. That is to say, its constitutional make-up generates further socio-economic unfairness. This is because the House of Lords has approximately five times more members from the capital city compared to the North West of England, despite both regions having similar population sizes (Osborne, 2014). It is clear, therefore, that the House of Lords does not represent large parts of the UK. This is

particularly problematic, as it creates the impression of a fragmented democracy with pockets of power, that should be in fact distributed evenly across the country. It is also deeply condescending towards regions outside of London, as they feel that their political participation comes to naught. It finally, as a result, encourages apathy and disengagement among the different regions outside of the capital. This exacerbates other national phenomena and legacies, including the North-South divide which is very unhelpful, as it prevents national unity and shared cultural identity.

More recently, arguments in opposition to the existence of the House of Lords have been animated by a series of scandals, which call into question the legitimacy and suitability of the peers as gatekeepers of the second largest legislative assembly worldwide (Stacey, 2015). As they are unelected and thus unaccountable, citizens make higher moral demands on the peers of the House of Lords. In this sense, peers should be cognizant of the duty they have to be responsive to public demands and proper in their demeanour, in an attempt to prove that what was potentially awarded to them unfairly is discharged in the most effective and respectful manner. Yet lately, these standards have been flaunted. One such example that garnered huge negative publicity and brought the House of Lords under renewed scrutiny was that of Lord Sewell, the former Chairman of Committees charges with the responsibility to oversee moral conduct in the House of Lords (The Economist, 2015). The nature of sensationalist media as well as the readiness and deep suspicion in the public to criticise the House of Lords served merely as vindication to the argument that it is out of touch with reality, let alone modern democracy.

However, discussion should tread gently and use facts and analysis to make judgment rather than the vague appeal of history and the demands for absolute fairness. Granted, the institution falls short of adequately representing segments and groups in the UK, and also it fails to consider that hereditary privilege is arbitrary and embarrassing (though such cases are sharply declining). However, these largely emotional objections do not hold water when its real purpose weighs in.

It is widely and mistakenly assumed that legitimacy is purely down to elections. It is seen as something, as discussed earlier, sacrosanct and anything against that is anti-democratic. However, this is not the case. To dispel this simplistic yet appealing line of thought, this essay will now turn to the unique contribution that the House of Lords makes to democratic dialogue and representation.

Its main function, namely, is to scrutinise government bills and to force the government to think again when leaps of judgment occur or legislation fails to meet high standards (McLean, 2009). As such, the House of Lord performs a critical function and informs both the public and government as to the soundness of policy and whether everything has been deliberated upon properly before laws come into effect. Note that the House of Lords does not have the power to initiate its own bills, as this right is exclusive to the House of Commons. Nor does it have the power to block legislation, but it can merely delay bills or offer amendments that are to be considered anew by the House of Commons. This particular function that the House of Lords performs, in fact, is very different in nature from the criticisms that suggest that the House of Lords usurps power from the people and the House of

Commons (ibid.). In fact, not only does it not ‘steal’ power and authority, it complements it with much needed expert insight and dialogue to be fed back to the House of Commons.

A number of examples illustrate the effectiveness and worth of the House of Lords. In the legislative session of 2014-15, the peers spent 507 hours examining legislation and considered and offered over 3449 amendments to bills (The Economist, 2015). In 2007, the Lords shot down plans for regional supercasinos, while in 2010 they amended a bill to ensure that children with special educational needs have better access to academies. In 2014 the Lords amended the Children and Families bill so that smoking would be prohibited in cars when children are present (ibid.). This is significant, as it highlights that in fact the House of Lords fills a very glaring gap in the way legislative initiative works. The fact that they are not elected makes the Lords more grounded in expertise and less swayed by public opinion and populism, and in fact may even prod them to lobby for marginalised and vulnerable segments of society.

In conclusion, this essay has exposed the pervasive fallacies running across common objections to the House of Lords’s legitimacy and existence. It has been shown by way of historical reference and positive arguments, that this case is weak and driven by idealistic and pseudo-historical emotional reasoning rather than one based on the real contribution that the House of Lords makes but is routinely overlooked and lost in the noise of a few isolated scandals. These in turn encourage an unhelpful and sweeping kind of thinking that dismisses this institution out of hand and does not do justice

to the concrete offerings that they have for a modern and forward looking democracy.

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