

# Les Fiches notions de la Corpo



Chers étudiants, ça y est, le semestre touche à sa fin. Mais pour bien profiter de l'été et éviter les rattrapages, la case des partiels semble inévitable !

Depuis maintenant 90 ans la Corpo Assas accompagne les étudiants dans tous les domaines de la vie universitaire, et pour cette année on vous propose des fiches notions. Ces fiches sont écrites par nos membres dans le but de favoriser l'entraide étudiante ainsi que de vous aider dans l'apprentissage de certaines notions clés d'une matière, sans reprendre le cours du professeur.

Effectivement, ces fiches sont là pour vous orienter, elles sont faites par des étudiants et ne sont en aucun cas un substitut à ce qui a été enseigné en TD ou en cours car elles ne se basent que sur les recherches et l'apprentissage personnelles de nos membres.

Si jamais il vous venait des questions, n'hésitez pas à nous envoyer un message sur la page Facebook Corpo Assas ou à contacter *Angèle Thiollier* ou *Lina Cherkaoui*.

### **Comment valider votre année ?**

Pour les L1 :

Il faut tout d'abord rappeler que toutes vos notes se compensent. Pour valider de la manière la plus simple votre année, il vous faut valider votre bloc de matières fondamentales mais aussi votre bloc de matières complémentaires. Cependant, le calcul peut s'avérer plus complexe...

Chaque fin de semestre est marquée par des examens qui constituent l'épine dorsale de la validation de votre année. Bon nombre d'autres possibilités vous sont proposées pour engranger un maximum de points et limiter ainsi l'impact de vos partiels. Chacun de vos chargés de TD va vous attribuer une note sur 20 à l'issue du semestre. Vos TD de matières fondamentales comptent donc autant que l'examen écrit, lui aussi noté sur 20. Cet examen s'effectue en 3h et nécessite un exercice de rédaction. Sur un semestre, une matière fondamentale peut donc vous

rapporter jusqu'à 40 points. Seuls 20 points sont nécessaires à la validation de la matière. Pour valider votre bloc de fondamentales, il vous faut donc obtenir 40 points en additionnant vos notes de TD et vos notes aux partiels. Si toutefois vous n'obtenez pas ces 40 points, vous repasserez en juillet lors de la session de rattrapage, la ou les matières que vous n'auriez pas validée(s).

**Attention** : le passage par juillet annule votre note de TD obtenue dans la matière.

Pour les L2 :

Le principe est similaire, à la différence qu'il y a plus de matières fondamentales et plus de matières complémentaires.

Conclusion simple : travailler toutes les matières un minimum en mettant l'accent sur les TD et les matières fondamentales (les plus gros coefficients) vous permettra de maximiser vos chances de valider votre année du premier coup et ainsi éviter l'écueil des rattrapages de juillet.

Si, au sein même des unités d'enseignement, les matières se compensent, les blocs peuvent aussi se compenser entre eux à la fin de l'année. Ainsi, si vous obtenez une moyenne générale sur l'année de 10/20, votre passage est assuré.

En cas d'échec lors des sessions de janvier et de mai, une seconde chance vous est offerte en juillet.

**Attention**, contrairement aux idées reçues, les rattrapages ne sont pas plus faciles, ils sont connus pour être notés plus sévèrement. Toutes les matières des blocs non validés où vous n'avez pas eu la moyenne sont à repasser. S'il s'agit d'une matière à TD, la note de TD est annulée (même si vous avez été défaillant), de sorte que la note obtenue en juillet compte double (8/20 revient à 16/40). Les points d'avance acquis lors de l'année (points au-dessus de la moyenne lors de la validation d'un bloc) sont valables après les rattrapages et permettent donc la compensation finale comme décrite précédemment.

À noter que le jury peut vous accorder quelques points pour l'obtention de votre année, notamment dans le cas d'un étudiant sérieux en TD...  
À bon entendeur !

Pour les L1, le passage en deuxième année peut aussi se faire en conditionnel, pour cela il vous faut valider les deux unités d'enseignement fondamental et une unité d'enseignement complémentaire tout en sachant que l'autre unité complémentaire sera à repasser en L2.

## **AVERTISSEMENT**

Il est important de rappeler que les Professeurs et Maitres de conférence ne sauraient être tenus responsables d'une erreur ou d'une omission au sein des fiches de cours proposées, puisque ces dernières sont comme dit précédemment, réalisées, relues, et mises en page par des étudiants appartenant à la Corpo Paris Assas.

# INTRODUCTION TO UK LAW

## Meaning of “Law” in the UK :

→ “Law” is a polysemic term which refers to :

- Statue law (Acts of Parliament)
- Case law (judicial precedents)
- Constitutional principle
- Devolved regulations

It reflects a balance of power between Parliament and courts

## Parliament sovereignty :

→ Key doctrine (A.V. Dicey) : Parliament is the supreme legal authority

*About main principles :*

- Parliament can legislate on any subject
- No parliament can bind future Parliaments
- Courts cannot invalidate Acts of Parliament

For example, in the British Railways Board v. Pickin Case, it was ruled that Courts cannot question the validity of statutes.

## Judicial review :

Courts review the legality of public authority actions

It has many functions :

- Ensure decisions comply with the law
- Protect individual rights
- Uphold the rule of law

But, it does not invalidate primary legislation.

## Human Rights Act 1998 :

The Act incorporates the European Convention in Human Rights (ECHR) into UK law.

- Section 3 : interpret laws compatibility with rights
- Section 4 : declaration of incompatibility which doesn't invalidate law

For example, in Ghaidan v Godin-Mendoza : courts reinterpret legislation in a way compatible with the ECHR to protect rights

## Courts and sovereignty limits :

The Court of Justice of the European Union is no longer binding after Brexit

The European Court of Human Rights still influences UK law via ECHR.

## Brexit and constitutional balance :

The European Union (Withdrawal) Act 2018 reinforced sovereignty because it ended EU supremacy and created “retained law”

Courts protect constitutional principles with :

- Miller I Case : Parliament must trigger Article 50
- Miller II Case : unlawful prorogation of Parliament

## Common Law system :

This law system is based on precedents (*stare decisis*)

There is a distinction between *ratio decidendi* which is the binding reasoning of judges and *obiter dicta* which is persuasive comments.

Devolution :

In 1998, powers were transferred with three devolution acts in Scotland, Wales and Northern Ireland. However, Westminster Parliament remains sovereign.

Has Brexit strengthened sovereignty ?

Since Brexit, Parliament has more legislative autonomy, it can also control immigration with Nationality and Borders Act 2022.

But there are also many limits :

- Trade and Cooperation Agreement
- International law obligations
- Northern Ireland Protocol because EU rules still apply in Northern Ireland.

## UNIT 2 : COMMON LAW, EQUITY & LEGAL PROFESSIONS

### What is Common Law?

→ A legal system based on judicial **precedents** (case law) rather than codified rules (civil law).

Origins:

- Developed in England after the Norman Conquest under William the Conqueror
- Strengthened under Henry II
- Royal courts unified local customs → “common” law

Common Law is :

- Based on **judge-made law**
- Use of writs to bring claims
- Centralised royal justice

### Equity

→ Developed to correct the rigidity of common law

It was :

- Created by the Lord Chancellor in the Court of Chancery
- Based on **fairness and justice**

*New remedies:*

- Injunction
- Specific performance
- Rescission

Since 1615 → Equity **prevails** over common law in case of conflict

### Evolution of the System

- Increasing importance of legislation (statute law) from the 17th century
- Supreme Court of Judicature Acts 1873 and 1875

→ Merged common law & equity courts

Today:

- There is one court system
- BUT distinction remains:
  - Legal remedies (damages → automatic)
  - Equitable remedies (discretionary)

### Doctrine of Precedent (Stare Decisis)

→ Lower courts are bound by higher courts

→ Example hierarchy:

- Supreme Court → binds all
- Court of Appeal → binds lower courts

Flexibility:

- Overruling → higher court changes precedent
- Distinguishing → case is different → precedent not applied

Key concepts:

- *Ratio decidendi* → binding reasoning
- *Obiter dicta* → persuasive comments

### Legal Professions

- Solicitors
  - Advise clients (legal + business matters)

- Draft contracts, handle transactions
- Can represent clients in lower courts
- May become solicitor advocates (higher courts)
- Barristers
  - Specialists in advocacy (court representation)
  - Work in chambers
  - Must join an Inn of Court:
    - Inner Temple
    - Middle Temple
    - Lincoln's Inn
    - Gray's Inn
  - Can be appointed King's Counsel (KC) → senior experts
- Judges
  - Decide cases and apply the law
  - Selected from experienced solicitors or barristers

#### Other professions:

- Legal executives → specialised lawyers
- Notaries → authenticate documents
- Paralegals → assist lawyers
- Law costs draftsmen → handle legal costs

#### Organisation of Legal Work

Before 2007:

- Solicitors → law firms
- Barristers → self-employed in chambers

Reform:

- Legal Services Act 2007 introduced Alternative Business Structures (ABS):
- Law firms can include non-lawyers
- External investment allowed

Effects:

- Rise of multidisciplinary firms
- Entry of big companies like:
  - Deloitte
  - EY
  - KPMG
  - PwC

⇒ Development of “one-stop shop” legal services

## UNIT 3 : THE BRITISH CONSTITUTION

### Nature of the UK Constitution

- The UK constitution is **uncodified** (no single written document)
- Often called “unwritten”, but actually mostly written + partly unwritten
- It is:
  - Flexible → can be changed by ordinary Acts of Parliament
  - Evolutionary → developed over time

### Sources of the Constitution

#### a) *Conventions (unwritten)*

- Political practices, not legally enforceable
- Examples:
  - Monarch gives Royal Assent
  - Ministers accountable to Parliament

#### b) *Common law*

- Entick v Carrington → Government can only act if authorised by law

#### c) *Authoritative works*

- Writings by scholars:
  - Walter Bagehot
  - A.V. Dicey

#### d) *Statute law (most important)*

Key constitutional acts:

- Magna Carta
- Petition of Right
- Habeas Corpus Act
- Human Rights Act 1998

The UK Constitution is a mix of statutes + case law + conventions

### Constitutional Milestones

**Limiting** royal power:

- Magna Carta → King must respect the law
- Bill of Rights → Parliament becomes supreme

**Key principle** established:

- End of absolute monarchy
- Beginning of constitutional monarchy

Democracy **development**:

- Reform Act 1832 → expands voting
- Universal suffrage:
  - 1918 (men + some women)
  - 1928 (equal voting rights)

### Core Principles

#### **Rule of Law**

- Everyone is subject to the law
- Government powers are limited
- Courts must be independent

Parliamentary Sovereignty

- Parliament is the supreme authority
- Can make or repeal any law

- No law is permanent
- Even “constitutional statutes” are not fully protected

### Modern Challenges

- EU membership (before Brexit)
  - EU law had supremacy over UK law
- Brexit
  - Restores parliamentary sovereignty
- Case:
  - Miller II → Government cannot bypass Parliament

## UNIT 4 : CONSTITUTIONAL REFORMS IN THE UK SINCE 1997

### Context (since 1997)

- Tony Blair (1997) → major constitutional reforms:
    - Devolution
    - Human rights protection
    - Institutional reforms
  - Later governments (e.g. David Cameron) → fewer major reforms
- Brexit → renewed constitutional tensions (sovereignty, devolution, rights)

### Devolution (1998)

- Powers transferred to:
  - Scotland
  - Wales
  - Northern Ireland

BUT:

- Westminster **remains sovereign**
- Can override devolved powers

Issues:

- **West Lothian question** → MPs from devolved nations vote on England-only laws

England:

- No parliament
- Some local devolution (e.g. London mayor)

### Institutional Reforms

#### *House of Lords Reform*

- House of Lords Act 1999 → Removed **most hereditary peers**

Goal: more democratic & legitimate chamber

#### *Separation of Powers*

- Constitutional Reform Act 2005

Key changes:

- Created the UK Supreme Court (2009)
- Reduced powers of the Lord Chancellor
- Separated judiciary from Parliament

#### *Elections Reform*

- Fixed-term Parliaments Act 2011 → Elections every 5 years

Later repealed by:

- Dissolution and Calling of Parliament Act 2022

Shows limits of constitutional reform (easily reversible)

### Human Rights Reform

#### *Human Rights Act 1998 :*

- Incorporates the European Convention on Human Rights
- Allows individuals to go to UK courts

Effects:

- Courts can protect rights
- BUT Parliament remains sovereign

Institutions:

- Equality and Human Rights Commission (2007) → Fights discrimination & protects rights

Tensions:

- Conflicts with European Court of Human Rights

- Debates about leaving the ECHR (especially Conservatives)
- Still unresolved today

### Transparency Reform

- Freedom of Information Act 2000 → Right to access public information

## UNIT 5 : MONARCHY

### Nature of the Monarchy

- The UK is a constitutional monarchy
- Current monarch: Charles III
- Former monarch: Elizabeth II

The monarch is:

- Head of State
- Politically neutral
- Mainly ceremonial, symbolic, and diplomatic

### Key Characteristics

- Crown is hereditary
- Powers reduced over time → limited by Parliament

Role = ensure:

- Unity
- Continuity of the State

### Role in the Executive

- Government acts in the monarch's name
- Monarch appoints the Prime Minister

In practice:

- Must appoint the majority leader in the Commons
- Acts on advice of the government

According to Walter Bagehot:

- Right to:
  - Be consulted
  - Encourage
  - Warn

### Role in Parliament (Legislative)

“Crown in Parliament”

- Opens Parliament (Speech from the Throne)
- Appoints members of the House of Lords
- Grants Royal Assent (needed for laws)

Important:

- Royal Assent = almost always automatic
- Last refusal: 1708

→ Some limited influence (rare, discreet veto powers)

### Role in the Judiciary

- Justice is done in the monarch's name
- Judges = “King's judges”

Powers:

- Appoints King's Counsel (KC)
- Can grant pardons (prerogative of mercy)

BUT:

There is no real judicial power today and judges appointed independently

### Head of the Church

- Supreme Governor of the Church of England
  - Appoints bishops (on advice)
- Mostly symbolic role

#### International Role

- Head of State in some Commonwealth countries
- Represents the UK abroad
- Signs treaties, declares war (symbolically)

#### Financing

- Funded through the Sovereign Grant
- Comes from Crown Estate revenues

## UNIT 6 : THE UK PARLIAMENT

### Structure and Role

- UK Parliament = supreme law-making body
- Bicameral:
  - House of Commons (lower house)
  - House of Lords (upper house)
- Located in the Palace of Westminster (London)

It includes 3 *components*:

- Commons + Lords + Monarch → “Crown-in-Parliament”

Main functions:

- Pass laws (Acts of Parliament)
- Debate issues
- Scrutinise the government

### Parliamentary Sovereignty

Parliament is legally supreme:

- Can make or repeal any law
- Courts cannot challenge Acts of Parliament
- No Parliament can bind future ones

Based on Albert Venn Dicey:

\*Parliament is supreme

\*No binding on successors

\*Courts cannot question its laws

### The House of Commons

Is the **most powerful chamber** :

- 650 MPs elected from constituencies
- Voting system: First-Past-The-Post (FPTP)

Consequences:

- Often favors two-party system
- Can distort popular vote vs seats

Government formation:

- Majority = 326 seats
- If not → hung parliament → coalition or agreement

Organisation:

- PM + government sit on one side
- Opposition faces them

Roles:

- Speaker = neutral referee
- Whips = enforce party discipline

Key activities:

- Question Time
- PMQs (Prime Minister’s Questions) every week

### The House of Lords

Is an unelected chamber

Composition:

- Life peers (majority)
- 92 hereditary peers

- 26 bishops (Lords Spiritual)

Characteristics:

- No fixed number
- Includes crossbenchers (independent members)

Role:

- Revise and scrutinise laws
- Suggest amendments

Limits:

- Cannot block laws permanently
- Cannot block financial bills

### Law-Making Process

A bill goes through stages in both Houses:

- First Reading (introduction)
- Second Reading (debate)
- Committee Stage (detailed review)
- Third Reading (final vote)

Then:

- Must pass both Houses
- Requires Royal Assent

⇒ Becomes an Act of Parliament

### Balance of Power

Fusion of powers:

- Executive (government) sits in Parliament
- PM + ministers = MPs or Lords

→ Government must keep confidence of Commons

Separation (modern evolution):

- Constitutional Reform Act 2005 created:
  - UK Supreme Court (2009)
  - Reduced judicial role of Lords

### Ceremonial Elements

- State Opening of Parliament
- Monarch delivers King's Speech (written by PM)

It symbolises:

- Unity of institutions
- Government agenda

## UNIT 7 : EXECUTIVE POWER

### What is the Executive?

- The government = executive power in the UK
- It defines and implements public policy

Key actors:

- Prime Minister (PM)
- Cabinet ministers
- Civil Service

→ The executive is accountable to Parliament

### The Prime Minister

- Head of government
- Appointed by the monarch (leader of majority in Commons)

Main powers:

- Sets government policy direction
- Appoints/dismisses ministers
- Can reorganise government departments (cabinet reshuffle)
- Oversees Civil Service

Concept by Walter Bagehot:

- PM = “primus inter pares” (first among equals) → but in practice, PM is now very powerful

### Deputy Prime Minister

- Not a permanent role
- Exists at PM’s discretion
- Responsibilities vary

→ Can be political (coalition role) or strategic

### The Cabinet

→ Highest decision-making body

The Cabinet is composed of:

- Senior ministers (Secretaries of State)
- Chaired by the PM
- Meets weekly at 10 Downing Street

Functions:

- Decide government policy
- Coordinate ministries
- Resolve major issues

### **Collective responsibility :**

- Cabinet decisions = shared responsibility
- Ministers must:
  - Support decisions publicly
  - Resign if they disagree strongly

### Government Departments

*Two types:*

- Ministerial departments (political leadership)
- Non-ministerial departments (technical / independent work)

Examples:

- Tax collection

- Crime investigation

Ministerial responsibility:

- Ministers are accountable for their department
- Must resign in case of major failure

Example: resignation after the Windrush scandal

### Cabinet Committees

- Smaller groups of ministers
- Created by the PM
- Handle specific issues

Purpose:

- Reduce Cabinet workload
- Solve inter-department conflicts
- Prepare decisions before Cabinet meetings

### Shadow Cabinet

- Formed by the Opposition party
- Mirrors government Cabinet

Functions:

- Scrutinise government actions
- Propose alternative policies
- Prepare to become future government

### Civil Service & Administration

- Permanent, politically neutral body
- Implements government policy
- Supports ministers

## UNIT 8 : DEVOLUTION IN SCOTLAND AND WALES

### What is Devolution?

- Devolution is a transfer of powers from Westminster to regional governments
- UK remains a unitary state (not a federal system)
- Devolved institutions exist in:
  - Scotland
  - Wales
  - Northern Ireland
  - England **has no** devolved parliament

BUT Westminster keeps sovereignty and can technically reverse devolution

### Scotland

#### Historical background

- 1707: Acts of Union → creation of Great Britain
- Scottish identity remains strong (separate legal system + Church of Scotland)
- SNP founded in 1934 → pushes for independence

#### Scottish Parliament

- Created by Scotland Act 1998
- Based in Holyrood (Edinburgh)
- 129 MSPs (Members of Scottish Parliament)

#### Electoral system

- Mixed system:
  - First-Past-The-Post + Proportional Representation
- Designed to reduce dominance of one party

#### Scottish Government

- Head: First Minister
- Current political leadership: SNP-led government (coalition with Greens at times)

#### Powers (devolved areas):

- Health
- Education
- Justice
- Transport
- Environment
- Housing

#### Relationship with Westminster

- Westminster can still legislate in theory
- Normally requires Sewel Convention (consent)
- Legal limits defined by Scotland Act 1998

#### Reserved matters include:

- Constitution
- Defence
- Foreign policy

#### Independence debate

- 2014 referendum: 55% No / 45% Yes
- 2022 Supreme Court ruling: no unilateral referendum without Westminster approval
- Independence remains politically divisive (~50/50 opinion split)

#### Brexit impact

- Scotland voted strongly Remain
- Increased support for independence claims

#### Recent political shift (2024)

- SNP lost major support in Westminster elections
- Labour became dominant party in Scotland
- Political landscape became more fragmented

### Wales

#### Historical background

- 1535–1542: Laws in Wales Acts → union with England
- Devolution rejected in 1979 referendum
- 1997 referendum → narrow Yes (50.3%)

#### Welsh Parliament (Senedd)

- Created by Government of Wales Act 1998
- Expanded powers in 2006
- Renamed Senedd Cymru (Welsh Parliament)

#### Members

- 60 members (MSs)
- Hybrid electoral system (like Scotland)

#### Welsh Government

- Head: First Minister
- Current leadership: Labour (coalition/support agreements with Plaid Cymru)

#### Powers

##### Devolved areas include:

- Health
- Education
- Housing
- Transport
- Local government
- Culture

→ Less power than Scotland overall

#### Political trends :

- Labour historically dominant
- Plaid Cymru = pro-Welsh autonomy/independence party
- Independence support:
  - peaked ~30–40%
  - now generally declining (<30%)

#### Brexit impact

- Wales voted Leave (52.5%)
- Created political tensions and debates about governance

#### Recent political shift (2024)

- Labour won most Welsh Westminster seats
- Conservatives collapsed in Wales
- Reform UK emerging as new competitor in polls

## UNIT 9 : DEVOLUTION IN NORTHERN IRELAND

### Origins of Devolution :

- Based on the Good Friday Agreement (1998) / Belfast Agreement
- Created to ensure peace, stability, and power-sharing

### *Historical background*

- Government of Ireland Act (1920) → first devolved parliament
- Suspended during The Troubles
- Periods of Direct Rule from London

### Core Principle: Power-Sharing :

Northern Ireland's system is based on consociationalism:

### *Key features:*

- Inclusion of unionists + nationalists
- Proportional representation
- Mutual vetoes
- Shared governance

⇒ Goal: prevent domination by one community

### Institutions :

Northern Ireland Assembly

- 90 MLAs (Members of Legislative Assembly)
- Elected using Single Transferable Vote (STV)
- Located at Stormont

Northern Ireland Executive (Government)

- Cabinet formed using d'Hondt system (proportional allocation)
- Shared leadership:
  - First Minister: Michelle O'Neill (Sinn Féin)
  - Deputy First Minister: Emma Little-Pengelly (DUP)

Important → they have equal status (unlike most governments)

### Powers & Competences :

#### *Devolved matters:*

- Health
- Education
- Housing
- Social services
- Local economy

#### *Reserved / excepted matters:*

- Defence
- Foreign policy
- Constitution

⇒ **Westminster remains sovereign**

### Legislative Process :

- Assembly can pass laws in devolved areas
- Westminster may legislate, but usually seeks consent:

→ Legislative Consent Motions (LCMs) = convention that Westminster “does not normally legislate” without NI approval

### Brexit Impact :

Brexit deeply reshaped Northern Ireland's status.

→ Main issue:

Avoiding a hard border with Ireland

→ Solution:

Northern Ireland Protocol (2019)

- NI stays aligned with some EU rules
- Goods checks occur between GB and NI instead of Irish border

*Windsor Framework (2023)*

Modified the Protocol to reduce tensions.

Key feature: Stormont Brake

- 30 MLAs from 2+ parties can object to new EU rules
- UK government decides whether to apply it

In reality:

- Limited power → UK still has final say
- Often described as symbolic rather than fully effective

### Strengths of Devolution :

\*Local decision-making

\*Power-sharing reduces conflict

\*Representation of both communities

\*Proportional electoral system improves inclusivity

### Weaknesses :

\*Institutions often unstable or suspended

\*Deep political divisions persist

\*Complex governance structure

\*Slow decision-making due to veto mechanisms

For example: Stormont has been suspended multiple times (e.g. 2002–2007, 2017–2020)

### Post-Brexit Complications :

Northern Ireland now operates under dual systems:

- UK law
- EU regulations (in certain areas)

*Consequences:*

- Trade complexity (GB ↔ NI)
- Regulatory divergence within the UK
- Identity tensions:
  - Unionists → see threat to UK unity
  - Nationalists → see closer EU alignment

### Fiscal System :

*Current system:*

- Funded mainly by UK block grant
- Calculated using the Barnett Formula

It means that NI does NOT fully control its own revenue