

The in a document
generally bearing one



The Constitution, as it emerged out of the Philadelphia Convention on September 17, 1787, was referred to the States for their ratification. The Preamble announces unequivocally that “ we the people do ordain and establish this Constitution.” A written constitution is, thus, a deliberate design of the institutions that it creates whereby government is conducted and all this is contained in a document generally bearing one single date. There are some examples of written constitutions contained in a series of documents bearing different dates. The French Constitution, under the Third Republic, was fragmentary and did not consist of one single document.

It was composed of three constitutional laws passed on February 24, February 26 and July 26, 1875. A written constitution is distinct in character and is held in special sanctity. It is the supremacy of the constitution. It means nothing may be done or enacted which conflicts with the provisions of the constitution and that the constitution must be amended or altered according to the procedure prescribed by the constitution. Here is a clear distinction between the constitutional or fundamental law and the statutory law. The constitutional law embodies the will of the sovereign and it should not be altered by the ordinary legislative process.

If the statutory law conflicts with or is not in conformity to the constitutional law, it is ultra virus or unconstitutional and, ipso facto, it is void and inoperative. The constitutional law is paramount, the statutory law is subordinate. Michael Curtis assigns five major reasons for the existence of written constitutions: 1.

They are the sign of successful internal revolution against the former rulers as in the Soviet Union; or revolt against external rulers as in the United States. 2. They signify the existence of a regime after the downfall of the previous regime in war or internal collapse. Examples are France of the Third and Fourth Republics or post-war Italy and Germany. 3. They illustrate concessions made by ruling groups or rising groups in the community, as in France in 1814 or in post-war Morocco, where democratic institutions were established while the authority of the monarchy was reinforced.

4. They mark the creation of a regime formed by a union of hitherto separate units, as in federal or confederal regimes. 5. They are signs of independence granted by a former colonial power or military victor as the British Commonwealth countries whose constitutions are formally statutes of the British Parliament.”