CHAPTER 10

Conclusion: Deference for the Democratic Age

‘Old discourses never die’, writes Kahan, adapting a phrase from General MacArthur’s farewell speech, ‘they just find a different context.’ The same can be said of the discourse of English deference which still describes the relationship between people and their institutions in twenty-first-century Britain. England and the other nations of the United Kingdom have changed since the nineteenth century, and so has the Anglo-British constitution, but deference has accompanied the tide of change. What was supposed to have died was never fully extinguished and, in the uncharted context post-Brexit, English rational deference lives on.

Hierarchical voluntary deference, as described by Bagehot in the nineteenth century, had two sides—irrational and rational—both of which had a use at the time of the extension of the suffrage. Those who followed tradition and submitted to power because it was congenial for them to do so engaged in irrational deference: it was politically unenlightened and generally based on conformity, but comfortable. Rational deference was the disposition of those who made the choice to move out of customary ways of doing things and to realistically accept the constraints of power. Rational deference was, and still is, more individually rewarding but it is more demanding because with freedom comes responsibility to act and behave in accordance with the common good.

What is specifically English about the deference described in this book is that it has developed around the hierarchical core on which it was based, and which was expressed in the old historico-political constitution. Unlike
the French, the English did not reject the hierarchical structure of society in 1688; they worked with it. Unlike the Americans, their starting point was not egalitarian (in theory, anyway), but the English nation gradually abandoned irrational deference to either reject deference altogether in the second half of the twentieth century (while not being fully able to do so as Shils had demonstrated) or accept rational deference to power.

Britain (even if this is really an English story), unlike younger countries, adjusted from an aristocratic structure to a democratic one, retaining political traditions which still generate voluntary deference. Such a mindset can be equated to a virtue which elevates individuals who defer to power by helping them to focus on the greater historical aspects of their nation, best represented currently but not solely by the monarchy, because the sovereignty of Parliament still means something, as Brexit as shown. In this sense, the way in which the nation has been transformed by immigration has not affected the old reserve of deference.

Yet, well into the second half of the twentieth century, the old historical and political constitution which had played the role of embodying the British nation, was undermined by joining the EEC in 1973 and especially by the constitutional revolution started by New Labour in 1997. The new ‘deformed’ constitution has also transformed the essence of the Union and what being British means, and has exposed many tensions, as amply demonstrated by Brexit. There is now a deferential core without clear constitutional expression, apart from the monarchy, and to a lesser extent, from parliamentary sovereignty.

The passage from a hierarchical voluntary irrational type of deference, still rooted in the organic nature of the nation and cautious of equality, towards a rational understanding of deference to power, was at the heart of the first part of this book. Acceptance of the extension of suffrage in the nineteenth century accompanied attempts to adjust local ways of expressing civic life to national ways. The creation of modern parties in the latter half of the century brought together what had been popular sovereignty at a local level and parliamentary sovereignty which was supposed to be the expression of the whole, at a national level. For some, like Bagehot, the only way to adjust to the democratic transition was to have a two-way approach, rationally appealing to some through the ‘efficient organs’ of the constitution and irrationally through the ‘dignified ones’ and hope that the ‘middling orders’ would stabilise the structure until education did the rest. For others, like Disraeli, the solution was to appeal to a grand union between the top and the bottom, the upper classes and the masses,
in the spirit of the old historic constitution and rationally get the latter to defer to the former through the party system. This was possible because the reading of the constitution was historical, and it meant everything to everyone. It was forever elastic but carried an aura which elicited voluntary deference. The constitution could mean the Crown, the monarch, the government or Crown-in-Parliament because it was unclear, foggy and imprecise. That is why it could even be the expression of the British as a whole—normally a concept impossible to fully embrace. The battle which took place at the time of the passing of the Parliament Act of 1911 already proved that there were tensions within the Union (and the empire) and the nations of the kingdom. Such tensions were expressed between those who believed that the upper classes were best placed to defend the people and popular sovereignty through the referendal theory, and those, in the House of Commons, who wanted to protect the sovereignty of the House of Commons and expected a traditional deference to such a view. The passing of the Parliament Act of 1911 marked the end of the power of the lords but it did not get rid of a Whig deference protecting a common inheritance, in this case the role of the sovereignty of Parliament as best expressed in the commons. As a result, the story of deference in the twentieth century was about how to accommodate an ancient political structure—which evolved through incremental changes—and the mores of such a society on which power rested, which was itself evolving.

What the second part of the book has attempted to show is that the gradual loss of voluntary deference for the constitution was the necessary consequence of changes in society and of the erosion of the love for one’s past. After World War II especially, the strains between the nations of the United Kingdom were further intensified as the Scots, the Welsh and the two communities in Northern Ireland demanded recognition. This all took place at a time when society itself became wary of the establishment, more politically aware of its rights and in favour of a levelling of conditions not seen before. It is natural that deference to the constitution should have been discarded as a shameful relic of a Victorian past. Joining the EEC in 1973 further amplified the changes taking place politically as the system was slowly forced to adapt to a legal continental regime, which was very different from its own. Deference also became something contemptuous politically for a number of left-wing politicians in the 1970s, because it could never bring in full equality and was identified as one of the problems to be got rid of. In the end, the refusal of deference accompanied a certain type of cynicism for politics and for all things British that Thatcher
denounced in the 1980s as a corrosive streak—but that she, herself, amplified. The demands for a codified constitution which would bring clarity rose in the 1970s from both sides of the political landscape, to either usher in a real democratic constitution or clarify the role of the institutions within the constitution. Nevertheless, deference was never viewed as a necessary complement of the uncodified old historicopolitical Anglo-British constitution.

Today, the United Kingdom finds itself at a crossroads, and not simply because of Brexit. Either it will move towards a codified constitution which will stabilise the ‘deformed’ constitution created after the New Labour constitutional settlement, or it will decide to clarify incrementally, through the judiciary, only the most obvious difficulties created by devolution, the Human Rights Act of 1998, and especially the Constitutional Act of 2005 or some combination, as piecemeal parliamentary legislation and individual judicial decisions muddle along. Whatever the case, part of the constitution, or less likely all of it, will be codified or clarified depending on whether politicians and constitutionalists decide to act, perhaps through a constitutional convention, or whether judges are left to bring a new constitution to life through their decisions.

In the first case—that of a fully codified constitution—one may wonder what role rational deference would or could play, as it has historically been fundamentally related to the constitution’s uncodified nature. Could a written document give birth to British constitutional patriotism in the same way the American constitution did with American patriotism? Is this even possible in a union state? In the second case—that of the gradual emergence of a new constitution through the work of lawyers and judges and protected by them—rational deference will still be useful, although perhaps this time artificially maintained through an appeal to the past and to its value while moving forward.

The changes which have taken place in the constitution since the judge-led development of judicial review in the 1960s, along with the growing role of judges, have transformed it and opened a new road for the judiciary to be much more involved in politics than previously. The judges themselves have changed as their power has grown; they have become less deferential to the Diceyan description of the constitution, and have taken on a new role for themselves. This remains an open question for the future because lawyers and judges were never supposed to take on the mantle of defending or generating rational deference to the constitution. Deference
was the natural consequence of the uncodified structure and of the common law. In *Philosophy of Right*, Hegel wrote:

A constitution is not a mere manufacture, but the work of centuries. [...] It is the idea and the consciousness of what is reasonable, in so far as it is developed in a people. Hence no constitution is merely created. [...] In a constitution a people must embody their sense of right and reproduce their conditions. Otherwise the constitution may exist externally, but it has no significance or truth.  

This points to the importance of keeping the original spirit of a constitution because of the memories it carries, but in a spirit of careful change, as the expression ‘reproducing one’s conditions’ implies. It is fragile balance to achieve. Unfortunately, as pointed out in the previous chapter, the spirit which animated New Labour in rethinking the constitution after 1997 was ambivalent. New Labour was hoping to make the constitution clearer and more democratic, but they were also held by an ancient structure that they seemed to have no understanding of—the fusion of powers in particular. New Labour had a plan to reform the system in a country which reforms through incremental changes. Theirs was a logical plan to reconstruct an edifice which was the embodiment of an Anglo-British dominance that was seen as passé. The union state that was created after the constitutional settlement of the Blair period not only changed the nature of the constitution but has also had an impact on the habits and mores of the nations of the Union. Whether the judiciary can now artificially generate rational deference for a national constitution which is anything but clear remains to be seen. Brexit has only added another layer to the problem, which ultimately might also be an aspect of the solution. By forcing the United Kingdom to clarify its legal relationship to the European Union, the country will be forced to look at its inner tensions, and to examine what being British means today.

This raises two questions. First, can English rational deference still offer something to the British political narrative in the present state of the constitution? And can it continue to legitimise and stabilise British politics? Second, can English rational deference grow into something akin to a moral duty in politics, which could be very useful in the confused state in which the constitution finds itself, post-Brexit?
RATIONAL DEFERENCE IN POST-BREXIT BRITAIN?

Here, at the conclusion of this study of English deference, it should be clear that the concept need not be reduced to either a sign of servility or a form of old-fashioned Victorian submissive courtesy. Those who oppose deference—which is actually irrational deference—generally do so on the grounds that it should have no place in democratic societies. Nevertheless, if democratic societies are theoretically created on the basis of an abstract community of equals, in reality, something impalpable and historical always remains in the codes, the hidden signs, and the behaviour of equals which recreates the conditions for deference. Even anarchists defer to the writers they have been inspired by. Shils has shown that this is all the more obvious in the strong reverse feelings of shame, disrespect, and disgrace alive in democratic societies, which reveal the permanence of deferential attitudes. It is precisely because citizens come to the political conversation with different sets of values, that Shils’ definition of deference as a person’s need to recognise and be recognised, is so significant. Transposed into the political arena, deference to one another becomes the language of civility, of conciliation and arbitration. It recognises the value of communication and of vigorous debate to solve conflicts and does not trade in ready-made solutions, but in recognising an opponent’s worth and own individual set of problems. Whatever his elitist mistakes, Bagehot had identified such a trend in the English Victorian classical parliamentary system which made the nation respect and defer to their institutions—for different reasons and different values. This was the glue which kept the system together. By rejecting deference as a shameful relic of the past, especially after World War II, the country lost a valuable asset which had held people together in their incompatible views of life in society.

Consequently, all the post-World War II thinkers and politicians who have denounced deference in British society as a culture of servility that was preventing the country from moving forward, have never taken into account the fact that rational deference allows for a language of civility as it eases the conflictual relations which dominate political life. Shils was aware that such civility had a value in democratic societies because it kept under control dangerous currents which could undermine their foundations. As noted by Turner, one of the greatest threats Shils saw was the rise of populism, which ‘was inclined to degrade political opponents into moral opponents, into traitors, […] without rising to the level of political organization or intellectual coherence of genuine ideologies’. English
rational deference played a role in allowing ‘civil dialogue’ within the confines of the parliamentary structure where Bagehotian government by discussion was seen as its expression.

Throughout the twentieth century, the United Kingdom was constantly adjusting to the blossoming of a democratic structure within the confines of a hierarchical aristocratic framework. These two opposites have been developing alongside the social transformation of British society but never fully shedding the old moral and political mentality. New Labour’s constitutional transformation, founded on the desire for a more egalitarian and democratic society, missed the point in reforming the institutions first. Constitutional models can never work without taking into account the people who work them. This is even more true when the constitutions are badly conceived and superimposed on a structure which has itself evolved. The analysis of behaviour and moral sentiments, as well as the capacity to understand how people need recognition of others, is as important—if not more so—than the political and constitutional framework of a nation.

The role of deference is far more central to democratic societies than has been generally accepted. It is easier to see it alive in the Anglo-British constitution, but it can also be observed at work in other countries. Because people are considered equals in democracies, the role of rational deference (or egalitarian deference, depending on the starting point of a given society), should be fully acknowledged. Such deference does not coerce or dominate through custom or class; instead, it allows political disagreements to be met and rules to be followed without too much tension. If people are considered as equals, full equality is nonetheless recognised as impossible and is accepted as such. Milbank and Pabst point out that ‘the pursuit of pure equality is a self-defeating myth, whereas, paradoxically, the attempt [in a post-liberal society] to realise a valid hierarchy and a true deference is the only possible means to realise a more equal society in practice’.

This is paradoxical because it means that at one stage in a democratic political situation, someone has to decide to become leader in the process, but, at the same time, this does not fundamentally affect the integrity of the person deferring to the leader, who retains self-respect. This seems to be the imperfect solution to inequality in democracies. It is a very fine line to walk, since this delicate equilibrium is still questioned by an egalitarian rhetoric which mistakes deference for submission. Replacing ‘discussion with struggle’ generates the loss of rational deference; this is what happened in the United Kingdom after World War
II. The Blair generation growing up in the 1950s, and especially in the 1960s and 1970s, started following their own judgement, rejecting the Victorian customs and behaviour suggestive of domination, but also began believing in the role of experts and in logical plans of reforms based on reason. Along the way, they became indifferent to what had made their past and to how certain attitudes of simple deference, sincere or not, had polished them into democratic beings. The Cameron set who came to the fore after New Labour, were the same type of people, regardless of their political affiliation. Pushed forward by their promises to the Liberal Democrats, they continued with decisions such as the Fixed-term Parliaments Act of 2011, which reorganised the parliamentary process and had unforeseen unfortunate consequences during the 2016–2019 period.

The language of rational deference is often mocked nowadays because it is seen as a weakness in a global world in which gentility, civility, and reverence have a patronising, if not naïve, connotation. In the last 20 years, New Labour and the Conservative/Lib-Dem coalition have attempted to improve democratic participation—the use of referenda was one of their devices—but they have been oblivious to the fact that social indifference and political apathy are the result of a significant retreat of the positive values of rational deference to the constitution. Being consulted directly at the time of a referendum only hides the problem that a referendum is not adapted to the Anglo-British constitutional structure and is a way for political parties to resort to the popular vote when they cannot solve their own internal problems (as happened with Labour in 1975, and the Conservatives in 2016).

In effect, Britain is trapped as it cannot go back to the old historical constitution, nor can it have a codified document which would dust off the old parts and set the new ones aright in law. The country is further trapped because the decline of rational deference since the 1990s has made it more difficult to make the uncodified ‘deformed’ constitution work; it has made people more apathetic rather than more independent, and has made politics less civil while enabling the rise of populism. Britain is facing a situation where its constitutional renewal no longer fit its national behaviour or the mores and habits of its four nations. The vote in favour of Brexit was a sign that something difficult to fully apprehend in British society had taken place, even if it had not yet been fully born. The potential is there, unclear, about to take form.

To understand what is happening in 2020, it is necessary to clearly recognise how deeply intertwined the former constitution and the English
disposition for deference have been. First, the term itself needs to be freed from negative connotations and general suspicion. Deference of the hierarchical, voluntary, rational kind, needs to be defined as the behaviour of the free, independent, responsible Englishmen of old, who respected others as much as they respected themselves and expected trusted rulers to govern wisely, under their careful supervision. Second, deference cannot be disconnected from its social and historical setting; here, the case of the monarchy is important in the Anglo-British constitution. There are two ways to understand the remaining interest in the monarchy. For some it has acquired a specific form of celebrity culture, while for others it can still generate deference but with less of a mystical impact. Nevertheless, it remains invaluable as the embodiment of an historical past which brings many British people together (and not only the English this time) and in which the monarch still has a political role as the head of state. The monarchy gives life to an Anglo-British past, which may not be acceptable to all the people of the United Kingdom, but which can be a force for good if it helps to focus on common national causes and on civic and moral behaviours. This can have a far deeper impact than expected, as may be seen in the causes recently embraced by the royals (for example, ‘Heads Together’ to fight against the stigma of mental health problems, the international Paralympic ‘Invictus Games’ for sick and wounded former servicemen, or the Prince of Wales’ various trusts to help the environment, farming, children and disadvantaged young people). Through such causes, the monarchy can move out of the celebrity niche and retrieve the value of rational deference as political virtue. Third, deference is very much related to the traditional language of civility which includes acceptance of fierce debate and conflicts, expressed in parliamentary forms and parliamentary governance. Fourth, deference does not depend on ideology, politics, or religion, but on social mores and recognition (both of oneself and of others). And finally, a workable form of deference must be related to significant moments in the history of a nation, as shown here. There is something unique about the traditional hierarchically based Anglo-British society out of which a liberal democracy grew without a codified instrument of governance, unlike anywhere else.

That being said, in a liberal democracy such as the United Kingdom, rational deference requires a teaching linked to the exercise of liberty. Describing deference as a social art, Ansart suggests that if properly practised, ‘it generates an equality in inequality which cannot be achieved elsewhere’, thereby recognising that some nations have a greater disposition
for it than others and that even in a society of equals, there are always inequalities in social interaction. Ansart concludes that deference creates a specific meeting area in which a friendly distance between equals allows a controlled and freely given liberty to be exercised. It is no longer a general obligation imposed by a hierarchical society, conversely, it is a valuable and voluntary discreet link which has the powerful charm of being free.

This is the basis on which the old historical and political constitution of the United Kingdom worked, the essential basis of liberal democracy: ‘mutual consideration, fellowship, manners, civility’ which is also linked to self-esteem. It is the lack of consideration for oneself, one’s background and one’s roots, which leads to a refusal or rejection of rational deference for other people, and by extension, for the state. This has powerful meaning in a multicultural society in which individuals have to find their place between their uprooted past and the new world they were born into. The tension is ongoing.

A REASSESSMENT OF THE VIRTUES OF ENGLISH DEFERENCE

Deference remains difficult to discern factually; it resists being transposed into political data, and is kept at arm’s length by political scientists who would rather leave it to sociologists, psychologists or even risk analysts. In the last few years, philosophers, and lawyers in particular because of their use of it in relation to the law, have reinvested in the term and given it new life. It is time for English political deference to be reinstated with a twenty-first-century role.

By retrieving English rational deference, British politicians might improve their chances of successfully answering the challenges posed by a globalised world, devolution, and political apathy. Rational deference, properly understood, is a virtue that the English could use to their advantage in the present post-Brexit context and in a world dominated by violence in social interactions. The English understanding of deference is not linked to servility. On the contrary, it is a language of empowerment which goes hand in hand with pluralism and which is perfectly suited to the tensions British politics and society are undergoing today.

The political system, for those who witnessed the Brexit crisis from July 2016 to December 2019, seemed disorientated. Theresa May’s premiership was unable to resolve the tensions regarding the translation of
popular sovereignty into a parliamentary structure. May initially seemed like the ‘strong and stable’ choice but this changed very quickly. In the words of *The Economist*, ‘Her Britain is the Britain of the provincial Tory heartlands: a Britain of solid values and rooted certainties, hard work and upward mobility, a Britain where people try to get ahead but also have time for the less fortunate.’\(^{15}\) Replacing ‘Britain’ here with ‘England’ would be more accurate. She embodied the traditional values of Anglicanism (she is the daughter of a vicar), with a belief in close-knit communities in which morality, civility and decency are the greatest of virtues. Following one of the television interviews she gave with her husband before the disastrous results of the general election of June 2017, the press reported on how ‘boring’ and ‘banal’ a couple they were, which is reminiscent of how valuable a quality this can be in politics.\(^{16}\) This was not the messianic appeal of Tony Blair, the boorishness of Brown, nor the cosmopolitan liberalism of Cameron; this was the England in which community spirit and ‘provincial certainties’ are ‘an antidote to rootless cosmopolitanism’.\(^{17}\) Yet May quickly lost her appeal. Without a majority in Parliament after the general election of June 2017, she found herself unable to rely on a party and an organised group of MPs who would back her up. The Conservatives were torn from within, between the Eurosceptics of the European Research Group and the moderates who had rejected Brexit. She was left to compromise incessantly with these two groups, with her ‘allies’ the Ulster Unionists, with the backbenchers of the 1922 committee, and even with the opposition when she needed their votes at the time of the attempts to get her Withdrawal Agreement Bill through. This gave the legislative body enough space to follow its own agenda (helped by John Bercow, at the time, Speaker of House of Commons).

Throughout this period (from June 2017 to December 2019), two forces opposed one another: those who still believed that the sovereignty of Parliament was based on what the representatives of the people felt was right for the people (those who still relied on a type of old-fashioned irrational Whig deference to the constitution)—and those for whom the result of the referendum needed to be respected and who held a rational type of deference to the constitution. The former could be termed ‘official Whig constitutionalism’, while the latter could easily be read as old-fashioned ‘popular constitutionalism’. The general election of 2019 showed that the only way to respect the results of the June 2016 referendum in a parliamentary structure was to impose ruthless party discipline. Boris Johnson and his adviser Dominic Cummings demonstrated their
understanding of this, by withdrawing the whip from the 21 Tory rebels who had refused to vote with the government in September 2019 and, like Disraeli in the nineteenth century, to forge a bond between the upper and the lower classes. Johnson cribbs from the pages of Disraeli’s ‘one-nation conservatism’, in the sense that Johnson and Disraeli’s love of country, their belief in the old freeborn Englishman, their sense of history and their English type of patriotism is grounded in the belief that parliamentary sovereignty can only accommodate popular sovereignty through an organised party structure. Such a structure is only viable if based on rational deference for the structure. Therefore, one type of deference was given a decisive blow in December 2019—Whig deference—the type of irrational deference of the ‘liberal moderates’ in Parliament, those who still believed that the system was based on the relics of a classical parliamentary structure long gone in which MPs could act independent of their parties, if they felt that their party had erred. This tension between loyalty to the party and loyalty to one’s beliefs showed that the modern sovereignty of Parliament and party politics could only work if the party imposed its views on the individual, failing which the judiciary would be asked to decide who ruled, Parliament or the people? Boris Johnson’s clear-cut victory in the December 2019 general election was the triumph for a type of rational deference, for popular constitutionalism. It re-imposed the domination of Parliament by the PM and his cabinet as the way for democracy to function in a parliamentary structure based on an uncodified constitution. However, such a type of popular deference lacks a moral anchor in twenty-first-century politics—an anchor which was lost in the twentieth century.

The revival of rational deference for the constitution at the end of 2019 has opened up a whole new slate of questions regarding the future of the Union and the future of ‘Britain’s good-chap model of government’, in other words, of the belief that ‘the British constitution is a state of mind’. The ‘good-chap’ theory of power was Whiggish in essence and seemed like an anachronism, hence the quasi-mortal shot it received in December 2019; but it could resurface in a revamped fashion at another period, once ‘Johnsonism’ has done its deed. The inclusion in the Conservative Party’s 2019 general election manifesto of a commitment to set up a ‘constitution, democracy and rights commission’ is proof that Johnson is planning a programme of constitutional reform. The question now is whether his type of rational deference for a popular constitutionalism can match an ethics of rational deference in a modern democracy—that is, a politics of
virtue. The socio-political crisis caused by Covid-19 might postpone the Conservatives’ constitutional plans, but the crisis does not remove an essential question: how can British politics be re-enchantment for the best?

In 2002, the American law professor Philip Soper published a book entitled *The Ethics of Deference, Learning from Law’s Morals*, in which he observes that the law may have authority, but does not claim authority, and that in Western liberal democracies, citizens must find their own theory of ethics to respect the law as the expression of the general will. Soper explains that ‘the ethics of deference is a requirement for giving weight to the normative judgements of others even against one’s own judgement about the correct action to take—a step that the principle of autonomy makes clear is far more extraordinary and requires more justification than ordinary civility’. A person must give weight to the opinions of others, even when that person thinks the others are wrong, even if that person has sufficient knowledge and the others do not. The best solution is therefore to defer rationally to the decisions of those who make the laws in the belief that they comply ‘with norms enacted in good faith for the good of the community’. Soper wants to move laterally from ‘the standards theories of associative obligations’ and make deference an ethical alternative, effectively on the same lines as English rational deference, in which self-respect and respect for others work closely together. Fundamentally, it is the idea that people can be politically associated and obey the rules of their community. This does not happen because they are compelled to do so by the law according to a Humean artificial morality, nor because they conform to the tyranny of a majority in the Tocquevillian sense, nor even because they sacrifice their beliefs from fear of their leaders. It happens because people can rationally take the decision at a given moment and in a given context, that this is the best for them and for everyone. Soper concludes:

The argument for deference is not an argument designed to foster tolerance or sympathy for erroneous views; nor is it simply a call for more dialogue and debate. The argument for deference is an argument about duty—a claim about the obligation to defer, while dialogue continues and the jury remains out on the question of truth.

This is the argument the Victorians applied regarding their political constitution, on the utilitarian basis that ‘the obligation to defer must be measured against the harm my act of deference causes’. As the events of the
twentieth century have shown, such deference has been abused, for example by Blair in the Iraq case, but the mistake of those who came to power post-World War II in the United Kingdom was to think that rational deference was a source of the inability to reach a truly democratic state, rather than an essential support for that state. The late-twentieth and early-twenty-first-century reforms that left the old constitution looking like a ‘ruin’ mean that more than ever before, rational deference for the democratic age must be re-founded in the sense of Soper’s ‘ethics of deference’.

Soper makes it clear that ‘deference requires good faith on the part of the state, the promisee, those who have conferred benefits in the expectation of payment, and friends’. These are the communities that some leaders seem to want to focus on in order to change the relationship between the state and its citizens. Trusting one another to lead a common life together in ‘good faith’ in liberal democracies is perhaps the most difficult, but certainly the most rewarding outcome, as trust generates trust.

Soper’s ‘ethics of deference’ have a Victorian tone, but if the United Kingdom is to remain a union, it will need to regain a sense of nationhood founded on something other than nationalism and populism.

Because the monarchy can no longer be expected to be the only satisfactory symbol of state in a democracy, or to continue providing magic on tap indefinitely, something is bound to come from the changes which have taken place in the constitution since New Labour. Even if the golden and diamond jubilees of the Queen were undeniable national moments of celebration, along with the celebration of the Queen’s ninetieth birthday in 2016, the monarchy itself has shown a sense of its own limitations after the 1997 drama of Diana’s death. The royal generation coming next will never be able to match Elizabeth II’s link with the past forged over a remarkably long reign, but it can usefully keep on generating rational deference for the monarchy by bringing the nation together in ways no politician can ever hope to do.

In *The Politics of Virtue*, published in 2016, the authors propose that ‘politics now needs a novel and paradoxical blend of two older and nobler traditions: a combination of honourable, virtuous elite with greater popular participation; a greater sense of cultural duty and hierarchy of value and honour, alongside much more real equality and genuine creative freedom in the economic and political realms’. This is a challenge in itself, but the other enormous challenge ahead for future British politicians lies in making sense of what happened to their old constitution in the midst of
Britain’s departure from the European Union. Rational deference for the constitution can help Britain face the challenge of the long-term financing of the devolved parliaments, the issue of Scottish and Welsh representation at Westminster, the constitutional status of the House of Lords, whether a distinction should now be drawn between constitutional and non-constitution acts of Parliament and whether there should now be an agreed convention concerning the occasions when national referendums ought to be held.30

It is no wonder that the United Kingdom, now a union state no longer able to shape society or accommodate its regional and multicultural differences, could not accept another union—the European Union—which, without the benefit of any traditional form of deference and with even less clarity, was shrouded in secrecy and undemocratically accountable. Brexit was not concerned with the adequacy of the institutions of the European Union, but rather with the inadequacy of those of the United Kingdom. England’s lack of self-confidence, more than Britain’s, linked to the decline of deference, made it unable to trust the European Union—just as the decline of deference within English society has made it more difficult for the English to trust one another.

In the end, it is to themselves that the English and the other peoples of the United Kingdom will have to turn. The only way forward is to embrace the Anglo-British historic forms of deference—essentially rational but also Whiggish—and to recognise their worth, with the help of politicians who will be able to generate and regenerate trust, with a sense of the civil art of politics which has made Britain such a successful and captivating state.

Notes

1. Kahan (2003, p. 193).
2. On this question see: Poole (2003, vol. 23, pp. 435–54).
3. See: T. T. Arvind and L. Stirton, ‘The curious origins of judicial review’, Law Quarterly Review, 2017, 133, pp. 91–117.
4. Hegel (1896, p. 282).
5. Shils (1972, p. 144).
6. Turner (1999, p. 143).
7. Ibid.
8. John Milbank and Adrian Pabst, *The Politics of Virtue: Post-Liberalism and the Human Future*, London, Rowman & Littlefield International Ltd., 2016, p. 74.

9. Turner (1999, p. 143).

10. ‘La déférence “engendre une égalité dans l’inégalité qui ne peut se réaliser en d’autres lieux”’ (my translation). Ansart (2000, p. 266).

11. La déférence “crée un espace spécifique de rencontre dans lequel la distance complice entre les partenaires autorise l’exercice d’une liberté contrôlée et librement consentie. Elle n’est plus cette obligation générale qu’imposait une société hiérarchisée, elle est, tout au contraire, un lien rare et volontiers discret qui a les charmes puissants de la gratuité” (my translation). Ibid, p. 267.

12. See: Enriquez (2000, p. 199).

13. See for example: Scheff (1988, pp. 395–406); Woodfield (2000, pp. 433–51); Anderson et al. (2012, pp. 1077–88); de Kwaadsteniet and van Dijk (2010, pp. 515–25); Laird (1989, pp. 543–50).

14. See particularly: Kolers (2005, pp. 153–73); Joyce (2007, pp. 187–206); Aaron Stalnaker, ‘Confucianism, Democracy, and the virtue of Deference’, *Dao*, 12, pp. 441–59; Young (2009, pp. 554–80).

15. ‘Theresa May, Tories of Tories’, *The Economist*, 22 April 2017, p. 28.

16. See: https://blogs.spectator.co.uk/2017/05/theresa-and-philip-bored-the-nation-with-their-strong-and-stable-relationship/#, accessed 27 May 2017.

17. Ibid.

18. This was a point made by David Starkey in his December 2019 lecture on ‘Brexit & Our Constitutional Crisis: History’s Lesson’ at the New Culture Forum’s 2019 Smith Lecture.

19. ‘Britain’s good-chap model of government is coming apart’, *The Economist*, 18 December 2018. https://www.economist.com/britain/2018/12/18/britains-good-chap-model-of-government-is-coming-apart (accessed 24 May 2020).

20. Soper (2002, pp. xvi–189).

21. Ibid., p. 169.

22. Ibid., p. 170. Soper is attempting to find a middle ground between the work of Ronald Dworkin—who grounds political obligation on theories of membership and communities, and A. John Simmons—for whom associative obligations are mostly linked to personal connections, see: Ibid., pp. 169–80.

23. Ibid., p. 170.

24. Ibid., p. 176.

25. Ibid.

26. King (2010, p. 365).
27. Soper (2002, p. 182).
28. Interestingly, such a view of the possibility of an ethics of deference, is shared by others, such as Stalnaker, but this time by appealing to virtues found in Confucianism. In an article on the ‘virtue of deference’, the author explains how through the teachings of Confucianism, ‘deference to the “powerful” when properly executed, can reconfigure their power as rightful authority, beholden to higher standards that justify, constrain, and direct their actions within a broader ethical outlook’. See: Aaron Stalnaker, ‘Confucianism, Democracy, and the virtue of Deference’, Dao, 12, p. 458.
29. John Milbank and Adrian Pabst, The Politics of Virtue: Post-Liberalism and the Human Future, op. cit., pp. 1–2.
30. Anthony King, The British Constitution, op. cit., p. 365.

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