

Constitutional Law Cases

Do democracies have written constitutions?

Brown v. Board of Education of Topeka (1954): case used to show SC is supreme in the U.S. Supreme Court held that racial segregation of school children was unconstitutional based on the 14th amendment which is based on the principle of non-discrimination.

Obergefell v Hodges (2015): another case showing the US Supreme court is more powerful. The SC ruled in favour in a vote 5-4 to pass legislation on the case of same-sex marriages vote.

Important Legal Sources: Primary legislation

Magna Carta 1215: established the principle that everyone is subject to the law, even the monarchs. Guarantees rights of individuals to justice and to a fair trial.

Bill of Rights 1689: Legal document that puts limitations on the powers of the Monarch and requires that Parliament have regular, free elections & freedom of speech in parliament.

Act of Settlement 1701: An Act of Parliament to settle the succession to the English crown including Catholics from it. In 2013, the Crown Act was added to the Act to remove the disqualification removing someone who married a Catholic from running.

Case FOR Codification of the UK Constitution

- a) It would offer more clarity and certainty
- b) It would attract more respect and public loyalty
- c) Be superior to other laws to allow a 'check' for govt. and better protect the rights to people
- d) Offer guidelines for balancing central and local powers ex. Devolution

Overall, a codified constitution would be able to tell one how the country works and establish who has which powers.

Arguments AGAINST codification of the UK Constitution ex. Keeping it the way it is right now.

- a) Allows for constitutional evolution and flexibility as times are changing
- b) Codifying reflects the values of the current state which may affect future generations
- c) 'If it isn't broke, don't fix it'
- d) Codifying the constitution would have a massive change including something as vital as Parliamentary Sovereignty.

Also, what rights would it protect? Who would draft it? Who would interpret it? Is there trust in UK judges? There's the cost of reform, but is there better use for public money? In a codified constitution, the Judiciary becomes the most powerful. Majority in the UK are old, white men that have a shared background of Ox-bridge.

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