

British political  
system: analyzing the  
constitution to  
understand the  
concept



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The British political system is a complex and challenging concept to analyze and understand. The only way to achieve this, is to distinguish between each part of the system, beginning with the ' constitution'. Following this, a description into the characteristics of the executive branch of the constitution and finally the legislative branch.

The most established definition of a constitution refers to the embodiment of a document(s) detailing the most dominant laws which authenticate the structure of government of the country in question. Also a constitution can state the rights and requirements of the people within a country/state, i. e. who can vote, stand for parliament etc. A constitution may contain formal limitations on the power of government; a well known example of this is the U. S. Bill of Rights, which is the first ten amendments to the American Constitution.

It can be said that a constitution can administer legitimacy throughout the system by defining the powers of government and the rights and responsibilities of the people. It also appoints, controls and restricts (where necessary) authority within a country.

However, in Britain, the constitution is uncodified. This means that there is not one document that details the features of the constitution. The British constitution can be said to exemplify the judgments and knowledge of past rulers, political ambassadors, etc and to be the product of experience rather than perception, "...was never invented or designed but just grew, so that political facts became constitutional rules." (Madgwick & Woodhouse, 1995: 11, 18)<sup>1</sup> However, it has been accused of being an ' elective dictatorship' by

former Lord Chancellor Lord Hailsham, “ The sovereignty of Parliament has increasingly become, in practice, the sovereignty of the Commons, and the sovereignty of the Commons has increasingly become the sovereignty of the government which, in addition to its influence in Parliament, controls the party whips, the party machine, and the civil service. This means that what has always been an elective dictatorship in theory, but one in which the component parts operated in practice to control one another, has become a machine in which one of those parts has come to exercise a predominant influence over the rest.”(Quoted in *The Search for Justice*, Hodder and Stoughton, 1994)<sup>2</sup>. In other words, the government can do what it pleases as long as it has the support of the House of Commons and the parliamentary party.

Although the British constitution is uncodified, there are still rules, laws, customs etc that must be followed.

Statute law is a law passed by Parliament. This can also be of constitutional nature, for example, “ Acts determining the composition of the electorate and the conduct of elections, and Acts laying down the powers and composition of the House of Lords.” <sup>3</sup>

Common Law can be described as unwritten law of the people and can date back centuries, although it can also be described as laws that are determined and enforced by the courts. The remaining powers of the monarchy derive from Common law.

Finally, Convention. These are unwritten rules that keep the behaviour of the constitutional figures in check. These conventions are also hard to put a date on as they can date back centuries.

The executive branch of the Constitution can be described as "...the core of government. The term refers to the political leaders who from the apex of government; it is the energising force of government. It is charged with directing nation's affairs, supervising how policy is carried out, mobilising support for its goals and providing both ceremonial and crisis leadership." (Ian Wright, Exeter School, April 2001)<sup>4</sup>.

The first area of the executive branch to look at is the Cabinet.

The Cabinet is selected by the Prime Minister and is made up of between 20-24 government ministers who are responsible for running the departments of state and deciding government policy. The most senior members of the Cabinet are the Deputy Prime Minister, Foreign Secretary, Chancellor of the Exchequer and Home Secretary. Also, Members of parliament who are 'Parliamentary Private Secretaries' - unpaid assistants to ministers - there are about 110 members of the Government in all. With this in mind, the Cabinet represents about one-fifth of the whole Government. All Cabinet ministers must be members of parliament, either the Commons or the Lords. Most come from the Commons, but there must be some members from the Lords who can represent Cabinet there. Since the Lord Chancellor and Leader of the House of Lords are automatic members, there can be no fewer than two representatives from the Lords.

The framework of the cabinet can be described as, "to take or review the major decisions (of Government), to consider (though not necessarily at the formative stage) any proposals which might affect the future of the Government, and to ensure that no departmental interests are overlooked, thus giving the work of the government a measure of unity" 5(Mackintosh, J. 1977).

Britain can be seen as a Cabinet government in that the Cabinet meet together as a collective body and discuss and debate on routine items, Parliamentary business, reports on foreign affairs and concerning government issues and also new legislations. Following discussion, decisions are made by the majority of the cabinet which then, if backed by the House of Commons, becomes Government policy. The members of the cabinet then follow a procedure known as 'collective responsibility' in which all members are expected to support the decisions of the Cabinet whether or not he/she has private discrepancies against the outcome(s) and also that relevant decisions are enforced by the officials in his/her department.

As well as the Cabinet, there is also the Cabinet committees and the Cabinet office.

The cabinet committees were established due to the 'sheer volume and complexity of modern governmental business, the bulk of decisions within the Cabinet system are taken by the Cabinet committees (either ministerial standing committees or ministerial ad hoc committees).'6 There are many forms of committee but their basic functions are to deal with less complex

matters on behalf of the cabinet, either to taken decisions themselves or prepare information for, mainly, the Cabinet.

The Cabinet office is another system set up due to the volume of government business. It's basic principles are to support the prime minister and the cabinet, to organise security and intelligence etc.

The relationship between the Cabinet and the Prime Minister has been greatly criticized over the years. It has been said that the British Prime Ministers have become more ' presidential' over the past 50 years, especially with Margaret Thatcher's reign and now Tony Blair. The prime minister has the power to appoint or dismiss any of the ministers and to eliminate certain power from the Cabinet. The Cabinet can only discuss matters that are put before it, therefore, the prime minister can make decisions on government policies with selected groups and officials and completely by-pass the Cabinet. Also at Cabinet meetings, the Prime Minister is at the head of the table, so to speak, therefore, this strengthens his/her powers not only to intimidate but also to avoid matters that he/she doesn't want discussed. Mo Mowlam, former Northern Ireland Secretary claimed that in her experiences at the Cabinet meetings, the Prime Minister dominated the meeting and that the members of the Cabinet were there purely to ' rubber stamp' the wishes of Tony Blair. A remarkable statement from a member of cabinet at a meeting, " If that is what Tony wants, we should vote for it." 7

Therefore, the argument is, is the British government a Cabinet government or a prime ministerial lead system<sup>8</sup> or is it developing into a ' presidential' government.

As far as the ' Cabinet government' or ' Prime Ministerial government' are concerned, the PM has the power to ' hire or fire' the members of the Cabinet in a ' re-shuffle' process. However, all senior members of the Cabinet are allocated a London government home, chauffeured cars, country weekends, extremely high salary; would this suggest, therefore that the PM is surrounding himself with ' yes' people?

However, despite the immense power that the PM has, (s)he is unable to achieve the domination set out in theory of the ' prime ministerial' government, due to the Constitutional laws, political, administrative and personal limitations that would prevent any pragmatism occurring.

Therefore, although it can be strongly argued that there is a Prime Ministerial government at work in Britain, the restraints from the other bodies would hinder this from happening. However, how close it is to be a ' presidential' system, is slightly more difficult to argue.

Firstly, the role of the Prime Minister has to be defined.

One brief definition of the role of the Prime Minister is, ' the prime minister is responsible for forming government; for directing and coordinating its works; and for general supervision of the civil service'9.

The prime minister is first and formostly the head of government in that (s)he, being the leader of a political party, gains the majority vote at a general election. (S)he also has the power to appoint or dismiss members of the government (mainly the Cabinet) has leadership within the House of

Commons, and gives leadership to his/her country (especially at times of war).

(s)he also chairs the Cabinet meetings, directs and coordinates government policy, and finally represents his/her country when abroad.

These are the main features in the role of the prime minister. It may seem that the PM has an incredible amount of responsibility and power, but is this the case?

The greatest limitation the PM has, is the pressure from his own party. If the PM loses the interest of the back-benchers of his party, it could make his position very vulnerable.

However, could it be that people are already seeing Tony Blair as a Prime Minister on a power trip?

Following the Scottish elections, an article by Steve Richards (1999) stated, "Much of the time the media portrays him as a far-sighted colossus who bestrides the political stage. Over devolution, however, they depict him as a numbskull, the only person in the country unaware of what happens when power is devolved and elections are held under a form of proportional representation". From the first few lines of this quotation, Richards (1999) has stated that the media has viewed Blair as being a 'far-sighted colossus<sup>10</sup> who bestrides the political stage', this would suggest that Blair demands attention, respect and views himself as a 'one-man show'.



It is no secret that politician's view on the media is far from positive. The PM's spokesman was quoted describing the BBC as, "...downmarket, dumbed-down, over-staffed, over-bureaucratic, ridiculous organisation." 11

The media could also be a restraint or threat to the PM, because if the media are in favour of someone, they could portray them in a positive manner, however, if they are against someone, it could be fatal.

It could be argued that in today's society, the personality of the politician is more important than their interests. For example, Tony Blair provided his voice on the 15th series of the Simpsons which was aired in January 2004. The cartoon, which is immensely popular in the USA as well as the UK, saw Tony Blair as a cartoon image of himself in the comedy series. This could be seen by critics as Tony Blair involving himself in a cartoon (predominately watched by children) in a bid to win over the voting population and the media as well as letting them know that he is a 'down-to-earth' man.

Finally, in relation to the Prime Minister and presidency, one of the main reasons why a presidential system is not at work in Britain, is that Britain is still a Cabinet government. They still hold the power to reject the PM, for example, the defeat of Margaret Thatcher came from the Cabinet when they rejected her for, basically, being too presidential like.

In comparison to the US president, Tony Blair (or any PM for that matter), will not be seen as 'Head of State' because, although the Monarchy has very limited powers now, the Queen is still, by law, Head of State. Whereas in America, President Bush is the recognised head of state and head of

government, his power within the government may be more restricted than <https://assignbuster.com/british-political-system-analyzing-the-constitution-to-understand-the-concept/>

that of the British prime minister's role due to the fusion of the executive and legislature in the British government, in comparison to the separate branches in the US government.

Finally, the role of the legislative within the British political system.

The British Parliament is one of the oldest representative assemblies in the world, dating back to 1265.

Initially, it was seen as an English Parliament and eventually took in Wales, Scotland and part of Ireland<sup>12</sup> in the Acts of Union.

From the 14th century, there has been a two-chamber system within the parliamentary government of Britain, The House of Lords (the upper house) and the House of Commons (the lower house).

The main roles of Parliament are to make all UK law; provide, by voting for taxation, the means of carrying on the work of government; protect the public and safeguard the rights of individuals; scrutinise government policy and administration, examine European proposals before they become law; hear appeals in the House of Lords (the highest Court of Appeal in Britain) and debate the major issues of the day. <sup>13</sup>

The British Parliament is made up of the Monarchy, House of Lords and the House of Commons.

Unlike the Monarchy and the House of Lords, the House of Commons still has the greatest power in the British Political System.

The House of Commons has many functions, first being representation.

The representative function of the House of Commons is seen to be the basis of their existence. They are put there by the people to represent the people. However, the predominant MP figure is that of white male, middle-aged and middle-class. Therefore, they are socially unrepresentative of the majority, for example, there are only 12 black/Asian MPs in the Commons. This only amounts to 2% of all MPs. Also, only 18% are women. 14

Another function, and probably the most important is the legislative process. Legislation is the main body of work in Parliament and is still regarded as sovereign in that Parliament remains the supreme function of law making. However, with the rule of European law (and International law), Parliamentary law is not as powerful as it once was.

The legislation process in the House of Commons can be said to be government dominated. 15 Most of the time spent in parliament is on the scrutiny of government bills and they generally pass all the stages of the process to become Acts.

A Government Bill is legislation that affects the whole country. They can be policies that were promised in its election manifesto or they can be of an economic or social nature. Another form of a Bill proposal is that of a Private Members Bill.

A Private Member's Bill is divided into three types, the most important of these is the balloted bill. This is a process of twenty MPs whose names come out on top and they have the opportunity to introduce new legislation on a

subject of their choice. A small proportion of this selected group is given time in the House by government to discuss their proposal.

The second form of Private Member's Bill is that of Ten Minute Rule Bills, which are held on Tuesday and Wednesday afternoons. It usually entails a MP making a ten minute speech on his/her bill. There is not adequate time awarded for discussion and very few become law.

The last type of Private Member's Bill is the Presentation Bill. It is very rare for these types of Bills to be passed, therefore, it is mainly used to publicise a particular subject.

The stages of a Bill are first reading (the title of the Bill is read out, copies taken but no debate takes place), second reading (the general principles of the Bill are debated), Committee stage (Bill is scrutinised by a committee), report stage (if the Bill is amended at the committee, the MPs of Commons review it), third reading (Commons takes an overview as the Bill is finalised), Lords stage ( the Bill is passed on to the House of Lords and goes through a similar process to that of the Commons) and finally the Royal assent (the Monarch formally agrees to the Bill being passed into a law). These are basically the stages of the legislation process.

A Private Members Bill can be introduced by a backbencher.

The vast majority of MPs that don't hold a ministerial or shadow ministerial position are known as backbenchers. The reason for the term backbencher is basically because they sit on the back benches of the Commons. They have

more freedom to voice their opinions than that of the ministers because they are not as constrained by loyalty to the government.

Back benchers are also known as private members and therefore can introduce an original idea for legislation, i. e. a Private Member's Bill, however the initiation process of legislation from the backbenchers has little chance of

converting to law. The Whip system plays an important part in keeping the party leadership aware of the backbenchers views, " It is the whips who advise leaders on what the party will or will not stand; who offer ideas to leaders on how to head off backbench rebellion; and who indicate to disaffected backbenchers the likely consequences of their actions. The whips try to ensure that backbenchers support party policy in divisions (or votes) of the House of Commons." 16

The House of Commons also makes sure that all legislation that is passed is not only scrutinised but also legitimate. A stage of legitimation is that of the committees.

The two main forms of committees are the standing committee and the select committee.

All bills (exempt money Bills) are automatically sent to a Standing Committee. A Standing Committee assesses and approves each clause of a bill and may propose amendments, however the government may wish to ignore these proposal. They are only there for the duration of the Bill. The size of the committee must match the size of the parties within the House,

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for example, if a party has 40% seats in the Commons then the party will have 40% of the membership of the Standing Committee.

A Select Committee is appointed by the House to carry out investigations into certain aspects of government administration, for example the treasury. There are five overview and scrutiny committees known as Select Committees who support the work of the Executive. They allow the people to have a greater say in matters of concern. These can lead to reports and recommendations which advise the Executive on its policies, budget etc. The Select Committees also monitor the decisions of the Executive. They can call-in a decision which has been made by the Executive but not yet implemented which enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision.

The House of Lords is recognised as the 'second chamber' or 'upper house', although its role in parliament is not as important as that of the House of Commons. However, the House of Lords still remains a source of independent expertise and therefore remains essential to the operation of parliament.

The most important role of the House of Lords is that of revising legislation<sup>17</sup> (which is a similar process to that of the Commons) which has been revised by the House of Commons (although most legislation passed by the House of Commons go through with or without the consent from the House of Lords) and scrutinising the activities of Government<sup>18</sup>. In addition to this, the House of Lords has a judicial role as the final Court of Appeal. <sup>19</sup>

The House is made up of Life Peers, Law Lords, Archbishops and Bishops, and Elected Hereditary Peers.

Life Peers make up the majority (approx 600) and are appointed for their lifetime. Their titles cease on death.

Law Lords (or Lords of Appeal) were mainly appointed<sup>20</sup> to hear appeals at the lower court. They make up 12 seats in the House.

Archbishops and Bishops are “ The Anglican Archbishops of Canterbury and York, the Bishops of Durham, London and Winchester and the 21 senior diocesan bishops of the Church of England.” <sup>21</sup>

Until the House of Lords Act 1999<sup>22</sup>, there were around 700 Hereditary Peers in the House of Lords, however at the time the Act was being considered, 92 existing peers remained in the House as members until the next stage of reform.

“ Parliamentary sovereignty is the ‘ dominating characteristic’ of the British Constitution.” (Vernon Bogdanor 1988, pg 55)<sup>23</sup> This basically means that parliament has all control in Britain, but is that the case. It can be argued that the House of Commons has a massive amount of power as far as laws go, however the government can intervene to ‘ make sure’ that their proposed laws pass the appropriate stages.

The powers the Houses of Parliament has is significantly less that history would state. It is clear that the powers of the PM is far more significant than past Prime Ministers. Therefore, is this the reason for the decline in

Parliament’s ability?

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The system of the British Constitution has been under attack by critics for a long time, therefore is it time for a change or is there too much for the government to lose?

Only time will tell.