

Principles of the Constitution

Parliamentary Sovereignty

Sovereignty in Parliament means that Parliament has supreme constitutional power.

The sovereign body has the ability to shape/reshape the constitution and define the powers of secondary institutions.

Sovereignty = "Crown in Parliament"

Parliamentary sovereignty is a form of legal sovereignty where Parliament has the power to make, amend and repeal any law.

The single most important principle of the UK constitution is parliamentary sovereignty. Under this principle, Parliament can make or unmake any law on any subject whatsoever. No one Parliament is bound by the decisions of its predecessors (governments before it), nor can it bind its successors (governments after it).

The Rule of Law

The Rule of Law has traditionally been seen as an alternative to a codified constitution, showing that, even in the absence of higher law, government is still subject to legal checks and constraints.

Government, in short, is not 'above' the law.

A statute is a written law passed by an Act of Parliament. It is a law that is enforceable in the courts by the judiciary.

Many statutes do not embody principles affecting the constitution. Others do because they affect the way in which we are governed, and relationships within the state, e.g. the Representation of the People Acts of 1918, 1928, and 1969.

The 1918 Representation of the People Act was the start of female suffrage in Great Britain. The bill was passed by an overwhelming majority in the House of Commons (385 for to 55 against) - an element of support that surprised the Suffragettes and other suffragist movements. The 1918 Representation of the People Act gave women who owned property over the age of 30 the right to vote - not all women, therefore, could vote - but it was a major start.

In 1918, women over the age of thirty were given the right to vote which meant they were still not on an equal footing with men.

Full equality only came 10 years later, on 2 July 1928, with the Equal Franchise Act (Representation of the People Act of 1928), when women became the majority of the electorate.

In 1969 the amended act lowered the voting age to 18.

The Representation of the People Act 1983 consolidated all previous Representation Acts.

Common Law = This is also known as 'case law'. Common law is made by judges, and is named common law because it is common to every person in every region of Britain.

It is law formed on the basis of precedents set in previous cases - i.e. judgements made by one court of law must be followed by other courts in the future if they face a similar case.

Such a law is not the product of the legislative process, but a reflection of the accumulated wisdom of the past which binds judged into acceptance of these legal precedents. This is known as judicial precedent.

Most of the original laws concerning civil rights began in this way, such as freedom of speech and freedom of movement.

Parliamentary Government

UK constitutional structure is based on a fusion of powers between the executive and Parliament (i.e. parliamentary government).

Government & parliament overlap/interlock.

Government, in effect, governs in and through parliament.

Constitutional Monarchy

The monarchy remains constitutionally significant body in the UK.

The monarchy is a 'dignified' institution and still plays a vital role even if no they do not possess meaningful political power.

The role is to promote popular loyalty, serve as a symbol of political unity above party politics.

The monarch has the right to be informed, consulted, to warn and encourage citizens.

The royal prerogative consists of a number of powers or privileges in the past performed by the monarch but now performed by ministers on his or her behalf.

Their authority is derived from the Crown, not Parliament.

Examples of these powers include the rights to; declare war, make treaties, give orders to the armed forces, dissolve parliament, appoint ministers and dispense honours.

EU Membership

Membership of the EU has major implications for the UK constitution e.g. role and significance of Parliament [can parliament still be seen as sovereign?]

Sovereignty is now best understood as 'parliamentary sovereignty within the context of EU membership'.

The laws and treaties of the EU have become a significant source of the British constitution. The UK must abide by these laws.

Where EU law and UK law conflict, EU law takes precedence.

This has been especially important for economic and social legislation.

Conventions

Convention is a regularly observed practice considered appropriate for a given set of circumstances.

Constitutional conventions are, therefore, sets of rules established over time by custom and practice, which relates to the exercise of government powers.

Conventions are not legally binding.

Constitutional documents

Major works of authority have become sources of guidance which are widely recognised and are therefore viewed as authoritative.

They often contain the nearest element to a written account that we have of the way the constitution operates.

A number of documents helped form the basis of the constitution because they established important principles.

Eg: Magna Carta 1215, Bill of Rights 1689, Act of Settlement 1701

Magna Carta quote : "No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, nor will we proceed with force against him, except by the lawful judgement of his equals or by the law of the land. To no one will we sell, to no one deny or delay right or justice."

Bill of Rights 1689: The Bill of Rights Act 1689 set out the foundations of constitutional monarchy. Rights obtained by Parliament included:

- Freedom from Royal interference with the law. Freedom from taxation by Royal prerogative.
- Freedom to petition the King. Freedom to elect members of Parliament without interference from the Sovereign.

The Act of Settlement of 1701

- The Act of Settlement of 1701 was designed to secure the Protestant succession to the throne, and to strengthen the guarantees for ensuring parliamentary system of government.
- The Act also strengthened the Bill of Rights (1689), which had previously established the order of succession for Mary II's heirs.