

# PhD Opportunity

Constitutional reform and the case for and against codification

## Supervisory team

Dr Chris Monaghan and Dr Josie Welsh

## Director of Studies:

**Dr Chris Monaghan** is an expert in accountability, executive power and UK constitutional law. He is the co-editor of Routledge Frontiers in Accountability Studies and convened the international conference on Questions of Accountability in 2021. Chris has co-edited Questions of Accountability: Prerogatives, Power and Politics which is being published by Bloomsbury.

## Supervisor:

**Dr Josie Welsh** has research interests which focus on the topic of judicial power, constitutional reform and its effects on the judiciary and political science. Josie has presented papers at national and international conferences, is a member of the Advisory Board for Routledge Frontiers in Accountability Studies. Josie has a forthcoming chapter with Dr Chris Monaghan in Questions of Accountability: Prerogatives, Power and Politics which is being published by Bloomsbury.

## [Constitutions, Rights and Justice Research Group](#)

## The PhD Opportunity

The idea that the United Kingdom's constitution is under strain is not new, nor is the belief that the accepted norms of the constitution, which are central to the effective operation of our political system in the United Kingdom, are being disregarded by the executive. Indeed, this was the theme of a recent influential lecture by Professor Endicott, the former Dean of the Oxford Law Faculty. The idea of non-compliance is central to Lord Hennessy and Professor Blick's account of good chaps-no more governance, with Lord Hennessy being profiled in The Guardian regarding his concerns about the shortcoming in accountability within the Westminster system.

Dr White, the Director of the Institute for Government, which is the leading think tank on the constitution, has warned about the dangers of how the House of Commons is seemingly both not respected and not up to the role of holding the government to account.

In terms of the case for a new constitution and the justifications for reform, Professor Blackburn KC (Hon) was commissioned by the House of Commons to consider reform and he proposed three possible blueprints for how this might happen, including the case for a written constitution.

The literature demonstrates that there is a broad consensus amongst scholars and experts as to the fact accountability is ineffective at present, that these shortcomings encourage the non-compliance of the accepted constitutional norms, which then erode public trust and institutional competence in performing their constitutional roles. The literature demonstrates that despite scope of the debate, that there is room for a doctoral student to make an original contribution through a development of a normal theory regarding constitutions and accountability, and to develop new and novel solutions to the perceived problems facing the United Kingdom. In essence there is considerable intellectual scope for the student to construct a novel and original thesis on the theme of constitutional reform and the case for and against codification. In light of the research expertise of the proposed supervisors, their academic and professional networks, the student would be well placed to produce an excellent thesis that would then lead to original academic output that would support the UoA for law in the REF.

### **Aims and Objectives/Research Question/Hypothesis**

The aims and objectives for this project are for the student to:

1. Set out the current status of the United Kingdom's constitution and the issues facing it in terms of accountability and the effective functioning of its institutions. To engage with the argument whether there is a real need for constitutional form and whether this could or should be achieved by way of codification. From this statement of current affairs, the student will then be expected to develop a theory and account of the normative purpose of a constitution and how this fits within the accountability literature, and thus apply this theory and normative purpose to the current status of the United Kingdom's constitutional arrangements.
2. Consider the scope for meaningful reform of the United Kingdom's constitutional arrangements and the underlying concerns about a lack of accountability, and to engage with the substantial scholarship from law and political science, to identify areas of specific reform and test these against the theory and normative purpose that the student has identified.
3. Engage with the academic community, politicians, and practitioners, to thereby gain invaluable and original feedback on the student's theory and proposals for reform, or indeed to support the status quo, through empirical interviews with the leading experts.
4. Develop the academic community within the School of Law and be an active member of the Constitutions, Rights and Justice research group at the University of Worcester.
5. Produce a high quality and well-argued thesis, that is both informed by current events and original theory, but is also original in terms of its contribution to the public debate and academic literature.
6. Publish significant and impactful research as part of the doctoral study period and to publish the thesis as either a collection of articles or as a monograph.

The research question would address:

1. To identify the problems and challenges that face the contemporary constitution of the United Kingdom in the 21<sup>st</sup> century. To develop a theory and account of the normative purpose of a constitution and address whether the United Kingdom's constitution meets this purpose in terms of the effectiveness of the accountability mechanisms within it, and the control of power and balance between the different branches of government (the judiciary, Parliament and the executive).
2. To engage with the debate over constitutional reform (whether this is for a new written constitution or more specific targeted reforms) and the need (or not as the case may be) for codification of the constitution.
3. To then set out the student's own original proposals for reform and test the original theory and account of the normative purpose against these proposals.

The hypothesis would be that there is a lack of accountability within the United Kingdom in terms of the power of the executive within the United Kingdom's Westminster model of government. The challenges of devolution, independence for Scotland and Irish reunification, all pose challenges as to the future of the constitution and whether it will be robust enough to deliver on future reforms and address ongoing concerns about general non-compliance of accepted constitutional norms by the government. We believe that the student's research would have the potential to demonstrate that there is a case for reform, and this could either be achieved through a written constitution, or more incrementally, through specific institution or process orientated reforms.

### **Indicative Method / Methodology**

This project offers a variety of ways in terms of how it could be approached. We would suggest that the student begins their research through a desk-based research method, which would involve drawing upon the literature to further develop the research question. We would guide the student to identify the leading literature and then encourage the student to undertake a review of the constitution and the challenges within a broad sense. This broad approach will then offer a wide perspective and will allow the student to develop their own account of the issues and theory as to the normative purpose of a constitution and whether the UK's current arrangements achieves this underlying purpose. We would then encourage the student to focus on specific reforms and issues, which would lead to an empirical stage of the research, whereby the student would be encouraged to engage with the university's research ethics process and conduct interviews with leading constitutional scholars, politicians and practitioners. These interviews could be used in two ways, firstly to identify opportunities for reform and see the main areas of concern, and then secondly to test the student's reform proposals and receive invaluable feedback that can be fed into the thesis. We believe that though a desk-based research method and empirical interviews that the student's approach would be both manageable and realistic within the period of the research.

## Potential academic significance and impact of research

This project promises so much in terms of the student being able to influence debate both within the academy and more generally within the public sphere, and there is clear potential for a number of high-profile publications arising from this project.

The proposed PhD would fit within the overall strategy of the School of Law's Constitutions, Rights and Justice Research Group. Established in 2021 the Research Group aims to be the vehicle for the School of Law's contribution of a Unit of Assessment for the next REF.

It would support the University of Worcester's RKE plan for 2020-2025 as the student would be encouraged to consider the issue of reform and codification from a position that engaged with culture, identity and social exclusion.

As the plan notes, '...there remains a fundamental lack of diversity in many walks of life, nationally and globally, as old and new identities remain marginalised. The challenge to increase diversity is a significant one and requires a thorough understanding of the fundamental problems but also the development of inclusive practices that can begin to address these problems.' We believe that central to this problem is the constitution and the way that the UK operates and potentially excludes large sections of the population and gives the impression of elitism and exclusionary tradition. The Brexit result has placed traditional institutions under considerable strain and the student would link this outcome of Brexit to the underlying importance of culture, identity and preventing social exclusion.

The United Kingdom's constitution is arguably under considerable strain. This is due to the atypical nature of the constitution, as it is unwritten and uncodified and has developed over the course of English and British constitutional and political history. This is not to say that it is entirely unwritten, but by its very nature the constitution and the status quo has been rocked by the referendum on Scottish independence, the triggering of Article 50 of the Lisbon Treaty, the prorogation of Parliament in 2019, and the conduct of the government and Prime Minister in arguably disregarding the accepted norms of the constitution. We are now at point where questions must be asked about what is next for the constitution. Should we keep the status quo, or whether there needs to be a completely rethink and the production of a written constitution? The project offers the student a key opportunity to engage with this wide ranging and important debate and to develop the project along the lines of their original perspective, which will offer much room for academic and professional development.

We both have ventured beyond the literature and debate in constitutional law within our own research and we would encourage the student to do this as well. For example, Dr Welsh's research on judicial power considered power from a political science perspective and was able to draw upon this literature to inform what was traditionally a legally focused debate.

In terms of impact the student's doctoral research will have the potential to inform the debate. The student will be encouraged to think about the normative purpose of a constitution, how it functions on a day-to-day basis and where recent events have demonstrated opportunity for reform. The student may choose to favour wholesale reform through a written constitution and draw upon recent scholarship by Professor Blackburn, Professor Blick, Professor Bogdanor, Professor Albert, and Dr Jones, which sets out the cases for and against constitutional reform, to seek to reform a specific aspect of the constitution and the system of government.

By way of example, Dr Monaghan's proposed reform of impeachment is a partial reform, that is potentially justified by a lack of governmental accountability within the Westminster system. The key point is that scholars and practitioners have been able to make the case for partial reforms and highlight distinct areas and make an original case. Recent examples include Dr White's highly acclaimed book, *Held in Contempt* (Manchester University Press 2022), which addresses the problems facing the House of Commons. We believe that the successful student will be able to make a novel and original contribution and have real impact.

We would assist the student in engaging with learned societies and delivering papers at conferences, where they can disseminate their research and engage feedback from leading scholars and their peers. We would also encourage engagement with organisations such as the Study of Parliament Group, the UK Constitutional Law Association and PSA Parliaments. The plan would be to support the student's development of research and offer clear guidance on how to have maximum research through targeted publications. For example, Dr Monaghan is the co-editor of a book series on accountability, *Routledge Frontiers in Accountability Studies*, and we would see the potential for the thesis to be submitted for publication within the series. Dr Monaghan is also the communications officer for PSA Parliaments and edits their blog, thereby encouraging the successful student to publish work on this widely read and influential blog. These are just several examples of dissemination, but what is key is that a piece of research that tackles the problems within the constitution, addresses the challenges and then offers ideas for reform will be of considerable interest and offers the opportunity to develop original and novel research. We believe that here at the University of Worcester we can support the student to achieve this, by both drawing on our own experience and contribution to the ongoing debate in constitutional law and using our extensive network to highlight opportunities for engagement, collaboration, feedback and dissemination.

### **Application Process**

To begin the application process please go to [Law MPhil/PhD Webpage](#) and click on 'How to Apply' in the top menu. This PhD could be carried out on a part time or full time basis so please select the relevant application link. On the application form, please make it clear that you are applying for one of our advertised projects so we can direct it straight to the relevant people.

## The Interview

All successful applicants will be offered an interview with the proposed Supervisory Team. You will be contacted by a member of the Research School Team to find a suitable date. Interviews can be conducted in person or over Microsoft Teams.

## Funding your PhD

For more information about Doctoral Loans please visit:

<https://www.worc.ac.uk/study/fees-and-finance/doctoral-loans.aspx>

During your PhD you can access the Research Student Support Scheme to support dissemination costs associated with your research, up to £500 a year.

## Research at the University of Worcester

Research is central to the University's mission to make a difference in everything that we do. We are committed to delivering excellent research which extends the boundaries of human knowledge but which also improves people's lives by enabling better health outcomes, improving food security, developing environmentally sustainable solutions for crop production and socially sustainable solutions to our ageing population, enhancing public knowledge and understanding of the past and present.

The University hence focuses its research around five high-level challenges facing society, locally, nationally and globally:

- [Human Health and Wellbeing](#)
- [Sustainable Futures](#)
- [Digital Innovation](#)
- [Culture, Identity and Social Exclusion](#)
- [Professional Education](#)

The success of our research is reflected in our continuous improvement in external research assessment processes. In the most recent Research Excellence Framework, REF 2021, the University saw a near 50% increase in the scale of its research and 12% increase in quality, building on its performance in REF 2014 when it was the UK's most improved university in terms of Research Power, a combination of scale and quality.

## Research Degrees at Worcester

Our research students are central to our overall mission for research. They are working at the cutting edge of their disciplines and driving forward the quality of our research whilst enriching our research culture. We are looking to increase our research student numbers as a strategic imperative.

Our commitment to our students is reflected in the results of the Postgraduate Research Experience Survey 2023 in which we ranked 3<sup>rd</sup> for overall research student

satisfaction nationally. Key to our success in his area is the Research School, a focal point for all our research students.

It provides:

- day-to-day support for our students, both administrative and practical, through our dedicated team
- a Research Student Study Space with both PCs and laptop docking station
- a comprehensive Researcher Development Programme for students and their supervisors
- a programme of student-led conferences and seminars

## Research Group

### Constitutions, Rights and Justice Research Group

Established in 2021, the Constitutions, Rights and Justice research group seeks to foster a collaborative approach regarding how to talk about and conduct research on the nature of constitutions, different categories of rights and the importance of justice in its many forms. This innovative group brings together academics at the University of Worcester, external academics, legal practitioners and active and retired judges to work together on a myriad of issues and seek scope for collaboration within the wider academy and legal practice.

The aims of the group are to engage with the public, the academy and legal practice through the dissemination of research and scholarship, the hosting of Public Lectures, workshops and research seminars; foster collaboration between ordinary members, associate members and the wider academy and legal practice and produce innovative research and other scholarly work that advance the work of the group.

### Widening Participation:

As part of its mission statement the University is committed to widening participation for its higher degrees. Although most candidates will have an undergraduate and/or a Masters degree, the University is happy to accept applications from candidates with relevant professional qualifications and work related experience.

**For further information** or an informal discussion on this project, please contact Dr Chris Monaghan (Director of Studies) via email at [c.monaghan@worc.ac.uk](mailto:c.monaghan@worc.ac.uk)