

The SOURCES of the Constitution

- Statute Law** (Written) - Laws passed by Parliament (recorded in Hansards).
- Case / Common Law** (Written) - Laws that are applied or adapted in legal cases, final appeal = UK Supreme Court.
- Works of Authority** (Written) - texts that are acknowledged to be good practice and adopted as Parliamentary Practice. E.g. Erskine May's "Parliamentary Practice" 1844.
- Conventions** (Unwritten) - Accepted practices that have been unofficially agreed and carried out, like a gentleman's agreement e.g. The PM will vacate their position if they lose an election and cannot form a majority government.
- Treaties** (Written) - Foreign Agreements passed into UK Law e.g. Paris Climate Accords 2015.

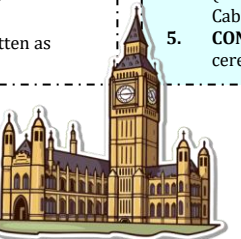
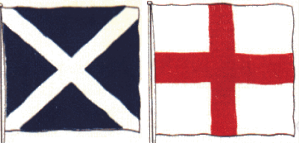
Paper 2: UK CONSTITUTION

The UK Constitution is one of the few countries in the World to have an **UNCODIFIED CONSTITUTION**. This means that the Constitution (or the rules of government) are not fully written or located in one source. Including the UK, there are 5 countries with uncodified systems (UK; Israel; Canada; New Zealand; Saudi Arabia). This often means that the Constitution is more flexible and uses **CONVENTIONS** that most are happy to follow. However, arguably, it also means that the unwritten rules are open to abuse and greater interpretation.

It does not mean that the whole constitution is unwritten as things like Statute Laws will be recorded.

The KEY PRINCIPLES of the UK Constitution

- PARLIAMENTARY SOVEREIGNTY** - Parliament is **SOVEREIGN** and has the final say on what is law. Parliament is the Supreme Legal Authority.
- THE RULE OF LAW** - Everyone must obey the law.
- PARLIAMENTARY DEMOCRACY** - Parliamentary system of representation: constituencies; political parties; electorate. **UNITARY POWER** - all power resides in the single place of Parliament (**SOVEREIGNTY**).
- PARLIAMENTARY GOVERNMENT** - **FUSION** of powers between **EXECUTIVE & LEGISLATIVE**. E.g. PM is both a Member of Parliament (MP) and Executive Leader of the Government/ Cabinet. Members of Cabinet **MUST** be MPs. Opposite = **US & SEPARATION** of powers.
- CONSTITUTIONAL MONARCHY** - The Monarch has a limited and ceremonial role in the Constitution.



Magna Carta 1215

Bill of Rights 1689

Act of Settlement 1701

Acts of Union 1707

Parliament Acts 1911 & 1949

European Communities Act 1972

EU Withdrawal Act 2020

The EVOLUTION (history) of the UK Constitution

Challenge to Monarchy
Magna Carta. Kings had full **ROYAL SOVEREIGNTY** before 1215. After 1215, Nobles wanted more of a say in the use of taxes and wars. It was the first time the Monarchy had been formally challenged and from 1215 onwards, they would have to consult with the most powerful noblemen.
English Civil War. Parliament challenged the King's power. They wanted to be consulted over all tax affairs and religion. The tension created a Civil War (1642), Trial & Execution of King Charles I (1649), Takeover of Parliament.
Parliament's dominance continued even after they asked the King to return in 1660. The powers of the King and Parliament were officially written out in the **Bill of Rights 1689** and **Act of Settlement 1701**. Parliament dictated terms to the King after 1689 and chose William III to be king instead of James I.

Creation of the United Kingdom
James 1 1603
 Unification of the Crowns of Scotland & England. King James VI of Scotland became King James I of England when Elizabeth 1 died without an heir in 1603.
Acts of Union 1707
 Official unification of the Kingdoms of Scotland & England. The two separate parliaments merged together into one Parliament of the UK.

The Rise of the House of Commons
 After 1884 (Third Reform Act) over 60% of men could vote in UK Elections. Working Class (missing 40%) demanded the vote through the rise of Trade Unions and the creation of the Labour Party in 1900. All men over 19 were given the vote after WWI! In 1919. The House of Commons began representing the Common people.
Parliament Act 1911
 Before 1911 the Houses of Commons & Lords had equal power. Argument over the creation & cost of National Insurance, led to House of Commons v House of Lords conflict. Commons felt that they should dominate politics as they were elected by the people. Commons won. Liberals in the Commons threatened to create 100s of new Liberal Lords. Lords voted to limit their power over "money bills"- they could only delay for 12 months.
Parliament Act 1949
 Commons v Lords clash over the creation of the NHS 1948. Commons won again. Lords agreed to stop themselves from any vetoes. Could not delay any legislation beyond 3rd reading. House of Commons clearly showed they held the most power and influence over legislation. Lords also agreed to the **Salisbury Convention 1949**. Lords would not block any future election manifestos.

Europe: In and Out
 UK entered the **European Economic Community in 1972**. This was a Free Trade agreement between its members. In 1992, this turned into the **European Union**. This was a political, free trade, economic and free movement agreement. In 2016, the UK held an **EU Referendum**. A hotly contested campaign between Brexit v Remain supporters. Saw the rise of extreme right wing parties like UKIP. 52% voted to leave. This eventually became the **EU Withdrawal Act in 2020** and the UK left the EU in Jan 2021.

HOUSE of LORDS Reforms 1997 - 2026
 1997 New Labour Gov't reduced Hereditary Peers to 92 representatives. Historic Noble Families would choose the 92 within their own ranks. Also created the concept of **LIFE PEERS**- selected individuals who would hold the title and place of a Lord for their lifetime. Life Peers would be chosen by the current PM / Government and from special committees in Parliament. 2026 - All 92 Hereditary Peers (except 15) removed from Lords.

CHANGES to the CONSTITUTION since 1997

- HOUSE of LORDS Reforms 1997**
- HUMAN RIGHTS ACT 1998**
- DEVOLUTION**
- Creation of the SUPREME COURT**
- Attempted ELECTORAL REFORMS**

DEVOLUTION
 Creation of a Scottish Parliament & National Assemblies across the countries within the UK. Scotland Act; Wales Act & Belfast Act (Good Friday Agreement) 1998.
Key Reasons (Public)

- More **DIRECT DEMOCRACY** (Local laws created by Local Assemblies & representative)
- Make politics more relevant to local people
- Peace in Northern Ireland. Political compromise between the 2 religious sides.

DEVOLUTION: Reasons (Private)

- Suppress Nationalist movements - compromise of power with SNP & Sinn Fein. Maintain UNION.
- Take the pressure off / workload Westminster Parliament.
- Improve Public Relations- after MP scandals.

HUMAN RIGHTS ACT 1998
 European Convention of Human Rights (ECHR) is officially adopted into British Law and underpins all laws concerning human rights, equality etc. Before Brexit, it meant the European Court of Human Rights was the highest court of appeal, not UK Courts or UK Parliament.

SUPREME COURT of the UK (2005)
 Parliament with The Constitutional Reform Act of 2005 created the Supreme Court of the UK - the highest court of appeal in the UK. Originally, the Law Lords worked within the House of Lords but the act created a **SEPARATE JUDICIARY** that physically and politically separated the judges from Parliament.

Further ELECTORAL REFORMS

- Fixed Term Parliament Act 2011**
 Coalition Gov't set up fixed term of full 5 years between elections. Act was repealed (changed) in 2022 with the Dissolution of Parliament Act.
- Alternative Vote Referendum 2011**
 Liberals attempted to change system. 68% No.



COMPARISONS of UK v US Constitutions



Flexibility / Entrenched: UK v US Constitutions	
<p>1.. UK = flexibility to change Constitution via normal legislative process Normal 51% majority required.</p>	<p>1.. US = more entrenched Constitution Special rules for Constitutional Change Requires bipartisanship and 66% supermajority in Congress and 75% of States.</p>
<p>2.. Easier to pass new legislation Dominance of Governing party - on average will pass 90+% of new bills. Select Committees can <u>only advise</u>.</p>	<p>2.. Very difficult to pass legislation Less than 5% of bills turn into legislation. Select Committees have the power to "kill bills". 50% of bills are killed in Committee before Congress debates.</p>
<p>3.. STRUCTURAL: Fusion of roles within the Constitution Government have a firm grip of Parliament if they hold a good majority. "Elective Dictatorship". PM direct influence over Parliament from the inside; patronage; whips; party.</p>	<p>3.. STRUCTURAL: Separation of Powers Congress as a legislative body is more constitutionally separate and independent from Executive influence. Separation leads to more independence / entrenched views.</p>

UK v US Constitutions: SIMILARITIES vs DIFFERENCES	
SIMILARITIES	DIFFERENCES
<p>1.. Indirect DEMOCRACIES UK elect MP's to represent their local constituencies and the leader of the largest party becomes PM. US vote towards a Presidential College and the Electors then cast votes for their states to nominate their choice of President.</p>	<p>1.. Flexibility v Entrenched Special rules for Constitutional Change Requires bipartisanship and 66% supermajority in Congress and 75% of States.</p>
<p>2.. Separation of the Judicial Branch Both SCOTUS & UKSC are physically and politically separate from Executive & Legislative bodies.</p>	<p>2.. UK FUSION of Powers v US SEPARATION of Powers UK Executive & Legislative show a fusion of powers as PM and Cabinet MUST be MPs (e.g. Kier Starmer = London Holborn MP). Whilst the President & US Cabinet MUST NOT be part of the legislative. (e.g. Congressmen must resign to be part of Cabinet - e.g. Matt Gaetz & Attorney General position 2024)</p>
<p>3.. Unitary Power & Sovereignty Power is centralised in ONE place. UK = Parliament, US = Constitution.</p>	<p>3.. Parliamentary v Constitutional Sovereignty Both SCOTUS & UKSC are physically and politically separate from Executive & Legislative bodies.</p>
<p>4.. Bicameral Systems (2 houses) Both legislative bodies are divided into Upper and Lower House where legislation & bills must pass through both before becoming law after Executive Assent. Both use a system of Readings & Committees to scrutinise law.</p>	<p>4.. UK Unequal Powers of the 2 Houses v US Comparable Powers of the 2 houses. US houses have different but comparable powers (not equal) but HoCommons clearly dominates HoLords in UK (e.g. Parliament Act 1911 & 1945 and House of Lords Act 1999, 2026).</p>

DEVOLUTION v FEDERALISM: Similarities	
<p>1.. More "Direct Democracy" Legislation made by local Parliaments & National Assemblies for the benefit of their local electorate.</p>	<p>1.. More "Direct Democracy" Legislation made by State Governments for the benefit of their state electorate. CULTURAL THEORY - promoted local interest groups</p>
<p>2.. Similar Powers & Areas of Control Police; Healthcare; Education; Transport; VAT; Local Investment E.g. Separate Scottish Education & Qualifications system. (Scottish Certificates & Highers)</p>	<p>2.. Similar Powers & Areas of Control Separate State & City Police; Healthcare; Education; Transport; Local sales taxes; Local Investment E.g. States responsible for 90% of Education budget in schools.</p>
<p>3.. Separate Local Elections/ Representative Bodies Scottish Parliament; Welsh Senedd; N.Ireland Assembly (Stormont). Led by First Ministers. Created by Scotland Act, Wales Act, Windsor Act (Good Friday Agreement) 1998. English Devolved bodies led by Metro Mayors (e.g. Andy Burnham Manchester)</p>	<p>3.. Separate Local Elections/ State Legislative Bodies State Governments with their own State Governor (State Executive). E.g. California & Governor Gavin Newsome. Federalism & State Legislative bodies built into Article 4 of US Constitution.</p>
<p>4.. Devolved v Central UK Government disagreements Scottish Gender Recognition Bill 2022 blocked by UK Parliament & UKSC.</p>	<p>4.. State Legislation v Federal Legislation conflicts Border States v DACA (Obama) - Texas v US 2015 Case.</p>

DEVOLUTION v FEDERALISM: Differences	
<p>1.. UK = Parliamentary Sovereignty (over devolved bodies) UK Parliament will always have final say and sovereignty about what is or not law. E.g. Gender Recognition Bill 2022. SCUK confirmed this case. Only happened once since beginning of 1998.</p>	<p>1.. State Government Rights / Equal Sovereignty protected by US Constitution and principle of "Federalism" 10th Amendment: Unenumerated laws = instantly state rights. All protected by SCOTUS in many State v Federal clashes e.g. Roe v Wade Case/ Dobbs v Jackson Mississippi 2023.</p>
<p>2.. STRUCTURAL ORIGINS - created by Parliamentary Act 1998 onwards 1998; Scotland Act, Wales Act, Good Friday Agreement (Belfast Act). Parliamentary process. Could technically be replaced by UK Government (e.g. N.Ireland for 12/25 years) but conventionally unlikely.</p>	<p>2.. STRUCTURAL ORIGINS - created right at the start of US Constitution Article 4 of US Constitution = State Rights Principles of Republicanism and Federalism mean that State Governments have their own independent sovereignty and authority.</p>
<p>3.. Different bodies have different levels of and range of powers in UK/ Scotland has the highest rate of tax control (45%). Devolved taxes make up 37% plus control 50% of the money raised by taxes. (vs Wales 19% taxes devolved, control 21% of the money raised).</p>	<p>3.. Equality in Federalism (same principles in the constitution govern the context of State / Fed Governments), States have "concurrent power" equal to that of Federal Gov. But they choose to tax on different things at different levels. E.g. Florida has no state income tax & Oregon has no state sales tax.</p>