

# Public Law - It Is The Executive Who Dominates The United Kingdom Constitutional Order

## INTRODUCTION - Public Law - It Is The Executive Who Dominates The United Kingdom Constitutional Order

The constitutional law of the country United Kingdom is concerned with the governance of the United Kingdom of Northern Ireland as well as Great Britain. It is one of the oldest continuing political systems on the earth. As the constitution of British contains both codes as well as principles. These codes and the principles are responsible for emerging from centuries that occurred from several laws as well as statutes, case laws, and conventions that arise from politics. It also includes social consensus. In the year 1215, following the rules of the Magna Carta, the king was called the common council of the parliament (Heald *et al.* 2020). They have been holding the courts in a fixed place. It also guarantees fair trials, as well as free movement of individuals. It also includes freeing the church from the state. This also helps in enshrining the rights of the common people so that they can use the land (Cairns 2019).

## DISCUSSION

### A brief History of the Constitution of the country the United Kingdom-

After the occurrence of the English civil war and also the occurrence of the glorious revolution in the year 1688, it was the parliament of the country, the United Kingdom, that has won supremacy that took over the monarch. It has also won the rights of supremacy over the courts as well as the church and the bills of rights in the year 1689. It has been thereby recorded that the members of the parliament that has been elected are considered to be free (Heald *et al.* 2020). According to the act of union of the year 1707, Wales, as well as Scotland and England, were unified while the country Ireland has joined the aforementioned in the year 1800. In the period between 1916 and the year 1921, the Republic of Ireland has separated because of armed conflict. The country of the United Kingdom has also become a founding member of ILO that is an international labour organization, as well as the commonwealth and the United Nations. This list also includes the world trade organizations, the council of Europe

(Bickerton 2019). These principles of parliamentary sovereignty, as well as the guidance of internationalism and the rules accordingly given by the world trade organization, also help in guiding the modern political system of the country of the United Kingdom.

The central institutions that are included are the judiciary, parliament, civil services, executive, and other public bodies. These bodies help in implementing policies by the local as well as the regional government of the United Kingdom (Bickerton 2019). The parliament of the United Kingdom is made up of the house of commons, who are elected with the help of the constituencies of the voter as well as the house of lords. They are considered to get such kind of appointment on the recommendation of the groups of the cross political parties. So, for making of new legal rules and other acts of the parliament, and for the framing of the highest category of the legal rules, it must be read by both the houses. It also includes amendments and approvals that are required to be proposed by the legislation three times (Cairns 2019).

### Introducing the term executive in the Parliament of the United Kingdom-

The term executive is referred to the government, those who have been making the key decisions and running the operational activities of the country of the United Kingdom. In the United Kingdom system, the party that has acquired most of the seats in the house of commons is typically invited to constitute the government. The government in the country of the United Kingdom is made up of the prime minister as well as the various junior level ministers and cabinet. They are typically drawn from the individuals who are allowed to have a seat in the parliament (Regilme Jr 2019). They are usually members of the winning party. The prime minister is normally considered as a leader of the same party, and they usually get the authority to appoint the other members of the government. This also includes the most important that is great officers of the state, the home secretary, as well as the foreign secretary and the chancellor of exchequer that is the person who is considered to be in charge of an economic policy (Regilme Jr 2019). However, several departments of the government are led by the secretary of the state. They might be treated as an equivalent to the prime minister or might be appointed with the help of a prime minister (Regilme Jr 2019).

This procedure is also referred to as the parliamentary rather than the system by the president or presidential system. This also means that there is a degree of fusion, or might be there is a degree of the connection of some sort of the relationship between the executive and

legislature as well. As in this process, the government is drawn out from the same, and he is allowed to have a seat in the legislature.

The majority of the constitutional litigation takes place as a result of administrative law complications, operations relevant to public accretion, and human rights. The courts have existing intrinsic attributes related to legal assessment to guarantee the certainty that all the establishments involved in the law must edge their action according to law. As an exception for the parliament, the courts are eligible to proclaim the actions of any legal establishments or public figure, to make certain that diplomacy is being utilized reasonably and comparatively (Sharpe 2019).

### Related legislation under executives-

Since the year 1950, after uniting with the European Convention on Human Rights, and especially after the establishment of the Human Rights Act in 1998, every court needs to evaluate if the legislation is adaptable to the regulations of international human rights (Sharpe 2019). This legislation is one of the major beneficiary factors for protecting the public rights against government and corporate power, as well as being inclusive of freedom from unprecedented arrest and detention, protecting privacy rights from unlawful surveillance, rights that challenges the freedom of expression, the rights to associate with trade unions, and the right to commence conventions and protests (Sharpe 2019). Therefore, the legislation suggests that every entity or expanse, whether public or private, that exerts influence on society's rights to freedom and security are accountable under the law.

The executive of the court's legislation is under the command of the Prime Minister. It is the duty of the executive that directs the generality in the House of Commons. The Majesty's Government is constituted with multiple departments, and each department is led by executives appointed by the Prime Minister. The new laws have consented with royal approval by the Queen, where the Queen is the official executive figurehead (Cannadine 2019).

### Judiciary and the executive departments of the parliament-

The judiciary is the head which is further governed by the twelve members of the supreme court of the country United Kingdom. It lies beneath the court of appeal for the country of

England and Wales. This also includes the court of appeal in the country of Northern Ireland (Cannadine 2019). This also involves the court of session for the country of Scotland. Below their exhibits a system of the high courts as well as the crown courts. This also includes tribunals which are substantially dependent upon the case and their subjects. Here the courts are responsible for the interpretation of the statutes and focus on the progress of the principles of equity as well as the common law. They are also responsible for controlling the discretion of an executive. The courts of the United Kingdom are usually considered not to have such power for declaring an act of the law that is not constitutional (Cannadine 2019). Further, the executive is governed by the prime minister, who should have a command such majority in the house of the commons. The prime minister is considered as the head of the executive, who helps in commanding the majority in the house of commons. The prime minister is held responsible for appointing the cabinet of the people who have been responsible for leading for each of the departments, and this helps in the formation of the government of her majesty. The Queen herself is known as a ceremonial figurehead who gives her royal assent to the laws that are newly framed. With the help of the constitutional conventions, the monarch ultimately does not usurp the procedure of the democratic country. This would not ultimately cause a refusal in royal assent since the period of 1708 through the Scottish Militia Bill (Cannadine 2019). This takes place beyond the cabinet as well as the parliament, the large numbers of public bodies, and the civil service. It is also considered to take place beyond the national health services as well as the department of education or delivering public services which have been implementing law and fulfilling the economic rights, political rights, and social rights (Sharpe 2019).

### The major powers as well as the role of the executive -

The executive is noted to hold huge power under the system of the United Kingdom. Most of the legislation is introduced to the parliament through the government, which monitors the time as well as agenda of commons house up to a very large extent. A yearly budget is proposed by the government that sets out the method by which it would spend the money in upcoming years. The government further has discretion for making a wide range of decisions regarding the policy in sectors of health, education, and transport (Sharpe 2019). The given policies are mostly performed through delegated or secondary legislation. The parliamentary actions are usually noted to grant the ministers as well as various bodies huge power, which

could be utilized for developing a further policy irrespective of going through the complete procedure of passing any new statute.

The given delegated powers of executors could be broad; however, the ministers are not permitted to move beyond setting out of major legislation and perform so; it could be challenged in court by the review of the judiciary. The executives are further noted to hold power termed as the Royal prerogative powers (Sharpe 2019). It is considered as the power being attached to its theory of monarch, however currently under the government exercise. These could be utilized without any consent of parliament and consists of hours for conducting international policies containing the deploying of army and conduction of diplomacy, for granting owners as well as for proroguing the parliament, which indicates an ending of their present session (Giraldo 2021). They are considered to get such kind of appointment on the recommendation of the groups of the cross political parties. So, for making of new legal rules and other acts of the parliament, and for the framing of the highest category of the legal rules, it must be read by both the houses. It also includes amendments and approvals that are required to be proposed by the legislation three times. These are the powers that are often considered to be controversial because there are restricted constraints and checks on their utilization by the executive (Giraldo 2021).

The power, as well as the role of the executive, are not clear in a large number of days because many of these are explained only through conventions or rules which are not based on any legal formalities. There remains a single legitimate document that clearly explains the government's role all the restrictions regarding their power (Giraldo 2021).

The prerogative power is considered to be a specific confusing source. These are not brought in statute but are supposed to be e arrive from the common law or the law that is invented by the judges in association with the precedents and customs. It is quite difficult to exactly mention those prerogative powers that are still present because some of these are not supposed to be utilized for a large century. Additionally, there remains no usually accepted explanation regarding the constitutions of Royal prerogatives along with their scope; as per the Ministry of Justice, it is considered to be notoriously complex for determining it (Giraldo 2021).

It is considered as the single place which some most essential conventions surround the function of executive and their powers being set out for instance from these the understanding regarding the Prime Minister being the head of government through the virtue of their capacity of commanding the confidence of the house of commons. Patterns are considered to some

distinct conventions which are already mentioned, like the understanding of a person required to be the only minister in case they are found to have a seat in the commons or lords (Giraldo 2021).

### Another side of the executives-

But not any of the given are set out in the law statute as well as the manual of cabinet despite assisting in the explanation as well as clarification of Constitution of United Kingdom, having no intention of being a legitimate force. It explains the governmental role from itself the perspective of the executive (Uhr 2021).

The country of the UK is never found to have any constitution in written form which embodies any document. The basic text of the constitution regarding that which is currently the United Kingdom is noted to pay the Magna Carta, which was issued by England's King John in 1215. From then, there occurred an original evolution of the constitution with time responding to the social, economic, and political transformations. The current constitution is found to encompass both or landmark judicial opinion and statutory law along with various unwritten regulations or conventions regarding the practice of the constitution. For instance, the residuary power of the monarch, as well as parliament, are till now largely governed by the aforementioned unwritten; however, nevertheless, conventions bind (Uhr 2021).

### Transformation within the parliament of the country United Kingdom-

The constitutional law of the United Kingdom noted to experience a huge transformation through the last 20 years. The major developments consist of incorporating the European convention on the United kingdom's law of human rights through the act of human rights of the Year 1998; an established devolve legislation amount of 3 of the 4 constituent countries of United Kingdom in the year 1999, a part of the reformer of the house of Lords of the Year 2000 along with the introduction of Supreme Court in the year 2009 (Uhr 2021).

The Independence referendum of Scotland was supposed to hold in September of Year 2014, along with the referendum of Brexit that was held in June of the Year 2016, which standard the situation concerning any for the Reform in the constitution, with various observers which argue that merely a largely decentralized, in case not completely federal, the governmental

system could preserve the United Kingdom as a political entity which is unified (Heald *et al.* 2020).

## CONCLUSION

Aside from the passing of legislation, one of the essential businesses regarding the complete house is the period of query, which holds periodically. Throughout the given period, the members could need ministers of government for answering the queries concerning their respective departments (Heald *et al.* 2020). Hence, it allows the opposition for attacking the policy of the government as well as for raising issues on the government that might be considered negligent. It further leads to periodic depends regarding policy between the leader of the opposition and the Prime Minister (Heald *et al.* 2020).

## References

- Bickerton, C., 2019. 'Parliamentary', 'popular and 'pooled': conflicts of sovereignty in the United Kingdom's exit from the European Union. *Journal of European Integration*, 41(7), pp.887-902.
- Cairns, A., 2019. Political Science, Ethnicity, and the Canadian Constitution. In *Federalism and Political Community* (pp. 113-140). University of Toronto Press.
- Cannadine, D., 2019. *Victorious Century: The United Kingdom, 1800-1906*. Penguin Books.
- Giraldo, J.K., 2021. Legislatures and National Defense: Global Comparisons. In *Who Guards the Guardians and How* (pp. 34-70). University of Texas Press.
- Heald, D. and Hodges, R., 2020. The accounting, budgeting, and fiscal impact of COVID-19 on the United Kingdom. *Journal of Public Budgeting, Accounting & Financial Management*.
- Regilme Jr, SSF, 2019. Constitutional order in oligarchic democracies: Neoliberal rights versus socio-economic rights. *Law, Culture and the Humanities*, p.1743872119854142.
- Sharpe, L.J., 2019. Regionalism in the United Kingdom: The Role of Social Federalism. In *Comparing Public Sector Reform in Britain and Germany* (pp. 67-84). Routledge.
- Uhr, J., 2021. Political Leadership. *The Oxford Handbook of Politics and Performance*, p.421.