

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 étudiants 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 *Gabrielle Manbandza* ou *Angélique Polide*.

" 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 juin, 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.

A 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... A 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.

Unit 1 : Introduction to UK Law

The Nature of Law in the UK :

- “Law” is **polysemic**: includes statutes (Acts of Parliament), case law (precedent), constitutional principles, and devolved regulations

= The interaction between these forms of law reveals a balance of power in the UK, where Parliament’s authority is vast yet practically bounded by judicial oversight and constitutional principles

Polysemic nature: The term “law” in the UK includes:

- Written **statutes** (acts of Parliament)
- **Judicial precedents** (court decisions)
- **Constitutional principles** guiding governance
- **Regulatory frameworks** (e.g., devolved administrations)

- **Balance of power:**
 - Parliament holds **vast authority**, but is bounded by **judicial oversight** and **constitutional principles**.
- The UK legal system is **uncodified**, combining legislative supremacy with judicial oversight

1. Parliamentary Sovereignty :

- Parliamentary sovereignty is the doctrine that Parliament, as the supreme legislative body in the UK, has unrestricted authority to make, amend, or repeal any law

- Parliament has **unrestricted authority** to make, amend, or repeal any law
- **No other institution** can override Parliament's laws, including the **courts**

• Key Principles:

- Parliament can legislate on **any subject matter**
- No Parliament can pass laws that **bind future Parliaments**
- **Courts** interpret laws but **cannot invalidate** them (e.g., **British Railways Board v. Pickin 1974**)

- **A.V. Dicey:** Parliamentary sovereignty is the **foundation** of the UK’s **uncodified constitution**

2. Judicial Review

= Judicial review is the process by which courts assess the legality of actions taken by public authorities, ensuring they comply with the law, including **statutory** and **common law** principles

= Process where courts assess the **legality** of governmental actions

- **Does not challenge** primary legislation (acts of Parliament), but focuses on **administrative decisions** and **subordinate legislation**

Expansion:

→ Significant in the 20th century, protecting **individual rights** and ensuring **accountability** of public authorities

→ Influenced by international human rights law and statutes like the **Human Rights Act 1998** (HRA)

Human Rights Act 1998:

→ **Section 3**: Courts must interpret laws **compatibly** with **ECHR rights**

→ **Section 4**: Courts can issue **declarations of incompatibility** (does not invalidate laws, but signals Parliament for reform)

→ **Ghaidan v. Godin-Mendoza** (2004): Courts interpreted the **Rent Act 1977** to align with **ECHR**

3. Brexit, Sovereignty & the Role of the Courts

- Brexit reaffirmed **Parliament's legislative authority**, but increased judicial involvement in constitutional issues
- Key cases:
 - **Miller I (2017)**: Parliament must trigger Article 50, not the executive
 - **Miller II (2019)**: PM's prorogation of Parliament deemed unlawful
- Judicial review now applies even to **high-level political decisions**

Brexit's Impact: Reinforced **parliamentary sovereignty** by removing **EU legal supremacy**

→ **European Union (Withdrawal) Act 2018**: Repealed the **European Communities Act 1972**, ending direct applicability of EU law

→ **Miller cases**: Courts interpreted constitutional principles to **protect Parliament's role** even during politically sensitive matters

→ **R (Miller) v. Secretary of State for Exiting the EU (2017)**: Supreme Court ruled **only Parliament** can trigger **Article 50** (Brexit process)

→ **R (Miller) v. Prime Minister (2019)**: Courts ruled that **prorogation** of Parliament was **unlawful**

The Common Law System

- Based on **stare decisis**: courts follow established precedents
 - **Ratio decidendi** : the legal reasoning essential to a decision, which is binding
 - **Obiter dicta** : incidental comments or observations made by judges that are not central to the decision and serve only as persuasive guidance
- While case law remains important, **statutory law** (especially from the EU) has grown in influence

Devolution and Internal Market Conflicts

- **Devolution Acts (1998)** gave legislative powers to Scotland, Wales, and Northern Ireland
- Power remains with Westminster (source of devolved authority)
- **UK Internal Market Act 2020**:
 - Ensures trade consistency across the UK
 - Limits **devolved governments' autonomy**
 - Criticised by devolved administrations (especially Scotland)

4. To what extent has Brexit enhanced parliamentary sovereignty?

European Union (Withdrawal) Act 2018

- Repealed the European Communities Act 1972
- Introduced “**retained EU law**”: former EU rules now subject to UK modification

UK Internal Market Act 2020

- Created a single UK-wide market
- Overrode devolved powers on trade and regulation

Nationality and Borders Act 2022

- Asserted sovereign control over immigration and asylum
- Potential conflicts with **international obligations** (e.g., 1951 Refugee Convention)

Trade and Cooperation Agreement (TCA) with the EU (2020)

- Enabled post-Brexit UK-EU trade
- Imposes limits on divergence from EU standards (state aid, competition)

Northern Ireland Protocol

- Avoids a hard border with Ireland by keeping NI aligned with EU rules
- Results in a **de facto customs border** in the Irish Sea
- Illustrates limits on UK sovereignty in Northern Ireland

Unit 2: Common law, equity, and legal professions

Common law

- system of law applicable in the UK → based on **case law** (also known as **judicial precedents** or **judge-made law**)
- Opposed to the **civil law** system used in continental Europe
- Originated in **England during the Middle Ages**, then extended to Wales

Development:

- Initially, legal rules were local, unwritten **customs** = **custom law**
- Post-**Norman Conquest (1066)**: kings set up **centralised power**
- Royal justices travelled, applying both **customs** and **new decisions**
- the Norman kings' justices travelled across the country, agreeing to apply certain customary rules but also introducing their own decisions - Throughout the Middle Ages, many cases were also decided by church courts under = **canon law**
- Under **Henry II** (late 12th c.) → similar judicial practices emerged across England
- Known as **common law** because it was common to all the realm
- **Royal courts** became superior to local courts
- Legal actions required purchasing **writs** → each writ = specific legal claim
- New claims had to match **existing writs** → system became inflexible

Limitation:

- If no writ existed → no legal remedy
- Common law remedies mostly limited to **damages**
- Over time, writs evolved into **documents starting litigation** → concept of **claim** replaced writs under **Civil Procedure Rules (1999)**

Equity

- Common law rigidity led parties to seek justice from the **king**
- The king delegated power to the **Lord Chancellor** → legal and theological adviser
- In the **14th and 15th centuries**, a new system called **equity** emerged

Equity = based on principles of **fairness**

- Developed by the **Court of Chancery**
- Introduced new remedies: **injunction**, **Rescission**, **Specific performance**
- In **1615**, it was decided that where common law and equity conflicted → **equity prevailed**
- Both common law and equity decisions = **judge-made law** or **case law**

Precedent and Judicial Hierarchy

- After the **17th century**, **statute law** became the main source of new law
- Courts interpret statutes → decisions become **precedents**
- After the **Judicature Acts 1873–1875**: courts of law and equity were **merged**
- However, distinction remains between **legal remedies** (damages) and **equitable remedies** (granted at the judge's discretion)

Precedent → Made by a **court of sufficient seniority**

- **Lower courts** must follow higher courts
- **Ratio decidendi** (another name for the precedent itself) = legal reasoning behind the decision → binding
- **Obiter dicta** = incidental comments → persuasive but not binding
- **Supreme Court** can depart from its own precedents
- A precedent can be:
 - **Overruled**: by a higher court in a later case
- = is said to be overruled when a higher court in a different, later case overturns a principle laid down by a lower court
 - **Distinguished**: if the facts or legal issues differ
- = means it is not under a duty to apply the precedent. This way, the law can evolve

The Legal Professions in the UK

→ Three main professions: **Solicitors, Barristers, Judges** :

1- Solicitors

- Handle **litigation** and **non-contentious work**
- May draft pleadings, advise clients
- Can represent clients in **inferior courts**
- Need to **instruct a barrister** for superior courts, unless qualified as **solicitor-advocate**
- **Solicitor-advocates**: can appear before superior courts (e.g. High Court, Court of Appeal)

2- Barristers

- Must join an **Inn of Court** (e.g. Lincoln's Inn, Inner Temple) after the bar exam
- Specialise in **litigation and advocacy**
- Monopoly on advocacy before **superior courts**, shared with solicitor-advocates
- Can now be instructed directly by the public under the **Public Access Scheme** (since 2004)
- Senior barristers may become **King's Counsel (KC)** → "take silk"

3- Judges

- Appointed from experienced **solicitors** or **barristers**
- The **higher the court**, the more experience required

Other Legal Professions :

- **Legal executives**: narrower training than solicitors, limited court rights
- **Notaries**: certify documents, often solicitors
- **Paralegals**: assist solicitors and barristers
- **Law costs draftsmen**: resolve disputes over legal fees, handle cost allocation at trial's end

Where Do They Work? (Before and After 2007 Reform)

→ **Solicitors:**

- Traditionally worked in **firms** or as **sole practitioners**
- May become **equity partners** in firms

→ **Barristers:**

- Usually worked in **chambers**, self-employed
- Now can also work **in-house** (e.g. for companies)
 - = Legal Services Act 2007 → created Alternative Business Structures (ABSs)
- An ABS = law firm where **non-lawyers** can have an **ownership or managerial role**
- Multidisciplinary partnerships → offer “**one-stop shops**” (legal, accounting, estate services)
- Concerns about impact on **ethical standards** and **access to justice**

Licensing authorities include:

- Solicitors Regulation Authority
- Bar Standards Board
- Application requires paying a **substantial fee** → raised concerns of competition between regulators

→ Examples of ABSs (Alternative Business Structures):

Name	Description
BT Law Ltd	Legal branch of British Telecom
Co-op Legal Services Ltd	Part of Co-op supermarkets
Ulaw (UK) Ltd	First university to become an ABS
VII Law	Mix of barristers and football agents
Trade unions & local gov.	Also created their own ABSs

Unit 3: The British constitution: sources, history and principles

1. Specificities of the British Constitution

- The UK constitution is **uncodified**, not unwritten
- It is not found in a single document but in **multiple sources**
- Law Wales: it “**cannot be found conveniently written down all in one place.**”
- November 2024 – House of Commons Library:
 - Published *The United Kingdom Constitution – A Mapping Exercise*
 - Described as a “**navigational aid**” to constitutional information

2. Sources of the British Constitution :

Conventions and Customs

- Only **unwritten** source
 - Traditional practices enforced by **expectation and convenience**
- Ex: → The Sovereign always gives Royal Assent.
→ Ministers are individually and collectively responsible to Parliament

Common Law and Case Law

- *Entick v Carrington* (1765):
 - Limited executive power to what is **expressly authorised** by statute or common law

Authoritative Works

- Scholarly classics used as references:
 - *The English Constitution* (Walter Bagehot, 1867)
 - *Introduction to the Study of the Law of the Constitution* (A.V. Dicey, 1885)
 - *The British Constitution* (Ivor Jennings, 1967)

Statute Law

- Key Acts:
 - **Magna Carta** (1215), **Petition of Rights** (1628), **Habeas Corpus Act** (1679), **Reform Acts**
 - **Scotland Act 1998**, **Government of Wales Act 1998**, **Human Rights Act 1998** (incorporates ECHR)
 - *Thoburn v Sunderland CC* (2003): statutes with **constitutional standing**
 - *Whaley v Lord Advocate* (2004): Scotland Act = a “mini constitution”

EU law (pre-Brexit) –

(Prior to the UK's exit from the EU on 31st January 2020, EU law was considered a key source of the British constitution as a result of the UK joining the then European Economic Community under the European Communities Act 1972)

- Supremacy via *European Communities Act 1972* (repealed after Brexit).
- *Withdrawal Act 2018* + *Retained EU Law Act 2023*: renamed it **assimilated law**.

- Constitution = a **collection of documents, customs, conventions**.
→ Only conventions are unwritten.
→ It is **flexible, not entrenched** → can be modified by a simple Act of Parliament.

3. Constitutional Milestones

→ **Magna Carta (1215)**

= is often regarded as the first English constitutional document

- King John forced to sign due to abuse of power (unjust taxation, property seizures, court manipulation)
- Set up:
→ Jury trial for “freemen”
→ Council of 24 barons
→ Limited royal power

→ **Petition of Rights (1628)**

- Reaffirmed need for **Parliament’s consent** for taxation

→ **Protectorate Constitution (1653)**

- Instrument of Government under Cromwell:
→ First attempt at a written Constitution
→ United England, Wales, Scotland & Ireland under one government
→ Structure: Lord Protector + Council of State + Parliament
- **Abolished** with the Restoration (1660)

→ **Habeas Corpus Act (1679)**

- Forbids **arbitrary detention**
- Based on common law writ: “present the body”
- Inspired **Art. I, s.9** of the US Constitution

→ **Glorious Revolution (1688-89)**

- James II (Catholic, absolutist) ousted → replaced by **William of Orange**
- Parliament: James had **abdicated** → no resistance

William ratified **Bill of Rights (1689)**

→ The Crown couldn’t enact laws, raise taxes, or keep an army **without Parliament** = the ratification of the Bill of Rights ended centuries of “**royal sovereignty**”

→ Established two constitutional pillars which are still valid today :

- **Parliamentary sovereignty**
- **Rule of law**

(= Although the Bill of Rights set up constitutional monarchy, it did not hail the beginning of democracy) :

→ **Towards Democracy**

- *Great Reform Act (1832)*: “**popular sovereignty**”, more adult males vote
- *Reform Acts (1867, 1884–85)*: further enfranchisement
- *Representation of the People Act (1918)*:
→ Vote to all men 21+ & women 30+ with property

- *Equal Franchise Act (1928)*:
→ Women = men (vote at 21)
- *Representation of the People Act (1969)*:
→ Voting age lowered to 18

4. Key Principles : the rule of law and parliamentary sovereignty

→ Rule of Law

= Restricts power through laws that are:

- Prospective
- Open and clear

= Everyone is subject to law, **even the monarch**

= Judiciary must be **independent**; courts must be **accessible**

→ Parliamentary Sovereignty

= Parliament can:

- Make and repeal any law
- Cannot be bound by previous Parliaments
- No Act is permanent (even the *Scotland Act 2016*)

= Modern Challenges:

→ EU membership once challenged sovereignty (EU law supremacy)

→ Brexit: slogan = **"Take back control"**

- **Miller case (2019)** – *R (Miller) v The Prime Minister and Cherry v Advocate General for Scotland*:
→ Government tried to trigger Art. 50 using Royal Prerogative
→ **UKSC ruled**: only **Parliament** could change the law
→ Reaffirmed: **Parliament's authority is supreme**

Unit 4 : Constitutional reforms in the UK since 1997

→ 1997: **Tony Blair's New Labour government** takes office

- Ends 18 years of Conservative rule
- Wins largest ever majority: 179 seats
- Launches major constitutional reforms:
 - Devolution
 - Human rights protection
 - Reform of legislative and judicial branches

→ **Conservative Party** returns under **David Cameron** in coalition with **Liberal Democrats**

- Weak coalition government
- Lacks power to enact significant constitutional changes
- Focuses on policy compromises

→ **Brexit intensifies constitutional tensions**

- Reactivates questions about devolution, independence, and federalism

1. Devolution of power

Devolution Acts (1998)

- Passed after referenda in Scotland, Wales, and Northern Ireland
- Created devolved **legislative and executive** branches
- Constituent nations represented by secretaries of state in UK Cabinet
 - But: **Westminster remains sovereign** and can legislate on devolved matters or end devolution

→ **No devolution for England**

- 2004 referendum rejected elected regional assembly (78% against)
- Rise of "city region" devolution instead

Greater London Authority Act 1999

- Introduced direct election of London Mayor
- Ken Livingstone (2000), Boris Johnson (2008), Sadiq Khan (2016)

Local Government Act 2000

- Gave local authorities more powers (economic, social, environmental)
- Allowed referenda for direct mayoral elections

→ **2024 English Devolution White Paper**

- Plans for more local “strategic authorities”
- More powers for mayors in transport and infrastructure
 - No fiscal devolution

→ **Crisis in Northern Ireland**

- Political gridlock, no functioning government
- Raises constitutional dilemma:
 - Should Westminster intervene and resume powers?
 - Or leave the region without functioning governance?

2. Political institutions

→ **House of Lords reform (House of Lords Act 1999)**

= The House of Lords has long been a controversial institution, as its members are chosen by patronage or accident of birth. The New Labour government wanted to make it more democratic and representative of the UK population

- Aimed to make the House more democratic and diverse
- Removed most **hereditary peers**
- 92 hereditary peers elected by peers kept on a temporary basis
- Membership reduced: from 1,330 (1999) to 669 (2000)

→ **Current reform bill:**

- Seeks to remove hereditary peers entirely
- Passed the House of Commons
- Likely to face strong opposition in the House of Lords

→ Other proposals (not adopted):

- Mandatory retirement age
- Removal of Church of England bishops

→ **Key criticism:** Lords participated in all three branches of government

- Most had legislative duties only
- Some were government members
- 12 Law Lords sat in the **Appellate Committee** (highest domestic court)

→ Aim: fix a **constitutional anomaly**

= The government saw this as a constitutional anomaly :

- Violated **Article 6 ECHR** (= European Convention on Human Rights)
 - right to a fair trial
- Violated the principle of **separation of powers**

Constitutional reform Act 2005

→ Three key changes:

→ **Lord Chancellor's role redefined**

- No longer head of judiciary or Speaker of the Lords
- Now ensures efficient functioning and independence of the courts

→ **Appellate Committee replaced by UK Supreme Court (2009)**

- Fully independent from Parliament
- Supreme Court justices **forbidden** from sitting in the House of Lords

→ **Justices selected by ad hoc committees** convened by the Lord Chancellor

Parliament and elections

→ **Fixed Term Parliaments Act 2011**

- General elections every five years (from 2015)
- Snap elections only if:
 - Government loses a confidence vote
 - Two-thirds of MPs vote for an early election

→ **Revealed to be weak in 2019**

- Law changed by simple majority to allow a December 2019 election
 - Act later **repealed** by the **Dissolution and Calling of Parliament Act 2022**

→ Other failed reforms:

- 2011 referendum rejected change from First-Past-The-Post to Alternative Vote
- Abandoned reforms:
 - Elected House of Lords
 - Reducing House of Commons constituencies

3. Human rights

→ **ECHR ratified in 1951**, but not part of UK law until the **Human Rights Act 1998 (in force in 2000)**

- Before 2000: individuals had to go to Strasbourg
- Since 2000: UK courts can provide remedies (Section 6)

Human Rights Act

= Makes Convention rights enforceable in UK courts

= Keeps **Parliamentary sovereignty**: Parliament has final authority

→ **Equality and Human Rights Commission (2007)**

- Merged 3 previous bodies
- Aims to fight discrimination and promote equality

→ Tensions with the European Court

- Key cases:
 - *Hirst v. UK* (prisoners' voting rights)
 - *Abu Qatada v. UK* (deportation of extremists)
- Criticism: court does not fully respect UK traditions
 - Conservatives have discussed **leaving the ECHR**

Freedom of Information Act 2000

- = Grants public access to state-held information
- = Exceptions: security, parliamentary privilege, court records

Unit 5: Monarchy

→ The UK is a constitutional monarchy

• Monarch = non-partisan figure with ceremonial, representational and diplomatic functions

- **Current monarch:** Charles III (crowned May 6, 2023)
- **Previous monarch:** Elizabeth II (1952–2022) → longest reign in UK history

→ Succession

- Inherited by **primogeniture**
- Before 2013: male primogeniture
- After **Succession to the Crown Act 2013** → gender no longer matters

→ Commonwealth

- 15 Commonwealth countries have the monarch as sovereign
- Monarch is also **Head of the Commonwealth**, but this is not hereditary
- Charles chosen as successor; William's role undecided

→ Finances

- Before 2013: Civil List
- Since 2013: **Sovereign Support Grant** from Parliament via Crown Estate earnings

→ International & military role

- Declares war, signs treaties
- Head of Armed Forces
- Receives foreign ambassadors

1. Relationships with the executive branch

→ Executive power = exercised in the name of the monarch

- By **His/Her Majesty's Government** (PM + Cabinet)
- Royal prerogatives are **delegated**

→ Prime Minister appointment

- Monarch appoints the leader of the Commons majority
- PM “kisses hands” to mark formal appointment
- Monarch may: advise, encourage, and warn (Bagehot, 1867)

→ Semi-discretionary cases (rare but real):

- 1957: Macmillan over Butler (Churchill's advice)
- 1963: Douglas-Home over Butler (against majority view)
- 1974: Wilson appointed after hung Parliament

2. Relationships with Parliament

→ **Crown in Parliament** = Monarch + Commons + Lords

- Monarch acts **with the advice and consent** of Parliament

→ **Main roles**

- Opens Parliament and delivers **Speech from the Throne** (written by PM)
- Appoints life peers (PM's advice)
- Dissolves and prorogues Parliament (PM's advice)
- Gives **Royal Assent** to bills (required for laws)
 - Last refusal: 1708 (Queen Anne)

→ **King's/Queen's Consent** (prior to debate) required if bill affects:

- Royal prerogatives
- Crown revenues (e.g. Duchies of Lancaster or Cornwall)
- Monarch's personal interests or property
 - Refusal must come **before Third Reading**
 - If consent is denied **before Parliament sees the bill**, veto remains hidden

3. Role in the judiciary

→ **Justice is rendered in the monarch's name**

- Courts = "King's Courts"
- Judges = "His Majesty's Judges"
- Prosecution = Crown Prosecution Service (CPS)

→ **Judicial powers today**

- Monarch **does not appoint senior judges** (done by Judicial Appointments Commission)
- Can still grant mercy (pardons), on **government advice**

→ **Legal terms**

- Some prisoners still held "at His/Her Majesty's pleasure" (especially juveniles)
- Senior advocates may be named **King's Counsel**

→ **Crown Proceedings Act 1947**

- Monarch can be **sued in civil law** (contract/tort) for actions by public servants (except armed forces)

4. Head of the Church of England

→ Monarch = **Supreme Governor of the Church of England**

- Since **Act of Supremacy (1534)** under Henry VIII
- Appoints bishops/archbishops (PM's advice, based on Church list)

→ **Spiritual leader** = Archbishop of Canterbury

- Justin Welby (2013–resigned Nov 2024 due to abuse case)

- Replacement to be named in 2025
- Archbishops sit in the House of Lords as life peers

5. Others and Should monarchy be abolished ?

→ **Fount of honours**

- Monarch (or delegates) grants titles/medals
- Some honours are personal (e.g. Order of the Garter, Order of Merit)

→ **Charity and patronage**

- Monarch's support helps raise funds/visibility
- Royal family members freely choose causes to support

→ **Criticism & republicanism**

- Issues raised:
 - Monarch is **not elected**
 - High cost of monarchy
 - **Prince Andrew scandal** (Epstein, 2022 settlement)

→ **Elizabeth II's legacy**

- Seen as modern (videos with James Bond, Paddington, etc.)
- Neutral and unifying figure

→ **Charles III's reign = more controversial**

- Public watching to see if he can **remain neutral**
- Debate could grow in Scotland & Commonwealth realms
- Republicans may gain traction post-Elizabeth

Unit 6 — The UK Parliament

Bicameral Parliament → House of Commons (elected) + House of Lords (unelected)

Located in the **Palace of Westminster** (since 13th c.)

Based on **fusion of powers**, not separation → Executive & Legislature are intermingled

Three components: → Monarch + Commons + Lords = "King-in-Parliament" (aka "Crown-in-Parliament")

- Main roles:

- Pass primary legislation (Acts of Parliament)

- Debate issues

- Check government = *parliamentary scrutiny*

Parliamentary Sovereignty = Parliament is the *supreme law-making body*

- Courts can't question validity of its laws

- No Parliament can bind a future one

1. The House of Commons

The **House of Commons** consists of **650 elected Members of Parliament (MPs)**. Each MP represents a **constituency**. Elections are held using the **First-Past-the-Post** system, where the candidate with the most votes in a constituency wins, even without a majority

- **Election system: First-Past-the-Post**

- If no party wins a majority, a **hung parliament** occurs, and a **coalition government** may form

- = There is no requirement for a majority of votes to be won. This system is quite controversial. In fact, the UK's national popular vote is not necessarily reflected in the number of seats each party obtains

- **MPs**

- Elected every **5 years**

- MPs **cannot resign**; vacancies are filled by **by-elections**

- MPs are politically affiliated but must **remain impartial** when acting as Speaker

- **Parliamentary Sessions**

- **Prime Minister's Questions (PMQs)**: Weekly session where the PM answers MPs' questions

- The **Speaker** presides over debates, ensuring neutrality and order

2. The House of Lords

The **House of Lords** is made up of **appointed life peers** and **hereditary peers** (with a limited number remaining)

→ **Lords are not elected**; they don't represent constituencies
→ Composed of **26 Lords Spiritual** (bishops) and around **775 Lords Temporal**

→ Lords don't lose their seats after a Parliament dissolution
→ The **Life Peerages Act of 1958** allowed women to sit and created life peers, who do not pass their titles to heirs
→ The **House of Lords Act 1999** reduced the number of hereditary peers
= The Labour government of Tony Blair reduced the membership of Lords from 1,330 to 669

= Some Lords (30) are independent crossbenchers → that is why the House of Lords is sometimes regarded as a more independent chamber than the Commons

3. The Law-Making Process

1. **Green Paper** = consultation document on the proposed law
2. **White Paper** = final draft with modifications
3. **First Reading** = Formal introduction in Parliament
4. **Second Reading** = Debate on principles
5. **Committee Stage** = Detailed examination and amendments
6. **Third Reading** = Final vote on the bill
7. **Royal Assent** = Becomes law after receiving the monarch's approval

Parliament Acts

= The **Parliament Act 1949** allows the **House of Commons** to pass a bill after two sessions, even if the **House of Lords** disagrees

4. Fusion of powers and Parliamentary Sovereignty

While the UK is a monarchy, **Parliament holds supreme power**

= Before the 2005 Constitutional Reform Act, the legislative, executive and judicial powers were closely intermingled in the Houses of Parliament with the presence of twelve **Law Lords** in the upper chamber → But following this Act, they were removed from the House of Lords

→ the government of Tony Blair expressed its desire to have less interaction between the judiciary and the two other branches and therefore to give more prominence to the theory of separation of powers

= However, today the fusion of the executive and legislative powers is still very much a feature of the kingdom's Constitution

= **Fusion of powers**: The **Executive** (Prime Minister and Cabinet) is part of the **House of Commons**

→ **Sovereignty of Parliament**: Parliament can make and change laws without the judiciary

being able to question them

→ The **monarch** plays a ceremonial role in the law-making process, but **Parliament's sovereignty** remains supreme

Albert Venn Dicey's Three Rules of Parliamentary Sovereignty:

1. **Parliament is the supreme law-making body** and can legislate on any matter
2. **No Parliament is bound by a predecessor**, nor can it bind a successor
3. **No body (including the judiciary)** can question the validity of Acts of Parliament

Key Symbolic Demonstrations:

=**Royal Mace**: Symbolizes the presence of the Sovereign and Parliament's authority.

= **State Opening of Parliament**: A ceremony marking the start of a new parliamentary session where the monarch delivers the **Speech from the Throne**, outlining the government's agenda.

Example of Parliamentary Sovereignty in Practice

→ The UK Parliament can **repeal** or **overrule laws** passed by previous Parliaments, as seen in the **European Union Withdrawal Act** of 2018.

Unit 7: The Executive

Role of the Government:

- The government carries out the executive functions of the UK, setting policies that govern the country
- The **Prime Minister (PM)** is the head of the government and organizes the executive branch
- Each ministerial department is headed by a **Secretary of State** chosen by the PM

Types of Departments:

- Ministerial Departments: Led by Secretaries of State
- Non-Ministerial Departments: Agencies like the Crown Prosecution Service and Her Majesty's Prison Service

Cabinet Office:

- Helps the PM and Cabinet organize and coordinate government business (e.g., policy, ministerial responsibilities, and legislation)

1. The Prime Minister

Selection:

- After a general election, the monarch selects the PM based on who can command a majority in the House of Commons
- Typically, the leader of the largest party becomes the PM

Responsibilities:

- The PM is responsible for government policies and decisions
- Oversees the operation of government agencies and the Civil Service
- Appoints Cabinet members and chairs Cabinet meetings
- Can reorganize roles and departments (e.g., Cabinet reshuffle)

Role Evolution:

- Historically described as “primus inter pares” (first among equals), but the role has evolved over time to have more influence

2. Deputy Prime Minister

- The Deputy PM is appointed at the PM's discretion, and their responsibilities can vary
- There is no permanent position for the Deputy PM
 - Ex. Angela Rayner is currently the Deputy PM and the Deputy Leader of the Labour Party

3. The Cabinet

- The Cabinet is the highest decision-making body in the government
- It meets every Tuesday at **10 Downing Street** to discuss major issues

Composition:

- Members are chosen by the PM from Members of Parliament (MPs) or the House of Lords
- Key positions include Deputy PM, Foreign Secretary, Chancellor of the Exchequer, and Home Secretary

Collective Responsibility:

- Decisions are made collectively by the Cabinet, supported by the majority
- If a minister cannot defend a policy, they may resign

Flexibility in Composition:

- The PM can merge departments or create new roles (e.g., the merger of International Development and Foreign Office)

4. Departments

Ministerial Departments:

- 24 ministerial departments handle key areas of government policy and legislation
- Heads of departments, such as **Secretaries of State**, often rely on **advisors** from the Civil Service

Non-Ministerial Departments (NMGDs):

- 20 NMGDs operate without direct political oversight (e.g., HM Revenue and Customs)
- These departments are managed by senior civil servants

Ministerial Responsibility:

- Cabinet ministers are individually responsible for their departments' policies (e.g., Amber Rudd resigned after the Windrush scandal)

5. The Cabinet Committees System

- Cabinet Committees help reduce the workload on the Cabinet by enabling smaller groups of ministers to make collective decisions
- They also address inter-departmental issues

Structure:

- The PM sets up the committees and selects their members
- Most committees have more than 10 members, and some may include nearly the entire Cabinet (e.g., Domestic Affairs)

Collective Responsibility:

→ Decisions made in Cabinet Committees have the same status as Cabinet decisions and are subject to collective responsibility

6. The Shadow Cabinet

→ The **Shadow Cabinet** is made up of MPs and Lords from the Official Opposition (currently the Conservative Party)

→ The opposition appoints members to “shadow” each Cabinet position, holding the government to account

Function:

→ The Shadow Cabinet monitors government actions and prepares to take over if the opposition wins the next general election

Roles in the House of Lords:

→ In the House of Lords, members are referred to as “spokespersons” rather than “shadow ministers”

Unit 8: Devolution in Scotland and Wales

Devolution: The transfer of powers from a central government to sub-national units (Scotland, Wales, Northern Ireland)

Key difference from federalism:

- Devolved powers can be temporary
- Devolved institutions are constitutionally subordinate to the central government.
- The state remains unitary

= Devolution in the UK :

Devolved powers granted to **Scotland, Wales, and Northern Ireland** after promises in Labour's 1997 manifesto

- **Referenda** held in 1997 resulted in devolved legislatures for Scotland and Wales.
- **Westminster Parliament** retains sovereignty, meaning it can legislate in devolved areas and repatriate powers if needed

1. Scotland

- Scottish Parliament:

- Established through the **Scotland Act 1998**
- First convened in 1999 at Holyrood, Edinburgh
- 129 members (MSPs), elected every 4 years
- **Voting system:** Combination of **First-Past-the-Post** (FPTP) and **Proportional Representation** (PR) → Makes it difficult to win an absolute majority, though the **SNP** achieved this in 2011

- Scottish Government:

- Headed by the **First Minister** (FM), responsible for leading and setting policy direction
- **Scottish Executive** (now the **Scottish Government**) manages devolved areas like health, education, environment..

- SNP's Role:

- In power since 2007
- Promotes **Scottish independence**
- **2014 Independence Referendum:**
 - Voters rejected independence (55.4% to 44.7%)
 - **Brexit** changed the landscape, with a strong pro-Remain stance in Scotland

- Recent Developments:

=**2021 Election**: SNP won a coalition with the **Scottish Green Party**, advocating for independence

=**Scottish Independence Referendum Bill**:

- The proposed law for a second referendum faces challenges, as it concerns **reserved matters** and may be outside the Scottish Parliament's legislative competence
- **Supreme Court ruling (2022)**: Scottish Parliament cannot legally adopt a bill for a new referendum without breaching its competence

→ Brexit Impact

= Brexit has led to calls for a second referendum as Scotland was forced out of the EU

2. Wales

- Wales' Historical Context:

→ Joined with England under the **Laws in Wales Acts 1535-42**

→ **1979 Referendum**: Welsh voters rejected devolved powers

→ **1997 Referendum**: Devolution supported (50.3%), leading to the **National Assembly for Wales**

- The Government of Wales Act 2006:

= Created the **Welsh Government** and the **National Assembly for Wales**, later renamed the **Senedd Cymru** (Welsh Parliament) in 2021

- Wales' Political Landscape:

= **Senedd 2021 Election**:

- Welsh Labour emerged as the largest party (30 seats)
- **Plaid Cymru** (12 seats) pushed for greater autonomy
- Labour formed a cooperation agreement with Plaid Cymru

- Welsh Independence:

→ Calls for Welsh independence grew in 2020-2021 but have since declined to below 30%

→ **Independent Commission on the Constitutional Future of Wales**:

= Explored options like enhanced devolution, federalism, and full independence

- 2024 General Election:

→ **Labour** dominated in Wales, winning 27 out of 32 seats

→ **Plaid Cymru** gained 2 seats, and **Conservatives** lost all Welsh representation

→ Devolution in Scotland, Wales, and Northern Ireland has significantly shaped the political landscape of the UK.

→ While Scotland has ongoing independence debates, Wales has shown a steady shift toward greater autonomy but with decreasing support for full independence.

→ The SNP's push for a second independence referendum and the Brexit aftermath remain central issues in Scotland's future governance.

Unit 9 : Devolution in Northern Ireland

Part 1 -

1. Historical overview: from the Norman Presence until the end of the 19th century

= The Norman Invasion

English involvement in Ireland began in the 12th century when Henry II declared himself Lord of Ireland (1171). Over the centuries, English rule was limited mainly to the Dublin area, known as "the Pale"

= Tudor Expansion (1509-1603)

Under the Tudor monarchs, particularly Henry VIII, England expanded its control. After the Battle of Kinsale (1601), England completed its conquest of Ireland

= Plantations (1556-1641)

The English government introduced the "Plantations," settling English and Scottish Protestants in Ireland, particularly in the North, establishing a Protestant-majority region, which set the stage for future divisions

= Act of Union (1800-01)

The 1798 rebellion led to the Act of Union, which merged Great Britain and Ireland into the United Kingdom, dissolving the Irish parliament

2. Home Rule and the War of Independence

= Home Rule Campaign

From the 1870s, Irish nationalists campaigned for Home Rule, or autonomy. The bill was introduced in 1912, but it was delayed due to World War I

= Resistance from Ulster

Protestants in Ulster, fearing Catholic domination, formed militias, and in 1916, a minority of Irish Volunteers led the Easter Rising, aiming for full independence

= Sinn Féin and Independence

In 1918, Sinn Féin, advocating for independence, won the elections and established the Dáil Éireann, Ireland's first parliament. This led to the War of Independence (1919-1921)

= Partition and the Irish Free State

The Government of Ireland Act (1920) partitioned Ireland, creating Northern Ireland, a Protestant-majority region. The Anglo-Irish Treaty (1921) resulted in the creation of the Irish Free State, though it remained part of the British Commonwealth

Part 2 –

3. Northern Ireland from Partition until the 1960s: “A Protestant State for Protestant People”

→ After partition, Northern Ireland was governed by a Unionist government that aimed to maintain Protestant dominance. The Catholic minority faced discrimination, especially in employment and housing

4. Northern Ireland from the late 1960s to the 1980s

Civil Rights, Internment, Direct Rule

- **Civil Rights Movement:** Inspired by the US Civil Rights Movement, Catholics formed the Northern Irish Civil Rights Association (NICRA) to protest against gerrymandering and discrimination. Protests were met with violent repression, and tensions escalated
 - **The Troubles:** By 1970-71, violence between Catholic nationalists (seeking Irish unity) and Protestant unionists (loyal to Britain) intensified. Paramilitary groups, including the IRA (=Irish Republican Army), began armed resistance
 - **Internment and Bloody Sunday (1972):** In 1971, the British introduced internment without trial, leading to the tragic event of Bloody Sunday in 1972, where British soldiers killed 14 unarmed protesters. This marked a pivotal point in the conflict
- = Consequently in 1972, Westminster removed control of the security from the government of Northern Ireland and introduced **Direct Rule** → The system was centred around a Secretary of State for Northern Ireland assisted by the Northern Ireland Office, a special administration in charge of coordinating the functions of the previous Northern Irish Ministers

Power-Sharing and the Sunningdale Agreement

→ **Power-Sharing Proposal** = In 1973, the British proposed a power-sharing government, with Protestants and Catholics sharing control. This was part of the Sunningdale Agreement, but Unionist opposition and violence caused its collapse

5. Northern Ireland in the late 1970s and 1980s

Hunger Strikes

= In the 1980s, Republican prisoners, led by Bobby Sands, conducted hunger strikes to protest the removal of their special prisoner status. Their deaths gained international attention and helped boost Sinn Féin's political influence → rebirth as a political movement

The Anglo-Irish Agreement (1985)

= Signed by the UK and Irish governments, this agreement formalized cooperation between the two nations in managing Northern Ireland's affairs, marking a shift toward internationalizing the issue

6. The Situation in the late 1990s

→ **The Peace Process** → After years of negotiations and violence, the **Good Friday Agreement** (1998) established a "power-sharing" government in Northern Ireland, affirming the right of the people to choose their future (including a potential unification with Ireland, but only with majority consent)

→ **The Northern Ireland Assembly** → The agreement created the Northern Ireland **Assembly at Stormont**, with 90 elected members = The First Minister and Deputy First Minister would be chosen from the largest and second-largest parties. The power-sharing government has faced challenges, including suspensions, but remains a cornerstone of peace

Historical Context and Objectives of the Good Friday Agreement

The Good Friday Agreement (GFA), signed in April 1998, marked a turning point in Northern Ireland's political history. It was the culmination of peace efforts to ending decades of violence known as "The Troubles." The agreement created a framework for peace by establishing democratic institutions where the Unionist Protestant and Nationalist Catholic communities could share power and manage Northern Ireland's affairs jointly. The agreement ended 30 years of armed conflict leading to a devolved assembly and power-sharing executive in Northern Ireland

Principles of Power-Sharing and the Establishment of the Stormont Assembly

As part of the agreement, the Stormont Assembly was created, a devolved legislature designed to allow both communities to share power. The assembly is in charge of domestic issues such as health, education, and agriculture. The principle of power-sharing means that the power is shared between different communities and political groups. It's central to the governance model, ensuring that both Unionists and Nationalists are equally represented in decision-making processes. This helped to promote political stability, and also presented challenges in terms of cooperation.

→ Challenges of Devolved Government and Governance at Stormont:

The Suspensions of the Stormont Assembly and Internal Political Tensions

Despite its initial success, the Stormont Assembly has faced several suspensions. In fact, even if it has managed to work, it has been suspended six times, the longest period being 2002 and 2007

The most notable suspension was in 2002, caused by growing tensions between the political parties, especially over the issue of paramilitary disarmament and security concerns. These suspensions disrupted governance and led to the reimposition of Direct Rule from London.

The Role of Political Parties, Particularly the DUP and Sinn Féin

The Democratic Unionist Party (DUP) and Sinn Féin have played key roles in the governance of Northern Ireland.

Sinn Féin is a Republican party active both throughout Ireland and Northern Ireland. Sinn Féin is the political wing of the IRA. Currently, it is the largest party in the NI Assembly with 27 seats

The DUP (the Democratic Unionist Party): To the right of the spectrum, is the DUP founded in September 1971 by the charismatic leader Ian Paisley and dissidents from the Ulster Unionist Party. This party denounced any concession as treason. With 25 seats in the Northern Ireland Assembly, it is now the second largest party

However, their differing ideologies often caused political impasse/deadlock. The DUP, which represents the Protestant Unionist community, and Sinn Féin, representing the Catholic Nationalists, frequently disagreed on important issues, leading to several instances where the Assembly had to be suspended.

7. Brexit and the future of the Province

- **Brexit Vote (2016):** In the 2016 UK referendum, Northern Ireland voted to remain in the EU, yet the UK voted to leave. This has created tensions over the future of the Irish border and Northern Ireland's status.
- **Northern Ireland Protocol and the Windsor Framework:** The Northern Ireland Protocol created a de facto customs border in the Irish Sea, leading to political unrest. However, the Windsor Framework, agreed upon in 2023, aims to resolve these issues by ensuring smoother trade while maintaining Northern Ireland's place within the UK.

Consequences of Brexit on the Irish Border and Internal Political Relations

One of the most significant challenges for Northern Ireland following the Brexit referendum in 2016 was the issue of the Irish border. Northern Ireland voted to remain in the EU, by a majority of 56% to 44%, while the rest of the UK voted to leave. This caused tension between keeping an open border with the Republic of Ireland (an EU member) and respecting the UK's exit from the EU. The potential re-establishment of a "hard border" could have destabilized the peace process and reignited political unrest.

The Northern Ireland Protocol and Its Effects on Governance

To resolve the border issue, the Northern Ireland Protocol was introduced as part of the Brexit deal. The Protocol created a border in the Sea, which artificially separates Northern Ireland from the rest of the UK : meaning that Northern Ireland remained aligned with some EU rules, particularly on goods. This arrangement created political challenges and represents a source of tensions, especially for Unionist parties who felt that it undermined Northern Ireland's status within the UK.

The Windsor Framework and the Response from Unionist Parties

In response to growing tensions, a new agreement, known as the Windsor Framework, was reached in 2023 to replace the Northern Ireland Protocol. It's a post-Brexit legal agreement between the European Union and the United Kingdom, replaces the old Northern Ireland Protocol. It provides a new legal and UK constitutional framework.

This framework aimed to facilitate smoother trade between Northern Ireland and the rest of the UK while addressing some of the concerns raised by Unionist parties.

→ The Northern Irish peace process, from its early struggles in the 17th century to the signing of the Good Friday Agreement in 1998, has been a long and complex journey. Despite progress, challenges remain, particularly in the wake of Brexit. The ongoing tension between Unionists and Nationalists, as well as the evolving political landscape, continues to shape the future of Northern Ireland.