

THE CONSTITUTION  
OF  
UK

Submitted by  
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- ▣ The United Kingdom does not have one specific constitutional document named as such. "unwritten" or un codified constitution

- ▣ Since the Glorious Revolution of 1688, the concept of parliamentary sovereignty has been the bedrock of the British legislative constitution, that is, the statutes passed by Parliament are the supreme and final source of law in the UK

- ▣ A. V. Dicey in his 1885 work, *Introduction to the Study of the Law of the Constitution*, which is recognized as a work of authority on the constitution by the British Parliament.

- ▣ Since the Glorious Revolution of 1688, the concept of parliamentary sovereignty has been the bedrock of the British legislative constitution. The statutes passed by Parliament are the supreme and final source of law in the UK. It follows that Parliament can change the constitution simply by passing new statutes through Acts of Parliament.

- ▣ There has been some debate about whether parliamentary sovereignty remained intact in the light of the UK's membership in the European Union (EU), an argument that was used by proponents of leaving the EU in the 2016 referendum .

- ▣ Another core constitutional principle, the rule of law, is a phrase that was popularized by legal scholar Albert Dicey in his 1885 work *Introduction to the Study of the Law of the Constitution*, which is recognized by the British Parliament as a work of authority on the constitution.

# *Sources of British Constitution*

## ▣ Acts of Parliament

They are bills which have received the approval of Parliament – that is, the Monarch, the House of Lords and the House of Commons. On rare occasions, the House of Commons uses the "Parliament Acts" (the Parliament Act 1911 and the Parliament Act 1949) to pass legislation without needing the approval of the House of Lords.

It is unheard of in modern times for the Monarch to refuse to assent to a bill, though the possibility was contemplated by George V in relation to the fiercely controversial Government of Ireland Act 1914. Acts of Parliament are among the most important sources of the constitution.

According to the traditional view, Parliament has the power to legislate however it wishes on any subject it wishes.

- ▣ For example, most of the iconic medieval statute known as Magna Carta has been repealed since 1828, despite previously being regarded as sacrosanct. It has traditionally been the case that the courts are barred from questioning any Act of Parliament, a principle that can be traced back to the medieval period. On the other hand, this principle has n

# TREATIES

- ▣ They do not, on ratification, automatically become incorporated into UK law. Important treaties have been incorporated into domestic law by means of Acts of Parliament. The European Convention on Human Rights, for example, was given "further effect" into domestic law through the preamble of the Human Rights Act 1998.

- ▣ Also, the Treaty of Union of 1707 was important in creating the unitary state which exists today. The treaty was between the governments of England and Scotland and was put into effect by two Acts of Union which were passed by the Parliaments of both nations. The Treaty, along with the subsequent Acts, brought into existence the Kingdom of Great Britain, uniting the Kingdom of England and the Kingdom of Scotland.

# Common law

- ▣ legal systems exist in Northern Ireland and in England and Wales, but not in Scotland which has a hybrid system which includes a great deal of Common Law. Court judgments also commonly form a source of the constitution: generally speaking in English Law, judgments of the higher courts form *precedents* or *case law* that binds lower courts and judges.

- ▣ However Scots Law does not accord the same status to precedent, and judgments in one legal system do not have a direct effect in the other legal systems. Historically important court judgments include those in the Case of Proclamations, the Ship money case and *Entick v Carrington*, all of which imposed limits on the power of the executive.

- ▣ A constitutional precedent applicable to British colonies is *Campbell v Hall*, which effectively extended those same constitutional limitations to any territory which has been granted a representative assembly.
- ▣ Works of authority is the formal name for works that are sometimes cited as interpretations of aspects of the UK constitution.

- ▣ Many British constitutional conventions are ancient in origin, though others date from within living memory. Such conventions, which include the duty of the Monarch to act on the advice of his or her ministers, are not formally enforceable in a court of law; rather, they are primarily observed "because of the political difficulties which arise if they are not."

# Unitary Features of UK

# Uk constitution has unitary features in its constitution they are as under

- ▣ No separation of powers
- ▣ Single administration
- ▣ Flexible constitution
- ▣ Single citizenship

# *Salient Features of British Constitution*

- ▣ Oldest Constitution
- ▣ Unwritten Constitution
- ▣ Evolved Constitution
- ▣ Flexible Constitution
- ▣ Parliamentary form of government
- ▣ Limited Monarchy
- ▣ Hereditary Monarchy
- ▣ Supremacy of the Parliament

- ▣ **Mostly Unwritten and Partly Written**
- ▣ By far the most important feature of British constitution is its unwritten character. There is no such thing as written, precise and compact document, which may be called the British constitution. It was really this aspect of the British constitution that led De Tocqueville to remark that English constitution does not really exist.

- ▣ The main reason for this is that it is based on conventions and political traditions, which have not been laid down in any document. However, it has some written parts too which includes Historical Documents, Parliamentary Statutes, Judicial Decisions and Constitutional Characters, e.g. Magna Carta (1215), Petition of Rights (1628), Bill of Rights (1689), Parliamentary Act of 1911 & 1949 etc.

- ▣ **British Constitution is Evolutionary**

- ▣ The British constitution is a specimen of evolutionary development. It was never framed by any constituent assembly. No precise date of its birth can be given and no definite body of persons can claim to be its authors, because it is the product of gradual growth and development. It has an unbroken continuity of development over a period of more than thousand years. Its sources are several and the course of its development has been sometimes guided by accidents and sometimes by high designs.

## ▣ **Flexible Constitution**

- ▣ The British constitution is a classic example of flexible constitution. It can be passed, amended and repealed by simple majority of Parliament since no distinction is made between a constitutional law and an ordinary law. Both are treated alike. The element of flexibility has length the virtue of adaptability and adjustability to the British constitution. This quality has enabled it to grow with the needs of time.

## ▣ Unitary

- ▣ The British constitution has unitary character as opposed to a federal one. All powers of the government are vested in the British Parliament, which is a sovereign body. The executive organs of state are subordinate to it and exercise delegated powers and are answerable to it. There is only one legislature. England, Scotland, Wales etc. are administrative units and not political autonomous units.

## ▣ **Parliamentary Executive**

- ▣ England has a Parliamentary form of government. The King who is sovereign has been deprived of all his powers and authority. The real functionaries are Ministers who belongs to the majority party in Parliament and remain in office so long as they retain its confidence. The Prime Minister and his Ministers are responsible to the legislature for their acts and policies. In this system the executive and legislature are not separated as in the federal form of government

## ▣ **Sovereignty of Parliament**

- ▣ A very important feature of the British constitution is sovereignty of Parliament. Parliament is the only legislative body in the country with unfettered powers of legislation can make, amend or repeal any law it likes. The courts have no power to question the validity of the laws passed by British Parliament. It can also amend constitution on its own authority like ordinary law of the land. It can make illegal what is legal and legalize what is illegal.

- ▣ **Rule of Law**

- ▣ Another important feature of the British constitution is the Rule of Law. It implies equality or all before supremacy, uniformity and universality. It has three implications:
  - ▣ All persons are equal before law irrespective of their position or rank.

- ▣ This doctrine emphasizes the supremacy of the law and not of any individual.
- ▣ No one can be detained or imprisoned without a fair and proper trial by a competent court of law. Nor can a person be punished or deprived of his life, liberty or property except for a specific breach of law proved in an ordinary court of law by an ordinary procedure. A corollary to this principle is the doctrine that, "the King/Queen can do no wrong".

## ▣ **Gap between Theory and Practice**

- ▣ Unlike other constitutions there is a great gap between theory and practice in English political system. This fact results largely from the unwritten character of the Constitution, which is mainly based on conventions. As for instance, in theory, it is the King and Queen who is sovereign, but in practice it is the Parliament, which is sovereign.

- ▣ The King and Queen cannot veto any bill passed by the Parliaments, although he/she has the right to do so in theory. The Queen in theory is the fountain-head or patronage but in practice all honors and titles are conferred by the Prime Minister. This also justifies the remarks of Lord Sankay that "theory has no relation to realities in British constitution"

## ▣ Mixed Constitution

The British constitution is a queer mixture of the monarchical, aristocratic and democratic principles. The institution of Kingship shows that there is monarchy in England. The existence of House of Lords gives an idea that .England has an aristocratic type of government. The House of Common reflects actual working of a Full-fledged democracy in this country. But all these diverse political elements have been beautifully welded together to produce the final effect of perfect representative democracy.

## ▣ **Role of Conventions**

A necessary corollary to the unwritten character of the constitution is that the conventions play a vital role in the British political system. For example, while the Queen has the prerogative to refuse assent to a measure, passed by Parliament, but by convention, she cannot do so and the same has become a rigid principle of the constitution itself.

- ▣ By Convention, again, the Queen cannot go against the advice of the cabinet. Likewise, there are dozens of conventions, which do not have any force of law yet they are scrupulously adhered to and constitute the very blood and flesh of the constitution.

- ▣ **Independence of Judiciary**
- ▣ The Rule of Law is safeguarded by the provision that judges can only be removed from office for serious misbehavior and according to a procedure requiring the consent of both the houses of the Parliament. So, the judges are able to give their judgments without any fear or favor.

- ▣ Besides these, there are some other features of the British constitution, which are as follows:
- ▣ Constitutional Monarchy
- ▣ Bi-Party System
- ▣ Referendum etc.

- ▣ **Party System:** A significant characteristic of the British party system is the existence of the two well organized political parties since the 17th century when political parties can be said to have come into existence. Earlier there was a contest between Conservative and Liberal Party. With the emergence of the Labour Party as a major political force in 1921, there emerged three parties in the political field. These are : the Conservative , Labour and the Liberal. But with the diminishing influence of the Liberal Party, there were again two parties and the government alternated between the Conservative and the Labour .

- ▣ There was a split in the Labour Party in 1981 and a Social Democratic Party came into existence. The Social Democrats forged an alliance with the Liberals but the alliance was short-lived. Accordingly, the two party system is an established tradition in Britain today with governmental powers alternating between the Conservative Party and the Labour Party. The two party system has provided stability and permanence to the political system of Britain. People are now habituated with this bi-party system with the elections centering on a clear contest between the Conservative party and the Labour party, with one forming the Government and the other forming the Opposition.

- ▣ **Hereditary Character of certain institutions:**  
Another distinctive feature of the British Constitution is the recognition given to the hereditary principle. Monarchy rests on the hereditary principle. The upper chamber or the House of Lords is primarily composed of hereditary peers. The existence of these hereditary institutions may seem to go against the democratic ideals so dearly cherished by the British people. Yet the British have never been in a mood to abolish these historic institutions.

- ▣ **Mother of all the Constitution:**
- ▣ British constitution is an inspiration to most of the constitution of the world. It is the oldest constitution of the world, that is why it is rightly termed as Mother of all Constitutions.

- ▣ **Organic & Evolutionary Growth:**
- ▣ British Constitution is the result of more than fifteen centuries and it is still growing. It is of an evolutionary growth. It would be very precise to call it a child of wisdom and chance. It has grown gradually and no fixed time or a fixed number of people created it.

▣ **Non-codified:**

This is the most important and most distinguishing feature of it. It is based on Conventions and Customs that have been prevailing from a long time in UK. Such unwritten sources form the major part of the constitution.

- ▣ There are many Acts, Treaties which are in written form and they make it partly written and even then Non-codified. These were also gradually added and adopted. The first written piece being *“Magna Carta 1215”*, *“Bill of Rights 1689”*, *“Parliamentary Acts of 1911 & 1949”* and so many others.

▣ **Sovereignty of Parliament:**

British Parliament is very powerful and Supreme. Following are the major points that describe it and clarify its character:

1. There is no Law which British Parliament cannot make or undo.
2. No Court can challenge the acts or laws passed by the parliament.
3. It rules the monarch and can decide its fortune and acts.
4. It can prohibit the King to marry a woman of his choice.
5. It can change the hereditary rule of throne by just one simple act.
6. It can abolish monarchy, abolish House of Lords and distribute Powers to its Citizens.
7. It can do anything, except make a man a woman and conversely.

▣ **Blended Constitution:**

This is a very unique feature of the British Constitution. It is a mixture of Monarchy, Aristocracy and Democracy.

*Monarchy:* Due to existence of Crown

*Aristocracy:* Due to existence of House of Lords

*Democracy:* Due to existence of House of Commons.

▣ **Conservative Nature:**

The long driven conventions are a proof of their conservative nature. This has made their Constitution even stronger.

# *Rights of the British Citizens*

- ▣ Right of personal freedom
- ▣ Right of freedom of speech and expression
- ▣ Right to press
- ▣ Right to religious freedom
- ▣ Right to form political associations

- ▣ Right to vote and contest election

- ▣ Right to hold public office

- ▣ Right to private property

- ▣ Right to work

- ▣ Right to social security