

SOURCES OF THE UK CONSTITUTION

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Introduction

- The constitution of UK is a product of evolution which was gradual but unbroken, spread over a period of 1400 years.
- It is a “Child of Wisdom & Chance”- Munro.
- The constitution of UK derived from several sources.
- It is not an enacted but essentially an unwritten constitution.
- Thomas Paine & Alexis De Tocqueville remarked that England had no constitution.

1. Great Charters:

- These are historic documents forming part of the UK constitution.
- These are agreements between the King & Parliament as result of constitutional struggle.
- Some examples for these are given below-
 - 1. Magna Carta Charter of 1215,
 - 2. Petition of Rights of 1628,
 - 3. Bill of Rights of 1689,
 - 4. Act of Settlement 1701,
 - 5. Act of Union with Scotland, etc.

1. Magna Carta Charter of 1215.

- It is the greatest constitutional document of all times – the foundation of the freedom of the individual against the arbitrary authority of the despot. (Lord Denning)
- It required King John of England to proclaim certain liberties to his subjects and also made that no free man can be punished except through the law of the land.
- It also defined the organization and powers of the Parliament (Great Council).
- It made it mandatory on the part of the King to get the prior approval of the Parliament for levying any taxes .
- It also made it clear that the King is not above the law of the land.

2. Petition of Rights of 1628.

- It is another important example of a constitutional document through which the powers of the king has been transferred from the king to that of the parliament.
- This Charter has made it very clear that no person in England can be compelled to pay any taxes without the previous sanction of the parliament.

3. Bill of Rights of 1689.

- This charter made the parliament the supreme law making body of the land.
- The meetings of parliament should be convened regularly.
- It also provided a list of individual rights to the citizens of England.

4. Act of Settlement of 1707.

- It fixed certain rules regulating the order of succession to the British Throne.
- For example, It laid down very clear that in the future no Roman catholic can ascend the British Throne.
- King is the head of the Anglican Church.

5. Act of Union with Scotland 1707.

- This has united Scotland permanently with England under one common government.

II . Statutes:

- Statutes passed by the British Parliament from time to time dealing with various matters as demanded by the exigencies of time, also constitute another important source of the English constitution.
- Some such examples are given below-
 1. **Reforms Act of 1832:** which extended manhood suffrage to the urban middle classes of England.
 2. **Act of 1911:** which curtailed the powers of the House of Lords and permanently established the supremacy of the House of Commons.

Statutes:

- 3. Representation of Peoples Act of 1918 & 1928:** which established Universal Adult Suffrage to all including women.
- 4. Act of 1949:** which reduced the delaying power of the House of Lords from 2 years to 1 year in matters of passing ordinary legislation.
- 5. Act of 1969:** through which the voting age was lowered to 18 years.

All laws passed by the parliament are constituting the integral part of the British constitution.

III. Judicial Decisions:

- Judges decide cases, they interpret, define & develop the provisions of the statutes & Charters.
- They also create precedents which has to be given due respect in the courts of law while deciding cases.
- For example, the judgment in *Bradlaugh v/s Gossett* in 1884 established the supremacy of the parliament over the courts in all matters concerning the internal affairs of the parliament.
- Prof. Dicey called English constitution as a judge made constitution.
- In the case of *Bushel*(1670) the court upheld the independence of the Juries.
- Slavery was completely abolished on the English soil by the case of *Somerset*.
- The case of *Howell* (1678) guaranteed the immunity of judges.

IV. Common Laws:

- These are not the laws passed by the parliament but are grown on the basis of usages, later on recognized by the courts.
- Matters of major constitutional importance are covered by these laws.
- Examples are as given below –
 - 1. King derives his prerogatives,
 - 2. Parliaments supremacy is recognized,
 - 3. Civil liberties of the people are ensured,
 - 4. The rights like the freedom of speech, press & the rights of trial by jury are common law rights.

V. Conventions:

- These are the unwritten maxims of the constitution or rules of political behaviour which have developed in the due course of time.
- These are not laws passed by the parliament nor can be enforceable in the courts of law.
- These conventions forms the lions share of the English constitution, without these English political system cannot work smoothly.

Conventions....

- Some examples are-
- 1. No tax can be levied without the sanctions of the Parliament.
- 2. Parliament is convened at least once a year.
- 3. The King does not attend the meetings of the cabinet.
- 4. Speaker maintains political neutrality.
- 5. King does not veto a Bill passed by the Parliament.
- 6. Ministers are individually & collectively responsible to the House of Commons.
- 7. King accept the advice of the cabinet.
- 8. Parliament shall be Bicameral.

VII. Royal Prerogatives:

- This being an aspect of constitutional practice serves as the source of the English constitution.
- The Royal Prerogatives includes the functions like power to declare war, to make treaties, to pardon criminals & to dissolve parliament.