

Sources of the British constitution

Introduction.

“The British constitution is the child of wisdom and chance.”

There can be no state without a constitution. The constitution consists of fundamental rules which determine and distribute functions and powers among the various organs of the government as well as determine the relations of governing authorities with the people. Most of the modern constitutions are written, the British constitution is the only constitution which is unwritten.

Lord Bryce wrote:

“British constitution works by understanding which no writer can formulate. “

French writer De Tocqueville once remarked:

“England has no constitution,” Because he did not find it in a written form. But the British constitution is the chief model for all the countries. It has shown a unique ability to adopt without violence.

Sources:

The sources of the British constitution can be divided into two parts:

- > The laws of the constitution→
- > The conventions of the constitution→

A) The laws of the constitution:

The laws of the constitution are based on the written documents. These include

Historic documents, acts of the parliament, judicial decisions and common laws.

1. The Historic constitutional documents

The historic constitutional documents form a very important source of the British constitution. The importance of these documents can be judged from the fact that the transition process from absolute monarchy to constitutional government in Britain was triggered by these elements e.g.:

- > Magna carta (1215)→
- > The petition of rights (1628)→
- > The bill of rights (1689) etc.→

2. The acts of the parliament:

The laws made by the parliament from time to time have also contributed and furthered the transition to constitutional government in Britain e.g.

- > The act of Habeas corpus (1679)→
- > The act of settlement (1701)→
- > Reform acts of (1832,1867,1884,1918,1928)→
- > Acts of parliament (1911, 1949)→
- > Indian independence act of 1947 etc.→

3. Judicial decisions:

These are also important sources of the British constitution. Judicial decisions

explain and interpret the rules and statutes passed by the parliament. Here it is to be noted that these rules cannot be challenged by any court in Britain.

4. Common law:

Common laws are also a very important source of British constitution. Especially these relating to the liberty of the subjects i.e. many basic rights of the people e.g. jury trial, freedom of speech and assembly are based on common law as practiced by various courts in the country.

B) The conventions of the constitution:

The conventions are not recognized or enforced by any court. These are highly respected by the British electorate and leadership. The conventions of the British constitution are actually of unwritten character. They form an important part of the constitution. They are important because they have enabled the British political system to adopt itself to the changing needs of the time. Some of these conventions are:

1. The British monarch cannot veto the bills passed by the parliament.
2. The sovereign invites the leader of the majority party in the House of Commons to form the cabinet.
3. The Prime Minister and Finance Minister both are taken from the House of commons
4. The money bills originate in the House of Commons.
5. The cabinet remains in power as long as it enjoys the confidence of the majority party in the House of Commons, otherwise it has to resign.

6. All the civil servants are tried in the same court like any other citizen (Rule of Law)

Conclusion:

Professor Munro writes:

“The British constitution is not to be found in a definite and precise document. It is a complex amalgam of institutions. It is a complex compendium of charters, statutes, decisions, precedents, usages and traditions. Some of them are living only in the understanding of the people.”

Thus the study of the sources of the British constitution reveals the fact that if on one hand it consists of laws which are written, it also has an unwritten part in the shape of conventions. Two factors that have definitely contributed to the ability of the British constitution to adopt itself to the changing needs of the time are

> Its evolutionary nature→

> The conventions of the constitution→