

The Constitution

Definition

"the set of laws rules and practices that create the basic institutions of the state and its component and related parts, and stipulate the powers of those institutions and the relationship between the different institutions and between those institutions and the individual"

The House of Lords Select Committee on the Constitution (2001)

Basic laws that the state must abide by, and how much power each leading section will be given, and what they are able to do in terms of government

rules of governing; powers/rules of different parts of state and powers/rules of the people.

Key features of a codified constitution

(implicitly weaknesses of the UK constitution)

- Single source
- The powers of the legislature and executive are clearly constrained
- The location of sovereignty is clearly identified
- Judicial independence is codified
- Basic individual rights are set out
- Constitutional crises can be avoided
- Amendment procedures are clear
- entrenchment

single document

not true in UK?

→ convention

→ separation of powers

checks + balances

≠ dictatorship

Key features of an uncoded constitution

- Variety of sources, gradual organic evolution
- Flexible and can reflect social change
- Decision making powers largely with elected and therefore accountable politicians not unelected judges
- The UK system continues to work (including HoL, FPP, Parl Sov, strong Govt)

small issues (mostly)

if it ain't broke, don't fix it.

Sources of the UK Constitution

- Statute law esp. Great Reform Act (1832), Parliament Act (1911), European Communities Act (1972), Human Rights Act (1998)
- Common law esp. Royal Prerogative
- Conventions e.g. Ministerial responsibility, CCR
- Works of constitutional authority e.g. AV Dicey An Introduction to the Study of the Law of the Constitution (1884)
- EU law and treaties e.g. The Maastricht Treaty (1993), Lisbon Treaty 2008/9

WTO, NATO, IMF, ...

so much to gather into one document

old textbooks

if suspicious of authority then like constitution

Core Principles of UK Constitution

- Parliamentary Sovereignty
- The rule of law not rule of man
- The unitary state
- Parliamentary government

2 houses Executive Elected MPs

United Kingdom + NI

One State Westminster governed governs over devolved Parliament.

Parliamentary Sovereignty

- Legislation cannot be overturned by higher authority
- The Westminster Parliament can legislate on any subject of its choosing
- No Parliament can bind its successors

unless disagree with EU law
if Britain stays in EU.

Constraints on PS

- The EU (over all law): 'pooled' sovereignty and subsidiarity
- The Human Rights Act (1998)
- The manifesto and mandate (Salisbury Convention) — *Hol cannot prevent them from enacting the manifesto.*
- BUT: all Acts can be repealed

European Court of Human Rights
no Salisbury Convention due to Coalition agreement.

The Rule of Law

- All are equal under the law
- Independent judiciary
- The individual is protected from arbitrary state action

Right to a fair trial
taking away trial of children
high speed rail made by buying people's houses and land
experimentation etc, not abuse cases.

super injunctions?
The Queen?
celebrities?

large building project
Govt duty bound to

buying people's houses and land

A Unitary State

- Power is located at the centre (Westminster)
- Devolved institutions do not have constitutionally protected autonomous powers
- Contrast with a federal state/system

— cannot have own armies etc.

Parliamentary Government

- The Glorious Revolution (1689) supremacy of Parliament over the Crown
- Government through Parliament within a constitutional monarchy
- Ministers accountable to Parliament and to the electorate
- Parliament Act (1911) + (1949)
- BUT: Parliamentary, Cabinet or PM Government?

— Cromwell — Charles I

— Queen

— limit on royal power

different from each other + varying.

Constitutional reform

Conservatives (1979-97)

- Quangos and privatisation
- Centralisation of Government
- Erosion of civil liberties (unions and movement)

— Quasi non-governmental organisation — DVLA

— flying pickets made illegal

Constitutional Reform since 1997

- Devolution (changing voting systems, relationships, ministries)
- ECHR: Human Rights Act (1998)
- Freedom of Information Act (2000)
- Regional Development Agencies
- Closed Party list system for Euro Parl.
- GLA and elected Mayor
- House of Lords
- Supreme Court

Women min
— AHS, STU, PL
Yorkshire First
— London
hereditary peers
— now all appointed
cut.

The Future?

- House of Lords
- Voting systems
- Voting Methods
- Northern Ireland
- Referendums
- Monarchy

— ++ e-petitions