



Introduction to Constitutional and administrative LAW

Learning outcomes for this session:

1. Become familiar with the Canvas site for this module
2. Understand university learning and the Screencast, TLWS, SLWS model
3. Acquire a preliminary basic understanding of what a constitution is and what it seeks to do



2024 MOD008561 TRI1 F01CHE 63 View

2024 TRI1

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Constitutional and Administrative Law (2024 MOD008561 TRI1 F01CHE)

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Learning topics and due dates

Modules and key information

Description of the assessment

Module Leader: Dr Ryan Hill

Email: ryan.hill@aru.ac.uk

Extension: 3808

Syllabus

Modules

Session Learning Outcomes

Learning model

MDF

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Assessment

Essential module information

Our part

Your part

Learning Activities	Hours	Learning Outcomes	Details of Duration, frequency and other comments
Lectures	0	N/A	N/A
Other teacher managed learning	51	1-6	2 x 1 hour tutor led workshop OR 2 x 1 hour lectures x 12 weeks minimum (weeks 1-12) AND 2 x 1 hour student led workshop OR x 2 x 1 hour tutorial x 10 weeks minimum (weeks 2-11) PLUS 2 x twenty-minute screencasts x 10 weeks minimum (weeks 1-10, ACL modules only and excluding ARUL and SAM)
Student managed learning	249	1-6	To include such things as online discussion boards, VLE exercises, private study (guided and autonomous), tutorial preparation, assessment preparation and completion. This is adjusted if additional Teacher Managed Learning is used to ensure total 300 hours.
TOTAL:	300		

Assessment type

Element 010 Title: Coursework

Task: Assessment 010 is the only Assessment in Constitutional and Administrative Law but the Assessment has two distinct Components. Each Component needs to be submitted separately. On Canvas you will therefore see a submission space for Assessment 010 Component 1 and a separate one for Assessment 010 Component 2. It is important you submit each Component in the correct place.

Assessment 010 Component 1 is a work drawing on early learning in the module and planning an approach and response to the first part of Assessment 010 Component 2.

Assessment 010 Component 2 is a written piece of work that engages both early and later learning in the module by linking its first part to the planning work you will have done in Assessment 010 Component 1 as well as adding an 'application of law' dimension (a second part) not seen in Component 1.

Weighting: Component 1 = 20%. Component 2 = 80%

From the MDF:

Assessment No.	Assessment Method	Learning Outcomes	Weighting (%)	Fine Grade or Pass/Fail	Qualifying Mark (%)
010 Component 1	Coursework	1,2,4 and 5	20%	Fine Grade	30%
A formative work drawing on early learning in the module and planning an approach and response to assessment 010 Component 2 (up to 500 words)					
010 Component 2	Coursework	1-6	80%	Fine grade	30%
A scenario-based question applying the theory and practice of constitutional and administrative law (up to 3000 words)					



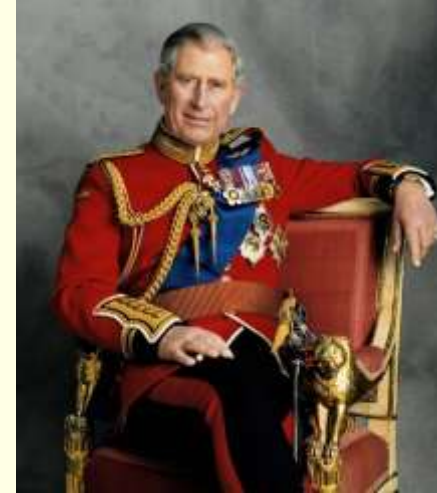
Constitutional and administrative LAW

What is a constitution?

Week 1 TLWS1a

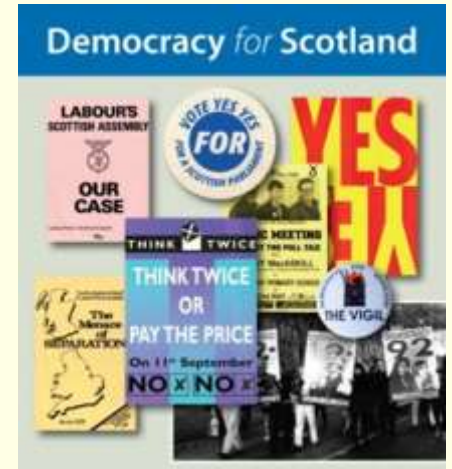


Key question: **How much**
power do you want to give
these people?





How will you control this power?



What is a constitution?

In Constitutional Law terms,

- ‘The **rules and practices** that determine the **composition and functions** of the organs of central and local government **in a state** and **regulate** the relationship between the **individual** and the **state**.’ Oxford

Dictionary of Law



Typical contents of constitutions

The nature, size, responsibilities of parliament and the government

The relationship between the various branches of state (legislature, executive, judiciary)

Details on election and removal of representatives

Constitutional position of the civil service

Declarations of citizens' rights

Special amendment procedure



The idea of Constitutionalism

- Constitutionalism is the idea that government **can** and **should** be legally limited in its powers.
- For an interesting article on ‘constitutionalism’ see [Wil Waluchow ‘Constitutionalism’ \(Stanford Encyclopedia of Philosophy 2017\)](#)



Example – the US constitution

Preamble

- We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America



First three articles of the US Constitution

Article. I. Section. 1.

- All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article. II. Section. 1.

- The executive Power shall be vested in a President of the United States of America.

Article. III. Section. 1.

- The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.



US First amendment – Bill of Rights

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.



US Constitution – Amendment Clause

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; *Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article*; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Question: Does this form of constitution guarantee good regulation of power?



January 2021 attack on the US Capitol building

[23-939 Trump v. United States \(07/01/2024\)](#)

Opinion
US supreme court

The supreme court's presidential immunity ruling mocks the rule of law
Corey Brettschneider

Wed 3 Jul 2024 18:25 BST

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Citizens must make this presidential election about rescuing our democracy from authoritarianism



✎ 'The irony of the ruling is that it allows prosecution for former presidents only in the areas where their power is the least dangerous.' Photograph: Anadolu/Getty Images

The UK Constitution

‘In England the constitution may change continually, or rather it does not in reality exist’.

Alexis de Tocqueville,
Democracy in America, 1835.



Two types of constitution

- Written
- Codified
- Rigid
- modern

- Unwritten
- Uncodified
- Flexible
- traditional



Think back to the KDPs on Screencast 1b

- KDP1:

A flexible
constitution is the
same as no
constitution – yes
or no?

- KDP2:

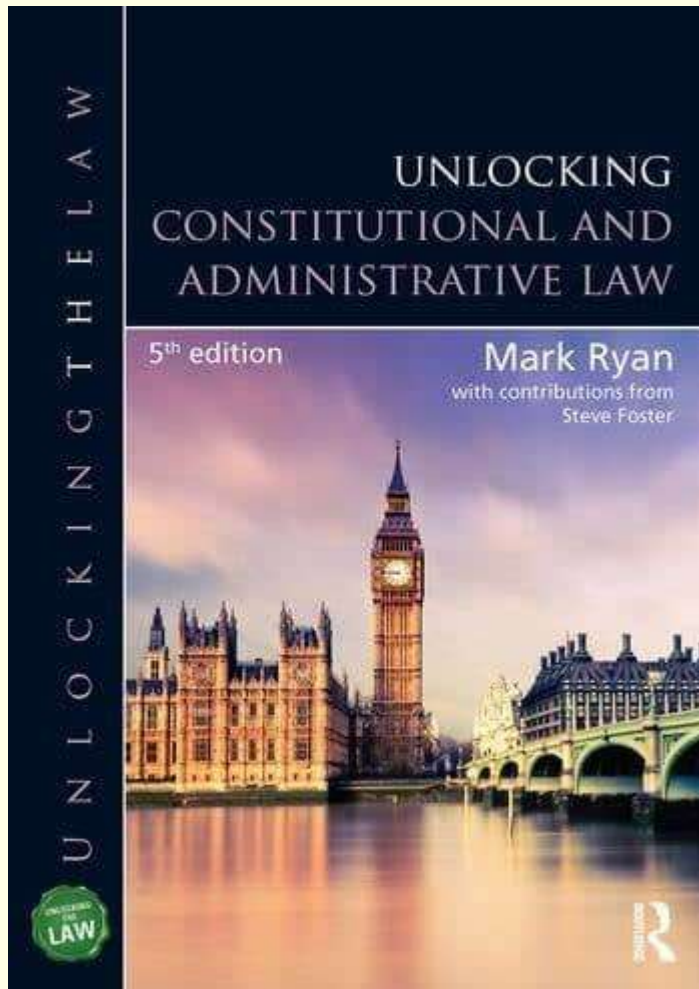
The UK doesn't
need a
written/codified
constitution



Typical Essay Question

What's the point of having an **unwritten** constitution? What's the point of having a **written** constitution? Discuss.

How might we research and answer such a question?



The starting place: The text book

Ch 1 Introductory Chapter

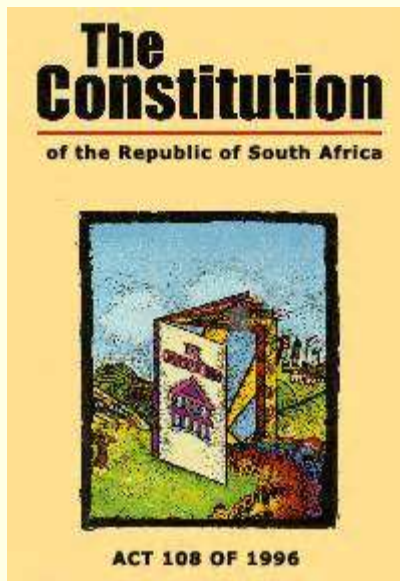
Ch 2 Specific chapter on constitutions; what they are and what they do



Key things we will need to set out:

1. What is the purpose of a constitution? (why have one at all?)
2. What is a written constitution? Explain and elaborate
 1. Examples?
3. What is an unwritten constitution?
 1. Examples?
4. Discussion/analysis on which of 2 and 3 best meets the requirements of 1 (explaining why)
 1. Pros and cons of a written constitution
 2. Pros and cons of an unwritten constitution
5. Conclusion
6. Bibliography of sources

Where might we find examples of constitutions?



Take a look at constitutions from around the world at <https://www.constituteproject.org/search?lang=en>



To be even more critical and advanced

Is a written constitution possible?

- Interpretation
- Amendment
- Amendment of amendment clause

Entrenchment

A provision that makes certain amendments either more difficult or impossible to pass

Aim is to give stability, recognise the significance of the constitution as a superior instrument, prevent short term political game playing with constitutional features

Example: Article 5 US Constitution

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Edit

Law governs everything from the embryo to exhumation. Law regulates the air we breathe, the food and drink that we consume, our travel, sexuality, family relationships, our property, sport, science, employment, education, and health, everything in fact from neighbour disputes to war.

[Guardian](#)

Hello and welcome to Law at ARU!

ARU Law School

Knowing the law is empowering. As law students, you will learn to **become thought leaders**. Thought leaders are more than just explaining the law on a topic, they understand how rules might be established and enforced to shape a political, social, economic, etc. transformation. People look to thought leaders to gain a better understanding of a current event or popular issue. They look to thought leaders for engaging personal insights and unique opinions or perspectives in helping them find solutions.

This Canvas site has been designed to bring together all the information that you will need