Constitutional law:

*What is a state? A governed entity (such as a country) or sub-entity (such as an autonomous territory of a country). A state is an organized political community, living under a government.

*What is a constitution? A body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed. A written record of this.

AV DICEY: [T]hat set of rules which directly or indirectly affect the distribution and exercise of sovereign power in the state.

*How are constitutions classified? Written or unwritten, contents, legality, effectiveness, adaptability, relationships with other laws.

*Regulates relationship between the state, the citizen and different organs of government.

*The UK Constitutions classified? Unwritten, like Israel. Uncodified (not found in one single document), supreme, unitary, flexible, parliamentary sovereignty, monarchical, a political constitution.

*The UK Constitution – sources? statutes, common law, prerogatives powers (appoint/dismiss ministers, make treaties, issue passports, use the military), EU law, conventions, academic opinion

*Structure? Monarchy (not elective head of state).

*Characteristics? Has not got a great deal of separation of power.

HISTORY

*Revolution? – Civil Wars 1642-48/ Commonwealth 1649-60


*Expansion of the franchise – Great Reform Act 1832, 67, 84, 1918

*Parliament Act 1911.

CONVENTIONS

*‘...conventions, understandings, habits or practices, which, though they may regulate the conduct of officials are not in reality laws at all since they are not enforced by the courts...’ DICEY

*‘The short explanation of constitutional conventions is that they provide the flesh which clothes the dry bones of the law’ JENNINGS

*Informal modes of constitutional behaviour: royal assent/ loss of confidence vote.


CONSTITUTIONAL REFORM?

*HRA 98, Devolution – Scotland Act 98, Constitutional Reform Act 2005, European Communities Act 1972 – more legal and less political in nature?

Human Rights

ECHR 1950

HRA 1998, who can bring a claim? Against which bodies? The rights and how to balance them. Horizontal effect eg privacy law.

R v SSTF (Factortame) – UK statutes may be disapplied when they conflict with EU laws, but this does not overrule them.

Administrative Law

scope of judicial review

how judicial review fits into constitutional law

who can bring a claim? state

Against which bodies? 4 main grounds of judicial review: unreasonableness, illegality, procedural impropriety, irrationality

– basis of challenge; crossover with HR law (proportionality)