

# Constitutional Law-I

Part-I

**The  
British  
Constitution**

Q. EXPLAIN THE SALIENT FEATURES OF BRITISH CONSTITUTION (A2019).

Ans:

## **THE SALIENT FEATURES OF BRITISH CONSTITUTION**

The United Kingdom (UK) has a remarkable constitution with some important features. It is known as the oldest democratic system in the world and is often called the "**Mother Democracy**" and the "**Mother of Parliamentary System.**" The UK is a constitutional monarchy بادشاهت and a unitary state made up of four parts:

1. England
2. Northern Ireland
3. Scotland
4. Wales

Its government is based on a parliamentary system, with the main center of power in London and separate administrations in Belfast, Cardiff, and Edinburgh for Northern Ireland, Wales, and Scotland respectively. In the past, the UK was the largest empire globally, and today it is the sixth-largest economy in the world.

### **Government and Politics in the UK:**

The constitutional monarch and leader of the UK, along with 15 other Commonwealth countries, is King Charles III. The UK follows a parliamentary system inspired by the Westminster system. The parliament comprises two houses:

- The House of Commons
- The House of Lords

Consent from both houses is necessary for the passage of any bill, ensuring a system of checks and balances.

### **SALIENT FEATURES:**

The UK constitution has following salient features.

1. Unwritten Constitution
2. Flexible Constitution
3. Evolutionary Growth
4. Unitary
5. Bicameralism
6. Rule of Law
7. Supremacy of constitution
8. Independence of Judiciary
9. Collective Responsibility
10. Fundamental Rights
11. Conservativeness
12. Limited Separation of Power
13. Two Party System
14. Contrast Between Theory and Practice

### **1. Unwritten Constitution**

The British Constitution doesn't exist as a single document or have a specific date when it was created. Unlike other countries, there isn't a written and concise document called the British Constitution. Instead, it is made up of different elements. One important part of the British Constitution is formed by judicial decisions, customs, and traditions that have been established over time. These unwritten rules guide how the government operates. However, there is also a portion of the British Constitution that comes from laws that have been passed by the government in a regular manner. So, while the British Constitution is not contained in a single document, it combines legal principles, customs, and enacted laws to govern the country.

### **2. Flexible Constitution**

The British constitution is known for its flexibility, as it can be amended, replaced, or rejected with a simple majority. In comparison to other non-flexible constitutions, the process of amending the British constitution is relatively straightforward. This flexibility allows the constitution to adapt to changing circumstances and societal needs more easily.

### **3. Evolutionary Growth**

The British constitution has experienced an evolutionary growth, continuously developing and expanding over time. As the years have passed, this constitution has grown and adapted to the changing needs and circumstances of the country. This evolution is a result of various factors, including social, political, and legal developments. Through this gradual process, the British constitution has been able to address new challenges, incorporate new rights and responsibilities, and respond to the evolving dynamics of society. This evolutionary growth reflects the ability of the constitution to remain relevant and effective in a changing world.

### **4. Unitary**

Another important feature of the UK constitution is the centralization of power, where a single government oversees the functioning of the entire country. Unlike some other systems, there are no separate governments at different levels. Instead, one government is responsible for maintaining and operating the entire system. This centralized government holds the authority for enforcing laws and ensuring their implementation throughout the UK.

### **5. Bicameralism**

The UK parliament is made up of two chambers:

- The House of Lords
- The House of Commons

The House of Commons is particularly notable because its representatives are elected by the citizens. On the other hand, the House of Lords is not elected but consists of members who have inherited their positions. The King has the responsibility of selecting these members of the House of Lords.

## 6. Rule of Law

The UK constitution upholds the principle of the rule of law, ensuring that all individuals are equal in the eyes of the law. If someone breaks the law, they must face a trial conducted by the government. No person can be imprisoned unless their offense is proven in a court of law. This emphasizes the importance of fair legal proceedings and the presumption مفروضه of innocence until guilt is established through due process.

## 7. Supremacy of Constitution

In the UK, the constitution holds supreme authority. It serves as the ultimate source of resolving any individual's issues or problems. The constitution provides a framework and set of rules that guide the legal and governance systems, ensuring fair and consistent treatment for all individuals.

## 8. Independence of Judiciary

In the UK, an independent judiciary exists where judges are obligated to uphold and respect the constitution. They make impartial غیر جانبدار decisions within the court system and receive fair remuneration اجرت for their services. The principle of separation of powers ensures that no one is above the law.

## 9. Collective Responsibility

Ministers in the UK are required to show collective responsibility, meaning they must support the government's policies and decisions. However, each minister also holds individual accountability to both the House of Commons and the monarch, ensuring a system of checks and balances within the government.

## 10. Fundamental Rights

The English constitution does not have a specific list of fundamental rights for citizens. Instead, constitutional law in England has evolved ترقی یافتہ over time as a result of court decisions that have recognized and protected fundamental rights. The constitution is shaped by these rights rather than being their creator.

## 11. Conservativeness

The British constitution is often associated with a sense of conservatism قدامت پسندی, as it reflects a prevailing trend among the people of the UK to favour traditional institutions. This concept embodies the existence and preservation of conservative values within the country.

## 12. Limited Separation of Power

In the British system, there is a degree of limited separation of powers, with political power primarily concentrated in the parliament. However, several safeguards, particularly outlined in the *Act of Settlement of 1701*, have been implemented to ensure the judiciary's independence from undue influence by the other two branches of the government. These safeguards are in place to maintain the integrity and impartiality of the judiciary.

## 13. Two Party System

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A two-party system plays a crucial role in any democratic system, serving as a safeguard against dictatorship. The party that secures a majority of votes gets elected. In the British political system, two prominent parties are:

1. The Conservative Party
2. The Labour Party

These parties represent different political ideologies and compete for public support in elections, contributing to the vibrancy ارتعاش and pluralism كثرية of the democratic process.

### **14. Contrast Between Theory and Practice**

In Britain, there exists a significant gap between theory and practice. For instance, according to convention, the majority party in a newly elected parliament is expected to form the cabinet. However, in reality, all ministers are appointed by the Prime Minister. This disparity اختلاف highlights the variation between the established norms and the actual implementation of political processes in the country.

### **Conclusion:**

In conclusion, the UK constitution cannot be characterized as purely unwritten or purely written. It represents a unique blend of both elements, creating a distinct framework that has evolved over time. This hybrid nature of the constitution has allowed it to adapt to changing circumstances while retaining its core principles. It has become a significant asset for humanity as a whole, with its influence extending beyond national boundaries. The UK constitution, with its combination of unwritten conventions and written documents, stands as a valuable shared resource, contributing to the advancement of civilized societies worldwide.



Q. DISCUSS THE NATURE AND SOURCES OF BRITISH CONSTITUTION.

Ans:

## THE NATURE AND SOURCES OF BRITISH CONSTITUTION

According to *Sir Ivor Jennings*, who was a prominent British constitutional scholar and jurist:

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

A constitution is a vital component for the existence of any state. It comprises fundamental rules that establish and allocate functions and powers among different branches of the government, while also defining the relationship between governing authorities and the people. In contemporary times, the majority of constitutions are documented in written form, except for the British constitution, which stands as a unique example of an unwritten constitution.

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 of British Constitution:**

The UK constitution is a blend of characteristics, statutes, judicial decisions, common law, precedents, usages, and traditions. It does not exist as a single document but rather as a vast collection of thousands of documents. The British Constitution draws from multiple sources, comprising various elements that contribute to its formation and evolution.

#### **1. Historical Documents:**

The historical constitutional documents hold significant importance as a source of the British constitution. Their significance is evident in the fact that these documents played a vital role in the transition from absolute monarchy to constitutional government in Britain. They served as catalysts for this transformative process. Examples of such documents include:

- **Magna Carta (1215)**

Magna Carta is a historic document signed in 1215 that established the principle of limited royal power and protection of individual liberties in England.

- **The Petition of Rights (1628)**

The Petition of Right was a historic constitutional document in England that established the rights and liberties of individuals, limited the king's power, and reinforced the principle of due process.

- **The Bill of Rights (1689)**

The Bill of Rights (1689) is an important constitutional document that established key principles, such as the supremacy of Parliament and the protection of individual rights, shaping the foundation of modern British constitutional law.

### **2. Statutes and Acts of Parliament:**

Statutes passed by Parliament at different times hold significant importance in the British constitution, addressing crucial constitutional matters. Examples of such statutes include

- **The Act Of Habeas Corpus (1679)**

which ensures the release of individuals unjustly imprisoned,

- **The Act Of Settlement (1701)**

which stipulates the requirement of a Protestant monarch.

- **Various Reform Acts (1832, 1867, 1884, 1918, 1928),**

which determine voting rights and parliamentary representation. Additionally, the Parliament Act of 1911 and its amendment in 1949 deal with the powers of the House of Lords.

- **The Statute of Westminster (1931)**

Defines the relationship between Britain and its Dominions.

### **3. Judicial Decisions:**

Judicial decisions serve as significant sources of the British constitution as they provide explanations and interpretations of the rules and statutes enacted by Parliament, while it is important to note that these decisions cannot be challenged by any court in Britain.

### **4. Commentaries of Eminent Jurists:**

Legal authorities and eminent ممتاز jurists have written comments on constitutional law of England. *Arson's Law and Customs of Constitution*, *May's Parliamentary Practice* and *Dicey's Law of Constitution* are regarded to be authoritative comments on law and practice of English constitution.

### **5. Common Law:**

Common laws hold significant importance as a source of the British constitution, particularly in relation to the freedom and rights of individuals. Many fundamental rights of the people, such as jury trials, freedom of speech, and the right to assembly, are rooted in common law, which is applied by different courts throughout the country. These common laws play a crucial role in safeguarding the liberties and protections of the British subjects.

### **6. The Conventions:**

Conventions in the British constitution are not officially recognized or enforced by any court. However, they hold great respect and influence among the British electorate and leadership. These unwritten conventions are a crucial part of the



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constitution and have played a significant role in allowing the British political system to adapt to changing needs over time. Here are some examples of these conventions:

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:**

By examining the sources of the British constitution, we discover that it comprises both written laws and unwritten conventions. This unique combination of elements, along with the evolutionary nature of the constitution, and the influence of constitutional conventions, has enabled it to effectively adapt to the evolving needs of the time. These factors have played a vital role in shaping the flexibility and resilience لچک of the British constitution.

### **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.”*



- Q. EXPLAIN DICEY'S EXPOSITION ON RULE OF LAW AND CRITICISM RAISED AGAINST HIS THEORY AND ENUMERATE ITS IMPLICATION IN MODERN TIMES (S2019)
- Q. ELABORATE THE DOCTRINE OF RULE OF LAW IN THE LIGHT OF ITS HISTORICAL PERSPECTIVE AND DEVELOPMENT WITH REFERENCE TO DICEY,S EXPOSITION?(A2020)
- Q. DISCUSS IN DETAIL WHETHER THE PARLIAMENTARY SOVEREIGNTY AND RULE OF LAW OPPOSE EACH OTHER OR NOT?(A2021)
- Q. EXPLAIN DICEY'S EXPOSITION OF RULE OF LAW AND ITS PRESENT DAY APPLICATION IN MODERN WORLD.(A2021)

Ans:

## **THE RULE OF LAW**

The words “rule of law” are derived from the French words *la principe de legalite* (the principle of legality) which refers to a government based on the principles of law and not of men. Therefore, rule of law means that the law rules, using the word “law” in sense of both ‘*jus*’ and ‘*lex*’. Law may be taken to mean mainly a rule or principle which governs the external actions of human beings and which is recognised and applied by the state in the administration of justice.

The rule of law is a foundational principle that ensures both citizens and leaders are held accountable under a consistent application of the law. With deep historical roots, societies have long sought to establish and examine power structures in their pursuit of this concept.

### **DEFINITIONS OF “RULE OF LAW”**

Here are few definitions by famous jurists and law dictionaries.

#### **Definition by Albert Venn Dicey:**

"The rule of law means the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government."

#### **Definition by Lon L. Fuller:**

"The rule of law requires that the law be general, public, prospective, clear, stable, and not retroactive; that it be applied equally and without bias; and that it be administered through a reliable and independent judiciary."

#### **Definition by John Locke:**

"Wherever law ends, tyranny begins."

#### **Definition by Black's Law Dictionary (10th edition):**

"The rule of law refers to a principle of governance in which all persons, institutions, and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated اعلان کیا گیا, equally enforced, and independently adjudicated فیصلہ سنایا گیا, and which are consistent with international human rights norms and standards."

**Definition by Oxford Dictionary of Law:**

"The rule of law is the principle that all people and institutions are subject to and accountable to law that is fairly applied and enforced; the principle of government by law."

**HISTORY OF THE RULE OF LAW**

**Ancient Greece and The Rule of Law**

The Ancient Greek philosopher Aristotle extensively discussed the advantages of well-crafted laws that can endure beyond the tenure of a virtuous ruler. In his work "Politics" Aristotle argued that while capable leadership is inherently transient, enduring laws have the capacity to outlast both favourable and unfavourable regimes.

**England and The Rule of Law**

The writing of the Constitution was notably influenced by the Magna Carta, a document drafted in 1215. The actions of the English barons who rose against King John set a crucial precedent, emphasizing that the rights of the governed, protected by the law, hold greater significance than the whims of rulers. When establishing the American model of government and its legal framework, the founders deliberately incorporated mechanisms to check the authority of elected leaders. This was done to prevent an excessive accumulation of power that could potentially infringe upon the rights of the citizens. The evident influence of the Magna Carta underscores its lasting impact on the shaping of American governance.

**Features of the Rule of Law**

The basic principle of rule of law includes the following:

- Citizens are accountable to the law.
- Leaders are accountable to the law.
- The law is universally applied and fair to all citizens and therefore, it is just.
- Transparency/open government allows citizens to see the operations of government and ensure leaders respect the law.
- Laws must be enforced equally and impartially.

**DICEY’S CONCEPT OF RULE OF LAW**

A.V. Dicey, an eminent British jurist and Constitutional law theorist highlighted the importance of Rule of Law in the following words:

“It means, in the first place, the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government. Englishmen are ruled by the law and the law alone; a man may be punished for a breach of law, but he be punished for nothing else. It means, again, equality before the law, or the equal subjection of all classes to the ordinary law courts; the ‘rule of law’ in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals.”

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Thus, Dicey attributed the following three meanings to Rule of Law:

- (i) Supremacy of Law,
- (ii) Equality before Law, and
- (iii) Predominance of Legal Spirit.

### (i) **Supremacy of Law:**

Dicey explains that the rule of law means the law has supreme power, and it is more important than the influence of arbitrary من مانی or wide discretionary power. This means that the government should not have the ability to act arbitrarily or make decisions based on personal preferences.

Dicey also emphasizes that the rule of law ensures that nobody can be punished unless they have broken a law. This is a crucial اہم aspect because it distinguishes between a government that follows rules and one that acts arbitrarily. For example, a government under the rule of law cannot punish a citizen simply because they disagree with their opinions or behaviour.

### (ii) **Equality Before Law:**

In simpler terms, Dicey explains that the second principle of the rule of law is about equality. He says that everyone should be treated equally by the law, regardless of their position or status. In other words, no matter how important or powerful you are, the law still applies to you.

Dicey criticizes the French legal system called '**Droit Administratif**' because it had special courts for cases involving government officials. He believes that this special treatment goes against the idea of equality. According to Dicey, the law should not discriminate امتیازی سلوک based on factors like race, gender, religion, social background, or any other personal characteristics. It should be the same for everyone, whether they are regular citizens or government officials.

### (iii) **Predominance of Legal Spirit:**

Dicey explains the third principle of the rule of law. He says that rights, like the right to personal freedom and protection from arrest, come from court decisions in specific cases that have happened between people. The constitution is not where these rights originate; instead, it reflects the rights that individuals already have.

Dicey emphasizes that the courts play a crucial role in safeguarding people's freedoms. He suggests that these rights are better protected when they can be enforced through the courts than just being mentioned in a document. Because if they are only written down without proper enforcement, they could be ignored, limited, or violated. So, having the courts ensure these rights makes them more secure.

## **Criticism of Dicey's Concept of Rule of Law**

Dicey's concept of Rule of Law has been subject to following criticism:-

### **1. Lack of Social Justice:**

One of the primary criticisms levelled against Dicey's concept of the rule of law is its narrow focus on formal legal equality and procedural aspects. Critics argue that by emphasizing the absence of arbitrary power and equal subjection to the law, Dicey's theory neglects the substantive dimension of justice. In reality, societies often face systemic inequalities and social injustices that cannot be adequately addressed solely through formal legal procedures. A strict adherence استقامت to Dicey's principles may fail to consider the need for affirmative action or specific legal protections to address historical disadvantages and promote social justice.

### **2. Disregard for Socioeconomic Factors:**

Dicey's theory does not explicitly address the influence of socioeconomic factors on individual's access to justice and legal remedies. Critics argue that the rule of law, in practice, may favour those with greater financial resources, resulting in unequal access to legal representation and due process. The absence of mechanisms to ensure equal access to justice can exacerbate شدة میں اضافہ existing inequalities and create a system that benefits the privileged and powerful.

### **3. Incomplete Understanding of Power:**

Critics contend that Dicey's concept of the rule of law does not sufficiently consider power imbalances within society. They argue that the rule of law can be used by those in authority to maintain their interests and suppress dissent, rather than ensuring equal protection and accountability. The concentration of power in certain institutions or individuals can undermine the rule of law's intended purpose, leading to the subversion of justice and the protection of vested interests.

### **4. Judicial Activism vs. Restraint:**

Dicey's emphasis on judicial independence and the judiciary's role as the guardian of the constitution has also been subject to criticism. Some argue that an overly activist judiciary may encroach قبضہ upon the powers of other branches of government, potentially undermining the democratic process and creating an imbalance of power. Striking the right balance between judicial activism and judicial restraint تحمل is essential to ensure that the rule of law serves as a check on government power without impeding the functioning of the democratic system.

### **5. Cultural and Contextual Variations:**

Critics assert that Dicey's theory reflects a particular historical and cultural context, primarily rooted in British constitutional traditions. They argue that the universal application of his principles may not be suitable for all legal systems and may overlook the diverse cultural norms and values of different societies. The rule of law should be adaptable to different contexts, taking into account local traditions and needs, while still upholding core principles of justice and accountability.

### **6. Technological and Global Challenges:**

Dicey's concept of the rule of law was developed in an era before the advent of advanced technology and global interconnectivity. Today, issues such as digital

rights, cyber security, and transnational crime pose unique challenges to the rule of law. Critics argue that modern legal frameworks must be updated to address these complexities and protect individuals' rights in the digital age.

## **DICEY'S RULE OF LAW IMPLICATION IN MODERN TIMES**

Dicey's Rule of Law Implications in Modern Times can be understood through following points.

**1. Technological Advancements and Digital Rights:**

In modern times, technological advancements have significantly influenced the application of the rule of law. With the rise of the digital age, new challenges have emerged, such as data privacy, cyber security, and digital rights. The rule of law must adapt to these changes by incorporating legal frameworks that protect individuals' digital rights, regulate data usage, and ensure accountability in cyberspace.

**2. Globalization and Transnational Issues:**

Globalization has interconnected nations and economies, creating a need for international cooperation in addressing transnational issues such as terrorism, money laundering, and human trafficking. The rule of law now extends beyond national boundaries, requiring collaboration among countries to establish legal frameworks that combat جنگ cross-border crimes and uphold justice on a global scale.

**3. Protection of Human Rights:**

The concept of human rights has gained prominence in modern times, emphasizing the need for the rule of law to protect and promote these rights. The rule of law serves as a safeguard against abuses of power and provides a legal framework to ensure the protection of individual liberties, non-discrimination, freedom of expression, and access to justice. It requires legal systems to uphold and enforce human rights principles in all aspects of governance.

**4. Accountability and Transparency:**

Modern societies place a greater emphasis on transparency and accountability in governance. The rule of law demands that those in power, including public officials and institutions, are held accountable for their actions. This includes mechanisms for transparency in decision-making, anti-corruption measures, and systems to ensure the accountability of public servants. The rule of law serves as a means to prevent abuses of power and maintain public trust in institutions.

**5. Environmental Protection and Sustainable Development:**

The rule of law has implications for environmental protection and sustainable development. As societies increasingly recognize the importance of environmental sustainability, legal frameworks must incorporate environmental laws and regulations. The rule of law ensures that environmental standards are upheld, responsible resource management is practiced, and individuals and corporations are held accountable for their impact on the environment.

**6. Access to Justice and Legal Empowerment:**

In modern times, there is a growing recognition of the importance of access to justice and legal empowerment. The rule of law necessitates that legal systems are accessible,

affordable, and responsive to the needs of all individuals. It requires efforts to bridge gaps in legal services, promote legal literacy, and empower marginalized communities to access justice and exercise their rights.

### **7. Rule of Law in International Relations:**

The rule of law extends beyond domestic governance and plays a crucial role in international relations. Nations are expected to adhere to international law, respect treaties and agreements, and resolve disputes through peaceful means. The rule of law serves as a foundation for maintaining stability, promoting cooperation, and upholding justice in the international arena.

## **THE PARLIAMENTARY SOVEREIGNTY AND RULE OF LAW**

The relationship between parliamentary sovereignty and the rule of law has been a subject of debate and discussion within legal and constitutional theory. While some argue that these two concepts are complementary and reinforce each other, others contend that they can be in tension or even in opposition. Let's discuss both perspectives in detail:

### **Complementary Perspective:**

According to this perspective, parliamentary sovereignty and the rule of law are compatible and mutually reinforcing. Proponents argue that parliamentary sovereignty, which asserts that the legislative body has supreme authority to make laws, is essential for democratic governance. It ensures that elected representatives, who are accountable to the people, have the power to make and amend laws according to the changing needs and aspirations of society.

At the same time, the rule of law provides a framework that constrains and guides the exercise of legislative power. It ensures that laws are enacted within the limits set by the constitution and that they are applied equally and fairly to all individuals. The rule of law requires that laws be clear, predictable, and accessible to citizens, and that they protect fundamental rights and uphold principles of justice.

Advocates of this perspective argue that parliamentary sovereignty and the rule of law work together to maintain the legitimacy and effectiveness of the legal system. They contend that the rule of law provides a necessary check on potential abuses of power by the legislature, while parliamentary sovereignty allows for democratic decision-making and responsiveness to societal needs.

### **Tension or Opposition Perspective:**

Opponents of the complementary view argue that there can be tensions or even conflicts between parliamentary sovereignty and the rule of law. They highlight potential scenarios where the unfettered exercise of legislative power may undermine fundamental legal principles and constitutional protections.

One area of tension arises when a sovereign parliament enacts laws that violate individual rights or discriminate against certain groups. Critics argue that the rule of law requires the protection of fundamental rights as inherent limitations on legislative power. If parliament passes laws that infringe upon these rights, it can be seen as undermining the rule of law.

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Additionally, concerns are raised when parliamentary sovereignty is used to shield legislation from judicial review. If the legislature has the power to pass laws that are immune from judicial scrutiny, it can be seen as a potential threat to the rule of law. Critics argue that an independent judiciary is necessary to ensure that laws comply with constitutional principles and protect individual rights.

Moreover, the tension between parliamentary sovereignty and the rule of law can arise when the executive branch interprets laws in a way that undermines their intended purpose or exceeds its constitutional authority. Critics contend that the rule of law requires not only legislative compliance but also executive adherence to legal limits and accountability.

### **Conclusion:**

The relationship between parliamentary sovereignty and the rule of law is complex and multifaceted. While some argue that these concepts are complementary and reinforce each other, others highlight potential tensions or conflicts. Ultimately, maintaining a delicate balance between the two is essential for a robust and legitimate legal system. It requires a recognition of the need for legislative authority, democratic decision-making, and responsiveness, while also ensuring that laws are subject to constitutional limits, protect fundamental rights, and are administered in a fair and just manner.





- Q. DISCUSS THE PRINCIPLE OF THE 'SUPREMACY' OF THE BRITISH PARLIAMENT' AND HIGHLIGHT THE FACTORS WHICH RESTRAINT THE LEGISLATIVE SUPREMACY OF PARLIAMENT(A2019)
- Q. EXPLAIN THE SUPREMACY OF BRITISH PARLIAMENT AND PRACTICAL LIMITATIONS ON ITS SOVEREIGNTY(S2019)
- Q. EXPLAIN THE CONCEPT OF "SUPREMACY OF BRITISH PARLIAMENT". (A2020)
- Q. DO YOU THINK THAT BRITISH PARLIAMENT HAS ABSOLUTE SUPREMACY? DISCUSS. (A2020)

Ans:

## **SUPREMACY OF BRITISH PARLIAMENT**

The supremacy of the British Parliament is a fundamental principle of the United Kingdom's constitutional framework. It's a famous saying that

**"British Parliament can do everything except make a woman a man and a man a woman."**

It refers to the ultimate authority and power that the Parliament possesses within the British political system. Parliament, which consists of the House of Commons, the House of Lords, and the monarch, is responsible for enacting قانون سازی laws, scrutinizing جانچ پڑتال the government, and representing the interests of the people.

The concept of parliamentary supremacy emerged over centuries of constitutional development in the United Kingdom. It gained significant prominence following the Glorious Revolution of 1688, which established parliamentary sovereignty and limited the powers of the monarchy.

The principle of parliamentary supremacy has been a subject of discussion and debate among jurists and legal scholars over the years. Different jurists have expressed their views on the supremacy of the British Parliament. Here are some notable sayings from various legal experts:

**Sir William Blackstone (1723-1780):**

"Parliament is not only the supreme power of the state but sovereign and uncontrollable; absolute, and without restraint, unless they see it good to impose upon themselves."

**A.V. Dicey (1835-1922):**

"The principle of Parliamentary sovereignty means...that Parliament has...the right to make or unmake any law whatever; and, further, that no person or body is recognized by the law of England as having a right to override or set aside the legislation of Parliament."

**Lord Steyn (1932-2017):**

"The bedrock of the British Constitution is the supremacy of the Crown in Parliament. Parliament can, if it chooses, legislate contrary to fundamental principles of human rights. The constraints upon its powers are ultimately political, not legal."

**Lord Hailsham (1907-2001):**

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"Parliamentary sovereignty means Parliament can, if it chooses, legislate contrary to the fundamental principles of human rights."

### **Lord Justice Laws (1945-present):**

"Parliament can, by enactment, make anything it chooses to be law...[it] can, however, make a new law which alters or abolishes an old one."

Lord Justice Laws, a current British judge, affirmed Parliament's authority to pass legislation, even if it means altering or abolishing existing laws.

These sayings reflect the diverse perspectives on the supremacy of the British Parliament. While many jurists have supported the principle, some have also raised concerns about the potential consequences, particularly in cases where parliamentary legislation might conflict with fundamental rights or international obligations. Ultimately, the principle of parliamentary supremacy remains a foundational aspect of the UK's constitutional framework, shaping its legal and political landscape.

## **SUPREMACY PARLIAMENT IN UK**

The principle of parliamentary supremacy, also referred to as parliamentary sovereignty, is a foundational doctrine within the constitutional system of the United Kingdom. It firmly establishes that Parliament holds the ultimate authority in law-making and possesses the unrestricted power to create, modify, or abolish any legislation without constraint. This signifies that no other entity, including the judiciary or the executive branch, possesses the authority to invalidate or disregard a law enacted by Parliament. We can better understand the supremacy of parliament in United Kingdom through following headings.

### **1. Legislative Authority:**

The British Parliament possesses the exclusive power to make, amend, and repeal *منسوخى* laws. It is the supreme law-making body in the country. Acts of Parliament, known as statutes, are formal laws enacted by Parliament and hold the highest legal status.

Example: The Equality Act 2010 consolidated and updated existing anti-discrimination laws in the UK. It brought together various provisions related to discrimination on the grounds of race, gender, disability, age, religion, and more. This Act demonstrates Parliament's legislative authority to enact comprehensive legislation addressing important societal issues.

### **2. Unrestricted Lawmaking:**

Parliament has the authority to make or unmake any law without limitation. It is not bound by specific subject matters or constraints when enacting legislation.

Example: The Digital Economy Act 2017 introduced measures to address issues related to online copyright infringement, age verification for adult websites, and improved broadband connectivity. Parliament demonstrated its unrestricted lawmaking authority by addressing emerging challenges in the digital realm.

### **3. Judicial Non-interference:**

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Courts do not have the authority to invalidate or strike down legislation enacted by Parliament. While the judiciary interprets and applies laws, they must defer to parliamentary statutes and cannot question their validity.

Example: In the case of *R (Miller) v. Secretary of State for Exiting the European Union* (2017), the UK Supreme Court ruled that triggering Article 50 of the Treaty on European Union, which initiated the process of the UK leaving the EU, required an act of Parliament. This decision affirmed the principle of parliamentary sovereignty by recognizing that only Parliament has the power to enact such significant constitutional changes.

### **4. No Future Parliaments Bound:**

Parliament is not bound by the actions or laws of past or future Parliaments. Each Parliament is considered sovereign and can enact or repeal laws, even if they contradict previous legislation or policies.

Example: The Fixed-term Parliaments Act 2011 introduced a fixed five-year term for UK Parliaments, which could only be altered by a two-thirds majority vote in Parliament. However, in 2021, Parliament repealed this act and returned to the previous practice of allowing the Prime Minister to call early general elections. This repeal illustrates the principle that a subsequent Parliament has the authority to change or reverse the laws made by a previous Parliament.

### **5. Absence of Constitutional Court:**

Unlike some countries with constitutional courts, the UK does not have a specific judicial body empowered to review the constitutionality of laws. The courts' role is primarily to interpret and apply legislation, rather than determine its constitutional validity.

Example: In the case of *A v. Secretary of State for the Home Department* (2004), the House of Lords (now the UK Supreme Court) held that the indefinite detention of foreign terrorism suspects without trial under the Anti-terrorism, Crime, and Security Act 2001 did not violate the Human Rights Act 1998. This case exemplifies how courts in the UK focus on interpreting and applying legislation, rather than assessing its constitutionality.

### **6. Executive Accountability:**

Parliament holds the government accountable for its actions. The executive, led by the Prime Minister and the Cabinet, is subject to scrutiny and questioning by Members of Parliament (MPs) through mechanisms such as parliamentary debates, questions, and committees.

Example: Prime Minister's Questions (PMQs) is a weekly session in the House of Commons where MPs have the opportunity to question the Prime Minister on various issues, including government policies, decisions, and actions. This session showcases the accountability of the executive to Parliament and allows MPs to raise concerns and seek clarifications.

### **7. Flexibility and Adaptability:**

## **Constitutional Law-I (British & US)**

Parliamentary supremacy allows the British Parliament to be flexible and adaptable in responding to changing circumstances, emerging issues, and societal needs. It empowers Parliament to introduce new laws, amend existing legislation, and address evolving challenges without significant obstacles.

Example: The introduction of the General Data Protection Regulation (GDPR) in the UK is a prime example of Parliament's adaptability. In response to the growing importance of data privacy and protection, Parliament enacted the Data Protection Act 2018 to implement the GDPR into UK law. This legislation enhanced individuals' rights over their personal data and imposed obligations on organizations to handle personal information responsibly. The adoption of the GDPR showcased Parliament's ability to respond to the evolving challenges posed by the digital age.

## **PRACTICAL LIMITATIONS ON SOVEREIGNTY OF BRITISH PARLIAMENT**

While the doctrine of parliamentary sovereignty establishes the British Parliament as the supreme law-making authority, there are practical limitations on its sovereignty. These limitations arise from various factors, including constitutional conventions, international obligations, devolution, and public opinion. Here are the key practical limitations on the sovereignty of the British Parliament:

### **1. Constitutional Conventions:**

Constitutional conventions are unwritten rules and practices that shape the functioning of the UK's political system. While not legally binding, they carry significant weight and can restrict the exercise of parliamentary sovereignty.

Example: The convention of collective ministerial responsibility holds that government ministers must publicly support government policies. This convention limits individual MPs' freedom to dissent from government positions, effectively curtailing تخفيف their ability to exercise parliamentary sovereignty in opposition to the government's stance.

### **2. International Obligations:**

Membership in international organizations and treaties imposes obligations that can limit the exercise of parliamentary sovereignty. EU membership, for example, involved accepting certain constraints on legislation to comply with EU law.

Example: Prior to the UK's withdrawal from the European Union (Brexit), EU law had precedence over conflicting UK legislation. This meant that Parliament could not unilaterally overturn EU laws, limiting its sovereignty in matters governed by EU regulations.

### **3. Devolution:**

The devolution of powers to regional legislatures in Scotland, Wales, and Northern Ireland limits the sovereignty of the UK Parliament in certain areas. Devolved legislatures have authority over specific policy domains, reducing the Parliament's control in those regions.

Example: The Scottish Parliament has devolved powers over areas such as education, health, and housing. While the UK Parliament retains ultimate authority, devolution restricts its sovereignty in those policy domains, as decisions in these areas are made by the Scottish Parliament.

#### **4. Human Rights and Judicial Review:**

The incorporation of the European Convention on Human Rights (ECHR) into UK law through the Human Rights Act 1998 enables courts to review the compatibility of legislation with human rights. This can limit the Parliament's sovereignty by subjecting its laws to judicial scrutiny . جهان بین .

Example: If a law passed by Parliament is found to violate rights protected by the ECHR, the courts have the power to declare the legislation incompatible, potentially prompting reconsideration or amendment by Parliament.

#### **5. Public Opinion and Political Pressure:**

Public opinion and political pressure can exert practical limitations on parliamentary sovereignty. The views and preferences of the electorate can influence the decisions and actions of MPs, constraining their ability to exercise full sovereignty.

Example: In response to widespread public opposition, the government withdrew its proposal to increase the maximum tuition fees in 2010. The pressure exerted by public opinion influenced Parliament's decision-making, highlighting the impact of public sentiment on legislative outcomes.

#### **6. Judicial Activism:**

Judicial activism refers to courts taking an active role in shaping public policy by interpreting legislation broadly or challenging its constitutionality. This can indirectly limit parliamentary sovereignty by shaping the legal landscape and influencing future legislation.

Example: In the case of R (Miller) v. Secretary of State for Exiting the European Union (2017), the UK Supreme Court's ruling that an act of Parliament was required to trigger Brexit demonstrated the court's involvement in a matter that could have been considered within the purview of parliamentary sovereignty.

#### **Conclusion:**

In conclusion, while the doctrine of parliamentary sovereignty grants the British Parliament supreme law-making authority, there are practical limitations that affect its exercise. Constitutional conventions, international obligations, devolution, human rights considerations, public opinion, and judicial activism can all curtail the Parliament's sovereignty in various ways. These limitations reflect the dynamic nature of the UK's constitutional and political landscape and highlight the interplay of multiple factors in the exercise of parliamentary authority.



Q. CONVENTIONS CARRY AN IMPORTANT PLACE IN BRITISH CONSTITUTION? DISCUSS.(A2020)

Q. WRITE A DETAIL ABOUT OF CONVENTIONS OF BRITISH CONSTITUTION. (A2021)

Ans:

## **CONVENTIONS OF BRITISH CONSTITUTION**

Conventions are an integral part of the British constitution, representing unwritten rules and practices that guide the behaviour and interactions of constitutional actors within the political system. They play a significant role in shaping the functioning of the British constitutional framework. Here, let's delve into the nature of conventions and explore their crucial role:

### **Nature of Conventions:**

Conventions are non-legal norms that have evolved over time through common practice and acceptance. They are not codified in written documents or statutes but are derived from historical precedents, political traditions, and the expectations of constitutional actors. Conventions are based on a consensus اتفاق رائے among political participants and are considered binding due to their acceptance and recognition by those involved.

### **Role of Conventions:**

Conventions serve several essential functions within the British constitutional system:

- **Regulating Constitutional Powers:**  
Conventions define and regulate the exercise of constitutional powers by various actors, including the monarch, the Prime Minister, the Cabinet, and Parliament. They establish the boundaries of authority and guide the relationships between different branches of government.
- **Preserving Balance and Accountability:**  
Conventions help maintain a balance of power among constitutional actors and ensure their mutual accountability. They establish expectations for responsible governance, transparency, and adherence استقامت to democratic principles.
- **Filling in Constitutional Gaps:**  
Conventions address issues that are not explicitly covered by written laws or statutes. They fill gaps in the constitution by providing guidance on matters where flexible, evolving practices are more appropriate than rigid legal frameworks.
- **Facilitating Political Stability:**  
Conventions contribute to political stability by establishing customary practices and expectations that are widely recognized and followed by political actors. They promote predictability پیش گوئی, continuity, and the smooth functioning of government.

### **Definitions of "Conventions":**

Here are definitions of "conventions" provided by famous jurists and law dictionaries:

**A.V. Dicey:**

"Understandings, habits, or practices which, though they may regulate the conduct of the several members of the sovereign power, of the ministers or other officials, are not in reality laws at all, since they are not enforced by the courts."

**Walter Bagehot:**

Walter Bagehot, a political theorist, defined conventions as

"The usages, precedents, and practices which have been evolved in the course of time by the political actors themselves as means of carrying on the business of the state."

**Black's Law Dictionary:**

"Unwritten customs, practices, and usages that have acquired the force of law in a particular country or jurisdiction."

**Oxford Dictionary of Law:**

"Rules of constitutional behaviour which are considered binding by and upon those who operate the Constitution, even though they are not enforceable by the courts."

**Halsbury's Laws of England:**

"Rules of constitutional practice which affect the exercise of the sovereign powers and which do not have legal force, but which are considered binding as a matter of constitutional morality."

**TYPES OF CONVENTIONS:**

Conventions in the context of a constitution can be categorized into several types based on their nature and purpose. Here are some common types of conventions:

**1. Constitutional Conventions:**

Constitutional conventions are unwritten rules and practices that shape the relationships and behaviour between different branches of government, such as the executive (government), the legislature (Parliament), and the judiciary (courts). They help ensure a balance of power, effective governance, and accountability within the constitutional framework.

Examples of Constitutional Conventions:

**i. Formation of Government:**

After a general election in the UK, the convention is that the leader of the political party with the most seats in the House of Commons is invited by the monarch to form a government. This convention establishes the democratic principle of the government being based on the support of the majority in Parliament.

**ii. Prime Ministerial Accountability:**

The convention expects the Prime Minister to be a member of Parliament. This ensures that the head of the government remains accountable to the legislature, as they are subject to questioning, scrutiny, and accountability from other elected representatives.

### iii. **Collective Responsibility:**

This convention dictates that members of the government, including ministers, publicly support government policies and decisions. Even if individual ministers privately disagree, they are expected to present a united front. This convention ensures collective decision-making and prevents public divisions within the government.

### iv. **Individual Ministerial Responsibility:**

According to this convention, ministers are individually responsible for their departments and their actions. If a minister makes a serious mistake or faces controversy, they are expected to take responsibility and may be required to resign. This convention ensures individual accountability within the government.

### v. **Royal Assent:**

Although it is a legal requirement for a bill to receive royal assent to become law, the convention is that the monarch always grants assent. The monarch's role has become ceremonial **رسمی تقریب**, and they act on the advice of the government. This convention maintains the impartiality and neutrality of the monarch in the legislative process.

### vi. **Dissolution of Parliament:**

The convention is that the Prime Minister requests the monarch to dissolve Parliament and call for a general election. Although the Prime Minister has the power to advise the monarch on this matter, the convention ensures that the decision to dissolve Parliament lies with the elected government and not the monarch.

## 2. **Political Conventions:**

Political conventions are unwritten customs that guide the behaviour of politicians and political parties. They help in running the political system and elections fairly.

Example: A common political convention is that if a political party wins the most seats in an election, its leader becomes the Prime Minister. This convention helps determine who leads the government after elections.

## 3. **Diplomatic Conventions:**

Diplomatic conventions are the unwritten rules that countries follow when dealing with each other. They guide how diplomats interact, make agreements, and resolve conflicts.

Example: Diplomatic immunity is a convention that grants diplomats special protections from being arrested or prosecuted in the host country. This helps diplomats perform their duties without fear of legal consequences.

## 4. **Judicial Conventions:**

Judicial conventions are the unwritten practices that guide how judges and courts do their job. They help ensure fairness and consistency in the legal system.

Example: One common judicial convention is the principle of *Stare Decisis*, which means that courts follow previous decisions when deciding similar cases. This ensures predictability and consistency in the law.



**5. Parliamentary Conventions:**

Parliamentary conventions are the unwritten rules that govern how Parliament operates. They include how debates are conducted, how votes are taken, and how committees work.

Example: In the UK Parliament, the Speaker is an impartial غير جانبدار figure who presides over debates and ensures that everyone follows the rules. This convention helps maintain order and fairness in parliamentary proceedings.

**6. Succession Conventions:**

Succession conventions are the unwritten rules that determine how power is transferred from one monarch or leader to another.

Example: In the British monarchy, the convention of primogeniture means that the oldest child of the reigning monarch inherits the throne. This convention ensures a smooth and predictable transition of power within the royal family.

**Conclusion:**

We can say that conventions play a crucial role in the British constitution by guiding the functioning of the political system. Despite being unwritten and non-legal, they establish expectations, norms, and practices that ensure stability, accountability, and effective governance. While not legally enforceable, conventions are upheld through political traditions, public expectations, and the desire to maintain constitutional legitimacy. Their flexibility allows for adaptation to changing circumstances, but their adherence remains essential for preserving the integrity of the constitutional system. Overall, conventions form an integral part of the British constitution, reflecting the collective wisdom and experience of political traditions in shaping democratic governance.



**Q. DISCUSS ROLE OF “THE CROWN” IN UK AND ALSO DISCUSS ITS ORIGIN AND HISTORICAL DEVELOPMENT.**

**Ans:**

## **THE CROWN**

In the United Kingdom, the term "**The Crown**" refers to the constitutional monarchy and the institution of the monarchy itself. The Crown plays a significant role in the UK Parliament, which is the supreme legislative body of the country. However, it's important to understand that the UK Parliament is a bicameral institution, consisting of two houses:

- **The House of Commons**
- **The House of Lords**

The Crown plays a significant and unique role in the UK Parliament, which is a key feature of the country's constitutional monarchy. Although the Crown's powers are largely ceremonial and symbolic, its presence and involvement are crucial to the functioning and legitimacy of the UK Parliament.

### **Origin and History of The Crown in UK:**

The concept of the Crown in the United Kingdom has a long and intricate پیچیدہ history, dating back to the early medieval period. The Crown represents the institution of the monarchy and the authority vested in the reigning monarch as the Head of State. Its origins and historical development can be summarized as follows:

#### **Early Origins:**

The roots of the British monarchy can be traced back to the early medieval قرون وسطی period, with the establishment of Anglo-Saxon kingdoms in the 5th and 6th centuries. Over time, various Anglo-Saxon kings sought to consolidate their authority and claim divine right to rule, linking their legitimacy to their royal ancestry و نسب و نسب .

#### **Norman Conquest:**

In 1066, William the Conqueror فاتح , the Duke of Normandy, invaded England and defeated King Harold II at the Battle of Hastings. William became King of England and introduced the feudal system, consolidating مستحکم his rule by granting lands to loyal supporters, who became feudal vassals. The Crown, under William, became synonymous with the monarchy and the central authority of the realm.

#### **Magna Carta and The Limits of Royal Power:**

In 1215, King John of England was compelled مجبور by his barons to sign the Magna Carta, a charter that established the principle that the king was subject to the law, like any other citizen. This marked a significant moment in limiting the absolute power of the Crown and laying the foundation for the development of constitutional principles.

#### **Development of Parliament:**

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Over the centuries, the English Parliament evolved as a representative body, consisting of the House of Commons and the House of Lords. The Crown's relationship with Parliament underwent گزرا changes, with the Parliament gaining more influence and authority in governance.

### **Glorious Revolution:**

In 1688, the Glorious Revolution took place, leading to the deposition of King James II and the accession of William III and Mary II to the throne تخت. The Bill of Rights 1689 and the Act of Settlement 1701 further clarified the constitutional limits of the Crown's powers and established the principle of parliamentary sovereignty.

### **Constitutional Monarchy:**

The 18th and 19th centuries saw the gradual evolution of the UK's constitutional monarchy. The monarch's powers were increasingly limited, and the real political authority shifted to elected representatives in Parliament. The Crown's role became largely ceremonial, with the monarch acting as a symbol of national unity and continuity.

### **Modern Era:**

In the 20th and 21st centuries, the UK's monarchy has continued to evolve as a constitutional monarchy. The monarch's powers have become even more restricted, and their role is primarily symbolic, involving state ceremonial duties, representing the country, and serving as a unifying figure.

### **Role of The Crown in UK:**

The Crown represents the institution of the monarchy, and its role is distinct from the day-to-day functions of the government, which are carried out by elected officials. Here are the key roles of the Crown in the UK:

#### **1. Head of State:**

As the ceremonial Head of State, the reigning monarch represents the unity and continuity of the nation. The Crown is a symbol of the state and its institutions, transcending عبور کرنا political parties and changes in government. The monarch's role as Head of State is largely non-political, focusing on ceremonial and representational duties.

#### **2. State Opening of Parliament:**

The Crown formally opens each session of Parliament with the State Opening. This grand ceremonial event takes place in the House of Lords, where the King delivers the King's Speech. The speech, written by the government, outlines the legislative agenda for the upcoming parliamentary session. The Crown's presence at the State Opening emphasizes the formal commencement ابتدا of the new session and reinforces تقویت دیتا ہے the link between the government and the Crown.

#### **3. Granting Royal Assent:**

For a bill to become law, it must receive royal assent منظوری from the Crown. Although the monarch's formal approval is required, the granting of royal assent is a constitutional formality. Since the early 18th century, royal assent has not been withheld, meaning that bills passed by both houses of Parliament automatically become law.

#### 4. **Diplomatic Functions:**

The monarch has a role in diplomatic matters as the representative of the UK in international relations. This includes receiving foreign ambassadors and high-level dignitaries معززین on state visits to the UK. While the monarch participates in diplomatic ceremonies, the conduct of foreign policy is carried out by the government, led by the Prime Minister and the Foreign and Commonwealth Office.

#### 5. **Commander-in-Chief:**

The Crown is the ceremonial Commander-in-Chief of the British Armed Forces, representing the unity of the military under the sovereign's leadership. However, the actual operational control and decisions related to the deployment of military forces are made by the government, particularly the Prime Minister and the Ministry of Defence.

#### 6. **Dissolution of Parliament:**

In the UK, general elections are typically held at least every five years. If the Prime Minister believes that the government no longer has the confidence of the House of Commons or that an election would be advantageous فائده مند, they can request the monarch to dissolve Parliament. The Crown has the formal power to dissolve Parliament and call for new elections, but this power is exercised on the advice of the Prime Minister.

#### 7. **Appointment of the Prime Minister:**

Following a general election or a change in government, the monarch formally appoints the Prime Minister. However, the appointment is largely ceremonial, and the monarch appoints the leader of the political party that can command the confidence of the House of Commons. The Prime Minister is usually the leader of the party that holds the most seats in the House of Commons, or in the case of a coalition اتحادی government, the leader of the party with a majority in the coalition.

#### 8. **Neutrality and Unifying Figure:**

The Crown remains neutral in political matters and is expected to act as a unifying figure for the nation. The monarch refrains from expressing personal political opinions and avoids engaging in contentious متنازعہ issues. This neutrality helps to maintain the monarchy's position as an apolitical غیر سیاسی and unifying institution, representing all citizens regardless of their political affiliations.

Overall, the role of the Crown in the UK is one of tradition, continuity, and national representation, while the day-to-day governance and decision-making lie with elected

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representatives and the government. The constitutional monarchy in the UK allows for the preservation of historical institutions while accommodating democratic جمہوری principles and accountable governance.



Q. "THE CROWN IS AN INSTITUTION WHICH NEVER DIES". DISCUSS THE MAXIM AND ENUMERATE THE, CONSTITUTIONAL POSITION AND PREROGATIVES استحقاق OF THE CROWN.(A2019)

Ans:

## **"THE CROWN IS AN INSTITUTION WHICH NEVER DIES".**

Ans:

The phrase "The Crown is an institution which never dies" explains the concept that the institution of the monarchy remains continuous and enduring پائیدار, even though individual monarchs may come and go. It highlights the stability and longevity عمر لمبی of the Crown as an integral part of the governance and identity of certain nations with constitutional monarchies.

### **Maxim :**

The maxim "The King Is Dead, Long Live The King" is a traditional phrase used to mark the transition of power from one monarch to the next in a hereditary monarchy. It is commonly associated with the passing of a reigning monarch and the immediate succession of the new monarch to the throne.

Let's explore the meaning and significance of this maxim:

#### **1. Continuity and Stability:**

The Crown represents the continuity of the state and its institutions over time. While monarchs may have varying reigns حکومت کرتا ہے and successions, the institution of the monarchy remains intact. This continuity provides a sense of stability and permanence استواری, as the Crown transcends آگے بڑھ گیا individual personalities and political changes.

#### **2. Symbol of National Identity:**

The Crown serves as a symbol of national identity, representing the historical and cultural heritage of a nation. It embodies the traditions, customs, and values that have shaped the country over centuries. The institution of the monarchy often holds deep significance for citizens, evoking a sense of pride, unity, and shared history.

#### **3. Constitutional Role:**

In constitutional monarchies, the Crown's role is enshrined تسلیم شدہ in the constitution. It serves as a fundamental pillar of the political system, alongside other branches of government. The monarch's powers and responsibilities are usually defined and limited by constitutional provisions, ensuring a balance of power and the rule of law.

#### **4. Head of State:**

The Crown, represented by the reigning monarch, acts as the formal Head of State. This position is separate from the government and is often apolitical. The monarch fulfills ceremonial and symbolic duties, such as the State Opening of Parliament, representing the unity and continuity of the nation.

**5. Unifying Figure:**

The Crown can play a unifying role within society. As a figurehead above political factions, the monarch can serve as a unifying force that transcends political divisions. The neutrality of the Crown fosters a sense of collective identity and national unity, particularly during times of celebration, mourning سوگ , or national crises.

**6. Historical and Cultural Heritage ورثہ:**

The Crown embodies a nation's history, traditions, and cultural values. It serves as a link to the past, connecting present generations with their ancestors اجداد و آباء . The monarchy's longevity and preservation of customs and rituals رسومات contribute to the preservation تحفظ of a country's heritage and historical narrative.

**7. Constitutional Evolution:**

The institution of the monarchy has evolved ترقی یافتہ over time to adapt to changing societal, political, and constitutional circumstances. While remaining rooted in tradition, constitutional monarchies have undergone reforms to accommodate democratic principles and accountable governance. This adaptability has contributed to the longevity and relevance of the Crown as an enduring پائیدار institution.

**CONSTITUTIONAL POSITION OF THE CROWN IN UK:**

The constitutional position of the Crown in the United Kingdom is a fundamental aspect of the country's governance. The UK is a constitutional monarchy, which means that the monarch's powers and role are defined and limited by the constitution and laws, while real political authority is exercised by elected representatives and the government. Here are the key elements of the constitutional position of the Crown in the UK:

**1. Ceremonial and Symbolic Role:**

The reigning monarch in the UK serves as the ceremonial Head of State. Their role is largely symbolic, representing the unity, continuity, and stability of the nation. The Crown embodies the state and its institutions, providing a sense of historical legitimacy and national identity. The monarch's presence at state events and ceremonial occasions helps to foster a sense of unity and pride among citizens.

**2. Limited Powers:**

The powers of the Crown are limited by the constitution, laws, and constitutional conventions. The UK operates under a constitutional monarchy, where the monarch's authority is constrained مجبور by the principles of parliamentary democracy. The monarch's powers are largely ceremonial and do not interfere with the day-to-day functioning of the government.

**3. Parliamentary Sovereignty:**

The UK follows the principle of parliamentary sovereignty, which means that Parliament is the supreme legal authority. Parliament has the power to make, amend, or repeal منسوخی laws, and the Crown's role is to grant formal assent to legislation. The Crown does not have the power to veto or override parliamentary decisions.

**4. Royal Prerogatives:**

The Crown retains certain historical powers known as royal prerogatives استحقاق. These prerogatives were traditionally exercised by the monarch but are now performed on the advice of the government. They include the power to appoint the Prime Minister, dissolve Parliament, grant pardons معافی, issue passports, and make treaties, among others. These powers are exercised within the boundaries set by constitutional conventions and legal frameworks.

### **5. State Opening of Parliament:**

The Crown formally opens each session of Parliament with the State Opening, a grand ceremonial event. During the State Opening, the monarch delivers the King's Speech, which outlines the government's legislative agenda for the upcoming parliamentary session. The Crown's presence at this event emphasizes the formal commencement ابتداء of the session and reinforces the connection between the government and the Crown.

### **6. Royal Assent:**

For a bill to become law, it must receive royal assent منظوری from the Crown. Although the formal approval of the monarch is required, royal assent is a constitutional formality. It is typically granted based on the advice of the government, signifying the consent of the Crown to the legislation passed by Parliament.

### **7. Neutrality:**

The Crown remains neutral in political matters. The reigning monarch refrains اجتناب from expressing personal political opinions and does not engage in partisan activities. This neutrality helps to maintain the monarchy's position as an apolitical and unifying institution, representing all citizens regardless of their political affiliations. The monarch acts as a unifying figurehead above political divisions.

### **8. Commander-in-Chief:**

The Crown is the ceremonial Commander-in-Chief of the British Armed Forces. This role represents the unity of the military under the sovereign's leadership. However, the operational control and decision-making regarding the military lie with the government and the Ministry of Defence. The Crown's involvement in military matters is largely symbolic, highlighting the connection between the armed forces and the Head of State.

### **9. Role in Diplomacy:**

The monarch has a role in diplomacy as the representative of the UK in international relations. The Crown receives foreign ambassadors and high-level dignitaries on state visits to the UK, and the monarch may also undertake state visits abroad. However, the conduct of foreign policy, negotiation of treaties, and diplomatic decisions are the responsibility of the government, led by the Prime Minister and the Foreign and Commonwealth Office.

## **PREROGATIVES OF THE CROWN:**

The prerogatives of the Crown refer to a set of historic powers and privileges traditionally held by the monarch in the United Kingdom. While many of these powers are now exercised



on the advice of the government, they remain legally associated with the Crown. Here are some of the key prerogatives of the Crown:

### **1. Appointment of the Prime Minister:**

The monarch has the prerogative to appoint the Prime Minister. However, this power is exercised based on constitutional convention, as the monarch typically appoints the leader of the political party that can command the confidence of the House of Commons. The appointment is formal and ceremonial.

### **2. Dissolution of Parliament:**

The Crown has the prerogative to dissolve Parliament, leading to general elections. While the monarch formally grants dissolution, this power is exercised on the advice of the Prime Minister. The ability to dissolve Parliament allows for the renewal of the democratic mandate and the selection of new representatives.

### **3. Granting Royal Pardons:**

The Crown has the prerogative to grant pardons معافی , which can include reducing or forgiving a sentence or relieving the legal consequences of a conviction. However, in practice, the power to grant pardons is typically exercised by the government or through established legal processes.

### **4. Making Treaties:**

Historically, the Crown had the prerogative to make treaties. However, with the development of constitutional norms and practices, the power to negotiate and enter into treaties is now exercised by the government. The monarch's involvement in treaties is largely ceremonial, where the Crown may give formal consent or provide symbolic representation.

### **5. Issuing Passports:**

The Crown holds the prerogative to issue passports, which serve as official travel documents for UK citizens. While the administration of passport issuance is carried out by government agencies, the issuing authority is derived from the Crown's prerogative.

### **6. Commanding the Armed Forces:**

The Crown is the ceremonial Commander-in-Chief of the British Armed Forces, which is a prerogative power. However, the actual operational control and decision-making regarding the military lie with the government and the Ministry of Defence.

### **7. Honours and Appointments:**

The Crown has the prerogative to confer تفویض کریں honours and appointments, such as knighthoods, peerages , and other forms of recognition. While recommendations for honours are typically made by the government, the formal act of conferring an honour is a prerogative power of the Crown.

### **8. Granting Mercy:**

The Crown has the prerogative to exercise mercy and clemency, including the power to commute or reduce a sentence, or grant reprieves. In practice, these powers are usually exercised by the government or through established legal processes.

**Conclusion:**

The Crown is an institution that endures through time, symbolizing stability and unity. In the UK, it holds a ceremonial role, limited by constitutional principles. Its historical prerogatives have adapted to modern governance, ensuring a balance between tradition and democratic accountability. As a unifying figure, the Crown represents the nation's cultural heritage and values.



Q. THERE IS A COMMON PHRASE IN BRITISH LEGAL SYSTEM THAT “THE KING CAN DO NO WRONG” DISCUSS THE STATEMENT. (S2019)

Ans:

### **“THE KING CAN DO NO WRONG”**

"The King can do no wrong" is a legal maxim that historically reflects the principle of immunity or inviolability ناقابل تنسیخ attributed to the monarch in certain legal systems. It signifies that the sovereign is immune from legal liability or prosecution for their actions. Let's examine this maxim in detail with the following headings:

**1. Origin and Historical Context:**

The maxim originated from the concept of the divine right of kings, prevalent during the medieval and early modern periods. It was rooted in the belief that the monarch was chosen by GOD and therefore held a position above the law. The maxim symbolized the idea that the monarch's actions were presumed to be just and lawful.

**2. Legal Immunity and Sovereign Immunity:**

"*The King Can Do No Wrong*" embodied the principle of legal immunity, providing the monarch with protection against legal accountability for their actions. This immunity was extended to the sovereign's person and their official acts. It formed the basis of the concept of sovereign immunity, which shields the head of state or the state itself from lawsuits and legal claims.

**3. Application and Limitations:**

The maxim historically applied to acts performed by the monarch in their official capacity. It generally shielded the monarch from civil and criminal liability, ensuring that legal proceedings or claims could not be brought directly against the sovereign. However, it is essential to note that this principle did not grant absolute immunity or license for unlawful behaviour. It was subject to certain limitations and qualifications.

**4. Vicarious Liability and Ministerial Responsibility:**

While the monarch enjoyed personal immunity, the principle did not protect other individuals, such as ministers or officials, who could be held responsible for their actions. This concept of vicarious liability held ministers accountable for their advice or actions undertaken on behalf of the Crown. It evolved into the doctrine of ministerial responsibility, where ministers are held responsible for the decisions and policies of the government.

**5. Modern Interpretations and Evolution:**

Over time, the maxim's practical application has evolved. In constitutional monarchies, including the United Kingdom, the concept of the monarch's immunity has diminished کم ہو گیا in significance. The principle has been tempered by constitutional reforms, the rule of law, and democratic governance. Modern legal systems generally hold that all individuals, including the sovereign, are subject to the law and can be held accountable for their actions.

**6. Sovereign Immunity Today:**

## Constitutional Law-I (British & US)

In present-day constitutional monarchies, sovereign immunity is often understood as a limited immunity, primarily applied to the official acts of the reigning monarch. However, the extent of this immunity can vary between jurisdictions. In many cases, immunity is waived or restricted for certain actions or situations, such as acts committed outside official duties or actions that violate constitutional provisions or human rights.

### 7. Accountability and Constitutional Constraints:

While the monarch may enjoy certain legal protections, they are subject to constitutional constraints, such as the requirement to act on the advice of elected officials, respect the rule of law, and uphold democratic principles. The accountability of the monarch lies within the framework of constitutional and democratic governance, where the exercise of power is balanced by checks and balances.

### Conclusion:

In conclusion, the phrase "*The King Can Do No Wrong*" historically represented the concept of sovereign immunity in the British legal system, providing the monarch with legal protection from liability for official actions. However, with the evolution of constitutional monarchies and democratic principles, the notion تصور of sovereign immunity has been substantially modified to ensure that the monarchy operates within the framework of accountable governance and the rule of law.



**Q. DISCUSS THE CABINET SYSTEM UNDER BRITISH CONSTITUTION. ENUMERATE THE POWERS OF PRIME MINISTER IN RELATION TO CABINET? (A2020)**

**Ans:**

## **THE CABINET SYSTEM**

The British Cabinet system refers to the collective decision-making body in the United Kingdom's government, composed of senior government ministers selected by the Prime Minister. It is an essential part of the country's parliamentary democracy and plays a crucial role in the formulation and execution of government policies.

In the UK, the executive branch of government is the group that runs the country and makes and enforces laws. This group includes the Prime Minister (PM) and the Cabinet. The Prime Minister is not the only leader; they are in charge of the Cabinet. The Cabinet is a team of important ministers in the UK, each responsible for a different department. They meet together and in smaller groups to make important decisions that cover all areas of the country. The Prime Minister selects and appoints these ministers to lead specific areas like healthcare and education.

### **Eligibility For UK Cabinet Members:**

To be a member of the British Cabinet, an individual must be appointed by the Prime Minister, who is the head of the government. The following are the general eligibility criteria and qualifications for becoming a member of the British Cabinet:

- i. Member of Parliament (MP):**  
Typically, Cabinet members are Members of Parliament, either from the House of Commons or the House of Lords. They are usually elected representatives, although the Prime Minister can also appoint members of the House of Lords to the Cabinet.
- ii. Party Affiliation:**  
Cabinet members are usually members of the political party that holds the majority in the House of Commons. In the UK's parliamentary system, the leader of the majority party becomes the Prime Minister and has the authority to select Cabinet members from their own party.
- iii. Expertise and Experience:**  
While there are no formal educational or professional requirements, Cabinet members are expected to possess relevant expertise and experience in their respective fields or government departments. They are often chosen based on their ability to lead and manage specific policy areas effectively.
- iv. Loyalty to the Prime Minister:**  
Cabinet members are generally expected to be loyal to the Prime Minister and the party's leadership. Demonstrating loyalty and support during leadership campaigns or crucial political moments can enhance one's chances of being appointed to the Cabinet.
- v. Government's Agenda:**  
Cabinet members should align with the government's policy agenda and be committed to implementing the party's manifesto promises and objectives.

**vi. Political Acumen:**

Cabinet members must possess strong political acumen and negotiation skills, as they will be involved in making important policy decisions and representing the government in parliamentary debates.

**FEATURES OF BRITISH CABINET SYSTEM:**

Here are the key features and aspects of the British Cabinet system:

**1) Composition:**

The Cabinet is composed of senior government ministers who head major government departments. These ministers are appointed by the Prime Minister and are usually chosen from among the members of the ruling party or coalition. The number of Cabinet members can vary, but it typically consists of around 20-25 senior ministers.

Example: In a hypothetical scenario, let's assume that the Prime Minister of the United Kingdom belongs to the Conservative Party, which holds the majority in the House of Commons. The Prime Minister would then select senior party members to fill the key Cabinet positions, such as the Chancellor of the Exchequer, the Foreign Secretary, the Home Secretary, the Defense Secretary, and others.

**2) Prime Minister's Role:**

The Prime Minister is the head of the government and plays a central role in the Cabinet system. The Prime Minister has the authority to appoint and dismiss Cabinet ministers, set the government's agenda, and lead the Cabinet meetings.

Example: Suppose the Prime Minister identifies a need for a new policy initiative in healthcare. They would discuss this with the Health Secretary and other relevant ministers in the Cabinet, and together they would formulate the proposal, considering various aspects like funding, implementation, and potential impacts.

**3) Collective Decision Making:**

The Cabinet operates on the principle of collective responsibility. This means that once a decision is made by the Cabinet, all members are expected to publicly support and defend it, regardless of their individual opinions. This ensures unity and consistency in the government's actions.

Example: If a decision is made in the Cabinet to increase taxes on luxury goods, all Cabinet ministers, even those who may have initially opposed the idea, are expected to publicly back the decision when presenting it to the public and defending it in the Parliament.

**4) Weekly Meetings:**

The Cabinet holds regular meetings, usually on a weekly basis, to discuss important issues and make decisions. These meetings are presided over by the Prime Minister, who sets the agenda and ensures that the discussions remain focused.

Example: During a weekly Cabinet meeting, the Prime Minister might discuss matters related to national security, the economy, or foreign relations. The ministers present their proposals, exchange views, and collectively reach decisions on policy matters.

**5) Secrecy:**

Cabinet discussions are treated as confidential, and this principle of cabinet confidentiality ensures that the details of these meetings are not disclosed to the

public or the media. This allows for frank and open discussions among ministers without fear of premature leaks or political repercussions.

Example: After a Cabinet meeting discussing sensitive negotiations with a foreign country, the ministers involved would not reveal specific details of the discussions to the media or the public until the government is ready to make an official announcement.

**6) Power and Influence:**

The Cabinet is one of the most influential bodies in the UK government. It shapes policies, sets the legislative agenda, and exercises significant control over the direction of the country.

Example: Suppose the Cabinet decides to introduce a new education policy aimed at improving access to quality education for underprivileged children. This policy would have far-reaching effects on the education system and could impact the lives of millions of students and educators.

**7) Ministerial Responsibility:**

Each Cabinet minister is responsible for the functioning of their respective government department. If a minister's department faces significant failures or controversies, they may be required to take responsibility and resign from their position.

Example: If the Home Secretary's department fails to handle a major security breach effectively, and it leads to public outcry and questions about the minister's competence, the Home Secretary may feel obligated to step down from their role.

**8) Political Stability:**

The Cabinet system contributes to political stability as the majority party or coalition in the House of Commons generally supports the government's policies and decisions. This support helps the government to pass legislation and implement its agenda more smoothly.

Example: When the ruling party enjoys a comfortable majority in the House of Commons and maintains unity within the Cabinet, it is less likely to face defeats in crucial votes, and the government is more likely to remain in power for its full term.

## **THE POWERS OF PRIME MINISTER IN RELATION TO CABINET**

The UK Prime Minister holds significant powers in relation to the Cabinet. As the head of the government, the Prime Minister's authority extends over the Cabinet and its members. Some of the key powers of the UK Prime Minister in relation to the Cabinet are as follows:

**1) Appointing Cabinet Ministers:**

The Prime Minister has the authority to select and appoint Cabinet ministers from among Members of Parliament (MPs) and, in some cases, members of the House of Lords. The Prime Minister can choose individuals based on their expertise, loyalty, and political considerations.

**2) Cabinet Reshuffles:**

The Prime Minister can conduct reshuffles within the Cabinet, which involve changing the roles and positions of existing ministers or bringing in new ministers. Reshuffles allow the Prime Minister to reallocate responsibilities and respond to changing political circumstances.

**3) Setting the Agenda:**

The Prime Minister plays a central role in setting the agenda for Cabinet meetings. They decide which topics will be discussed and determine the priority of various issues to be addressed.

**4) Chairing Cabinet Meetings:**

As the head of the government, the Prime Minister chairs Cabinet meetings. They lead discussions, moderate debates, and ensure that decisions are made collectively by the Cabinet.

**5) Collective Responsibility:**

The Prime Minister enforces the principle of collective responsibility within the Cabinet. This means that all Cabinet members are bound to support and publicly defend Cabinet decisions, even if they may personally disagree with them.

**6) Dismissing Cabinet Ministers:**

The Prime Minister has the authority to dismiss Cabinet ministers from their positions. If a minister fails to perform their duties effectively or faces controversies, the Prime Minister can request their resignation or remove them from the Cabinet.

**7) Policy Direction:**

The Prime Minister sets the policy direction for the government and provides guidance to Cabinet members on major policy decisions. They can influence the direction of government policies and initiatives.

**8) Controlling Cabinet Agendas:**

The Prime Minister has the power to control the timing and content of Cabinet discussions. They can prioritize certain issues, delay discussions, or add items to the agenda as deemed necessary.

**9) Authority in Decision-Making:**

While Cabinet decisions are made collectively, the Prime Minister's views and preferences often carry significant weight. Their leadership and influence can shape the outcome of Cabinet deliberations.

**10) Interaction with Civil Service:**

The Prime Minister interacts with senior civil servants and can direct the Civil Service to implement government policies as decided by the Cabinet.

**Conclusion:**

In conclusion, the British Cabinet system, with the Prime Minister at its helm, plays a pivotal role in governing the United Kingdom. The Prime Minister's extensive powers in relation to the Cabinet allow for effective decision-making and policy direction. While the collective responsibility principle ensures unity, it can also stifle diverse opinions within the Cabinet.



## **Constitutional Law-I (British & US)**

. Discuss the Doctrine of Ministerial Responsibility in the British Constitution(A2019)

Discuss the Doctrine of Ministerial Responsibility in the British constitution (S2019)

Challenges such as lack of transparency, power concentration, and factionalism need to be addressed to strengthen democratic accountability. As the Cabinet system continues to evolve, striking a balance between strong leadership and inclusive governance will be crucial in navigating the complexities of a dynamic political landscape.



Q. EXPLAIN THE DOCTRINE OF MINISTERIAL RESPONSIBILITY UNDER BRITISH CONSTITUTION? (A2019) (S2019) (A2021)

Ans:

## THE DOCTRINE OF MINISTERIAL RESPONSIBILITY

The Doctrine of Ministerial Responsibility is a fundamental principle in the British constitutional system that establishes the accountability of government ministers to Parliament. It outlines the various ways in which ministers are held responsible for their actions and decisions, ensuring transparency, integrity, and democratic oversight in the functioning of the government. The doctrine encompasses two main aspects:

1. Individual Ministerial Responsibility
2. Collective Ministerial Responsibility

### 1. Individual Ministerial Responsibility:

Under this aspect of the doctrine, individual ministers are held personally accountable for their own actions and decisions, both to Parliament and the public. Key elements of individual ministerial responsibility include:

**a. Ministerial Actions:**

Ministers are expected to take responsibility for their conduct and decisions made within their respective areas of authority. If they are found to have acted improperly or made errors in judgment, they may be required to resign from their position.

**b. Accountability to Parliament:**

Ministers are accountable to Parliament for the policies and actions of their departments. They must answer questions and provide explanations for their decisions during question sessions and debates.

**c. Resignation:**

In cases of serious mistakes, misconduct, or policy failures, ministers are expected to offer their resignation as a matter of personal honour and integrity سالمیت. The Prime Minister may also request a minister's resignation if they lose confidence in their ability to carry out their duties effectively.

### 2. Collective Ministerial Responsibility:

Collective ministerial responsibility is a principle that emphasizes the unity and collective accountability of the government as a whole for its policies and decisions. It is a crucial aspect of the Doctrine of Ministerial Responsibility in the British constitutional system. Here are the key components of collective ministerial responsibility:

**a. Cabinet Solidarity یکجہتی:**

Cabinet ministers are required to present a united front and publicly support government decisions, even if they privately disagree with them. This means that once a decision is made collectively within the cabinet, all ministers are expected to uphold and promote it consistently, both inside and outside Parliament. Cabinet discussions are conducted in confidence, allowing for frank and robust سخت debates, but once a decision is made, it becomes the official position of the government.

## Constitutional Law-I (British & US)

The principle of cabinet solidarity ensures that the government speaks with a unified voice and presents a coherent policy platform to the public. It is designed to prevent public divisions and internal conflicts تنازعات within the government, which could weaken its effectiveness and undermine public confidence.

### b. Cabinet Confidentiality:

Cabinet discussions and deliberations تبادلہ خیال are strictly confidential. Ministers are expected to maintain confidentiality regarding the discussions that take place within the cabinet. This ensures that sensitive information and diverse متنوع viewpoints can be freely expressed during cabinet meetings without fear of public exposure.

By maintaining cabinet confidentiality, ministers can engage in open and candid discussions, allowing them to explore various policy options and reach well-informed decisions. This also fosters an environment of trust among cabinet members, enabling them to work collaboratively باہمی تعاون سے and make collective decisions in the best interest of the country.

### c. Resignation in Dissent اختلاف ہونا:

While collective ministerial responsibility emphasizes unity, it also recognizes that ministers may have deeply held disagreements with government policies. If a minister finds themselves fundamentally opposed to a government decision and cannot publicly support it, the principle requires them to resign from their ministerial position rather than publicly dissenting.

Resignation in dissent is seen as an act of personal integrity and principle. It avoids undermining the government's position and preserves the appearance of a united front. It also allows the minister to voice their objections while taking responsibility for their disagreement with the government's decision.

## **Conclusion:**

Collective ministerial responsibility is essential for maintaining a stable and effective government. It ensures that government decisions are presented as cohesive policies rather than individual ministerial preferences. By adhering اس پر عمل کرنا to this principle, the government can demonstrate credibility and maintain the confidence of Parliament and the public in its ability to govern. However, it is not without its challenges, as striking a balance between collective solidarity and individual expression of dissent اختلاف ہونا can be complex in practice.



- Q. DISCUSS BRITISH PARLIAMENT, ITS COMPOSITION AND ALSO DISCUSS ITS FUNCTIONS AND PROCEDURE IN DETAIL.**
- Q. DISCUSS THE FUNCTIONS OF HOUSE OF LORDS AND HOUSE OF COMMONS AND THEIR RELATIONSHIP WITH EACH OTHER? (A2020)**

Ans:

## **BRITISH PARLIAMENT**

The British Parliament is the supreme legislative body of the United Kingdom, responsible for making and passing laws. The British Parliament is a bicameral institution, meaning it consists of two separate chambers:

- 1) The House Of Commons**
- 2) The House Of Lords**

Each chamber has its own distinct composition, functions, and roles within the legislative process.

### **1. HOUSE OF COMMONS**

The House of Commons is the lower chamber of Parliament and is made up of Members of Parliament (MPs) who are elected by the public in general elections. Each MP represents a specific geographical area known as a constituency **انتخابی حلقہ**. The political party or coalition **اتحادی** with the majority of seats in the House of Commons forms the government, and its leader becomes the Prime Minister. The House of Commons is the primary legislative body, and most proposed laws (bills) are introduced and debated here before they can become law.

#### **FUNCTIONS OF HOUSE OF COMMONS:**

The House of Commons, as the lower chamber of the UK Parliament, performs a range of crucial functions in the legislative process and the governance of the country. As the directly elected body representing the people, the House of Commons is the primary legislative authority in the UK. Some key functions of the House of Commons include:

##### **1. Legislation:**

The House of Commons is responsible for proposing, debating, and passing laws (bills). Most bills start in the House of Commons and must be approved by its members before being considered by the House of Lords.

##### **2. Budget and Finance:**

The House of Commons has the exclusive **امتیازی** authority to approve the government's budget. The Chancellor of the Exchequer **خزانہ** presents the annual budget, outlining the government's planned spending and revenue for the coming year. MPs debate and vote on the budget proposals, holding the government accountable for its financial decisions.

##### **3. Holding the Government to Account:**

The House of Commons serves as a forum for holding the government to account. Through various mechanisms such as Prime Minister's Questions (PMQs) and departmental question sessions, MPs can question government ministers about their policies, decisions, and actions.

**4. Debates and Discussions:**

The House of Commons provides a platform for debates and discussions on important issues affecting the country. MPs can raise اٹھانا matters of public concern, initiate debates on various topics, and advocate for their constituent's interests.

**5. Representation:**

Members of the House of Commons (MPs) represent constituencies حلقے across the UK. They act as the voice of their constituents in Parliament, bringing their concerns, needs, and interests to the attention of the government.

**6. Select Committees:**

The House of Commons forms various select committees, each focused on scrutinizing جانچ پڑتال specific areas of government policy and administration. These committees conduct inquiries, gather evidence, and produce reports to hold the government accountable and suggest improvements in policy and implementation.

**7. Forming the Government:**

The political party or coalition with the majority of seats in the House of Commons typically forms the government. The leader of the winning party becomes the Prime Minister, and they appoint other members of their party to ministerial positions in the government.

**8. Confidence and Votes of No Confidence:**

The House of Commons exercises control over the government's tenure through votes of confidence or votes of no confidence. If the government loses a vote of no confidence, it may lead to a change in government or a general election.

**9. Representation in Legislation Process:**

The consent of the House of Commons is required for certain significant constitutional changes or international treaties.

## **2. HOUSE OF LORDS**

The House of Lords is the upper chamber of Parliament and is not elected. It is made up of appointed members, including life peers , bishops of the Church of England, and hereditary موروثی peers. Unlike the House of Commons, the House of Lords primarily reviews and revises legislation proposed by the House of Commons. It can suggest amendments and improvements but cannot permanently block legislation passed by the elected House of Commons.

### **FUNCTIONS OF HOUSE OF LORDS**

The House of Lords, as the upper chamber of the UK Parliament, performs several important functions in the legislative process and the governance of the country. While its role has evolved over time, some key functions of the House of Lords include:

**1. Legislative Review and Scrutiny:**

One of the primary functions of the House of Lords is to review and scrutinize legislation proposed by the House of Commons (the lower chamber). The Lords can

suggest amendments and improvements to bills, and they play a vital role in ensuring that legislation is thoroughly examined before becoming law.

### **2. Expertise and Revising Legislation:**

The House of Lords is composed of life peers, bishops, and a small number of hereditary peers. Many members of the House of Lords bring considerable expertise and experience in various fields, such as law, medicine, business, academia, and the arts. This expertise allows the Lords to contribute valuable insights and perspectives when revising legislation.

### **3. Debates on Public Policy Issues:**

The House of Lords provides a forum for in-depth debates on important public policy issues. These debates allow members to discuss and raise awareness of pressing matters affecting the country and the wider world.

### **4. Holding the Government to Account:**

While the House of Commons is the primary chamber responsible for holding the government to account, the House of Lords also plays a role in scrutinizing government policies and actions. Through question sessions and debates, Lords can seek explanations and challenge the government on various matters.

### **5. Long-Term and Independent Viewpoint:**

As members of the House of Lords are not subject to direct electoral pressures, they can take a longer-term and more independent viewpoint on issues, considering the broader implications of legislation and policy decisions.

### **6. Revision of Statutory Instruments:**

The House of Lords also reviews and debates statutory instruments (secondary legislation) proposed by the government. Statutory instruments are legal instruments that enable the provisions of an Act of Parliament to be subsequently brought into force or altered.

### **7. Checks and Balances:**

The House of Lords provides an essential check on the powers of the elected House of Commons. Its ability to revise and scrutinize legislation ensures that decisions are thoroughly examined before being enacted into law.

### **8. Judicial Functions:**

The House of Lords historically served as the highest court of appeal in the UK, but this function has been transferred to the Supreme Court of the United Kingdom following the *Constitutional Reform Act 2005*. However, the House of Lords still retains some judicial functions in certain limited circumstances.

## **PROCEDURE OF LAW MAKING IN BRITISH PARLIAMENT:**

### **i. Bill Introduction:**

Any member of Parliament, whether an MP in the House of Commons or a member of the House of Lords, can propose legislation by introducing a bill. A bill can deal with various subjects, ranging from education and healthcare to taxes and national defense.

## Constitutional Law-I (British & US)

- ii. First Reading:**

The bill's title and main objectives are read out in the respective house. There is no debate at this stage.
- iii. Second Reading:**

The bill is debated by members of the house, and its general principles are discussed. A vote is taken at the end of the debate to determine whether the bill should proceed to the next stage.
- iv. Committee Stage:**

The bill is examined in detail by a committee of MPs or Lords. Amendments can be proposed and debated. This stage is more thorough in the House of Lords.
- v. Report Stage:**

The bill, along with any amendments made in the committee stage, is considered again by the whole house. Further amendments can be made.
- vi. Third Reading:**

The final version of the bill is debated, and members vote on whether to pass it. No further amendments are allowed at this stage.
- vii. House of Lords Consideration:**

If the bill started in the House of Commons, it is sent to the House of Lords for similar consideration and voting. If the bill started in the House of Lords, it is sent to the House of Commons.
- viii. Consideration of Amendments:**

If either house makes amendments to the bill, it must be considered by the other house. They can accept, reject, or make further amendments to the bill.
- ix. Royal Assent:**

Once both houses agree on the final version of the bill, it is sent to the monarch for royal assent. Once royal assent is given, the bill becomes law and is officially an Act of Parliament.
- x. Implementation:**

After becoming law, the Act is implemented and enforced by relevant government departments and agencies.

### **Conclusion:**

In conclusion, the British Parliament plays a central role in shaping the governance and legislation of the United Kingdom. With its bicameral structure comprising the House of Commons and the House of Lords, Parliament functions to make laws, hold the government accountable, and represent the interests of the public. Its rigorous procedural framework ensures thorough scrutiny چھان بین and debate of proposed legislation, allowing for a democratic decision-making process. The Parliament's historical legacy ورثہ, coupled with its ability to adapt to evolving political landscapes, underscores نشاندهی کرتا ہے its continued significance اہمیت in upholding democratic principles and serving as a cornerstone بنیاد of the UK's constitutional framework.



**Q. HOUSE OF COMMON IS MORE POWERFUL THAN HOUSE OF LORDS, DISCUSS THE STATEMENT(A2019)(A2021)**

**Ans:**

The statement that the House of Commons is more powerful than the House of Lords is widely accepted in the British constitutional system. The power imbalance between the two chambers is a fundamental characteristic of the UK Parliament's structure. Several factors contribute to the House of Commons' greater influence and authority:

**1. Democratic Legitimacy:**

Members of the House of Commons (MPs) are directly elected by the public through general elections. As representatives of the people, MPs derive their democratic mandate from the electorate. This democratic legitimacy جواز grants the House of Commons a higher degree of authority to make decisions on behalf of the citizens they represent.

In contrast, the House of Lords is not directly elected; instead, its members are appointed, including life peers, bishops, and some hereditary peers. While the House of Lords provides expertise and experience, its lack of democratic mandate limits its claim to representative legitimacy.

**2. Financial Control:**

The House of Commons holds exclusive control over financial matters, including taxation and the approval of the government's budget. The government's ability to raise funds and spend public money is subject to the approval of the House of Commons. This "power of the purse" gives the House of Commons significant leverage over the government's fiscal مالی policies and priorities.

The House of Lords can scrutinize financial legislation, propose amendments, and engage in debates. However, it does not have the power to outright بالکل واضح طور پر reject money bills. The Parliament Act 1911 and 1949 significantly restricted the House of Lords' ability to block financial legislation, further emphasizing the House of Commons' dominance in financial matters.

**3. Control Over Legislation:**

While both houses of Parliament are involved in the legislative process, the House of Commons has the final say on most legislation. In cases of disagreement between the two houses, the Parliament Acts of 1911 and 1949 grant the House of Commons the authority to bypass the House of Lords and pass certain bills without its consent, after a specific period of delay.

The Salisbury Convention, an informal constitutional convention, also reinforces the House of Commons' supremacy in matters of government legislation. It dictates that the House of Lords should not block or substantially amend legislation promised in the government's electoral manifesto.

**4. Confidence and Prime Ministerial Appointment:**



## **Constitutional Law-I (British & US)**

The government must maintain the confidence of the House of Commons to remain in power. If the government loses a vote of confidence or fails to pass its budget, it is expected to resign, leading to a potential change of government or a general election.

Furthermore, the Prime Minister, who is the head of the government, is usually the leader of the party or coalition with the majority in the House of Commons. The Prime Minister's position and ability to govern effectively depend on maintaining support from the majority of MPs.

### **POWERS OF HOUSE OF COMMONS**

The House of Commons, as the lower chamber of the UK Parliament, possesses significant powers and responsibilities in the legislative and governance processes. These powers are instrumental in shaping the country's laws, policies, and holding the government accountable. Some key powers of the House of Commons include:

#### **1. Legislative Power:**

The House of Commons has the primary authority to propose, debate, and pass legislation. Most bills (proposed laws) are introduced in the House of Commons, and they must go through several stages of scrutiny, debate, and amendment before becoming law. The House of Commons plays a central role in shaping the content and details of proposed legislation.

#### **2. Budgetary Control:**

The House of Commons exercises control over the government's finances. It has the exclusive power to approve or reject the government's budget proposals, which outline the planned public spending and revenue for the coming year. The "power of the purse" enables the House of Commons to scrutinize and influence the government's financial policies and priorities.

#### **3. Holding the Government to Account:**

One of the key functions of the House of Commons is to hold the government accountable for its actions, policies, and decisions. MPs can question government ministers during various sessions, such as Prime Minister's Questions (PMQs) and departmental question times. These sessions provide opportunities for MPs to seek explanations and challenge the government's actions and policies.

#### **4. Confidence Motions:**

The government must maintain the confidence of the House of Commons to remain in power. If the government loses a vote of confidence, it is expected to resign, potentially leading to a change of government or a general election. Confidence motions are critical tools for the House of Commons to assert its authority over the executive branch.

#### **5. Selection of the Prime Minister:**

The leader of the political party or coalition with the majority of seats in the House of Commons is invited by the monarch to become the Prime Minister. The Prime Minister is the head of the government, and their appointment is based on their ability to command the confidence of the House of Commons.

#### **6. Investigative Powers:**

## Constitutional Law-I (British & US)

The House of Commons has the power to establish select committees to investigate specific issues, government policies, or areas of public concern. These committees have the authority to summon witnesses, gather evidence, and produce reports, holding the government accountable and proposing recommendations for improvement.

### **7. Passage of Money Bills:**

Money bills, which deal with national taxation and public expenditure, must be introduced in the House of Commons and approved by its members. The House of Lords can scrutinize money bills, but it cannot reject them. The Parliament Acts of 1911 and 1949 grant the House of Commons the power to bypass the House of Lords and pass certain bills without its consent.

### **8. Amendments and Rejection of Legislation:**

The House of Commons can propose amendments to bills, seeking changes or improvements before their passage into law. Additionally, the House of Commons can reject bills presented by the government or amend them substantially if it disagrees with their content.

### **Conclusion:**

In short, the House of Commons wields more power and authority than the House of Lords in the British constitutional system. Its democratic legitimacy, control over financial matters and legislation, and the government's dependence on its confidence collectively contribute to its dominant role in shaping the direction of the UK government and its policies. While the House of Lords performs essential functions, it operates within the framework of respecting the House of Commons' primacy.



**Q. EXPLAIN "PRIVILEGES OF THE BRITISH PARLIAMENT" IN DETAIL.**

**Ans:**

## **PRIVILEGES OF THE BRITISH PARLIAMENT**

The privileges of the British Parliament refer to a set of legal and constitutional rights and immunities granted to Members of Parliament (MPs) and the institution as a whole. These privileges are designed to safeguard the independence, functioning, and effectiveness of Parliament in carrying out its legislative and scrutiny roles. The key privileges can be categorized under the following headings:

**1) Freedom of Speech and Debate:**

The freedom of speech and debate is one of the fundamental privileges of Members of Parliament (MPs). It grants them immunity from legal action or prosecution for anything they say during parliamentary proceedings. This privilege ensures that MPs can express their views, opinions, and concerns without fear of facing legal consequences outside of Parliament. It allows them to engage in robust debates and hold the government accountable without being subject to harassment or intimidation through legal actions.

**2) Exemption from Jury Duty:**

MPs are exempt from being summoned for jury duty. This exemption recognizes the unique role and responsibilities of MPs in representing their constituents and participating in parliamentary activities. It prevents MPs from being unduly burdened by the obligation of jury service, which could interfere with their parliamentary duties.

**3) Freedom from Arrest:**

While Parliament is in session, MPs have limited immunity from arrest. This privilege ensures that MPs can attend parliamentary sessions without being hindered by the threat of arrest, which could be used to disrupt parliamentary proceedings or exert pressure on individual MPs based on political motives.

**4) Access to the Sovereign:**

MPs have the right to access the monarch to present grievances and petitions on behalf of their constituents or other matters of public interest. This right allows MPs to advocate for their constituents' concerns directly to the head of state, providing an avenue for citizens' voices to reach the highest authority in the country.

**5) Control Over Internal Affairs:**

Parliament has the authority to control its internal affairs and maintain order within its premises. This privilege allows Parliament to discipline its members for disorderly conduct or breaches of parliamentary rules. It ensures that the functioning of Parliament is not disrupted by disruptive behavior or actions that undermine the dignity and decorum of the institution.

**6) Unrestricted Entry:**

MPs enjoy unrestricted access to the parliamentary premises, allowing them to participate in parliamentary activities without any hindrance. This privilege ensures

## **Constitutional Law-I (British & US)**

that MPs can attend debates, committee meetings, and other parliamentary functions without facing restrictions or barriers to entry.

### **7) Parliamentary Papers:**

Certain parliamentary papers and discussions may be treated as confidential, and access to these documents may not be subject to public disclosure or Freedom of Information Act requests. This privilege is intended to protect sensitive information and maintain the confidentiality of internal parliamentary matters.

### **8) Power to Punish for Contempt:**

Parliament has the power to punish individuals or entities for contempt of Parliament. Contempt of Parliament includes actions that obstruct or disrespect parliamentary proceedings or its members. This privilege ensures that Parliament can safeguard its integrity and authority, maintaining respect for the institution and its proceedings.

In summary, these privileges collectively contribute to the independence, effectiveness, and functioning of the British Parliament. They aim to protect MPs' ability to represent their constituents freely, participate in debates without fear of reprisals, and maintain the dignity and authority of the parliamentary institution itself. However, it is essential to strike a balance between parliamentary privileges and individual rights and responsibilities to uphold the principles of democracy and the rule of law.



**Q. WHAT IS THE THEORY OF "SEPARATION OF POWER" AND TO WHAT EXTENT IT IS EMBODIED IN THE BRITISH CONSTITUTION (A2021).**

Ans:

## **SEPARATION OF POWER**

The theory of "separation of powers" is a fundamental principle in democratic governance, proposed by French philosopher *Baron de Montesquieu* in the 18th century. It advocates for the division of government powers into three separate branches

- The Legislative
- The Executive
- The Judiciary

Each branch is assigned distinct functions, and the aim is to prevent an accumulation of power in any single authority, thus safeguarding against tyranny **ظلم و ستم** and promoting checks and balances in the government.

### **The Three Branches of Government and Their Functions:**

#### **1. Legislative Branch:**

This branch is responsible for making and passing laws. It represents the people's interests and is typically composed of an elected body, such as a parliament or congress. The legislative branch has the authority to debate and propose new laws, amend existing ones, and oversee government actions.

#### **2. Executive Branch:**

The executive branch is tasked with enforcing and implementing the laws passed by the legislative branch. It is led by the head of state or government, such as the president or prime minister. The executive branch manages government agencies, conducts foreign affairs, and implements policies.

#### **3. Judicial Branch:**

The judicial branch interprets **تشریح کرتا ہے** and applies the laws made by the legislative branch. It consists of the courts and judges who resolve disputes, ensure the rule of law, and protect individual rights. The judicial branch has the power of judicial review, allowing it to assess the constitutionality of laws and actions by the executive branch.

### **Separation of Powers in the British Constitution:**

The United Kingdom does not have a strict separation of powers like some other countries, such as the United States. Instead, it follows a system of "*Fusion Of Powers*" or "mixed government" where there is some overlap between the branches. However, the concept of separation of powers is still present in the UK's constitutional arrangements to some extent.

#### **1. Executive and Legislative Branch:**

In the UK, the executive and legislative branches are not entirely separate. The Prime Minister, who leads the executive branch, is also a member of the House of Commons (the lower chamber of Parliament). As such, the executive branch can influence legislation through its control over the majority in the House of Commons. However,

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the House of Lords (the upper chamber) and its independent members provide some check on the government's power.

### **2. Executive and Judicial Branch:**

The executive branch appoints judges in the UK, including those in the highest court, the Supreme Court. While the judiciary is independent in its decision-making, the appointment process involves some executive influence. Nevertheless, once appointed, judges are expected to act impartially and apply the law without bias.

### **3. Legislative and Judicial Branch:**

While the UK Parliament (legislative branch) creates laws, the judiciary has the power of judicial review to ensure that these laws are consistent with the constitution and other legal principles. The courts can declare laws as unconstitutional or invalid if they are found to be in violation of higher legal norms.

### **Conclusion:**

In conclusion, while the British Constitution does not adhere strictly to the theory of separation of powers, it incorporates key elements of this principle within its system of mixed government. The UK's fusion of powers allows for some overlap between the executive, legislative, and judicial branches, with the Prime Minister holding a dual role as the head of the executive and a member of Parliament. Despite this overlap, the British Constitution upholds important principles of checks and balances, judicial review, and the independence of the judiciary, ensuring the rule of law and democratic governance in the country.

The House of Commons, as the elected representative body, wields significant powers in lawmaking, budgetary control, and holding the government to account. Its democratic legitimacy and control over financial matters give it a central role in shaping government policies and priorities. While the House of Lords and the Crown still play essential roles, their powers are more limited, and the Lords' legislative authority is subject to the primacy of the elected House of Commons.

Ultimately, the British Constitution embodies a unique blend of democratic governance, tradition, and historical development. It continues to evolve and adapt to the changing needs of the nation while maintaining the fundamental principles of democracy, the rule of law, and the protection of individual rights. The system of mixed government and the careful balance between the branches of government ensure that power is dispersed and accountable, contributing to the stability and effectiveness of the UK's constitutional democracy.



**Q. WRITE DETAILED NOTE ON HUMAN RIGHTS IN BRITISH LEGAL SYSTEM.**

**Ans:**

## **HUMAN RIGHTS IN BRITISH LEGAL SYSTEM**

Human rights are an integral part of the British legal system and are protected through various laws, conventions, and judicial interpretations. The incorporation of human rights principles ensures that individuals' fundamental rights and freedoms are respected and upheld in all aspects of life. Some key aspects of human rights in the British legal system include:

**1) Human Rights Act 1998:**

The Human Rights Act 1998 is a significant piece of legislation in the UK that incorporates the European Convention on Human Rights (ECHR) into domestic law. It provides a legal framework for the protection of human rights and allows individuals to bring claims directly before domestic courts when their rights have been violated.

**2) European Convention on Human Rights (ECHR):**

The ECHR, developed by the Council of Europe, sets out a comprehensive range of civil and political rights that individuals are entitled to enjoy. The Human Rights Act incorporates these rights into UK law, ensuring that public authorities and institutions respect and protect these rights.

### **Rights in British Legal System:**

The following rights are considered important in The British Legal System.

**a) Right to Life and Liberty:**

The British legal system guarantees the right to life and personal liberty. This includes protection against unlawful deprivation of life and arbitrary arrest or detention.

**b) Freedom of Expression and Assembly:**

The right to freedom of expression and peaceful assembly is protected in the UK. People have the right to express their opinions, beliefs, and ideas freely, and to participate in peaceful protests and demonstrations.

**c) Right to Fair Trial:**

The legal system upholds the right to a fair and public hearing by an independent and impartial tribunal for anyone facing criminal charges or civil disputes.

**d) Protection from Torture and Inhuman Treatment:**

The British legal system prohibits torture, inhuman, or degrading treatment or punishment, ensuring that individuals are protected from such abuses.

**e) Right to Privacy:**

Individuals have a right to privacy, family life, and correspondence, safeguarding them from unwarranted intrusion or surveillance انگریزی.

**f) Equality and Non-Discrimination:**

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The legal system enshrines the principle of equality, protecting individuals from discrimination امتياز based on various grounds, including race, religion, gender, and sexual orientation.

**g) Freedom of Religion and Belief:**

The right to freedom of thought, conscience, religion, and belief is protected, allowing individuals to practice their faith or beliefs without interference.

**h) Right to Education and Social Welfare:**

The legal system ensures that individuals have access to education, healthcare, and social welfare, promoting social and economic rights.

**i) Right to Asylum پناه:**

The UK recognizes the right to seek asylum from persecution, providing protection to refugees under international law.

**j) Judicial Review:**

The British legal system allows for judicial review, enabling courts to assess the legality of government actions and decisions concerning human rights issues.

The UK's commitment عزم to human rights is also evident through its involvement in international human rights treaties and its participation in the United Nations Human Rights Council. The British legal system's respect for human rights is essential for upholding the rule of law, ensuring justice, and protecting the dignity and freedoms of all individuals within the country's jurisdiction.





**Q. WRITE NOTE ON FOLLOWING IMPORTANT TOPICS:**

- Judiciary in British Legal System
- Magna Carta (1215)
- Lord Chancellor
- Privy Council
- Political Parties

Ans:

## **JUDICIARY IN BRITISH LEGAL SYSTEM**

The judiciary in the British legal system plays a crucial role in upholding the rule of law, interpreting تشریح legislation, and ensuring justice for all. It is an independent branch of government separate from the executive and legislative branches, and its primary function is to interpret and apply the law impartially. Here are key aspects of the judiciary in the British legal system:

**a) Independence and Impartiality:**

Judges in the UK are appointed based on merit and qualifications, and they hold office until they reach a mandatory retirement age. They are free from political interference and pressure, ensuring their independence and impartiality غیر جانبداری in deciding cases.

**b) Hierarchy of Courts:**

The British legal system follows a hierarchical درجه بندی structure of courts. The Supreme Court of the United Kingdom is the highest appellate court and the final court of appeal. Below it are the Court of Appeal, High Court, and various specialized courts and tribunals, each with different jurisdictions and functions.

**c) Common Law Tradition:**

The UK follows the common law legal tradition, where judicial decisions from higher courts serve as precedents for lower courts to follow in similar cases. This principle of stare decisis ensures consistency استواری and predictability in the application of the law.

**d) Adversarial System:**

The British legal system employs an adversarial مخالفین system, where opposing parties present their arguments and evidence before an impartial judge who acts as an arbiter. This system emphasizes the role of lawyers in advocating for their clients' interests.

**e) Judicial Review:**

The judiciary has the power of judicial review, allowing it to examine the legality of government actions, decisions, and legislation. Courts can declare government actions or laws as unlawful if they are found to be in violation of the constitution or other legal principles.

**f) Interpreting Legislation:**

Judges interpret تشریح and apply legislation to resolve legal disputes. They analyze statutes قوانین and precedents to determine the intent and meaning of the law and its application to specific cases.

**g) Civil and Criminal Jurisdiction** اختيار:

The judiciary handles both civil and criminal cases. In civil cases, disputes between private parties are resolved, while criminal cases involve prosecution by the state against individuals accused of committing crimes.

**h) Role in Human Rights Protection:**

The judiciary plays a significant role in protecting human rights in the UK. The Human Rights Act 1998 allows UK courts to apply the principles of the European Convention on Human Rights in domestic cases, ensuring that individuals' human rights are respected and upheld برقرار .

**i) Open Court Principle:**

In most cases, court proceedings in the UK are conducted in open court, allowing public scrutiny and transparency in the administration of justice. However, certain cases may be heard in closed court to protect sensitive information or individuals' privacy.

**j) Role of Judges:**

Judges have the authority to make legal decisions and apply the law to cases before them. They are responsible for delivering judgments and sentences in criminal cases, and they also preside over civil disputes, ensuring a fair and just resolution.

In summary, the judiciary in the British legal system plays a critical role in upholding the principles of justice, ensuring the rule of law, and protecting individuals' rights. Its independence and impartiality are fundamental to maintaining public trust and confidence in the administration of justice, making it an integral part of the UK's democratic framework.

## **MAGNA CARTA (1215)**

The Magna Carta, also known as the Great Charter, is one of the most significant historical documents in the development of constitutional law and individual liberties. It was signed by *King John* of England on June 15, 1215, in response to the demands of rebellious باغی barons who sought to limit the king's arbitrary powers.

### **Background:**

During the early 13th century, King John's tyrannical ظالم rule and heavy taxation without the consent of the nobles led to widespread discontent among the barons and other powerful landowners. Faced with the threat of a rebellion, King John was compelled to negotiate with the barons and agree to their demands.

### **Key Provisions:**

The Magna Carta contained 63 clauses, which addressed various issues related to the King's powers and the rights of the nobles and the Church. Some of the key provisions included:

**i. Rule of Law:**

The Magna Carta established the principle that the king was subject to the law, just like any other citizen. It emphasized the importance of due process and fair treatment, stating that no free person should be deprived محروم of their liberties or property without a lawful judgment by their peers.

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### ii. Habeas Corpus:

The charter contained an early form of habeas corpus, ensuring that individuals could not be detained **گرفتار** unlawfully without a legal reason or due process.

### iii. Limitation of Royal Power:

The Magna Carta sought to limit the king's ability to levy arbitrary taxes and fines on his subjects. It also curtailed the king's authority to seize and dispose of the property of nobles and barons without just cause.

### iv. Rights of the Church:

The charter acknowledged the rights and privileges of the Church in England, protecting it from royal interference and confirming the Church's freedom to elect its leaders.

### v. Protection of Widows and Heirs:

The Magna Carta included provisions to protect the rights of widows **بیواؤں**, ensuring that they would not be forced into unwanted marriages. It also safeguarded the rights of heirs **وارثین** to inherit their family's property.

### vi. Impact and Legacy:

While the immediate impact of the Magna Carta was limited, its principles laid the groundwork for future constitutional developments in England and beyond. Over time, many of its clauses became foundational to the protection of individual rights and the establishment of parliamentary democracy.

In the centuries that followed, subsequent versions of the Magna Carta were issued, and its influence extended to the formation of the English Bill of Rights in 1689 and the United States Constitution's Bill of Rights in 1791.

The Magna Carta's enduring **پائیدار** legacy is its emphasis on the rule of law, due process, and the protection of individual liberties, concepts that continue to shape modern notions **تصورات** of constitutional governance and human rights around the world. As a symbol of limited government and the rights of the governed, the Magna Carta remains a seminal document in the history of law and the struggle for justice and freedom.

## **THE LORD CHANCELLOR**

The Lord Chancellor is a prominent and historically significant position in the United Kingdom's legal and constitutional system. It is one of the oldest offices in the UK government, with roots dating back to the medieval period. The role of the Lord Chancellor has evolved over time. Here is an overview of the Lord Chancellor's role and functions:

### **Historical Context:**

Originally, the Lord Chancellor served as the monarch's chief advisor and was responsible for overseeing the monarch's finances and legal affairs. In medieval times, the Lord Chancellor presided over the Chancery, a court of equity, which handled cases where common law was insufficient to provide justice.

### **Key Functions and Responsibilities:**

Here are key function and responsibilities of The Lord Chancellor:

#### i. Head of the Judiciary:

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Traditionally, the Lord Chancellor served as the head of the judiciary in England and Wales, holding a key role in the administration of justice.

### ii. **Speaker of the House of Lords:**

As a member of the House of Lords, the Lord Chancellor served as its Speaker and presided over debates in the upper chamber.

### iii. **Custodian of the Great Seal:**

The Lord Chancellor was responsible for the Great Seal of the Realm, which is used to authenticate royal documents such as proclamations, letters patent, and writs. The use of the Great Seal required the Lord Chancellor's approval.

### iv. **Appointments:**

The Lord Chancellor was historically involved in the appointment of judges and senior legal officials. However, over time, this role was transferred to the Judicial Appointments Commission to ensure a more transparent and independent selection process.

### v. **Legal Advisor to the Government:**

The Lord Chancellor served as the government's legal advisor, providing legal opinions on matters of public importance.

### vi. **Guardian of Constitutional Conventions:**

As a senior figure in the government, the Lord Chancellor was expected to uphold constitutional conventions and protect the rule of law.

## Reforms:

In recent years, there have been significant reforms to the office of the Lord Chancellor. The Constitutional Reform Act 2005 brought about substantial changes, separating the roles of Lord Chancellor and Speaker of the House of Lords. The Lord Chancellor's judicial functions were transferred to the Lord Chief Justice, reducing the office's involvement in the appointment of judges. Additionally, the Act enshrined تسليم شده the principle of judicial independence, emphasizing the separation of powers.

It is important to note that the specific roles and functions of the Lord Chancellor may continue to evolve, and further reforms or changes may be made to adapt to the changing needs of the UK's legal and constitutional system.

## PRIVY COUNCIL

The Privy Council is a historical and influential body that plays a significant role in the governance and constitutional affairs of the United Kingdom and other Commonwealth realms. It serves as an advisory council to the monarch, consisting of senior political figures and other dignitaries معززین. Here are key aspects of the Privy Council:

### Historical Background:

The origins of the Privy Council can be traced back to medieval times when English monarchs sought the advice and counsel of a select group of trusted advisors. Over the centuries, the Privy Council's composition and functions have evolved to reflect changing political and constitutional dynamics.

### Membership:

Membership in the Privy Council is an honour conferred عطا کیا گیا by the monarch. It includes senior politicians, current and former cabinet ministers, bishops, judges, and

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other distinguished individuals. Membership is for life, and those appointed are referred to as "*Privy Counsellors*" and can use the title "Right Honourable" (Rt Hon).

### **Functions and Duties:**

The Privy Council serves several important functions, including:

**a) Advisory Role:**

Historically, the Privy Council advised the monarch on matters of state, although its role is now mostly ceremonial. It is still consulted on significant constitutional issues, especially those related to the prerogative استحقاق powers of the Crown.

**b) Appointments and Honours:**

The Privy Council is responsible for advising the monarch on the granting of certain honours, such as knighthoods and peerages.

**c) Judicial Role:**

The Judicial Committee of the Privy Council (JCPC) is an essential part of the Privy Council. It serves as the highest court of appeal for certain Commonwealth countries and British Overseas Territories, hearing cases on constitutional and other matters.

**d) Regulatory Functions:**

The Privy Council is involved in various regulatory and executive functions, such as approving the bylaws of certain professional bodies and universities.

**e) Meetings and Procedures:**

The Privy Council meets as a whole, or in smaller committees known as "Privy Council Committees," which are responsible for handling specific matters. Meetings are typically chaired by the monarch, but in practice, they are usually presided over by a senior cabinet minister known as the "*Lord President of the Council*."

**f) Oath of Office:**

Members of the Privy Council take an oath of office, pledging وعده کرنا their allegiance to the monarch and vowing to keep the Council's proceedings confidential.

**g) Role in Constitutional Matters:**

While much of the Privy Council's role has become ceremonial, it remains significant in constitutional matters, especially in the context of the Commonwealth realms. The Judicial Committee of the Privy Council continues to be a critical judicial body for some countries in the Commonwealth, providing an avenue for final appeals in certain cases.

In summary, the Privy Council has a storied history and remains an important institution in the UK's constitutional framework and in some Commonwealth countries. While its advisory functions have evolved over time, it continues to symbolize the relationship between the monarch and the state's senior advisors and holds constitutional significance in certain legal and ceremonial aspects.

## **POLITICAL PARTIES**

The United Kingdom has several prominent political parties that play significant roles in the country's political landscape. Here are some of the key political parties in the UK:

**1. Conservative Party (Tories):**

The Conservative Party is one of the major political parties in the UK. It is traditionally associated with center-right and conservative ideologies. The party

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advocates for free-market policies, individual freedoms, and a limited role for the government in the economy. The Conservative Party has a strong history of governing the country and has produced several Prime Ministers.

### 2. Labour Party:

The Labour Party is another major political force in the UK. It is traditionally associated with center-left and social democratic principles. The party champions worker's rights, social justice, and public ownership of certain industries and services. Historically, the Labour Party has been closely linked to the trade union movement and has also produced several Prime Ministers.

### 3. Scottish National Party (SNP):

The Scottish National Party is a pro-independence party that operates primarily in Scotland. It advocates for Scottish independence from the UK and promotes social democratic policies. The SNP has gained significant support in recent years and holds a strong presence in the Scottish Parliament and at Westminster.

### 4. Liberal Democrats:

The Liberal Democrats are a centrist political party that advocates for social liberalism, civil liberties, and progressive policies. The party places a strong emphasis on environmental issues and supports electoral reform. In the past, the Liberal Democrats have formed a coalition government with the Conservative Party.

### 5. Democratic Unionist Party (DUP):

The Democratic Unionist Party is a unionist and socially conservative party that operates mainly in Northern Ireland. It supports maintaining Northern Ireland's status as part of the UK and advocates for conservative values and policies.

### 6. Sinn Féin:

Sinn Féin is an Irish republican party that operates in both Northern Ireland and the Republic of Ireland. While it does not take its seats in the UK Parliament, it holds significant representation in the Northern Ireland Assembly and campaigns for a united Ireland.

### 7. Plaid Cymru:

Plaid Cymru is a Welsh nationalist party that seeks greater autonomy خود مختاری for Wales and promotes Welsh culture and identity. It operates mainly in Wales and advocates for more powers to be devolved from the UK government to the Welsh Parliament.

### 8. Green Party:

The Green Party focuses on environmental and social justice issues. There are separate Green Party entities for England, Scotland, Wales, and Northern Ireland. They advocate for sustainability, green policies, and social equality.

Apart from these parties, there are also smaller regional parties and independent candidates that may have local or specific policy-focused support.

It is important to note that the political landscape in the UK is dynamic, and new parties or changes in existing ones may occur over time. Additionally, political alliances and positions on certain issues may shift in response to changing circumstances and public sentiment.



**Part-II**

**THE  
CONSTITUTION  
OF THE USA**



**Q. GIVE A DETAIL ACCOUNT OF THE CONSTITUTIONAL HISTORY OF USA. (A2021)**

**Ans:**

## **THE CONSTITUTIONAL HISTORY OF USA**

The constitutional history of the United States is a fascinating journey that spans several centuries, characterized by significant events, documents, and amendments that have shaped the nation's governance. On September 17, 1787, the United States Constitution was created after many months of disagreements, debates, and different ideas. The people who wrote the Constitution were chosen by the state governments to represent each state's interests. They gathered in Philadelphia with 55 representatives on May 25, 1787. All the original thirteen states except Rhode Island were present. Their main goal was to improve the Articles of Confederation, which was the first constitution of the country made in 1777 after the Revolutionary War with Britain.

Here's a detailed account of the constitutional history of the USA:

### **1. Colonial Foundations (1607-1776):**

The colonial period in American history began with the establishment of Jamestown, Virginia, in 1607. Over the next century, various English colonies were founded along the Atlantic seaboard, each with its unique governance system. Many of these early settlements operated under charters granted by the British Crown, providing them with a degree of self-governance. The Mayflower Compact, signed by the Pilgrims aboard the Mayflower in 1620, was an early example of a self-governing agreement among colonists.

### **2. The Declaration of Independence (1776):**

Amid growing tensions with Britain, the Continental Congress appointed a committee, primarily led by Thomas Jefferson, to draft the Declaration of Independence. Adopted on July 4, 1776, this document declared the thirteen American colonies as independent states, no longer subject to British rule. It eloquently articulated the idea that all individuals possess certain unalienable rights, including life, liberty, and the pursuit of happiness, and that governments derive their power from the consent of the governed.

### **3. The Articles of Confederation (1777-1789):**

The Articles of Confederation, ratified in 1781, established a loose confederation of the thirteen states, creating a weak central government with limited powers. Under this system, the states retained a significant degree of sovereignty, and the central government lacked the authority to levy taxes or regulate commerce effectively. The shortcomings of the Articles became evident, leading to economic instability and difficulties in addressing national issues.

### **4. The Constitutional Convention (1787):**

Recognizing the need for a stronger central government, delegates from twelve states (excluding Rhode Island) convened in Philadelphia in 1787 to amend the Articles of Confederation. Instead, they decided to draft an entirely new constitution to create a more balanced and effective system of government. The

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Constitutional Convention, presided over by George Washington and with James Madison often referred to as the "Father of the Constitution," produced the U.S. Constitution, a groundbreaking document that laid the foundation for the federal system of governance that the United States follows to this day.

### **5. Ratification of the Constitution (1787-1789):**

After the Constitution was drafted, it faced a rigorous process of ratification توثيق. The Constitution required approval from nine out of the thirteen states to take effect. However, the ratification process faced opposition from Anti-Federalists, who feared that a strong central government could become tyrannical ظالم. To secure ratification, Federalists, led by Alexander Hamilton, James Madison, and John Jay, wrote a series of essays known as the Federalist Papers. These essays argued in favour of the Constitution and addressed the concerns of the Anti-Federalists. On June 21, 1788, New Hampshire became the ninth state to ratify the Constitution, officially establishing the document as the supreme law of the land.

### **6. The Bill of Rights (1791):**

To address the concerns خدشات raised by Anti-Federalists and ensure the protection of individual liberties, the First Congress proposed twelve amendments to the Constitution in 1789. Ten of these amendments were ratified by the required number of states and became known as the Bill of Rights. These amendments protect fundamental rights such as freedom of speech, religion, press, and assembly, as well as the right to bear arms and due process of law.

### **7. Westward Expansion and the Admission of New States:**

As the United States expanded westward, new territories sought admission to the Union as states. The process of admitting new states was governed by the Northwest Ordinance of 1787 and later by the process outlined in Article IV, Section 3 of the Constitution. The admission of new states led to the development of rules surrounding statehood, representation in Congress, and the delicate balance between free states and slave states, which would eventually آخر culminate پذیر in the American Civil War.

### **8. The Civil War and Reconstruction (1861-1877):**

Tensions over the issue of slavery had been mounting for decades, and they finally erupted into the American Civil War in 1861. The conflict pitted the Northern states (Union) against the Southern states (Confederacy) and resulted in the Union's victory in 1865. The Thirteenth Amendment, ratified later that year, abolished ختم کر دیا گیا slavery in the United States. The Reconstruction era that followed aimed to rebuild the South and address issues of civil rights for newly freed African Americans. However, Reconstruction efforts faced significant challenges, and the struggle for racial equality would continue for decades.

### **9. Amendments and Progress (19th and 20th Centuries):**

Throughout the 19th and 20th centuries, the United States saw significant amendments to the Constitution that addressed critical issues and expanded civil

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liberties. The Nineteenth Amendment (1920) granted women the right to vote, the Seventeenth Amendment (1913) established direct election of U.S. Senators, and the Twenty-Second Amendment (1951) set presidential term limits. The Fourteenth Amendment (1868) became central to the protection of individual rights and equal protection under the law.

### **10. Modern Challenges and Interpretations:**

The interpretation of the Constitution remains an ongoing process, as societal challenges and advancements continually test the document's applicability. Over the years, landmark Supreme Court decisions have played a crucial role in shaping constitutional interpretations, such as *Brown v. Board of Education* (1954), which ended racial segregation علیحدگی نسلی in public schools, and *Roe v. Wade* (1973), which established the right to abortion اسقاط حمل.

Throughout its history, the United States has relied on its Constitution as the cornerstone of its governance, providing a framework that allows for growth, adaptability, and the pursuit of justice and equality. The constitutional history of the USA reflects a constant strive to uphold the values laid out by the Founding Fathers while adapting to the changing needs of its citizens.



**Q. DISCUSS THE CHARACTERISTICS / SALIENT FEATURES OF US CONSTITUTION. (A2019)**

**Ans:**

### **THE SALIENT FEATURES OF US CONSTITUTION**

The American Constitution means a set of rules and laws that protect the rights of American citizens and define what the government can and cannot do. Over time, the Constitution has been improved with thirty-three amendments adopted by the American Congress since March 4, 1789. These changes have made the Constitution even stronger and more relevant to the needs of the people. The Constitution serves as a vital foundation for our country, ensuring fairness, justice, and freedom for all. It's a document that reflects the values and aspirations of the American people, reminding us of the importance of democracy and the power of the people in shaping our nation's future.

We can discuss salient features of US constitution under following heading:

- 1. A Written constitution**
- 2. Popular Sovereignty**
- 3. Limited Government**
- 4. Separation of powers**
- 5. Checks and Balances**
- 6. Presidential form of Government**
- 7. Federal system of government**
- 8. Bill of Rights**
- 9. Dual Citizenship**
- 10. Supremacy of the Constitution**
- 11. A Rigid constitution**
- 12. Judicial Review**
- 13. A Secular State**
- 14. A Democratic government**
- 15. A Bicameral Legislature**
- 16. Conspicuous Omissions, etc.**

#### **1) A Written Constitution:**

The U.S. Constitution is special because it is a written constitution. That means it's all put down in words, making it the oldest and shortest written constitution in the world. It consists of a Preamble and seven Articles, which altogether have about 4000 words, fitting into just 10 to 12 pages that can be read in about half an hour. Besides what's written, it also has some unwritten parts, like conventions. This means that some things are understood and followed, even though they are not explicitly written down. Furthermore, the Constitution is not limited to just those original words; it can grow and change with time. When Congress makes laws, courts decide cases, or the President issues orders, those actions become part of the Constitution too. This written framework, along with the evolving elements, ensures that the Constitution remains relevant and adapts to the needs of the American people.

**2) Popular Sovereignty:**

This is an important feature of the US Constitution, and it simply means that the supreme power in the country belongs to the people. The Preamble of the Constitution makes this clear by stating that the government gets its power from the consent of the governed, which means the people. This idea emphasizes that all the power in the government comes from the people. If a government doesn't do its job properly, the people have the right to remove that government and choose a new one. So, in a way, "Popular Sovereignty" gives the people the control over the government and ensures that they have a say in how the country is run. It's like a reminder that the government exists to serve the people and should always act in their best interests.

**3) Limited Government:**

"Limited Government" is an essential feature of the US Constitution, which means that the government's powers are not unlimited. Instead, there are clear boundaries and specific rules on what the government can and cannot do. This is crucial because it ensures that the rights of the citizens are protected and prevents the government from becoming too controlling or autocratic. The Constitution carefully divides the powers between the national government and the state governments, with some powers given to the national level and the rest reserved for the states. Even the state governments have their powers limited; they don't have unrestricted authority. The Constitution emphasizes the importance of the people's rights and keeps the government's authority in check to ensure a fair and balanced system that respects the freedoms of every citizen.

**4) Separation of Powers:**

The "Separation of Powers" is also an essential feature of the US Constitution, making it the first constitution to put this idea into practice. The main goal of this theory is to prevent too much power from being held by one person or group, ensuring the freedom of each individual. In the United States, the government's responsibilities are divided into three branches: Congress, the President, and the Supreme Court. Each branch has its specific roles and is independent of the others. They are not allowed to interfere in each other's affairs. For instance, the President is elected separately from Congress, and the President cannot dissolve Congress, while judges cannot be removed by the President. This system helps maintain a balance of power, protecting the rights and liberties of the American people.

**5) Checks And Balances:**

The feature of "Check and Balance" in the U.S. Constitution is like a system of teamwork that promotes unity and balance in how the government works. It makes sure that no branch of the government can act like a boss and make all the decisions on its own. Instead, each branch acts like a safety check to prevent any accidents or conflicts. This way, no branch can abuse its power and act unfairly because the power is balanced and checked by other branches. For example, if the Congress thinks the president or judges are doing something wrong, they can impeach them. The president's appointments can't take effect without the Senate's approval, and the president can also veto bills passed by Congress. Similarly, the Supreme Court has the power to declare a law passed by Congress invalid if it goes against the Constitution.

This way, everyone works together and keeps each other in check, ensuring a fair and balanced government for all.

### **6) Presidential Form of Government:**

The US is led by a single executive called the president. The president is not chosen by the Congress and is not accountable to it. There is a clear separation between the president and the Congress, with no close ties between them. Unlike some other systems, the president does not have the power to dissolve the Congress. This government functions based on the idea of "separation of powers," meaning that different branches of government have distinct roles and responsibilities. The president's team, called the Cabinet or President's secretariat, does not belong to the Congress. The president is the head of the nation, and all executive powers are vested in their name. They have a fixed tenure of four years, ensuring stability and consistency in leadership.

### **7) Federal System of Government:**

The Federal System of Government in the US Constitution is a significant feature that sets it apart from other constitutions. It was the first constitution to adopt this federal system, which means that power is divided between a central government that oversees the whole country and individual local governments that cover specific territories.

In this system, both levels of government have their own responsibilities and authority, making them somewhat independent from each other. The United States Constitution establishes an unbreakable union of states, with each state maintaining its sovereignty and powers.

The national government takes charge of important matters that affect the whole nation, while state governments handle issues of local importance within their boundaries. Both governments get their powers directly from the Constitution, ensuring a clear distribution of authority.

Unlike some other federations, the US Constitution grants the states the power over the residual matters, meaning anything not specifically mentioned as the responsibility of the national government falls under the states' jurisdiction. This makes the US a federation of 50 states.

The US Constitution is often regarded as the most perfect example of a federal constitution, skillfully balancing the central government's authority and state autonomy, ensuring a cooperative and effective system of governance for the entire country.

### **8) Bill of Rights:**

The Bill of Rights is a crucial part of the US Constitution that protects the rights and freedoms of American citizens. When the original Constitution was written, it didn't have a Bill of Rights. However, within the first two years of its creation, the first 10 amendments were added to create the Bill of Rights.

These amendments granted important rights, such as freedom of religion, speech, and assembly. People were also given the right to own guns for protection, and their

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professions and private property were protected. The Bill of Rights ensured legal equality and allowed everyone to vote, regardless of their color, race, or sex.

Furthermore, it protected individuals from being forced to testify against themselves and ensured that no one could be deprived of life, liberty, or property without a fair legal process. Slavery was abolished, and it was established that property could only be taken for public use with fair compensation. Additionally, everyone had the right to a speedy and public trial by an impartial judge. The Bill of Rights emphasized that no state could make laws that would take away the privileges and immunities of American citizens. It's important to remember that these rights and liberties are not absolute and can only be changed through an amendment to the Constitution. If anyone's rights are violated, they can seek justice in the courts of law. The Bill of Rights plays a vital role in safeguarding the freedoms and liberties that make America a land of opportunity and equality for all its citizens.

### **9) Dual Citizenship:**

In the United States, citizenship is a special status that comes with full membership in the country and allows people to have important political rights. When someone is a citizen, they have the right to vote, participate in the government, and enjoy the protection of the law. The original Constitution did not clearly define the concept of citizenship. However, the 14th Amendment changed that by introducing the idea of dual citizenship. This means that an individual can be both a citizen of the United States as a whole and a citizen of the specific state where they live. Having dual citizenship means that they can participate in both state and federal elections and run for public office, but only in the state where they are a citizen. It's like being part of two communities at the same time, with rights and responsibilities in both. Dual citizenship in the USA ensures that people can have a voice in both local and national matters, making our democracy more inclusive and representative.

### **10) Supremacy of The Constitution:**

The "Supremacy of The Constitution" is a crucial feature of the US Constitution, and it means that the Constitution is the most powerful law in the entire country. No other law or rule can go against what the Constitution says. Judges play a vital role in protecting the Constitution. They act as guardians, making sure that all laws and actions follow what the Constitution says. One way they do this is through a process called judicial review, where the Supreme Court checks if laws and government actions are in line with the Constitution. This helps to ensure that the Constitution's principles are always respected and followed. Unlike the UK, where the Parliament is the most powerful, in the US, it's the Constitution that holds the highest authority and sets the rules for the government and its citizens.

### **11) A Rigid Constitution:**

"A Rigid Constitution" is one of the unique features of the US Constitution, which means that changing it is not easy. If someone wants to make amendments to the Constitution, they have to go through a complicated process. There are two ways to propose an amendment:

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- The Congress can do it with a big majority vote in both the House and the Senate, or
- A National constitutional convention can be called by Congress if 34 states ask for it.

However, almost all amendments have been proposed by Congress and not by the convention.

After proposing an amendment, it must be ratified, or approved, by the states. There are two ways for that too: either 38 state legislatures have to agree to it, or  $\frac{3}{4}$  of the members of the National Constitutional Convention, if one is called, must approve it. Congress gets to choose which method to use.

The process of amending the Constitution is slow and complicated, which has been criticized for being undemocratic because people don't have a direct role in it. It's hard to get the required votes, and there's no fixed time limit for ratification by the states. This makes it possible for a small group of people or states to block any amendment. Also, the Supreme Court of the US can declare an amendment invalid. This challenging process has led to a standstill in implementing progressive measures by the US government. According to Justice Marshall, it's an "unwieldy and cumbrous method of amendment." So, the US Constitution remains rigid and not easily changed, making it both a strength and a challenge for the nation.

### **12) Judicial Review:**

Judicial Review is an important feature of the U.S. Constitution, and it plays a crucial role in safeguarding the Constitution and settling disputes related to it. The judiciary acts as the guardian of the Constitution and the final decision-maker when it comes to constitutional issues. It's a significant contribution to modern government and how laws are interpreted. The power of judicial review allows the courts to declare any law or executive order invalid if it goes against the principles of the Constitution. This helps to maintain the supremacy of the Constitution and ensures that the government doesn't act beyond its limits. Additionally, the judiciary can interpret the Constitution in ways that suit the changing needs of society. However, some critics see judicial review as a form of judicial veto, arguing that it might delay progressive policies passed by the government. Nevertheless, it remains a crucial aspect of the U.S. Constitution that helps uphold the rule of law and ensures a balanced system of governance.

### **13) A Secular State:**

One essential feature of the US Constitution is that it creates a secular state, which means that it treats all religions equally. It ensures that every citizen has the right to practice their religion freely without any interference from the government. The Constitution doesn't favor any particular religion, and there is no official state religion in the USA. This principle is crucial in promoting religious freedom and preventing any discrimination based on religion. In the United States, everyone has the right to believe and practice their faith as they choose, and the government cannot force or favor any religion over others. This idea of a secular state is a fundamental part of



ensuring a diverse and inclusive society where everyone's beliefs are respected and protected.

### 14) A Democratic Government:

A democratic government is a key feature of the US Constitution, and it means that the American people have a say in how their country is run. It's like a big team where everyone gets to choose their representatives in Congress, and those representatives make decisions on their behalf. Even the President is elected by the people, which shows that the real power lies with the citizens. The Constitution sets up a special kind of government called a "representative democracy," where the people have the power to pick their leaders and have a voice in the country's direction. In this way, the US Constitution creates a republican state, where the head of the state (the President) is chosen by the people, reflecting the principles of fairness and choice that are at the heart of democracy.

### 15) A Bicameral Legislature:

One important feature of the US Constitution is a bicameral legislature. This means that the country's law-making body is divided into two separate houses: the House of Representatives and the Senate. The House of Representatives represents the American people, and its members are elected by the citizens of different states. On the other hand, the Senate represents the individual states that make up the country. It is like a gathering of representatives from each state. Interestingly, the US Senate is considered to be the most powerful second chamber in the world. This system helps ensure that both the interests of the people and the states are well-represented and that laws are carefully considered before they are passed.

### 16) Conspicuous Omissions, etc.:

The US Constitution is famous not only for what it includes but also for what it leaves out. It's surprisingly short and doesn't cover many important aspects of American government. For example, there's no mention of banks, education, insurance, labor laws, agriculture, civil service, political parties, or how the chairman of the House of Representatives should be chosen. But we can't blame the framers of the Constitution for these omissions. They couldn't predict all the social and economic challenges that would arise in the 20th century. However, they were smart enough to create a process for adding amendments to the Constitution, so future generations could address new issues as they come up. This flexibility has allowed the Constitution to remain relevant and adaptable to changing times.

## Conclusion:

In conclusion, the features of the US Constitution are a reflection of the nation's historical context and the wisdom of its framers. Influenced by the forces and events that shaped American history, the Constitution has become an integral part of the nation's fabric. As Nicholas aptly described, the Constitution is intricately woven into the tapestry of American history. The document that emerged from the Philadelphia Convention was a remarkable display of expert drafting, linguistic elegance, brevity, and clarity. Its succinct yet powerful language has withstood the test of time, providing a solid foundation for the American system of government. Undoubtedly, the US Constitution stands as one of the most original and innovative written constitutions in the world, setting a benchmark for democratic governance

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and inspiring nations around the globe. As the challenges of the future unfold, the Constitution's flexibility and the provision for amendments continue to ensure that it remains a living and evolving testament to the principles of liberty, justice, and democracy for generations to come.



**Q. EXPLAIN THE ROLE OF USA SUPREME COURT IN PROTECTING CIVIL LIBERTIES OF AMERICAN CITIZEN?(A2020)(S2019)**

**Ans:**

## **CIVIL LIBERTIES**

Civil liberties encompass احاطه the essential freedoms that collectively safeguard the rights of free individuals and shield them from unjust government interference. These rights, specifically constituting the civil liberties of the United State's citizens, are enshrined تسليم شده in the Bill of Rights, which comprises the first ten amendments to the Constitution. Some noteworthy examples of civil liberties encompass the freedom of religion, allowing individuals to practice their beliefs freely; freedom of speech, granting the right to express opinions without censorship; freedom of the press, ensuring unrestricted media coverage; and the guarantee of an impartial trial, securing a fair legal process for all. Together, these civil liberties form the backbone of a democratic society, upholding the principles of liberty, justice, and equality for every citizen.

### **How Do Civil Liberties Differ From Civil Rights?**

Although people often use these two terms interchangeably, scholars generally agree on their distinct meanings. Civil liberties are the freedoms that safeguard individuals from government interference, ensuring the protection of their safety, opinions, and property, as explicitly listed in the Constitution. On the other hand, the term "civil rights" typically refers to government actions that translate constitutional guarantees into tangible rights for everyone, guaranteeing equal treatment under the law, as stated in the Equal Protection Clause of the Fourteenth Amendment. Landmark civil rights legislation can be found in the Civil Rights Act of 1964, which prohibits discrimination based on race or sex, aiming to foster a society that upholds justice and equality for all.

The specific civil liberties enshrined تسليم شده in the U.S. Constitution include:

**1) Freedom of Religion:**

The First Amendment guarantees that the government shall not establish an official religion and that it shall not interfere with individual's freedom to practice their chosen religion. This means that people have the right to worship any religion they choose or no religion at all. It also protects individuals from discrimination امتياز based on their religious beliefs.

**2) Freedom of Speech:**

The First Amendment protects the right of individuals to express their thoughts, ideas, and opinions freely without fear of government censorship or punishment. This right extends to various forms of speech, including spoken, written, symbolic, and artistic expression. However, certain limitations exist, such as speech that incites violence or poses a clear and present danger.

**3) Freedom of the Press:**

The First Amendment ensures that the media has the right to report news and information without government interference or control. A free press is vital to a functioning democracy as it keeps the public informed and serves as a check on government power.

**4) Right to Peaceably Assemble:**

The First Amendment guarantees the right of individuals to gather and assemble peacefully to express their views and concerns. This right enables people to protest, hold demonstrations, and advocate for social and political change without facing government repression . جبر .

**5) Right to Petition:**

The First Amendment allows citizens to address the government with their grievances and seek redress شکایات and تدارک for issues they believe need attention. This right allows individuals and groups to make their voices heard by the government and advocate for change through petitions and other means.

**6) Right to Keep and Bear Arms:**

The Second Amendment protects the right of individuals to possess and carry firearms for self-defense, hunting, and other lawful purposes. It is a subject of ongoing debate, with discussions on the balance between gun ownership rights and public safety.

**7) Protection Against Unreasonable Searches and Seizures قبضے:**

The Fourth Amendment safeguards individuals from unwarranted searches and seizures by the government. It requires that law enforcement obtain a warrant based on probable cause before conducting a search or taking someone's property.

**8) Protection Against Cruel and Unusual Punishment:**

The Eighth Amendment prohibits the government from imposing excessive bail, fines, or cruel and unusual punishment on individuals convicted سزا یافتہ of crimes. This amendment ensures that punishments are proportionate متناسب to the severity of the crime.

**9) Protection of Unremunerated غیر ضمانت یافتہ Rights:**

The Ninth Amendment asserts that the rights listed in the Constitution should not be seen as the only rights of the people. It acknowledges that individuals possess other rights not explicitly listed, and these rights should also be protected.

**10) Protection of State's Rights and Individual Rights:**

The Tenth Amendment clarifies that any powers not granted to the federal government by the Constitution are reserved for the states or the people. This amendment emphasizes the importance of limiting the federal government's authority to specific areas, leaving other matters to state governments or individual citizens.

## **ROLE OF USA SUPREME COURT IN PROTECTING CIVIL LIBERTIES**

The role of the United States Supreme Court in protecting civil liberties is critical to upholding the rights and freedoms of individuals as enshrined تسلیم شدہ in the U.S. Constitution. The Court serves as the highest judicial authority in the country and has the power of judicial review, which allows it to interpret the Constitution and determine the constitutionality of laws, executive actions, and government policies.

The Supreme Court plays a significant role in protecting civil liberties through several mechanisms:

**1) Judicial Review:**

The U.S. Supreme Court has the authority to review laws, executive actions, and lower court decisions to ensure they align with the Constitution. When a law or

government action is challenged in court, the Supreme Court carefully examines whether it violates any civil liberties guaranteed by the Constitution. If it finds a violation, the Court can invalidate the law or action. For instance, in the landmark case of *Brown v. Board of Education (1954)*, the Supreme Court struck down racial segregation علیحدگی نسلی in public schools, ruling that it violated the Equal Protection Clause of the Fourteenth Amendment.

### 2) **Interpretation of the Constitution:**

The Supreme Court interprets the language and intent of the Constitution's amendments, including the Bill of Rights, to clarify the extent of civil liberties. Over the years, the Court has issued decisions that shape our understanding of these rights. For example, in the case of *Miranda v. Arizona (1966)*, the Court established the "Miranda rights," ensuring that individuals in police custody have the right to remain silent and be informed of their right to an attorney.

### 3) **Protecting Freedom of Speech:**

The First Amendment guarantees the right to freedom of speech, allowing individuals to express their opinions, ideas, and beliefs without government interference. The Supreme Court has defended this right in various cases. In the case of *Texas v. Johnson (1989)*, the Court ruled that burning the American flag as a form of protest is protected speech, even though it may be deeply offensive to some.

### 4) **Safeguarding Freedom of Religion:**

The First Amendment also protects the right to freedom of religion, prohibiting the government from establishing an official religion or interfering with religious practices. In the case of *Employment Division v. Smith (1990)*, the Court ruled that a state could not deny unemployment benefits to a person fired from their job for using peyote in a religious ceremony, as it would violate their free exercise of religion.

### 5) **Defending Due Process and Equal Protection:**

The Fifth and Fourteenth Amendments guarantee due process and equal protection under the law. The Supreme Court ensures that individuals receive fair treatment in legal proceedings and that government actions do not discriminate against certain groups. In *Loving v. Virginia (1967)*, the Court struck down laws prohibiting interracial marriage, recognizing that such laws violated both due process and equal protection rights.

### 6) **Balancing Individual Rights with Government Interests:**

The Court often faces cases where civil liberties may conflict with legitimate government interests, such as public safety or national security. In such cases, the Court seeks to strike a balance that protects individual rights while allowing the government to carry out essential functions. An example is the case of *Schenck v. United States (1919)*, where the Court upheld the conviction of a man distributing anti-draft materials during World War I, arguing that the government's interest in maintaining military recruitment بہرتی outweighed the individual's right to free speech.

### 7) **Adapting to Societal Changes:**

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As society evolves, new challenges arise for civil liberties. The Supreme Court's rulings adapt to these changes, addressing emerging issues and protecting rights in modern contexts. For instance, in *Obergefell v. Hodges* (2015), the Court held that same-sex couples have a constitutional right to marry, recognizing the evolving understanding of marriage equality.

### 8) **Extending Protections to Marginalized Groups:**

The Supreme Court has played a vital role in extending civil liberties protections to historically marginalized groups. In cases like *Brown v. Board of Education* and *United States v. Windsor* (2013), which struck down the Defense of Marriage Act, the Court has advanced civil rights for racial minorities and the LGBTQ+ community, respectively.

### **Conclusion:**

In conclusion, the U.S. Supreme Court's role in safeguarding civil liberties is pivotal in upholding the values of democracy and justice. Through judicial review and constitutional interpretation, it ensures that laws and government actions align with the Constitution, protecting fundamental rights like freedom of speech, religion, and due process. The Court's decisions have shaped the course of civil rights progress, extending protections to marginalized groups and adapting to societal changes. As a beacon of hope for individual liberties, the Supreme Court continues to play a vital role in preserving the rights and freedoms that define the essence of the United States as a free and democratic nation.



Q. EXPLAIN THE 'BILL OF RIGHTS' UNDER THE US CONSTITUTION?  
(A2019) (S2019) (A2021)

Ans:

## THE BILL OF RIGHTS

The Bill of Rights refers to the first ten amendments to the United States Constitution. These amendments were added to the Constitution shortly after its ratification in 1789 to address concerns raised by the Anti-Federalists regarding individual rights and to secure fundamental liberties. The Bill of Rights became law on December 15, 1791, and has since played a crucial role in protecting the civil liberties of U.S. citizens.

Here is a brief overview of each amendment in the Bill of Rights:

**1) First Amendment:**

The First Amendment protects several fundamental freedoms. It guarantees the freedom of religion, ensuring that the government cannot establish an official religion and individuals are free to practice any religion of their choice. It also safeguards freedom of speech, allowing individuals to express their thoughts, ideas, and opinions without fear of government censorship or punishment. The First Amendment protects freedom of the press, allowing journalists to report news and information without government interference. Additionally, it upholds the right of the people to assemble peaceably to express their views and to petition the government for redress of grievances.

**2) Second Amendment:**

The Second Amendment protects the right of individuals to keep and bear arms. It is rooted in the historical context of the colonial era, where the ability to bear arms was seen as essential for self-defense and maintaining a well-regulated militia مليشيا.

**3) Third Amendment:**

The Third Amendment prohibits the government from quartering soldiers in private homes during times of peace without the consent of the homeowner. This right was born out of the colonist's grievances شكایات against the British practice of quartering soldiers in private homes during the American Revolution.

**4) Fourth Amendment:**

The Fourth Amendment protects individuals from unreasonable searches and seizures قبضے. It requires that searches and arrests be based on probable cause and that warrants be issued by a judge, specifically describing the place to be searched and the persons or things to be seized.

**5) Fifth Amendment:**

The Fifth Amendment provides several protections for individuals accused of crimes. It guarantees the right to due process of law, meaning that individuals cannot be deprived of life, liberty, or property without fair and lawful procedures. The Fifth Amendment also protects against double jeopardy, preventing individuals from being tried for the same crime twice. Additionally, it ensures the right to remain silent and

not incriminate oneself, and it requires that private property cannot be taken for public use without just compensation.

**6) Sixth Amendment:**

The Sixth Amendment protects the rights of individuals in criminal prosecutions. It ensures the right to a speedy and public trial by an impartial jury in the district where the crime was committed. It also guarantees the right to be informed of the charges, to confront witnesses against the accused, and to have legal counsel.

**7) Seventh Amendment:**

The Seventh Amendment preserves the right to a jury trial in certain civil cases where the value of the controversy تنازعہ exceeds twenty dollars. It ensures that disputes between individuals are decided by a jury of their peers rather than solely by judges.

**8) Eighth Amendment:**

The Eighth Amendment prohibits the imposition of excessive bail and fines and prohibits cruel and unusual punishment. This amendment aims to prevent the government from using excessive and disproportionate غير متناسب punishments against individuals convicted of crimes.

**9) Ninth Amendment:**

The Ninth Amendment acknowledges that the listing of certain rights in the Constitution does not mean that other rights not mentioned are denied to the people. It recognizes that individuals possess other fundamental rights that are not explicitly listed in the Constitution.

**10) Tenth Amendment:**

The Tenth Amendment reaffirms اس کی تصدیق the principle of federalism and limits the powers of the federal government to those explicitly granted by the Constitution. It reserves all other powers to the states or the people.

**Conclusion:**

In conclusion, the Bill of Rights stands as a testament عهد to the United State's commitment to safeguarding individual liberties and limiting government authority. These ten amendments have served as a bedrock for protecting fundamental freedoms, ensuring due process, and upholding the principles of justice and equality. Throughout history, the Bill of Rights has played a essential role in shaping American society and legal interpretations. As the cornerstone of the U.S. Constitution, these amendments continue to resonate in modern times, providing a vital framework for safeguarding the rights and dignity of every citizen, thus preserving the essence of American democracy.





## **Constitutional Law-I (British & US)**

### **Q. Explain The Followings:**

- Due Process of Law
- Equal Protection of Laws

Ans:

### **DUE PROCESS OF LAW**

Due Process of Law in the United States is a fundamental principle enshrined in the Fifth and Fourteenth Amendments of the U.S. Constitution. It ensures that individuals are treated fairly and justly by the government and are protected from arbitrary actions that could deprive them of life, liberty, or property. Here are the concepts of due process of law in the United States.

#### **Procedural Due Process:**

Procedural due process guarantees that the government must follow established legal procedures before depriving an individual of their life, liberty, or property. These procedures include adequate notice of the charges or actions being taken, an opportunity to be heard and present evidence, and a fair and impartial decision-maker. For example, before a person can be arrested, they must be informed of the charges against them and have the right to a trial where they can defend themselves. Similarly, before the government can take someone's property through eminent domain, the property owner must be given notice and the opportunity to challenge the decision in court.

#### **Substantive Due Process:**

Substantive due process ensures that laws and government actions do not infringe upon certain fundamental rights, even if those rights are not explicitly listed in the Constitution. The concept is based on the idea that there are certain rights that are so fundamental to human dignity and freedom that the government cannot interfere with them without a compelling reason. The Supreme Court has used substantive due process to protect rights such as the right to privacy, the right to marry, and the right to make personal medical decisions.

#### **Balancing Government Interests:**

One of the challenges in applying due process is striking a balance between individual rights and the government's legitimate interests. The government has a responsibility to protect the public welfare and maintain law and order, but it must do so without violating the rights of individuals. Courts must carefully consider the importance of the government's interests and the impact on individual rights when deciding cases involving due process.

#### **Role of the Supreme Court:**

The U.S. Supreme Court plays a crucial role in interpreting and applying due process. Through its decisions, the Court shapes the understanding of due process and determines the extent to which certain rights are protected. Over the years, the Court has expanded the scope of due process to cover new and emerging rights, ensuring that it remains relevant in modern society.

#### **Importance of Due Process:**

Due process is a cornerstone of the American legal system and is essential for protecting individual liberties and ensuring a just and fair society. It serves as a safeguard against government abuse and arbitrary actions, upholding the principles of equality, fairness, and justice for all citizens. By providing a framework for the government's actions and

limitations, due process ensures that the rule of law prevails and that individuals' rights are respected and protected.

### **EQUAL PROTECTION OF LAWS**

Equal Protection of Laws in the USA is a constitutional principle enshrined in the Fourteenth Amendment. It ensures that all individuals are treated equally under the law and are not subjected to discrimination based on certain protected characteristics, such as race, ethnicity, gender, or religion.

The Equal Protection Clause of the Fourteenth Amendment states: "No State shall... deny to any person within its jurisdiction the equal protection of the laws." This clause was ratified in 1868 with the primary goal of providing legal protection to newly freed slaves after the Civil War. However, its scope has since been expanded to protect all individuals from unjust discrimination by state and local governments.

Key aspects of Equal Protection of Laws:

**1) Heightened Scrutiny:**

When a law or government action treats individuals differently based on a suspect classification such as race or gender, the courts apply heightened scrutiny. This means that the government must demonstrate a compelling reason for the differential treatment, and the law must be narrowly tailored to achieve that objective.

**2) Rational Basis Review:**

When a law treats individuals differently based on a non-suspect classification, such as age or economic status, the courts apply rational basis review. Here, the government only needs to show a legitimate reason for the classification, and the law must be reasonably related to that reason.

**3) Intermediate Scrutiny:**

For laws that classify individuals based on characteristics like gender or legitimacy, the courts apply intermediate scrutiny. The government must demonstrate that the classification serves an important governmental interest, and the means chosen are substantially related to that interest.

**4) Affirmative Action:**

Equal Protection of Laws also plays a role in affirmative action policies. In certain cases, the government may use affirmative action to remedy past discrimination and promote diversity. Such policies must be narrowly tailored and serve a compelling government interest.

### **Role of the Courts:**

The U.S. Supreme Court plays a critical role in interpreting and applying the Equal Protection Clause. Over the years, the Court has issued landmark decisions that have shaped the scope and application of this principle. Cases like *Brown v. Board of Education* (1954) and *Loving v. Virginia* (1967) struck down racial segregation and interracial marriage bans, respectively, highlighting the Court's commitment to ending discrimination and promoting equality.

### **Importance:**

Equal Protection of Laws is central to the American legal system's core values of fairness and justice. It ensures that individuals are not treated differently based on characteristics beyond their control and that they have equal access to the benefits and protections provided by the

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law. This principle is essential for creating an inclusive and equitable society, upholding the principles of democracy and preserving the dignity and rights of every citizen.



**Q. DISCUSS THE CONCEPT OF FEDERATION UNDER US CONSTITUTION.  
(A2020)**

**Ans:**

## **THE CONCEPT OF FEDERATION**

The concept of federation in the United States emerged as a response to the weaknesses of the Articles of Confederation. After gaining independence from Britain, the thirteen states created the Articles of Confederation as their first governing document. However, the Articles established a weak central government with limited powers, making it difficult to address pressing national issues. As a result, the country faced economic instability عدم استحکام, trade disputes, and challenges in maintaining a cohesive ہم آہنگ nation.

### **Federalism Defined:**

Federalism is a system of government in which power is shared between a central or national government and regional entities, such as states or provinces. The US Constitution establishes this federal system, dividing powers between the federal government and the individual states. Federalism allows for a dual system of authority, ensuring that both levels of government have distinct responsibilities and areas of jurisdiction.

### **Enumerated and Reserved Powers:**

The Constitution grants specific powers to the federal government, known as enumerated گنتی کی powers. These powers are listed in Article I, Section 8, and include the authority to regulate interstate commerce, coin money, declare war, and establish post offices, among others. On the other hand, the states retain all powers not explicitly واضح granted to the federal government, known as reserved powers. These powers are outlined in the Tenth Amendment and include responsibilities such as education, public health, and intrastate اندرون ملک commerce.

### **Concurrent Powers:**

Certain powers are shared by both the federal government and the states. These are known as concurrent بیگ وقت powers and include the ability to tax, establish courts, and enforce laws. For example, both the federal and state governments have the authority to levy محصول taxes on individuals and businesses within their respective jurisdictions.

### **Supremacy of the Constitution:**

The US Constitution is the supreme law of the land, and all federal, state, and local laws must comply with its provisions. The Supremacy Clause, found in Article VI of the Constitution, establishes that federal law prevails over state law in cases of conflict. If a state law contradicts متضاد ہے the Constitution or a federal law, the federal law takes precedence.

### **Division of Responsibilities:**

Federalism allows for a clear division of responsibilities between the federal government and the states. This division prevents a concentration حراستی of power at the national level and ensures that decisions and policies are made by the most appropriate level of government. It also allows states to address local needs and preferences, fostering a sense of regional autonomy.

### **Role of the States:**

## **Constitutional Law-I (British & US)**

States play a critical role in the federal system. Each state has its own constitution, state government, and legal system. States are responsible for governing matters that directly affect their citizens, such as education, transportation, and public safety. State governments also have the authority to establish policies and regulations that are specific to their particular circumstances.

### **The Tenth Amendment:**

The Tenth Amendment serves as a reinforcement of the concept of federalism. It states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." This amendment clarifies that any powers not explicitly granted to the federal government, nor prohibited to the states, remain within the authority of the states or the people.

### **Evolving Nature of Federalism:**

The concept of federalism has evolved throughout US history. The balance of power between the federal government and the states has shifted in response to various historical events, political dynamics, and societal changes. At times, the federal government's authority has expanded to address national challenges, while at other times, state's rights have been emphasized to protect local interests and cultural diversity اختلاف.

### **The Role of the Courts:**

The Supreme Court plays a vital role in interpreting and clarifying the distribution of powers between the federal government and the states. Through its decisions, the Court has defined the boundaries of federalism and resolved disputes between the central government and the states. For example, landmark cases like *McCulloch v. Maryland* (1819) and *United States v. Lopez* (1995) have had significant impacts on defining the scope of federal authority and the limits of state power.

### **Conclusion:**

In short, the concept of federation under the US Constitution establishes a unique system of government that shares power between the federal government and the states. This federalist structure has been a defining characteristic of the American political system, allowing for a balance of authority and the coexistence of a strong central government and autonomous خودتحرکی state governments. The dynamic nature of federalism has been essential in adapting to changing circumstances and maintaining the nation's unity while respecting the diverse needs and identities of its constituent states.



- Q. ENUMERATE THE POWERS OF US CONGRESS AND ITS LIMITATIONS UNDER THE RELEVANT PROVISIONS OF US CONSTITUTION. (A2019)**
- Q. WHAT ARE THE ROLE OF U.S CONGRESS IN LAW MAKING AND DISCUSS THE POWERS AND FUNCTIONS OF U.S CONGRESS. (S2019)**
- Q. DISCUSS THE ROLE OF CONGRESS IN THE USA CONSTITUTION(A2020)**
- Q. WHAT ARE THE ROLE AND POWERS OF US CONGRESS AND ITS LIMITATIONS?(A2021)**

**Ans:**

## **THE ROLE AND POWERS OF US CONGRESS**

The United States Congress is the legislative branch of the federal government of the United States. It is a bicameral body, meaning it is composed of two separate chambers:

- **The Senate**
- **The House of Representatives**

Together, these two chambers work to create, amend, and pass federal laws that govern the country. The United States Congress, as the legislative branch of the federal government, plays a vital role in the American political system. Its powers and responsibilities are outlined in the US Constitution, and it has a significant impact on shaping the laws and policies that govern the nation. Here is an overview of the role and powers of the US Congress:

### **THE ROLE AND POWER OF US CONGRESS**

Here are main powers of US Congress:

#### **1) Legislative Powers:**

The primary and most significant power of the US Congress is its authority to make laws. This legislative power is vested in both the Senate and the House of Representatives. Members of Congress can propose bills on various issues, and once a bill is introduced, it goes through a series of readings, committee hearings, and debates. If the bill passes both chambers and is signed by the President, it becomes law.

#### **2) Budget and Appropriations Powers:**

Congress holds the power of the purse, granting it authority over the federal budget and appropriations. Each financial year, Congress must pass a budget to allocate funds to various government programs and agencies. The process of appropriations involves careful consideration of spending priorities and negotiations to determine how taxpayer money will be allocated.

#### **3) Oversight Powers:**

Congress plays a crucial role in overseeing the executive branch and federal agencies. This oversight power enables Congress to ensure that government actions are conducted in accordance with the law and the Constitution. Through committee hearings, investigations, and inquiries, Congress can hold executive officials accountable and address potential abuses of power.

**4) Impeachment and Removal Powers:**

Congress has the authority to impeach and remove federal officials, including the President, Vice President, and federal judges, for "high crimes and misdemeanors." The House of Representatives initiates impeachment proceedings by drafting and approving articles of impeachment. The Senate then holds a trial to determine whether the official should be removed from office, requiring a two-thirds majority vote for conviction.

**5) Foreign Relations Powers:**

Congress plays a significant role in shaping the nation's foreign policy. The Senate has the power to ratify treaties negotiated by the President with foreign countries. Additionally, Congress can influence foreign relations through funding decisions, oversight of diplomatic activities, and the approval of arms sales to other nations.

**6) Commerce Regulation Powers:**

Congress has the authority to regulate commerce both within and between states, as granted by the Commerce Clause of the Constitution. This power allows Congress to pass laws that impact the national economy, regulate trade, and ensure a uniform regulatory framework for interstate commerce.

**7) War Powers:**

While the President is the Commander-in-Chief of the armed forces, Congress holds the power to declare war. Congress can also authorize the use of military force in specific situations. The War Powers Resolution of 1973 requires the President to notify Congress within 48 hours of deploying troops in combat and limits the duration of military engagements without congressional approval.

**8) Confirming Appointments and Nominations:**

The Senate plays a significant role in the appointment of federal officials. It must confirm the President's nominations for federal judges, cabinet members, and other key positions. This confirmation process ensures that qualified and suitable individuals serve in important government roles.

**9) Amendments to the Constitution:**

Congress has the power to propose amendments to the US Constitution. To do so, two-thirds of both the House and the Senate must approve the proposed amendment. Once approved, the amendment must be ratified by three-fourths of the state legislatures to become part of the Constitution.

**10) Investigative Powers:**

Congress has the authority to conduct investigations on various matters of public interest and concern. Through congressional committees, Congress can gather information, hold hearings, and request documents and testimonies from individuals and agencies. These investigations are essential in informing legislative decisions and ensuring transparency in government operations.

## **LIMITATIONS UNDER THE RELEVANT PROVISIONS OF US CONSTITUTION**

The United States Constitution sets forth several limitations on Congress to ensure a system of checks and balances and safeguard individual rights. These limitations are essential to prevent any one branch of government from becoming too powerful and to protect the liberties of the American people. Here are some key limitations on Congress under the relevant provisions of the US Constitution:

**1. Enumerated Powers (Article I, Section 8):**

Congress's powers are explicitly واضح listed in Article I, Section 8 of the Constitution. These enumerated گنتی کی گنتی powers grant Congress authority to legislate on specific matters, such as raising taxes, regulating commerce, declaring war, and establishing a post office. Congress cannot exercise powers that are not expressly granted to it by the Constitution.

**2. Necessary and Proper Clause (Article I, Section 8):**

Also known as the "Elastic Clause," this provision gives Congress the authority to make all laws that are "*Necessary And Proper*" for carrying out its enumerated powers. However, this clause has been interpreted with some caution خبردار to prevent Congress from expanding its powers beyond what is essential for executing its constitutional responsibilities.

**3. Commerce Clause (Article I, Section 8):**

The Commerce Clause grants Congress the power to regulate interstate commerce. While this clause has been a subject of debate over the scope of federal authority, it serves as a limitation by ensuring that Congress's regulatory reach is confined to matters that affect trade and commerce among the states.

**4. Taxing and Spending Clause (Article I, Section 8):**

Congress has the authority to lay and collect taxes to provide for the common defense and general welfare of the United States. However, this power is limited by the requirement that all taxes and spending must be for the common good and consistent with the overall purposes of the federal government.

**5. Bill of Rights (First Ten Amendments):**

The Bill of Rights places significant restrictions on Congress by guaranteeing individual rights and liberties. For example, the First Amendment protects freedom of speech, religion, and the press, and the Second Amendment safeguards the right to bear arms. Congress cannot pass laws that infringe upon these fundamental rights.

**6. Prohibition of Ex Post Facto Laws and Bills of Attainder (Article I, Section 9):**

Congress is explicitly prohibited from passing ex post facto laws (laws that punish actions that were legal when committed) and bills of attainder (laws that single out specific individuals for punishment without a trial). These restrictions ensure fair treatment and protect individuals from arbitrary legislative actions.

**7. Limits on Treason (Article III, Section 3):**

Congress's power to define and punish treason غداری is limited by the Constitution's strict definition of treason, which requires an overt act of war against the United States or providing aid and comfort to its enemies. This restriction prevents Congress from using treason charges to target political opponents.



## **THE ROLE OF U.S CONGRESS IN LAW MAKING:**

The U.S. Congress plays a central role in lawmaking as the legislative branch of the federal government. The process of making laws involves both the Senate and the House of Representatives working together to propose, debate, and pass bills. Here is a detailed explanation of the role of the U.S. Congress in lawmaking:

### **1) Bill Introduction:**

The process of lawmaking typically begins when a member of Congress introduces a bill. A bill can be proposed on a wide range of issues, from healthcare and education to national security and environmental protection.

### **2) Committee Review:**

Once a bill is introduced, it is referred to the relevant committee in the chamber where it was introduced. Committees are specialized groups of members with expertise in specific policy areas. They conduct thorough reviews of the bill, hold hearings to gather expert testimony, and analyze its potential impact.

### **3) Mark-up and Amendments:**

During the committee review, the bill may undergo mark-up sessions, where committee members propose amendments to the original text. These amendments can modify, add, or delete provisions of the bill. After mark-up, the committee votes on whether to send the bill to the full chamber for consideration.

### **4) Floor Debate and Voting:**

Once the bill is reported out of the committee, it moves to the full chamber (Senate or House) for floor debate and voting. Members of Congress can discuss the bill, voice their opinions, and offer further amendments. After the debate, the bill is put to a vote.

### **5) Passing the Bill in One Chamber:**

If the bill receives a simple majority of votes in favour, it is passed in the chamber where it originated. However, if the bill is rejected, it does not proceed any further. If the bill passes, it moves to the other chamber, where the process is repeated.

### **6) Conference Committee:**

If both chambers pass slightly different versions of the same bill, a conference committee may be appointed to reconcile the differences. The committee members negotiate and agree on a final version of the bill that can then be sent back to both chambers for a final vote.

### **7) Presidential Approval:**

Once both the Senate and the House of Representatives pass the identical version of the bill, it is sent to the President for approval. The President has several options:

- Signing The Bill Into Law
- Vetoing The Bill
- Taking No Action

(in which case the bill becomes law after ten days, excluding Sundays). If the President vetoes the bill, Congress can override the veto with a two-thirds majority vote in both chambers.

### **8) Implementation and Enforcement:**

## **Constitutional Law-I (British & US)**

After the President signs the bill into law or Congress successfully overrides a veto, the bill becomes law. Federal agencies and departments are responsible for implementing and enforcing the law, ensuring its provisions are carried out effectively.

### **Conclusion:**

In conclusion, the US Congress possesses a wide range of powers that enable it to carry out its constitutional duties effectively. These powers include lawmaking, budget allocation, oversight of the executive branch, and the authority to address matters related to foreign policy and national security. As a co-equal branch of government, Congress plays a vital role in the checks and balances system, ensuring the proper functioning of democratic governance in the United States.



**Q. CRITICALLY ANALYZE THE THEORY OF SEPARATION OF POWERS IS THERE ANY CHECKS AND BALANCE IN SYSTEM IN U.S CONSTITUTION. (A2019) (S2019)**

**Q. CRITICALLY ANALYZE THE DOCTRINE OF SEPARATION OF POWERS WITH SYSTEM OF CHECKS AND BALANCES. (A2020) (A2021)**

**Ans:**

## **SEPARATION OF POWERS**

The concept of separation of powers is a fundamental principle in the U.S. Constitution. The idea of separating and distributing powers in government has been discussed by many thinkers. They want to protect people's rights and prevent abuse of power. Montesquieu suggested dividing power into three branches:

- 1) Legislature**
- 2) Executive**
- 3) Judiciary**

Each branch has its own distinct responsibilities, and no branch can exercise the powers reserved for another branch. This way, no one person or group can have too much control. This concept influenced the US Constitution and other countries' laws. The goal is to ensure that government institutions work independently to safeguard individual freedoms and avoid tyranny **ظلم و ستم**. Separating powers helps protect our rights and keep the government balanced.

### **Legislative Branch (Congress):**

The legislative branch, or Congress, is responsible for making laws. It is bicameral, consisting of two chambers: the Senate and the House of Representatives. Congress has the authority to propose, debate, and pass bills that become laws after being signed by the President or overridden **حده سے زیادہ** by a two-thirds majority vote if the President vetoes them. Congress also holds the power of the purse, allowing it to control government spending through the annual budgeting process.

### **The legislative branch is balanced by the executive branch:**

- The President is able to veto laws that Congress has passed.
- Can suggest new legislation to Congress
- Sends the House of Representatives the federal budget.
- Government authorities are chosen to carry out and enforce legislation.
- Checks and balances for the executive branch Justice Department
- Judges for the Supreme Court are proposed.
- Judges for the federal court system are proposed.
- People who have been convicted of crimes may receive a pardon or amnesty **معافی** from the president.

### **The legislative branch balances and checks the power of the executive:**

- Using a two-thirds majority in both chambers, Congress can override vetoes from the president.
- The Senate needs a two-thirds majority to reject proposed treaties.

## **Constitutional Law-I (British & US)**

- Federal officials and judges can have their presidential nominees rejected by the Senate.
- The president may be impeached and removed by Congress (House serves as prosecution, Senate serves as jury).

### **Executive Branch (The President):**

The executive branch is led by the President, who serves as the head of state and commander-in-chief of the armed forces. The President is responsible for enforcing and implementing laws passed by Congress. The executive branch also has the authority to negotiate treaties (subject to Senate approval), issue executive orders, grant pardons, and appoint federal judges and other high-ranking officials. However, the President's actions are subject to oversight and review by Congress and the courts to prevent potential abuses of power.

Following the Civil War, the executive branch worked to broaden the president's constitutionally mandated authority to command a standing army. Other more recent instances of the executive branch's largely unchecked power include:

- Having the authority to issue executive orders
- the authority to declare regional and governmental crises
- the authority to assign and remove security designations
- the authority to pardon federal offenders under presidential order
- the authority to make presidential comments about bill signing
- Executive privilege allows information to be withheld from Congress.

### **Judicial Branch (The Courts):**

The judicial branch, represented by the federal courts, is responsible for interpreting laws and ensuring their constitutionality. The Supreme Court, the highest court in the land, has the authority of judicial review, allowing it to examine laws and executive actions to determine if they align with the Constitution. If the courts find a law or action to be unconstitutional, they can declare it null and void, providing a critical check on the powers of both Congress and the President.

The system of separation of powers with checks and balances is designed to create a system of shared authority, cooperation, and restraint among the three branches. Each branch has mechanisms to limit the others' potential abuses, fostering accountability and maintaining a delicate balance of power. For example:

- Congress can override a presidential veto with a two-thirds majority vote in both chambers, allowing it to assert its legislative authority.
- The President can veto legislation passed by Congress, serving as a check on potential overreach by the legislative branch.
- The courts can interpret and review laws and executive actions, ensuring they adhere to the Constitution and serving as a check on both the legislative and executive branches.

### **Theory of Checks & Balances:**

Checks and balances mean that the different parts of the government watch over each other's actions to make sure no one gets too much power. In the past, kings or monarchs had all the power, but now, checks and balances are the most important rule in our constitution to keep the government in balance. It's like a system to stop one person or group from taking too much control. The goal is to have a good relationship between government institutions and the state to prevent abuse of power, corruption, and unfair treatment. This system ensures that each part of the government can defend itself from interference by others. The idea is to avoid personal motives, like jealousy and the misuse of authority. By having checks and balances, each part of the government can limit the excessive use of power by the other parts. Checks and balances mean that the different parts of the government watch over each other's actions to make sure no one gets too much power. In the past, kings or monarchs had all the power, but now, checks and balances are the most important rule in our constitution to keep the government in balance. It's like a system to stop one person or group from taking too much control. The goal is to have a good relationship between government institutions and the state to prevent abuse of power, corruption, and unfair treatment. This system ensures that each part of the government can defend itself from interference by others. The idea is to avoid personal motives, like jealousy and the misuse of authority. By having checks and balances, each part of the government can limit the excessive use of power by the other parts. The system of checks and balances allows each branch to exercise some measure of control over the other branches, preventing any one branch from becoming too dominant. Here are some examples of how this system works:

- **Congressional Oversight:**  
Congress can exercise oversight over the executive branch by holding hearings, requesting documents, and conducting investigations. This allows Congress to monitor and scrutinize the actions of the President and executive agencies, ensuring they are acting within the law.
- **Presidential Veto and Congressional Override:**  
The President can veto bills passed by Congress, preventing them from becoming law. However, Congress can override a presidential veto with a two-thirds majority vote in both chambers, ensuring that the will of Congress can prevail if it believes the President's actions are not in the best interest of the nation.
- **Judicial Review:**  
The courts can exercise judicial review, determining the constitutionality of laws and executive actions. If a law or action is found to be unconstitutional, the courts can invalidate it, providing a critical check on the other branches' exercise of power.

### **Balance of Power:**

The doctrine of separation of powers with a system of checks and balances ensures that no single branch becomes too powerful or encroaches تجاوزات on the authority of the others. This balance of power allows each branch to act as a check on the potential abuses of the others, safeguarding the rights and liberties of the American people.

**Preservation of Democracy:**

The system of checks and balances is central to the preservation of American democracy. It reinforces the principles of limited government, individual rights, and the rule of law, promoting a government that is accountable and responsive to the people it serves.

**Conclusion:**

In conclusion, the doctrine of separation of powers with a system of checks and balances is a foundational aspect of the U.S. Constitution. It ensures that each branch of government operates independently within its designated sphere دائرے while providing mechanisms for mutual control and accountability. This system has been instrumental in safeguarding democratic principles and preventing the abuse of power, making it an essential aspect of the American political system.



- Q. DISCUSS THE QUALIFICATION AND THE POWERS OF THE U.S PRESIDENT. (S2019)**
- Q. WHAT ARE THE VARIOUS POWERS WHICH HELP THE USA PRESIDENT TO BE THE MOST POWERFUL PERSON IN USA? DISCUSS.(A2020)**
- Q. ENUMERATE THE CONSTITUTIONAL POWERS OF PRESIDENT OF USA.(A2021)**

**Ans:**

## **THE POWERS OF THE U.S PRESIDENT**

Article II of the U.S. Constitution gives a lot of power to one person – the President of the United States. The way the U.S. President's role is set up is different from countries with parliamentary systems. Here, the President and their group of advisors (Cabinet) don't have to answer to the group that makes laws (Legislature). The President is the most powerful person when it comes to making sure things get done in the government, although there are some rules in place to keep things fair.

The President is chosen in a roundabout way through a group called the Electoral College. This means the President is actually in charge and not just a figurehead like in some other types of governments. In fact, the President is both the leader of the country and the main leader of the government.

### **Qualifications:**

The constitution provides that candidates for presidency must fulfil the following conditions:

- (1) He must be natural born citizen of the United States.
- (2) He must not be less than thirty five years of age.
- (3) He must have lived in the U.S.A for not less than Fourteen years.

### **Tenure and Re-eligibility:**

The U.S. President serves for four years at a time. In the beginning, there were no rules about how many times a President could be re-elected. The very first President, George Washington, was elected two times, but he chose not to run for a third term. After that, a tradition started that said Presidents shouldn't be re-elected for more than two terms. Later, the Twenty Second Amendment was added to the Constitution, officially stating that no one can be elected as President more than two times.

### **Salary and other allowances:**

The President gets paid \$400,000 every year for doing their job. Additionally, they receive \$50,000 each year to cover expenses, and they are given money for their staff, travel, and taking care of the White House. These amounts are decided by Congress.

Once a President is done being in charge, they can still get money. In 2010, the basic amount they received after retiring was \$193,400 every year. But this number can change based on different things. For example, if the President also worked in Congress, the pension can be

## **Constitutional Law-I (British & US)**

bigger. They also get money to help with things like having an office, staff, and mailing costs. If a former President's spouse is widowed, they can receive \$20,000 each year as well.

### **Removal of The President:**

The President can be taken out of their job before their usual time is up, and this is called impeachment. This can happen if they commit serious acts like treason, bribery, or other major crimes. The process begins with the House of Representatives, who can start impeachment by voting with a majority. Then, the trial happens in the Senate, and the head of the highest court, the Chief Justice of the Supreme Court, leads the trial. To actually remove the President from their position, two-thirds of the Senate members must agree – this also means the President can't do the job anymore and can't hold any future office. The President can also face a regular trial in the regular court system for their actions.

## **Powers & Functions of US President**

Here are main powers which US President have and assumed most powerful person in USA.

### **Dictator in Foreign Relations:**

The President is in charge of how the United States deals with other countries. They do this with the help of the Secretary of State. The President chooses all the Ambassadors and other Diplomats who represent the U.S. in other countries. They also work on agreements with other countries called treaties. But, before a treaty becomes official, it needs to be approved by a lot of the members in the Senate (at least two-thirds).

The Senate can say "no" to a treaty that the President wants to make, but the Senate can't make a treaty itself or force the President to make one. The President is the one who meets with Ambassadors and other important people from different countries. They are like the main spokesperson for the United States when it comes to dealing with other countries. The President is directly responsible for how the U.S. acts in the world and what happens because of it. They are also the only one who can decide if the U.S. will recognize a new country or not.

### **Commander-in-Chief / Powers of Defence:**

He is the top leader of the United States military, so he is in charge of protecting the country. He chooses people to be military officers, but the Senate has to agree, and he can also decide to remove them when he wants. He can send American troops to different places around the world. Even though the power to officially start a war belongs to the Congress, the President's actions and decisions can make a war seem necessary. For instance, President Truman acted in Korea without the Congress's permission. Similarly, in 1918, President Wilson sent American troops to Siberia to help other allied troops, even though there was no official war between the United States and Russia at that time.

### **Legislative Powers:**

The Constitution of the United States follows the idea of Separation of Powers. This means that the parts of the government that make and enforce laws are separate from each other. In reality, though, the President has become a significant person when it comes to making laws. Here are the President's powers related to making laws:



### **i. Messages:**

The President can share ideas for new laws by speaking to the House or sending a written document. These messages from the President create a lot of interest in the country, and they are important documents that many people read and talk about. In fact, many laws start from these messages by the President. For example, the well-known Monroe Doctrine was introduced to Congress through one of these messages.

### **ii. Veto Powers:**

Every bill that the Congress approves has to be sent to the President for their final decision. The President has following choices on what to do:

- They can agree to the bill, and then it becomes a law.
- They can keep the bill for themselves. If they do this and Congress is still working, the bill automatically becomes a law after ten days even if the President doesn't sign it. But if Congress stops working before the ten days are up, the bill is not approved. This is called a "Pocket Veto."
- The President can say no to a bill and send it back to the house it came from, maybe with changes or maybe not. If this happens, the Congress can vote on the bill again. If two-thirds of the members in each house agree, the bill becomes a law even if the President still doesn't want it.

### **iii. Special Session:**

The President can ask Congress to meet for special sessions. While he can't force Congress to agree with his ideas for new laws, if he has a lot of support from the public, he can often make things happen more easily.

### **iv. Ordinance:**

The President can also issue certain executive orders having the force of law. This is known as the Ordinance power, of the President. The number of such executive orders is very large. As a result of this the President has been able to, increase his legislative influence tremendously بہت .

### **Patronage:**

The President has a lot of power to give out favours. He appoints many people to work in the federal government. Senators and representatives always try to make the President happy so they can get jobs for the people who support and help them.

### **Informal Conferences:**

The President often talks about many of the things Congress is planning during informal gatherings like dinner or tea with important leaders from his own party in Congress. When it comes to big decisions about how the country interacts with other countries, he might even talk to leaders from different political parties.

### **Financial Powers:**

Even though Congress is officially in charge of the country's money, in reality, the President has a big say in how finances are managed. The President directly oversees the budget-making process through the budget bureau. This means the President is like the main manager of the government's money matters.

**Judicial Powers:**

The President can forgive and delay punishments for people who break national laws, except for those who have been removed from office through impeachment or those who broke the laws of the country itself. The President also selects the Judges for the Supreme Court, but this needs approval from the Senate.

**Conclusion:**

In conclusion, the powers vested in the President of the United States form a dynamic framework that underscores their pivotal role in the nation's governance. With authority extending across foreign relations, legislation, the military, and the execution of federal laws, the President stands as the nation's most influential figure. This position allows them to shape policies, respond to international events, and guide the country through complex challenges. While the Constitution has put in place checks and balances to ensure a system of shared governance, the President's ability to wield these powers can greatly impact the direction and trajectory of the nation. As the symbol of the nation's unity and the focal point of its leadership, the President's role remains both crucial and complex, reflecting the essence of American democracy and its ongoing evolution.



**Q. EXPLAIN THE ELECTION AND IMPEACHMENT PROCEDURE OF US PRESIDENT(A2019).**

**Ans:**

## **THE ELECTION PROCESS OF THE US PRESIDENT**

The US President and Vice President are not elected directly by the people. Instead, they are chosen by “electors” through a process called the “Electoral College”.

### **Summary :**

The election process for the U.S. President is a multi-step and intricate procedure پیچیده that takes place over the course of several months. It begins with the primaries پرائمری انتخابات and caucuses , which are typically held from February to June of the election year. During this period, individual states hold contests to determine each party's nominee. The Democratic and Republican National Conventions are then held in the summer, usually in July or August, where the official nominees are formally selected. Following the conventions, the general election campaign kicks off in earnest, marked by debates, rallies, and advertisements. The first Tuesday after the first Monday in November is designated as Election Day, falling between November 2 and 8. On this day, citizens cast their votes in each state to determine the winner of the Electoral College. However, the President is not officially elected until the Electoral College meets on the Monday after the second Wednesday in December, which is December 19 to 26, to cast their votes. This vote is then certified by Congress on January 6 of the following year. Finally, the Inauguration Day occurs on January 20, when the President-elect is sworn into office, commencing their four-year term.

### **Election Process:**

The election process of US President can be consolidated into five steps:

**Step 1: Primaries and Caucuses**

**Step 2: National Conventions**

**Step 3: Election Campaigning**

**Step 4: General Election, and Step**

**Step 5: Electoral College.**

### **Step 1: Primaries and Caucuses (Party level elections in States)**

There may be many people who want to be the president of the United States of America. Each of these people may have their own ideas about how the US government should work. People with similar ideas usually align behind the same political party. But they need to win the favour of their party members first. Candidates from each political party campaign throughout the country to win the favour of their party members.

Primaries and caucuses are methods that political parties use to select candidates for a general election.

- **Primary:**

## **Constitutional Law-I (British & US)**

A primary is a state-level election where party members vote for the best candidate that will represent them in the general election. Party candidates selected in a primary then run against each other in a general election. **34 U.S. States conduct Primary Elections.**

There are several types of primaries in the U.S. system like closed primary, Semi-closed primary, Open primary and Semi-open primary.

- **Caucus:**

A caucus is a local meeting where registered members of a political party in a city, town or county gather to vote for their preferred party

### **Step 2: National Conventions of Each Party**

- Once the primaries and caucuses are completed in each state, a national convention is held in which a party's nomination for president is formally announced to the public. During the convention, the elected delegates cast their vote for a party candidate and the candidate with the most delegates gets the party's nomination. The end of the convention marks the beginning of the general election process.
- Each party holds a national convention to finalize the selection of one presidential nominee. At each convention, the presidential candidate chooses a running-mate (vice-presidential candidate).

### **Step 3: General Election Campaigning**

- General election campaigning begins after a single nominee is chosen from each political party, via primaries, caucuses, and national conventions.
- These candidates travel the country, explaining their views and plans to the general population and trying to win the support of potential voters. Rallies, debates, and advertising are a big part of general election campaigning.

### **Step 4: General Election (Popular Vote)**

- Usually in November.
- Many modern voters might be surprised to learn that when they step into a ballot box to select their candidate for president, they actually are casting a vote for fellow Americans called electors.
- People in every state across the country vote for one president and one vice president. When people cast their vote, they are actually voting for a group of people known as electors.
- The voters of each state, and the District of Columbia, vote for electors to be the authorized constitutional members in a presidential election. These voters form the Electoral College.
- An elector is a member of the Electoral College. These electors, appointed by the states, are pledged to support the presidential candidate the voters have supported.
- Even though the majority of people of the USA vote for a candidate that does not mean that he/she will win the Presidential election. There are instances where a candidate who won the popular vote lost the election.
- To win the election, a candidate needs to secure more than 270 electoral votes.

### **Step- 5 Electoral College (Electors vote for the US President)**

- Usually in December.
- The US the president is elected by the institution called the Electoral College.
- The Constitution only states that the candidate who receives a majority of votes in the Electoral College becomes President. It says nothing about the popular vote.
- The intent of the framers was to filter public opinion through a body composed of wiser, more experienced people; the framers did not want the president to be chosen directly by the people.
- Each state gets a certain number of electors, based on each state's total number of representation in Congress.
- Each of the 50 US states and the capital Washington DC (a district which does not belong to any state) have a set number of electors which reflects their size. California is the most populated (over 38 million people) and has 55 electoral votes – more than any other. On the other hand, a state such as Montana, which is geographically large but has a relatively small population (just over one million people) – only has three electors.
- Aside from Maine and Nebraska, **if a candidate gets the most votes within a state they receive that state's full quota of Electoral College Votes.**
- Each elector casts one electoral vote following the general election.
- There are a total of 538 electoral votes.
- The candidate that gets more than half (270) wins the election.

### **Why does the U.S. have an Electoral College?**

The short answer is the framers of the Constitution didn't trust direct democracy and provided an extra layer to ensure, as James Madison put it, that "factions" of citizens with a common interest don't harm the nation as a whole. However, the Electoral College has become a mere formality.

The Constitution doesn't require electors to vote according to the popular vote of the people they represent. But it's rare for an elector not to follow the people's and their party's choice. Although the actual vote of the Electoral College takes place in each state between mid-November and mid-December, in most cases, a projected winner can be announced on election night.

### **What Happens if No Candidate Gets 270 Electoral Votes?**

In the rare event that no candidate gets the needed 270 electoral votes, the decision would go to the House of Representatives, who would vote to elect the new President from among the top three candidates. A similar process would take place in the Senate to elect the Vice President from among the top two candidates. The only time this has happened was during the 1824 election when John Quincy Adams received the most votes in the House of Representatives after no candidate won a majority of the Electoral College.

### **Elections are over. What's next?**

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The president-elect and vice president-elect take the oath of office and are inaugurated in January.

### **Impeachment Procedure of U.S President:**

The impeachment procedure of a U.S. President is a serious process carried out by the country's Congress to address any alleged مبینہ wrongdoing or misconduct by the President. It involves several steps.

#### **1. Investigation:**

The process often begins in the House of Representatives, where lawmakers investigate if the President has committed "high crimes and misdemeanors," as stated in the Constitution. This investigation can be prompted by various reasons, like abuse of power or obstruction رکاوٹ of justice.

#### **2. Articles of Impeachment:**

If the House believes there's enough evidence, they draft and vote on "articles of impeachment." These are like formal charges against the President, detailing the alleged offenses.

#### **3. Impeachment Vote:**

If a majority of the House votes to impeach the President on any of the articles, the President is formally impeached. However, being impeached doesn't mean removal from office yet.

#### **4. Senate Trial:**

The process then moves to the Senate, where a trial is held. The Chief Justice of the Supreme Court presides over the trial, and Senators act as jurors. The President has legal representation and can present their case.

#### **5. Senate Vote:**

After hearing arguments and evidence, the Senators vote on whether to convict the President on the charges. A two-thirds majority (67 out of 100 Senators) is needed to convict. If the President is convicted, they are removed from office.

#### **6. Consequences:**

If the President is removed, the Vice President takes over. Additionally, the Senate can vote to disqualify the President from holding any public office in the future.

It's important to note that impeachment is a serious and rare process, intended to address significant misconduct that undermines the office of the President or the nation's welfare.

### **Conclusion:**

The way the U.S. chooses its President is like a big, organized journey. It starts with lots of people trying to be the best from each group (party). Then, they have big meetings to pick the best person. After that, the chosen people talk and show what they can do. People all around the country vote for their favorite. The most special day to vote is the first Tuesday after the first Monday in November. But the new President isn't official until a special group meets in December to count the votes. Finally, the new President starts their job on January 20. This shows how America picks its leader in a fair and peaceful way.





- Q. DISCUSS THE DOCTRINE OF JUDICIAL REVIEW IN THE CONTEXT OF US CONSTITUTION ELABORATE IN THE LIGHT OF MARBURY VS MADISON ( 5 U.S. 137, 1803). (A2019) (S2019)**
- Q. DISCUSS THE DOCTRINE OF JUDICIAL REVIEW WHILE CRITICALLY ANALYZING LAND MARK CASES I.E. MARBURY VS MADISON AND MCCULLOCH VS. MARYLAND.(A2020)**
- Q. DISCUSS THE DOCTRINE OF JUDICIAL REVIEW IN THE LIGHT OF MARBURY VS. MADISON [1803] AND MOCULLOCH VS. MARYLAND CASES [1819]. (A2021)**

**Ans:**

## **THE DOCTRINE OF JUDICIAL REVIEW**

The doctrine of judicial review is a fundamental principle in the context of the U.S. Constitution that empowers the federal courts, particularly the Supreme Court, to review and potentially invalidate laws, actions, or policies that are deemed unconstitutional. This concept was established through the landmark case of Marbury v. Madison in 1803.

In the U.S., the Constitution is the supreme law of the land, and all laws and government actions must align with its provisions. Judicial review ensures that the government operates within the boundaries set by the Constitution and that individual rights and freedoms are protected.

### **Key Points of Judicial Review:**

Following are the key points about the doctrine of judicial review in the context of the U.S. Constitution:

#### **1. Constitutional Authority:**

While the Constitution doesn't explicitly **واضح** state that the courts have the power of judicial review, Chief Justice John Marshall's reasoning in the Marbury v. Madison case established this authority. Marshall argued that it's the duty of the courts to interpret **تشریح** the Constitution and determine whether laws are consistent **استوار** with it. This assertion **دعوی** was based on the idea that the Constitution is the supreme law of the land, and any law in conflict with it is invalid. This landmark case essentially confirmed the court's role in reviewing the constitutionality of laws and actions.

#### **2. Checks and Balances:**

The concept of checks and balances is a core principle of the U.S. government, aimed at preventing any one branch from becoming too powerful. Judicial review is a vital component of this system. By allowing the judiciary to review and potentially strike down laws and actions that go beyond the limits set by the Constitution, the courts ensure that neither the legislative nor the executive branch can overstep their authority without consequence.

#### **3. Limiting Government Power:**

Judicial review serves as a safeguard against potential abuses of power by the government. If a law is found to violate the Constitution, the court can declare it unconstitutional and therefore null and void. This helps protect individual rights,



prevent government overreach, and ensure that the government remains accountable to the Constitution and the people it represents.

### **4. Precedent Setting:**

The decisions made by the Supreme Court in cases involving judicial review become legal precedents. These precedents guide future rulings, providing a consistent interpretation of the Constitution over time. This stability in interpretation is important for maintaining the rule of law and ensuring that legal outcomes are predictable and just.

### **5. Balancing Acts:**

Judicial review requires the courts to strike a balance between respecting the original intent of the Constitution's framers and adapting to modern societal changes. Courts must consider the Constitution's enduring principles while also recognizing that its application might need to evolve to address new challenges and contexts. This balance ensures that the Constitution remains a living document while upholding its core values.

### **6. Democratic Debate and Change:**

Critics of judicial review argue that it can sometimes go against the democratic will expressed through elected representatives. They believe that unelected judges should not have the power to overturn laws enacted by elected officials. However, supporters contend that judicial review is crucial for protecting minority rights and ensuring that even popularly supported actions are in line with the Constitution. It acts as a counterbalance to potential "tyranny of the majority" situations and allows for meaningful debate on the limits of government authority.

## **Marbury v. Madison / Origin of Judicial Review:**

The origin of judicial review can be traced back to the landmark U.S. Supreme Court case of *Marbury v. Madison* in 1803. This case, heard by Chief Justice John Marshall, established the principle of judicial review and solidified the authority of the U.S. courts to interpret the Constitution and determine the constitutionality of laws.

The background of the *Marbury v. Madison* case is rooted in the political tensions of the time. In the final days of President John Adam's administration, he appointed several individuals to key positions in the federal government, known as "Midnight Appointments." However, not all of these appointments were delivered before Thomas Jefferson assumed the presidency, and his new Secretary of State, James Madison, refused to deliver them.

One of these appointees, William Marbury, sued James Madison, seeking a court order (writ of mandamus) to force him to deliver the appointment. Marbury's case reached the Supreme Court, and Chief Justice John Marshall faced a critical decision: if he ordered Madison to deliver the appointment, he risked a confrontation with the new administration; if he didn't, he might undermine the credibility of the courts.

In his decision, Chief Justice Marshall took a bold step. He ruled that Marbury did have a right to his appointment, but the portion of the Judiciary Act of 1789 that granted the Supreme Court the power to issue writs of mandamus was unconstitutional. In doing so, he established the principle of judicial review—the power of the courts to review and potentially invalidate laws or actions that are in conflict with the Constitution.

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Marshall's reasoning in *Marbury v. Madison* was significant for several reasons:

**a) Asserting Judicial Authority:**

Marshall asserted **زور دے کر کہا** that it is the duty of the courts to interpret the Constitution and decide whether a law or action is consistent with it. This elevated **بلند** the role of the judiciary as a coequal branch of government responsible for upholding the Constitution.

**b) Supremacy of the Constitution:**

Marshall emphasized that the Constitution is the supreme law of the land, and any law in conflict with it is void. This principle solidified the idea that the Constitution is the ultimate standard by which laws and actions are measured.

**c) Checks and Balances:**

By giving the judiciary the power to review and invalidate laws, Marshall reinforced the concept of checks and balances. This allowed the judiciary to serve as a check on the legislative and executive branches, preventing potential abuses of power.

**d) Establishing Precedent:**

The decision set a precedent for future cases, establishing the authority of the courts to review laws and actions for constitutionality. This precedent laid the foundation for the role of the judiciary in the American legal system.

In essence, the origin of judicial review can be attributed to Chief Justice John Marshall's ingenious **آسان ہے** interpretation of the Constitution's principles in the *Marbury v. Madison* case. This decision had a profound **گہرا** impact on the U.S. legal system and reinforced the importance of the judiciary's role in upholding the Constitution and preserving the rule of law.

## **MOCULLOCH VS. MARYLAND CASES [1819]**

The *McCulloch v. Maryland* case, decided in 1819 by the U.S. Supreme Court, was a pivotal **اہم** moment in American constitutional law. The case primarily centered around the constitutionality of a state's ability to tax a federal institution, and it addressed broader issues concerning the scope of federal power and the interpretation of the Necessary and Proper Clause of the Constitution.

### **Background:**

In the early 19th century, the Second Bank of the United States was established to stabilize the country's financial system. One of its branches was located in Maryland. The state of Maryland, seeking to protect its own banks and restrain the federal government's power, passed a law that imposed a tax on the bank's operations.

### **Issue:**

The key issue in the case was whether the state of Maryland had the authority to impose a tax on a federal institution, particularly the Second Bank of the United States. Additionally, the case involved the interpretation of the Necessary and Proper Clause of the U.S. Constitution, which grants Congress the power to enact laws that are necessary and proper to carry out its enumerated powers.

### **Supreme Court's Ruling:**

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Chief Justice John Marshall, writing for the unanimous اتفاق کلی Court, delivered a landmark decision that significantly expanded the scope of federal power. The Court ruled in favour of the federal government and the bank, asserting the following key points:

- **Implied Powers:**  
Chief Justice Marshall affirmed the idea that the federal government possesses powers that are not explicitly listed in the Constitution but are implied by its express powers. This concept is often referred to as the doctrine of implied powers.
- **Necessary and Proper Clause:**  
The Court interpreted the Necessary and Proper Clause broadly. Marshall argued that Congress had the authority to create a national bank as part of its power to manage the financial system and regulate commerce. The establishment of a national bank was deemed necessary and proper to carry out these functions.
- **Supremacy Clause:**  
Marshall reinforced the supremacy of federal law over state law. He argued that the Constitution, federal laws, and treaties are the supreme law of the land, and state laws that interfere with these federal powers can be invalidated.

### Impact:

The *McCulloch v. Maryland* case had profound implications for the balance of power between the federal government and the states. It solidified ٹھوس شکل دی گئی the principle that federal laws and institutions could not be hindered رکاوٹ by state interference. The decision strengthened the authority of the federal government to engage in activities not explicitly enumerated in the Constitution but deemed necessary to fulfill its responsibilities. It also set a precedent for interpreting the Necessary and Proper Clause broadly, expanding the scope of federal power beyond a strict interpretation of enumerated powers.

### Conclusion:

In the intricate tapestry of American governance, judicial review stands as a sentinel of constitutional integrity. Rooted in the historic *Marbury v. Madison* decision, this doctrine empowers the judiciary to safeguard the Constitution's spirit against encroachments. Through a delicate balance of interpreting the past while adapting to the present, it ensures that laws and actions align with the nation's fundamental principles. Judicial review is not merely legal scrutiny, it is a testament to the resilience لچک of democracy, a reminder that no authority is beyond accountability, and a beacon guiding the United States toward a just and enduring future.



**Q. DISCUSS THE COMPOSITION AND JURISDICTION OF US SUPREME COURT IN THE LIGHT OF US CONSTITUTION. (S2019)**

**Ans:**

## **SUPREME COURT OF U.S.A**

The U.S. Supreme Court, at the apex of the judicial system, interprets the Constitution and decides vital legal matters. Comprising nine justices with lifetime appointments, it holds both original and appellate jurisdiction. Original jurisdiction involves disputes between states and cases involving ambassadors. Appellate jurisdiction covers cases concerning federal law, the Constitution, and diverse parties. The Court wields the power of judicial review, evaluating the constitutionality of laws and actions. By shaping precedent, protecting individual rights, and maintaining the separation of powers, it upholds justice, ensures the rule of law, and plays a pivotal role in American democracy.

### **Composition of the U.S. Supreme Court:**

The composition of the U.S. Supreme Court is defined by the U.S. Constitution in Article III, Section 1. While the Constitution establishes the existence of the Supreme Court, it does not prescribe the number of justices. The number of justices has varied over time but has remained relatively consistent at nine since 1869. The Constitution grants lifetime tenure to Supreme Court justices, ensuring their independence from political pressures.

### **Jurisdiction of the U.S. Supreme Court:**

The jurisdiction of the U.S. Supreme Court is outlined in both the original Constitution and subsequent legislation. It can be categorized into two main types: original jurisdiction and appellate jurisdiction.

#### **1. Original Jurisdiction:**

The original jurisdiction of the Supreme Court is limited and involves cases affecting specific parties, often involving disputes between states. Article III, Section 2, Clause 2 grants the Supreme Court original jurisdiction in cases affecting ambassadors, other public ministers, and consuls, as well as cases in which a state is a party.

#### **2. Appellate Jurisdiction:**

The majority of cases heard by the Supreme Court fall under its appellate jurisdiction. This jurisdiction allows the Court to review decisions made by lower federal courts or state supreme courts. Congress has the authority to make exceptions and regulations to the appellate jurisdiction of the Court.

### **Categories of Appellate Jurisdiction:**

#### **a) Federal Questions:**

The Supreme Court has the authority to review cases that involve federal law or the interpretation of the U.S. Constitution.

#### **b) Diversity Cases:**

The Court can hear cases in which parties from different states are involved and the amount in dispute exceeds a certain threshold. This is intended to ensure fairness when parties from different states are in legal disputes.

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### c) **State Law and Constitution:**

The Supreme Court can review cases involving state law or state constitutions if they raise federal questions or if they are based on a federal statute or constitutional provision.

### d) **Final Judgments:**

The Court generally reviews cases that are brought after all other possible avenues for appeal within the state or federal court systems have been exhausted.

## Key Principles Shaping the Court's Role:

- **Judicial Review:**

The Supreme Court's most significant role is to exercise judicial review, ensuring the constitutionality of laws and actions, as established in *Marbury v. Madison* (1803).

- **Interpreting the Constitution:**

The Court interprets the Constitution's meaning and intent, shaping the nation's legal landscape.

- **Preserving Rights:**

The Court protects individual rights and liberties by ruling on cases involving civil rights, civil liberties, and fundamental freedoms.

- **Stare Decisis:**

The principle of following established precedent helps ensure consistency and predictability in the law.

- **Balancing Power:**

The Court serves as a check on the legislative and executive branches, ensuring a balance of power and upholding the rule of law.

In summary, the composition and jurisdiction of the U.S. Supreme Court, as established in the U.S. Constitution, form the backbone of the American judicial system. The Court's role in interpreting and applying the Constitution, its authority to review laws and actions, and its impact on the nation's legal and societal evolution underscore its crucial importance in upholding justice and maintaining the balance of power in the United States.



**Q. DISCUSS THE SOURCES OF U.S CONSTITUTION AND AMENDMENT PROCEDURE. (S2019)**

**Ans:**

## **THE US CONSTITUTION**

The U.S. Constitution stands as a cornerstone of American democracy and governance. Enacted in 1787, it establishes the framework for the federal government and embodies the nation's core principles. Divided into seven articles, it outlines the structure of the three branches of government: the legislative, the executive, and the judicial. The Constitution enshrines individual rights through the Bill of Rights, safeguarding freedoms like speech and religion. Its ingenious system of checks and balances ensures no branch becomes too powerful. As a living document, the Constitution has adapted to societal changes through amendments, reflecting its enduring relevance and the nation's commitment to liberty, justice, and the pursuit of happiness.

### **Sources of U.S Constitution:**

The sources of the U.S. Constitution are a blend of historical precedents, philosophical ideas, and practical considerations that shaped the framework of American governance. These sources influenced the Founding Fathers as they crafted the Constitution to establish a more perfect union. Here are the key sources, each with its own significance:

**1) English Common Law and Colonial Charters:**

The English common law tradition and colonial charters brought concepts of individual rights, due process, and representative government to the American colonies. Documents like the Magna Carta (1215) laid the groundwork for principles such as habeas corpus and trial by jury, which were later incorporated into the Constitution's Bill of Rights.

**2) Magna Carta (1215):**

The Magna Carta was a foundational document in English law that established the principle that the king's power was not absolute and introduced concepts of due process and rule of law. It influenced the idea of limited government and protection of individual rights.

**3) English Bill of Rights (1689):**

The English Bill of Rights reinforced the principle of parliamentary supremacy over the monarchy and introduced protections against excessive fines and cruel punishment. It inspired ideas about the rights of citizens and the need for checks on government power.

**4) Enlightenment Philosophy:**

The ideas of Enlightenment thinkers like John Locke, Montesquieu, and Rousseau heavily influenced the concepts of natural rights, separation of powers, and social contracts. Locke's ideas about the right to life, liberty, and property are echoed in the Declaration of Independence.

**5) Articles of Confederation and State Constitutions:**

The Articles of Confederation served as an early attempt at federal governance after the American Revolution. Its weaknesses highlighted the need for a

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stronger central government. State constitutions, like the Virginia Declaration of Rights, provided models for protecting individual freedoms and structuring state governments.

### **6) Colonial Experience and Local Traditions:**

Colonial self-governance and local assemblies established a foundation for representative institutions. These experiences ingrained the concept of representative democracy and the people's role in government.

### **7) Federalist and Anti-Federalist Papers:**

The Federalist Papers, written by Alexander Hamilton, James Madison, and John Jay, articulated the benefits of the proposed Constitution and addressed concerns about its powers. The Anti-Federalist Papers countered these arguments, contributing to the eventual addition of the Bill of Rights to address these concerns.

### **8) Constitutional Convention Debates:**

The debates and compromises during the Constitutional Convention of 1787 shaped the document's content. The Great Compromise resolved disputes over representation in Congress, while discussions on the scope of federal power led to the creation of enumerated powers.

### **9) State Ratification Conventions:**

The ratification debates in state conventions reflected public sentiment and concerns about the new Constitution. Promised amendments (Bill of Rights) were crucial to securing support for ratification.

## **Amendment Procedure of U.S Constitution :**

The amendment procedure of the U.S. Constitution is a deliberate and well-defined process outlined in Article V. This process ensures that the Constitution can adapt to changing times and circumstances while maintaining a balance between stability and flexibility. Here's an overview of the amendment procedure:

### **1. Proposal:**

An amendment can be proposed through two methods:

- **Congressional Proposal:**

A proposed amendment can be introduced in either the U.S. House of Representatives or the U.S. Senate. It requires a two-thirds majority vote in both chambers for the amendment to pass.

- **Convention Proposal:**

Upon application by two-thirds of state legislatures, Congress is required to call a constitutional convention to propose amendments. However, this method has never been used, and all existing amendments have been proposed through the congressional method.

### **2. Ratification:**

Once an amendment is proposed, it must be ratified by three-fourths of the state legislatures or by conventions in three-fourths of the states, depending on which method Congress chooses. The state legislatures method is the more commonly used one.

**Ratification by State Legislatures:**

The proposed amendment is sent to the state legislatures for consideration. To be ratified, an amendment requires approval by three-fourths (38) of the state legislatures. States can take their time to deliberate and decide whether to ratify an amendment.

**Ratification by State Conventions:**

Congress can choose to have the proposed amendment ratified by state conventions rather than state legislatures. This method has only been used once for the 21st Amendment, which repealed Prohibition. Conventions are specific assemblies of delegates chosen by the people of each state, and they vote on whether to ratify the amendment.

**Impact and Significance:**

The amendment procedure of the U.S. Constitution reflects the Founders' wisdom in creating a balance between ensuring the stability of the Constitution and allowing for change when needed. The process requires substantial consensus, as an amendment must garner widespread support from both the federal government and the states. This deliberate approach helps preserve the fundamental principles of the Constitution while enabling the nation to adapt to new challenges and societal developments.

The U.S. Constitution has been amended 27 times till now. The amendment procedure underscores the enduring nature of the Constitution as a living document that remains relevant and effective in guiding the nation's governance.





**Q. WRITE A COMPREHENSIVE NOTE ON THE FOLLOWINGS:**

- Senate
- 5th, and 14th Amendment of US Constitution
- Constitutional role of Vice President
- Political Parties in USA

Ans:

## **SENATE**

The United States Senate, one of the two chambers of the U.S. Congress, plays a crucial role in the American legislative process and the system of checks and balances. With a unique set of powers and responsibilities, the Senate contributes to the nation's representative democracy and the functioning of the federal government. Here is a comprehensive overview of the U.S. Senate:

### **1. Composition and Term:**

The Senate consists of 100 members, two from each state, regardless of the state's population. Senators serve staggered six-year terms, with one-third of the Senate up for election every two years. This design ensures a continuity of institutional knowledge and provides stability to the legislative process.

### **2. Qualifications and Election:**

Senators must be at least 30 years old, U.S. citizens for at least nine years, and residents of the state they represent. They are elected by popular vote within their respective states, reflecting the principle of direct representation.

### **3. Role and Powers:**

Senate has following powers and role in U.S

- **Legislation:**

The Senate has the power to propose, debate, and pass legislation on a wide range of issues, including domestic policy, foreign relations, national defense, and the economy.

- **Advice and Consent:**

The Senate plays a critical role in the confirmation process of federal appointments, including federal judges, cabinet members, ambassadors, and other high-level officials nominated by the President. The Senate must give its "advice and consent" for these appointments to take effect.

- **Treaties:**

The Senate shares the power to ratify international treaties negotiated by the President. Treaties require a two-thirds vote for approval.

- **Impeachment:**

The Senate holds the authority to conduct impeachment trials. If the House of Representatives impeaches a federal official, the Senate acts as the jury, and a two-thirds majority vote is required for conviction and removal from office.

**4. Filibuster and Cloture:**

Senators have the option to engage in filibusters, extended speeches designed to delay or prevent a vote on legislation. To end a filibuster, a procedure known as cloture is employed, requiring a three-fifths majority (60 votes) to limit debate and proceed to a vote.

**5. Leadership and Structure:**

The Senate is led by the Vice President of the United States, who serves as the President of the Senate. However, the Vice President rarely presides over daily proceedings. The Senate's presiding officer in the Vice President's absence is the President pro tempore, an elected Senator from the majority party. The majority and minority leaders, along with committee chairs, play pivotal roles in guiding legislation and setting the Senate's agenda.

**6. Impact on Legislation and Governance:**

The Senate's unique structure, with equal representation of states regardless of size, ensures that both small and large states have a voice in the legislative process. This system promotes federalism and prevents the dominance of more populous states. The Senate's role as a deliberative body contributes to thorough examination of legislation, fostering compromise and collaboration.

**7. Role in the Bicameral Legislature:**

The Senate, along with the House of Representatives, forms the bicameral legislative branch of the U.S. government. This arrangement ensures a comprehensive and deliberative approach to lawmaking, with each chamber bringing distinct perspectives to the legislative process.

The U.S. Senate occupies a central position in the American political system. Its responsibilities in passing laws, advising and confirming appointments, ratifying treaties, and conducting impeachment trials contribute to the checks and balances that define the nation's governance. The Senate's design reflects the Founders' commitment to balance and representation, making it an integral component of the U.S. constitutional framework.



**5TH, AND 14TH AMENDMENT OF US  
CONSTITUTION**

The 5th and 14th Amendments to the U.S. Constitution are two crucial components of the Bill of Rights and the post-Civil War amendments, respectively. Both amendments address fundamental principles of due process and equal protection under the law, but they serve different historical contexts and purposes. Here's a closer look at each amendment:

**5th Amendment:**

The 5th Amendment, part of the Bill of Rights ratified in 1791, focuses on protecting individuals from government actions that could infringe upon their rights and liberties:

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- **Due Process Clause:**  
The 5th Amendment includes the Due Process Clause, which ensures that individuals are not deprived of life, liberty, or property without due process of law. This clause serves as a safeguard against arbitrary government actions.
- **Double Jeopardy and Self-Incrimination:**  
The amendment also prohibits "double jeopardy," which prevents individuals from being tried twice for the same crime. Additionally, it guarantees the right against self-incrimination, ensuring that a person cannot be compelled to testify against themselves in a criminal trial.
- **Grand Jury Indictment:**  
For serious federal crimes, the 5th Amendment requires a grand jury indictment as a protection against unjust prosecutions.

### **14th Amendment:**

The 14th Amendment, ratified in 1868 in the aftermath of the Civil War and aimed at securing civil rights for formerly enslaved individuals and ensuring equal protection, is one of the Reconstruction Amendments:

- **Equal Protection Clause:**  
The most well-known aspect of the 14th Amendment is the Equal Protection Clause. This clause mandates that states provide equal protection of the laws to all individuals within their jurisdiction. It has been central to various civil rights and anti-discrimination cases.
- **Due Process Clause:**  
Similar to the 5th Amendment, the 14th Amendment includes a Due Process Clause that prohibits states from depriving any person of life, liberty, or property without due process of law.
- **Citizenship Clause:**  
The 14th Amendment's Citizenship Clause grants citizenship to all individuals born or naturalized in the United States and ensures that they have the same rights and privileges as any other citizen.
- **Privileges and Immunities Clause:**  
This clause prohibits states from making or enforcing laws that abridge the privileges and immunities of U.S. citizens, ensuring that individuals are not unfairly treated when moving between states.

The 14th Amendment has played a pivotal role in shaping modern civil rights and equal protection jurisprudence. It has been invoked in landmark cases involving segregation, racial discrimination, and equal access to education, and its principles continue to influence legal battles related to civil liberties and social equality.

In summary, the 5th Amendment and the 14th Amendment are integral parts of the U.S. Constitution that safeguard due process, equal protection, and fundamental rights for individuals, with the 14th Amendment being particularly significant in the fight for civil rights and equality.



## **CONSTITUTIONAL ROLE OF VICE PRESIDENT**

The Vice President of the United States holds several constitutional roles and responsibilities, outlined in the U.S. Constitution. While the Vice President's most prominent role is to serve as the second-in-command and succeed the President in case of vacancy, their constitutional duties extend beyond this. Here's an overview of the Vice President's constitutional role:

**1. President of the Senate:**

The Vice President serves as the President of the Senate, a role specified in Article I, Section 3 of the Constitution. While the Vice President does not have a vote in most cases, they have the tie-breaking vote in the event of a tie on legislation or nominations. This role reflects the framers' intention to have a balance of power between the executive and legislative branches, as the Vice President's tie-breaking vote can influence the Senate's decisions.

**2. Presidential Succession:**

The Vice President stands next in line to succeed the President in case of a vacancy in the office due to death, resignation, or removal. This role is defined in the 25th Amendment, ratified in 1967. If the President is unable to fulfill their duties, the Vice President assumes the office of President, ensuring continuity in governance.

**3. Certification of Electoral Votes:**

After a presidential election, the Vice President, as President of the Senate, presides over a joint session of Congress to officially count and certify the electoral votes. This ceremony confirms the outcome of the Electoral College and officially declares the President-elect.

**4. Constitutional Advisor:**

The Vice President may be called upon to provide advice and insights to the President, particularly on matters of policy and political strategy. While not explicitly stated in the Constitution, this advisory role is rooted in the Vice President's position as the second-highest-ranking official in the executive branch.

**5. Treaty Ratification and Impeachment:**

While the Vice President does not play a direct role in treaty negotiations or impeachment proceedings, they may be involved in the Senate as the presiding officer during the trial of an impeached official, such as a federal judge or the President.

**6. Presiding Over Joint Sessions:**

The Vice President often presides over joint sessions of Congress, which occur on special occasions, such as when the President delivers the State of the Union address.

**7. Ambassadorial and Ceremonial Duties:**

The Vice President may represent the United States at ceremonial events and diplomatic functions, both domestically and internationally, showcasing the country's leadership and values.

We can say that the Vice President's constitutional role is multifaceted, encompassing their duties as President of the Senate, their potential ascent to the presidency in case of vacancy, and their ceremonial and advisory functions. The Vice President's unique position straddles

the executive and legislative branches, contributing to the checks and balances that define the U.S. government.



## **POLITICAL PARTIES IN USA**

Political parties in the United States are integral to the nation's democratic process, shaping elections, policy debates, and the functioning of government. While the U.S. Constitution does not explicitly mention political parties, they have become a central feature of American politics. Here's an overview of the major political parties in the U.S. and their roles:

### **1. Democratic Party:**

**Founded:** 1828 **Ideology:** Center-left to left  
The Democratic Party is one of the two major political parties in the U.S. It generally supports progressive policies, social justice, civil rights, environmental protection, healthcare reform, and a mixed-market economy. Democrats advocate for a larger role for the federal government in addressing societal issues. The party's base includes a diverse coalition of demographics, including minorities, labor unions, and younger voters.

### **2. Republican Party:**

**Founded:** 1854 **Ideology:** Center-right to right  
The Republican Party, also known as the GOP (Grand Old Party), is the other major political party in the U.S. It leans toward conservative and free-market principles, favoring limited government intervention, tax cuts, deregulation, and a strong national defense. Republicans typically emphasize individual liberties, traditional values, and a strict interpretation of the Constitution. The party's base includes conservatives, business interests, and rural voters.

### **3. Third Parties:**

Beyond the two major parties, third parties exist with varying levels of influence. While they may not win presidential elections, they can still impact the political landscape by introducing new ideas, pushing major parties to address certain issues, and influencing local and state elections. Some notable third parties include:

- **Libertarian Party:**  
Advocates for minimal government intervention, individual freedom, and personal liberties.
- **Green Party:**  
Focuses on environmental issues, social justice, and progressive policies.
- **Constitution Party:**  
Promotes strict adherence to the U.S. Constitution, traditional values, and limited government.
- **Independent:**  
Independent candidates may run for office without formal party affiliation, often highlighting their unique policy positions.

**Roles and Functions:**

- **Campaigning and Elections:**  
Political parties play a central role in election campaigns, nominating candidates for various offices and mobilizing voters through canvassing, advertising, and grassroots efforts.
- **Policy Advocacy:**  
Parties formulate policy platforms that guide their members' legislative agendas and serve as a basis for campaign promises.
- **Legislative Function:**  
Parties organize Congress and state legislatures, designating leadership roles, committee assignments, and legislative priorities.
- **Representation:**  
Parties provide a platform for citizens to identify with a set of beliefs and values, fostering a sense of political identity and representation.
- **Party Conventions:**  
Parties hold conventions to formally nominate their candidates for president, establish party platforms, and energize their base.
- **Participation in Governance:**  
Parties facilitate communication between government branches, enabling cooperation and the implementation of policy agendas.

Political parties are dynamic and evolve in response to changing demographics, social issues, and political landscapes. They are essential vehicles for expressing political ideologies, fostering civic engagement, and shaping the direction of the nation's governance.

