

Constitutional and administrative law, 2012-13

[Law](#), [Constitution](#)



CONSTITUTIONAL & ADMINISTRATIVE LAW, 2012-13 LECTURE, Week commencing 1/10

CONSTITUTIONS; COOK'S TOUR OF THE UK & ITS CONSTITUTION

CONSTITUTIONS Learning objectives: understanding of Nature and purpose of constitutions Different types of constitutions 'Written' and 'unwritten' constitutions Some key questions and definitions What is Constitutional & Administrative Law? What is Public Law? What is a constitution? What does a constitution do? - 'The Rights of Man', Tom Paine o "Government without a constitution is power without a right" What is usually set out in a constitution? - It depends & varies - An opening declaration o "We the people ..." - Values o Liberty ... - Bodies of government o The organs of state - Executive - Legislature - Judiciary - Their functions & powers, inter-relationship & relationship with 'the people' - The structure of governance, for instance o Federal - Freedoms of 'the people', for instance o Free expression - Protections for minorities - The vote, electoral rules & procedures - Amending procedure What isn't set out in a constitution but is part of a constitution? What is 'constitutional' law? How does it differ from 'ordinary' law? Types of constitution - Unitary or federal - Flexible or rigid - Written or unwritten 'Written' and 'Unwritten' Constitutions What is a 'written constitution' and what is an 'unwritten constitution'? - Cromwell's 'Instrument of Government' (1653-1660) - Contrast o English Revolution 1688 o Union with Scotland Act 1688, Union with England Act 1688 o Parliament Act 1911 What are the differences between them and the pros and cons of each distinguishing feature? Let us examine these with reference to real constitutions of real countries (comparative analysis, comparing and contrasting what happens in different

countries or jurisdictions), using here the marked contrast between the classic written constitution of the USA and the idiosyncratic unwritten constitution of the UK - Certainty - Clarity - Transparency - Legal status o Marbury v Madison (1803) 1 Cranch 137 o Roe v Wade 410 U. S. 113 - Adaptability o Rigid â–ª Entrenched o Flexible o Evolutionary development â–ª

ª For instance repeal, replacement or amendment of the Human Rights Act 1998 - Effectiveness o For instance in â–ª Protecting citizens â–ª Separating out the powers of the organs of state - Unifying, symbolism - Democratic legitimacy o ' Sackable' politicians v unelected judges? o Additional elements common to both, for instance â–ª Responsible behaviour â–ª The Rule of Law â–ª An independent judiciary â–ª A free press Most if not all of the features of difference between these two types of constitution may be argued " both ways", for example the supposed rigidity of a written constitution may be seen as having advantages and disadvantages and ditto the supposed flexibility of an unwritten constitution

COOK'S TOUR OF THE UK & ITS CONSTITUTION Learning objectives: Mapping out the country, its key government institutions & personnel & their roles See accompanying PPP.