



# University of Edinburgh

## School of Social & Political Science

### Politics and International Relations 2018-2019

#### *The Politics of the UK Constitution*

##### Key Information

Course Organiser	Professor James Mitchell Email: <a href="mailto:James.Mitchell@ed.ac.uk">James.Mitchell@ed.ac.uk</a> Room B.02, 21 George Square Guidance & Feedback: Email to make appointment
Location	Semester 2 GROUP 1: Wednesday 0900-1100 St Leonard's Land 3.25 GROUP 2: Wednesday 1100-1300 St Leonard's Land 3.15
Course Secretary	Colin Arthur <a href="mailto:colin.arthur@ed.ac.uk">colin.arthur@ed.ac.uk</a> 0131 (6)513 162
Assessment Deadlines	12:00 Thursday 7th March 2018

##### Course aim and objectives

The contested nature of the United Kingdom constitution has been a marked feature of UK politics in recent years. Constitutional politics have become more prominent in recent decades, especially following the passage of the Blair Government's programme of constitutional reform. Constitutional politics in the UK divide and engage decision-makers and citizens whether defined by the classic idea of a constitution as the rules and regulations governing its key institutions, relations between the state and citizen or defining who 'we' are. In essence, constitutional politics frame debates on 'who gets what when how' in any polity.

This course is intended to be of particular interest to those with an interest in any aspect of the UK constitution, or that of another state's constitution, and seeks to understand debates on reform and place discussion of aspects of the debate within the wider understandings of the constitution and politics. The individual aspects of the constitution have tended to be studied in isolation despite evidence that change in one part of the constitution has implications for other parts. This class is designed to understanding the UK constitution as a whole. It raises questions as to the form of changes enacted and places such debates in the wider context of institutional and constitutional reform.

## Contents

Course aim and objectives .....	1
Learning outcomes .....	2
Teaching Methods.....	2
Assessment Criteria .....	4
Reading .....	5
Summary of seminar topics .....	5
Course programme .....	7
Appendix 1: General Information.....	15
<b>Students with Disabilities</b> .....	15
<b>Learning Resources for Undergraduates</b> .....	15
<b>Attendance Monitoring</b> .....	16
<b>External Examiner</b> .....	16
<b>Penalties that can be applied to your work and how to avoid them.</b> .....	16
<b>Extensions</b> .....	17
<b>Exam Feedback and Viewing Exam Scripts:</b> .....	18
<b>Plagiarism Guidance for Students: Avoiding Plagiarism</b> .....	18

## Learning outcomes

Upon completion of this course, students will be able to:

1. Understand different conceptions of the UK constitution
2. Engage critically with various authors contesting the nature of the UK constitution
3. Reflect on the changing nature of the UK constitution
4. Acquire a political science perspective on constitutional politics

Relate debates on aspects of the UK constitution to understandings of the UK as a whole

## Teaching Methods

This course adopts a seminar format. The required reading list for each seminar should be considered the absolute *minimum* in terms of preparation. Each class will involve student presentations on the topic under discussion followed by a discussion guided by the tutor.

## Assessment

Assessment	Word count limit* (exceeding the word limit will lead to a penalty)	Weighting	Submission date	Return of feedback
<b>ESSAY:</b> see below for essay questions		30%	12:00 Thursday 7 March 2018	27 <sup>th</sup> March 2018
<b>EXAM:</b> Students will be expected to answer TWO questions from a list of SEVEN questions.		70%	Exam dates are set by Student Administration. Exam diet information can be found at: <a href="http://www.ed.ac.uk/student-administration/exams/exam-diets">http://www.ed.ac.uk/student-administration/exams/exam-diets</a> Students are responsible for knowing the time, date and location of their exams.	Dates will be published closer to the time Please also see Exam feedback information in appendix 2

\* **WORD LENGTH FOR ESSAY:** The essay should not **exceed 2000 words** in length (excluding bibliography). If you go over the word length, you will receive a 5 mark penalty. These 5 marks will be deducted, regardless of how much you have exceeded the word count (whether it is by 5 words or by 500!). In exceptional circumstances, a Course Organizer may decide that, instead of a 5 marks penalty, any text beyond the word limit will be excluded from the assignment and be marked only on the text up to the word limit.. You will not be penalised for submitting work below the word limit. However, you should note that shorter essays are less likely to achieve the required depth and that this will be reflected in your mark. Essays should be typed using a clear 12 pt font. Word count limits: Please note, headings, footnotes, tables, charts, etc, are all included in the word count. **DO NOT USE JPEG images** in an attempt to get around this rule. Bibliographies (list of references cited in the paper) are *not* included in the word count.

The Essay will provide 30% of your course mark. The essay questions cover subjects covered in class in the early part of the semester. It is important to answer the question after carefully reading what is being asked.

The essay will be chosen from the following questions:

1. 'Constitutions, as we are defining them, are never – to repeat, *never* – written down. They might possibly in principle be written down, but in practice they never are. There are, of course, written documents called Constitutions – with a capital “C” – but they are never, ever coextensive with all of a country’s most important rules

regulating the relations between the different parts of the government and those between the government and the people.’ (King 2001: 3) DISCUSS.

2. In what sense is Parliamentary sovereignty the foundational doctrine of the UK constitution?
3. ‘The constitution of the United Kingdom lives on, changing from day to day for the constitution is no more and no less than what happens. Everything that happens is constitutional. And if nothing happens that would be constitutional also.’ (Griffith 1979: 19) DISCUSS

## Assessment Criteria

All assessments in SSPS are graded according to set criteria or ‘marking descriptors.’ It is a good idea to familiarise yourself with what the markers of your work will be looking for. These are summarised below, and set out more fully at:

[http://www.sps.ed.ac.uk/undergrad/current\\_students/teaching\\_and\\_learning/assessment\\_and\\_regulations/marking\\_descriptors](http://www.sps.ed.ac.uk/undergrad/current_students/teaching_and_learning/assessment_and_regulations/marking_descriptors)

80%+	An authoritative answer that achieves excellence in the quality of its research, analysis and presentation. It provides a fully effective response to the question, shows a command of the literature, integrating and going beyond that literature, high quality and insightful analysis, and critical and committed argument. Papers achieving marks of 90+ would be considered of publishable quality, in terms of scholarship and originality.
70-79	A sharply-focused answer of high intellectual quality, which adopts a comprehensive approach to the question and maintains a sophisticated level of analysis throughout. It should show a willingness to engage critically with the literature and move beyond it, using the sources creatively to arrive at its own independent conclusions.
60-69	The essay should be well-researched, well-written, with very good use and referencing of appropriate sources. The questions should be addressed directly and fully. There should be very good engagement with wide-ranging literature, with the work of other authors presented critically, and no significant errors of fact or interpretation. The essay should be well structured and proceed coherently to a convincing conclusion.
50-59	A satisfactory answer with elements of the routine and predictable. It should demonstrate basic understanding of the question. The essay should include evidence that is generally accurate and firmly based in the reading, though it may lean towards description instead of critical analysis. Factual errors and misunderstandings of concepts and authors may occasionally be present but should not be a dominant impression. The quality of writing, referencing and presentation should be acceptable.

40-49	A passable answer which understands the question, displays some academic learning and refers to relevant literature. The answer should be intelligible and in general factually accurate, but may well have deficiencies such as restricted use of sources or academic argument, over-reliance on lecture notes, poor expression, and irrelevancies to the question asked. The general impression may be of a rather poor effort, with weaknesses in conception or execution. It might also be the right mark for a short answer that at least referred to the main points of the issue.
Less than 40	An answer with evident weaknesses in understanding of the question, underpinning research, structure and/or presentation, and which may demonstrate inadequate knowledge of the subject and relevant issues.

## Reading

There is no recommended textbook for the course. A number of texts exist but it is advised to consult these before purchasing as each adopts a different style with each style appealing to different tastes. It is also advisable to consider as wide a range of texts to gain a plurality of views, interpretations and perspectives. For each week there are assigned key readings and recommended further readings but you should not feel constrained by this reading. You are encouraged to read beyond the guided readings.

A useful short starter is Martin Loughlin (2013), *The British Constitution: a very short introduction*, Oxford, Oxford University Press.

Bogdanor, Vernon (2009), *The New British Constitution*.

Gordon, Michael (2015), *Parliamentary Sovereignty in the UK Constitution: Process, Politics and Democracy*.

Judge, David (2014), *Democratic Incongruities: Representative Democracy in Britain*, Basingstoke, Palgrave Macmillan.

King, Anthony (2001), *Does the United Kingdom still have a constitution?* London, Sweet & Maxwell.

McLean, Iain (2009), *What's wrong with the British Constitution*.

Maer, L., Hazell, R., King, S., Russell, M., Trench, A., Sandford, M. (2004), 'Dragging the Constitution out of the Shadows', *Parliamentary Affairs* 57(2), 253-268

Oliver, Dawn (2006), *Constitutional Reform in the UK*, Oxford, Oxford University Press.

Russell, M. and Cowley, P. (2015) 'The Policy Power of the Westminster Parliament: The 'Parliamentary State' and the Empirical Evidence', *Governance*

Each of the topics discussed are the subject of controversy and debates can be followed (and referred to in assessed work) both in the media and Parliament.

## Summary of seminar topics

	DATE	Subject
--	------	---------

1.	16 January 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	Constitutional and institutional reform: introduction to concepts
2.	23 January 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	In search of the Constitution: Foundations
3.	30 January 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	Citizens and subjects
4.	6 February 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	New Labour's constitutional reform agenda
5.	13 February 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	Parliamentary reform
	20 February 2019	<b>FLEXIBLE LEARNING WEEK</b>
6.	27 February 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	Lords Reform
7.	6 March 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	Judicialization of Politics in the UK
8.	13 March 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	Unfinished business: devolution.
9.	20 March 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	Referendums
10.	27 March 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	Brexit and the constitution
11	3 April 2019 GROUP 1: 0900-1100 GROUP 12: 1100-1300	Revision

### Communications and Feedback

I am available by email at [James.Mitchell@ed.ac.uk](mailto:James.Mitchell@ed.ac.uk) and will arrange meetings during the week.

## Course Programme

The first session will discuss concepts and institutionalist theories that will inform discussion throughout the remainder of the course. This session will place the UK in comparative perspective. The idea of *institutional change* will be a recurring theme. The extent to which institutions become entrenched, recreate themselves and conditions under which reform becomes possible are explored in each case. Each case considered is considered as it relates to other aspects of the constitution and drawn to a conclusion in the final session.

The structure of the series of sessions follows familiar constitutional arrangements and there will be scope for annual reviews of the components under examination.

### 1. Wednesday, 16 January 2019

**Constitutional and institutional reform: introduction to concepts.**

**James Mitchell**

‘Every political unit is constituted, but not every one of them has a constitution. The term ‘constitution’ covers both conditions, but the two are not the same.’ Dieter Grimm (2006), *Constitutionalism: Past, Present and Future*, Oxford, Oxford University Press, p.3.

This first seminar will consider the deceptively simple question, *what is a constitution?* We will consider the functions and limits of constitutions. We will start by stepping outside debates on the UK constitution in order to gain conceptual tools with which to consider the UK constitution. According to Luc Tremblay, four questions dominate normative constitutional theory today,

*What is the purpose of a constitution?*

*What makes a constitution legitimate?*

*What kinds of argument are legitimate within the process of constitutional interpretation?*

*What can make judicial review of legislation legitimate in principle?*

These questions will be the subject of discussion in the first seminar as we explore the fundamental question, ‘What is a constitution?’

Brouard, Sylvain (2017), ‘Constitutional Politics: the French case and theory building’ in R. Elgie, E. Grossman, and A. Mazur (eds), *The Oxford Handbook of French Politics*, Oxford, Oxford University Press. [This book draws on the French experience]

Grimm, Dieter (2016), *Constitutionalism: Past, Present and Future*, Oxford, Oxford University Press, esp chs.1, 5 [This book draws on the German experience]

Schneider, Edward (2004), *Crafting Constitutional Democracies*, London, Rowman & Littlefield Publishers Inc., ch.1.

Tremblay, Luc B., ‘General Legitimacy of Judicial Review and the Fundamental Basis of Constitutional Law’, *Oxford Journal of Legal Studies*, vol.23, 2003, no.4, pp.525-562.

Tushnet, Mark (2010), *Why the constitution matters*, New Haven, Yale University Press [This book draws on US experience].

## 2. Wednesday, 23 January 2019 In search of the UK Constitution

*'At the hands of its interpreters, the British constitution is an oracle which can only tell you why any and every particular change contemplated will not work. Whereas in some nations the existence of a written constitution means that almost anything can be done (or at least justified), in Britain the unwritten constitution is read to mean that almost nothing can be done. Its principles are ethereal bodies unable to offer any positive guidance but always ready to descend on any change as a violation of their spirit. To summon these Harpies, you need only suggest something different.'* Hugh Heald and Aaron Wildavsky, *The Private Government of Public Money*, Basingstoke, Macmillan, 1981, pp.340-341.

Nevil Johnson argued against conflating two different meanings of constitution, that between *'how a country is constituted'* and *'its constitution'* and suggested that this has been increasingly overlooked. Johnson distinguished between a customary and a codified constitution. This is similar to the distinction between *'constitutions'* and *'Constitutions'* made by Anthony King. Neil MacCormick's rhetorical question, *'Does the United Kingdom have a Constitution?'* suggests one response to the search for a textual understanding of the UK constitution, 'If a state has at some time been set up, "constituted" by some deliberate act or acts, can these constituent acts be other than constitutions?' Johnson also distinguished between a customary and a codified constitution. The extent to which these concepts remain relevant will be considered. Using concepts and understandings drawn from the previous seminar, we will consider the nature of the UK constitution (we will return to this at the end of the semester).

\*\*Griffith, J.A.G. (1979), 'The Political Constitution', *Modern Law Review*, vol.42, pp.1-21.

Johnson, Nevil (2004), *Reshaping the British Constitution*, Basingstoke, Palgrave Macmillan.

\*\*King, Anthony (2001), *Does the United Kingdom still have a constitution?* London, Sweet & Maxwell.

Johnson, Nevil (2000), 'Then and Now: the British Constitution', *Political Studies*, vol.48, pp.118-131.

Johnson, Nevil (2004), *Reshaping the British Constitution*, Basingstoke, Palgrave Macmillan.

King, Anthony (2001), *Does the United Kingdom still have a constitution?* London, Sweet & Maxwell.

MacCormick, Neil (1978), 'Does the United Kingdom have a Constitution? Reflections on MacCormick v. Lord Advocate', *Northern Ireland Legal Quarterly*, vol.29, pp.1-20.

Russell, Meg (2005), 'A Constitution by any other name...', *Political Quarterly*, vol. 76.

Wilson, Richard (2005), 'Constitutional Change: A Note by the Bedside', *Political Quarterly*, vol.76, pp.281-287.

House of Lords Select Committee on the Constitution (2002), *Reviewing the Constitution: Terms of Reference and Methods of Working*, 1st Report, HL Paper 11, Session 2001-02

## 3. Wednesday, 30 January 2019 Citizenship

According to Richard Bellamy, 'Citizenship is a condition of civic equality. It consists of membership of a political community where all citizens can determine the terms of social cooperation on an equal basis. This status not only secures equal rights to the enjoyment of the

collective goods provided by the political association but also involves equal duties to promote and sustain them – including the good of democratic citizenship itself.’ The evolution of citizenship in the UK will be explored.

Atkins, Judi (2016), ‘(Re)imagining Magna Carta: Myth, Metaphor and the Rhetoric of Britishness’, *Parliamentary Affairs*, vol.69, pp.603-620.

Bellamy, Richard (2008), *Citizenship*, Oxford, Oxford University Press.

\*\*Marshall, T.H. (1992 edition), *Citizenship and Class*, London, Pluto Perspectives.

Meehan, Elizabeth (1993), *Citizenship in the European Community*, London, Sage.

Meehan, Elizabeth (1994), ‘Citizenship in the European Community’, *Political Quarterly*, vol.64, pp.172-186.

\*\*Oliver, Dawn (2006), *Constitutional Reform in the United Kingdom*, Oxford, Oxford University Press, pp.28-46.

Shaw, Jo (2016), ‘Unions and citizens: membership status and political rights in Scotland, the UK and the EU’, in C. Closa (ed.), *Secession from a member state and withdrawal from the European Union*, Cambridge, Cambridge University Press.

Vink, M. and R. Bauböck (2013), ‘Citizenship configurations: Analysing the multiple purposes of citizenship regimes in Europe’, *Comparative European Politics*, vol.11, pp.621-648.

#### 4. Wednesday, 6 February 2019

##### **New Labour’s constitutional reform agenda**

In an article published in 2004, Vernon Bogdanor argued that the UK is ‘transforming its uncodified constitution into a codified one’. In 1999, Robert Hazel asserted that, ‘We are going through a period of unprecedented constitutional change.’ Bogdanor also offered a list of 15 ‘constitutional changes’ under New Labour:

- i. The constitutional independence of the Bank of England
- ii. Referendums for Scottish and Welsh devolution (under the Referendum (Scotland and Wales) Act, 1997);
- iii. Scottish Parliament (under Scotland Act, 1998);
- iv. Welsh assembly (under Government of Wales Act, 1998);
- v. Referendum on Belfast Agreement (under Northern Ireland Act, 1998);
- vi. Northern Ireland Assembly (under Northern Ireland Act, 1998);
- vii. Referendum on directly elected mayor and strategic authority for London (under the Greater London Authority (Referendum) Act, 1998);
- viii. Introduction of ‘proportional representation’ for elections to Scottish Parliament; Welsh assembly; Northern Ireland Assembly and London strategic authority (under various aforementioned Acts);
- ix. ‘proportional representation’ for elections to the European Parliament (under the European Parliamentary Elections Act, 1999);
- x. Requirement that local authorities abandon committee system and adopt a cabinet system, city manager or directly elected mayor – last requiring approval in a referendum with provision for 5 per cent of registered electors to require a referendum on elected mayor (under the Local Government Act, 2000);
- xi. European Convention on Human Rights enacted (under the Human Rights Act 1998);
- xii. Removal of all but 92 hereditary peers from the House of Lords (under the House of Lords Act, 1999);
- xiii. Freedom of information (under the Freedom of Information Act, 2000);

- xiv. Registration of political parties, the control of political donations and national campaign expenditure and establishment of the Electoral Commission (under the Political Parties, Elections and Referendums Act, 2000);
- xv. Abolition of office of Lord Chancellor, removal of Law Lords from House of Lords, and establishment of a new Supreme Court.

Do these changes amount to a constitutional transformation or even revolution? And in what sense are these ‘constitutional’ changes?

Blackburn, Robert and Plant, Raymond (eds) (1999), *Constitutional Reform: The Labour Government’s Constitutional Reform Agenda*, London, Longman.

\*\*Bogdanor, Vernon (2004), ‘Our New Constitution’, *Law Quarterly Review*, col.120, pp.242-262.

Bogdanor, Vernon (2009), *The New British Constitution*, Oxford, Hart Publishing.

Gamble, Andrew (2006), ‘The Constitutional Revolution in the United Kingdom’, *Publius*, vol.36, 2006, pp.19-35.

Hazell, Robert (1999), ‘The New Constitutional Settlement’, in Hazell (ed.), *Constitutional Futures: A History of the Next The Years*, Oxford, Oxford University Press.

\*\*Johnson , Nevil (2001), ‘Taking Stock of Constitutional Reform’, *Government and Opposition*, vol.331-354.

Johnson , Nevil (2004), *Reshaping the British Constitution*, Basingstoke, Palgrave Macmillan.

Judge, David (2006), ‘“This is What Democracy Looks Like”: New Labour’s Blind Spot and Peripheral Vision’, *British Politics*, pp.367-396.

Lipsey, David (2011) A very peculiar revolution: Britain’s politics and constitution, 1970–2011, *Political Quarterly*, vol.82, pp.351–354.

Mount, Ferdinand (2011), *The British Constitution Now: Recovery or Decline?* London, Heinemann.

Norton, P. (2007) Tony Blair and the constitution, *British Politics* vol.2. pp.269–281.

Oliver, Dawn (2006), *Constitutional Reform in the United Kingdom*, Oxford, Oxford University Press, pp.3-27.

Wilson, Richard (2005), ‘Constitutional Change: A Note by the Bedside’, *Political Quarterly*, vol.76, pp.281-287.

## 5. 13 January 2019

### Parliament and Parliamentary reform

In their classic comparative study of legislatures, Copeland and Patterson (1994) identified three universal functions performed by parliaments: linkage; decision making; and legitimation. We will consider these functions as they apply to Westminster and how they relate to the idea of the UK as a ‘Parliamentary state’. Parliament may be ‘*sovereign*’ but is it supreme and what role does it play in policy making as distinct from the executive? How does the comparative literature on legislatures help us understand the Westminster Parliament and its role in the constitution?

Blick, Andrew (2016), ‘Constitutional Implications of the Fixed-Term Parliaments Act 2011’, *Parliamentary Affairs*, vol.69, pp.19-35.

Copeland and Patterson (1994), *Parliaments in the Modern World*, Ann Arbor, MI, Michigan University Press.

Flinders, M. (2007), ‘Analysing reform: The House of Commons, 2001–5’, *Political Studies* vol.55, pp.174–200.

Flinders, M. (2009), *Democratic Drift: Majoritarian Modification and Democratic Anomie in the United*

Goodwin, Mark and Bates, Stephen (2016), 'The 'powerless parliament'? Agenda-setting and the role of the UK parliament in the Human Fertilisation and Embryology Act 2008', *British Politics*, vol.11, pp232-255.

\*Judge, David (1993), *The Parliamentary State*, London, Sage.

Kelso, A. (2009) *Parliamentary Reform at Westminster*, Manchester, UK: Manchester University Press.

Lang, Arabella (2017), 'Parliament's role in ratifying Treaties', House of Commons Library Paper 5855,

<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN05855#fullreport>

Maer, L., Hazell, R., King, S., Russell, M., Trench, A., Sandford, M. (2004), 'Dragging the Constitution out of the Shadows', *Parliamentary Affairs* vol.57, pp.253-268.

Norton, Philip (2017), 'Speaking for Parliament', *Parliamentary Affairs*, vol.70, pp.191-206.

Oliver, Dawn (2006), *Constitutional Reform in the United Kingdom*, Oxford, Oxford University Press, pp.171-202.

\*\*Russell, M. and Cowley, P. (2015), 'The Policy Power of the Westminster Parliament: The 'Parliamentary State' and the Empirical Evidence', *Governance*, vol.29, pp.121-137.

Russell, M. and Cowley, P. (2018), 'Modes of UK Executive-Legislative Relations Revisited', *Political Quarterly*, vol.89, pp.18-28.

Russell, M., Gover, D. and Wollter, K (2015), 'Does the executive dominate the Westminster legislative process?: Six reasons for doubt.', *Parliamentary Affairs*, vol.69, pp.286-308.

Schleiter, P, Belu, V., Hazell, R. (2017), 'Hung Parliaments and the Need for Clearer Rules of Government Formation', *Political Quarterly*, vol.88, pp.404-411.

Wright, Tony (2010), 'What are MPs for?', *Political Quarterly*, vol.81, pp298-308.

Political and Constitutional Reform Committee of House of Commons (2013), *Revisiting Rebuilding the House: The Impact of the Wright Reforms*, London: HMSO, HC 82-II.

## 6. Wednesday, 27 February 2019

### Lords Reform

'Democratic reform of the House of Lords is leftover business from the 1999 House of Lords Act and has been attempted in each of the last three parliaments. In addition, it is promised by all the main political parties and will be inevitable within the next 5 to 15 years.' Baroness Jones of Moulsecoomb.

Why has it proved so difficult to reform the House of Lords and what does this tell us about constitutional change more broadly in the UK?

Dorey, Peter (2018), 'The House of Lords since 1949, in C. Jones (ed), *A short history of Parliament: England, Great Britain, the United Kingdom, Ireland and Scotland*, Woodbridge, Boydell Press, pp.226-248.

Dorey, Peter (2018), *The Labour Party's long-standing lethargy over House of Lords reform*, <https://parliamentsandlegislatures.wordpress.com/2018/07/11/labour-house-of-lords-reform/>

Dorey, P. and Kelso, A. (2011), *House of Lords reform since 1911: must the Lords go?*, Basingstoke, Palgrave Macmillan.

Kippin, Sean and Campion, Sonali (2018), 'How undemocratic is the House of Lords', *Democratic Audit blog* 02/10/18,

<http://www.democraticaudit.com/2018/10/02/audit2018-how-undemocratic-is-the-house-of-lords/>

Russell, M. (2003), 'Is the House of Lords already Reformed?' *Political Quarterly*, vol.74, pp.311-318.

Russell, M. (2013), 'Rethinking Bicameral Strength: A Three-Dimensional Approach', *Journal of Legislative Studies*, vol.19, pp.370-391

\*\*Russell, M. (2009), 'House of Lords Reform: Are We Nearly There Yet?', *Political Quarterly*, vol.80, pp.119-125.

Russell, Meg (2013), *The Contemporary House of Lords: Westminster Bicameralism Revived*, Oxford, Oxford University Press.

\*\*Russell, M. and Sandford, M. (2003), 'Why are Second Chambers so Difficult to Reform?', *Journal of Legislative Studies* vol.8, pp.79-89.

## **FLEXIBLE LEARNING WEEK 18-22 February**

### **7. Wednesday, 6 March 2019**

#### **Judicialization of Politics in the UK**

The judicialization of politics is generally taken to have three different meanings: the increasing use of legal language and procedures in everyday decision-making; an expanded role of courts in policy-making; the use of courts to 'resolve' major controversial political issues. Some prefer to see this process as the politicisation of the judiciary and question its constitutional basis in the UK. The extent to which these processes have occurred as well as its implications are disputed. What role *do* and *should* courts have; how far should judicialization take place?

Gee, Graham and Hazell, Robert (2015), *The Politics of Judicial Independence in the UK's Changing Constitution*, Cambridge, Cambridge University Press.

Hirschl, Ran (2011), 'The Judicialization of Politics', in Robert Goodin (ed.), *The Oxford Handbook of Political Science*, Oxford, Oxford University Press.

Murkens, Jo (2018), 'Judicious Review: the constitutional practice of the UK Supreme Court', *Cambridge Law Journal*, vol.77, pp.349-374.

Nicol, Danny (2001), *EC Membership and the Judicialisation of British Politics*, Oxford, Oxford University Press, esp. ch.9.

\*\*Oliver, Dawn (2006), *Constitutional Reform in the United Kingdom*, Oxford, Oxford University Press, pp.89-110.

Stone Sweet, Alec (2002), 'Judicialization and the Construction of Governance', in Martin Shapiro and Alec Stone Sweet (eds), *On Law, Politics and Judicialization*, Oxford, Oxford University Press.

\*\*Sunstein, Cass (1994), 'Judicialisation of Politics in the United Kingdom', *International Political Science Review*, vol.15, pp.125-133.

Williams, Matthew (2016), 'Indeterminate sovereignty and the rule of law: A descriptive analysis of changes to parliament's use of language', *British Politics*, vol.11, pp.26-48.

### **8. Wednesday, 13 March 2019**

#### **Unfinished business: devolution.**

Legislation establishing and devolving devolved government has tended to be viewed in isolation despite implications for the rest of the UK constitution. In this seminar we will focus less on devolution itself than the wider constitutional implications.

Cox, Ed (2016), 'Devolution in England - Is the Genie out of the Lamp?' *Political Quarterly*, vol.87, pp.565-571.

\*\*Gover, Daniel and Kenny, Michael (2018), 'Answering the West Lothian Question? A critical Assessment of "English Votes for English Laws" in the UK Parliament', *Parliamentary Affairs*, vol.71, pp.760-782.

House of Lords Select Committee on the Constitution (2016), *The Union and Devolution*, HL Paper 149,

<https://publications.parliament.uk/pa/ld201516/ldselect/ldconst/149/149.pdf>

\*\*Jeffrey, Charlie (2016), 'Constitutional change - without end?', *Political Quarterly*, vol.86, pp.275-278.

Kelly, Richard (2017), *English Votes for English Laws*, House of Commons Library Briefing paper 7339.

Mitchell, James (2007), 'The Unfinished Business of Devolution', *Political Quarterly*, vol.77, pp.465-474.

Sandford, Mark and Mor, Federico (2018), 'England plus? Territory, identity and fiscal devolution in the UK', *British Politics*, September (early version available online)

## 9. Wednesday, 20 March 2019 Referendums

Referendums have become used increasingly in recent years but the use has been inconsistent. What role do referendums play in UK constitutional politics and what has the experience of referendums taught us? What is the relationship between Parliamentary sovereignty and the referendum?

Atkinson, Lucy and Blick, Andrew (2017), *Referendums and the Constitution*, Constitution Society.

Bogdanor, Vernon (2016), 'Europe and the Sovereignty of the People', *Political Quarterly*, vol.87, pp.348-351.

Constitution Unit (2018), *Report of the Independent Commission on Referendums*, Constitution Unit, UCL,

<https://www.ucl.ac.uk/constitution-unit/research/electionsandreferendums/icreferendums>

Hansard Society (2017), 'Parliamentary Democracy or Referendums? Public Attitudes to Decision making'.

House of Commons Public Administration and Constitutional Affairs Committee (2017), *Lessons Learned from the EU Referendum*, 12 April 2017, HC 496 of session 2016-17.

House of Lords Constitution Committee (2010), *Referendums in the United Kingdom*, HL Paper 99, 2009-10.

Johnston, Neil (2016), 'Referendums', House of Commons Library Briefing Paper 7692, <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7692#fullreport>

Le Roux, Nat (2016), 'Is there a tension between Parliamentary Democracy and Referendums?', *Constitution Society*.

\*\*Marshall, Geoffrey (1997), 'The referendum: what, when and how?', *Parliamentary Affairs*, vol.50, pp.307-313.

\*\*McKibben, Ross (2017), 'In the shadow of the referendums', *Political Quarterly*, vol.88, pp.382-385.

Stedman Jones, Gareth (2017), 'Brexit in context: reflections on the history of referenda', *History Workshop 3*.

Qvortrup, Matt (2016), 'Referendums on membership and European integration, 1972-2015', *Political Quarterly*, vol.87, pp.61-68.

Tierney, S (2015), 'Direct Democracy in the United Kingdom: Reflections from the Scottish Independence Referendum', *Public Law*, vol. 4, pp. 633-651.

See debate in House of Lords on 19 July 2018 on motion, 'that this House takes note of the impact on parliamentary democracy in the United Kingdom of the use of referendums'

## 10. Wednesday, 27 March 2019

### Brexit and the constitution

Brexit impinges on the constitution in multiple ways. These will be explored in this final seminar which will also allow us to return us to earlier discussions of the nature of the UK constitution, Parliamentary sovereignty, judicialization, the use of referendums, devolved government and citizenship. What does Brexit teach us about the UK constitution?

\*\*De Mars, S., Murray, Colin, O'Donoghue, A. and Warwick, Ben (2018), *Bordering Two Unions, Northern Ireland and Brexit*, Bristol, Policy Press.

European Union Committee of House of Lords (2017), *Brexit: Devolution*, HL Paper 9, <https://publications.parliament.uk/pa/ld201719/ldselect/ldeucom/9/9.pdf>

Gordon, Michael (2016), 'The UK's Sovereignty Situation: Brexit, Bewilderment and Beyond ...' *King's Law Journal*, vol.27, pp.333-343.

Mindus, Patricia (2017), *European citizenship after Brexit*, Palgrave Macmillan (available online).

Minto, Rachel, Hunt, Jo, Keating, Michael, and McGowan, Lee, (2016), 'A changing UK in a changing Europe: the UK state between European Union and Devolution', *Political Quarterly*, vol.87, pp.178-186.

Murphy, Mary (2018), *Europe and Northern Ireland's Future: negotiating Brexit's unique case*, Newcastle Upon Tyne, Agenda.

Thimont, M., Owen, J., Paun, A., Kellam (2018), *Devolution after Brexit*, Institute of Government,

<https://www.instituteforgovernment.org.uk/sites/default/files/publications/IFGJ6070-Devolution-After-Brexit-180413-FINAL-WEB.pdf>

\*\*Todd, John (2016), *The UK's Relationship with Europe: struggling with sovereignty*, Palgrave Macmillan e-book, see esp. conclusion.

Jon Tonge (2016), 'The Impact of Withdrawal from the European Union upon Northern Ireland', *Political Quarterly*, vol.87, pp.338-342.

## 11. Revision tbc

## Appendix 1: General Information

### **Students with Disabilities**

The School welcomes students with disabilities (including those with specific learning difficulties such as dyslexia) and is working to make all its courses as accessible as possible. If you have a disability special needs which means that you may require adjustments to be made to ensure access to lectures, tutorials or exams, or any other aspect of your studies, you can discuss these with your Student Support Officer or Personal Tutor who will advise on the appropriate procedures.

You can also contact the Student Disability Service, based on the third floor of the University's Main Library. You can find their details as well as information on all of the support they can offer at: <http://www.ed.ac.uk/student-disability-service>

### **Learning Resources for Undergraduates**

The Study Development Team at the Institute for Academic Development (IAD) provides resources and workshops aimed at helping all students to enhance their learning skills and develop effective study techniques. Resources and workshops cover a range of topics, such as managing your own learning, reading, note-making, essay and report writing, exam preparation and exam techniques.

The study development resources are housed on 'LearnBetter' (undergraduate), part of Learn, the University's virtual learning environment. Follow the link from the IAD Study Development web page to enrol: [www.ed.ac.uk/iad/undergraduates](http://www.ed.ac.uk/iad/undergraduates)

Workshops are interactive: they will give you the chance to take part in activities, have discussions, exchange strategies, share ideas and ask questions. They are 90 minutes long and held on Wednesday afternoons at 1.30pm or 3.30pm. The schedule is available from the IAD Undergraduate web page (see above).

Workshops are open to all undergraduates but you need to book in advance, using the MyEd booking system. Each workshop opens for booking two weeks before the date of the workshop itself. If you book and then cannot attend, please cancel in advance through MyEd so that another student can have your place. (To be fair to all students, anyone who persistently books on workshops and fails to attend may be barred from signing up for future events).

Study Development Advisors are also available for an individual consultation if you have specific questions about your own approach to studying, working more effectively, strategies for

improving your learning and your academic work. Please note, however, that Study Development Advisors are not subject specialists so they cannot comment on the content of your work. They also do not check or proof read students' work.

Students can book a study skills consultation at: <http://www.ed.ac.uk/institute-academic-development/undergraduate/services/quick-consultations>

Academic English support can also be accessed at: <http://www.ed.ac.uk/english-language-teaching>

## **Attendance Monitoring**

In accordance with the University general degree regulations you are expected to attend all teaching and assessment events associated with all courses that you are enrolled on. The College of Arts, Humanities and Social Sciences undertakes routine monitoring of attendance at tutorials and seminars for all students enrolled on courses delivered by Schools within our College. We undertake monitoring of attendance and engagement to enable us to identify where individual students may be experiencing difficulties and to ensure that timely and appropriate intervention can be delivered to provide support and guidance. We also undertake monitoring for sponsored students specifically to meet our obligations to the UKVI. If you miss one or more of your tutorials and/or seminars you may be contacted by your local Student Support Team and be asked to provide an explanation for your absence.

All data is gathered and stored in line with the University policies and guidance on data handling and you can view the privacy statement at:

<https://www.ed.ac.uk/student-systems/use-of-data/policies-and-regulations/privacy-statement>

## **External Examiner**

The External Examiner for the Politics and International Relations is Dr Lynn Bennie, University of Aberdeen

## **Appendix 2: Coursework Submission and Penalties**

### **Penalties that can be applied to your work and how to avoid them.**

Below is a list of penalties that can be applied to your course work and these are listed below.

Students **must** read the full description on each of these at:

[http://www.sps.ed.ac.uk/undergrad/current\\_students/teaching\\_and\\_learning/assessment\\_and\\_regulations/coursework\\_penalties](http://www.sps.ed.ac.uk/undergrad/current_students/teaching_and_learning/assessment_and_regulations/coursework_penalties)

Make sure you are aware of each of these penalties and know how to avoid them. Students are responsible for taking the time to read guidance and for ensuring their coursework submissions comply with guidance.

- **Lateness Penalty**

If you miss the submission deadline for any piece of assessed work **5 marks will be deducted for each calendar day that work is late, up to a maximum of seven calendar days (35 marks)**. Thereafter, a mark of zero will be recorded. There is no grace period for lateness and penalties begin to apply immediately following the deadline.

- **Word Count Penalty**

Your course handbook will specify the word length of your assessments. All coursework submitted by students must state the word count on the front page. All courses in the School have a standard penalty for going over the word length; if you are taking courses from other Schools, check with them what their penalties are.

The penalty for excessive word length in coursework is a 5-mark penalty. These 5 marks will be deducted regardless of how many words over the limit the work is (whether it is by 1 words or by 500!). In exceptional circumstances, a marker may also decide that any text beyond the word limit will be excluded from the assignment and it will be marked only on the text up to the word limit. In most cases, appendices and bibliography are not included in the word count whilst in-text references, tables, charts, graphs and footnotes are counted.

In most cases, appendices and bibliography are not included in the word count whilst in-text references, tables, charts, graphs and footnotes are counted. Make sure you know what is and what is not included in the word count. Again, check the course handbook for this information and if you are unsure, contact the Course Organiser to check.

You will not be penalised for submitting work below the word limit. However, you should note that shorter essays are unlikely to achieve the required depth and that this will be reflected in your mark.

### **ELMA: Submission and Return of Coursework**

Coursework is submitted online using our electronic submission system, ELMA. You will not be required to submit a paper copy of your work.

Marked coursework, grades and feedback will be returned to you via ELMA. You will not receive a paper copy of your marked course work or feedback.

For details of how to submit your course work to ELMA, please see our webpages [here](#).

Please note that all submissions to ELMA should be formatted as a Word document (doc or.docx.). If you are permitted or required to submit in a different format, this will be detailed in your course handbook.

Any submission that is not in word format will be converted by the Undergraduate Teaching Office into word where possible. By submitting in any format other than word, you are accepting this process and the possibility that errors may occur during conversion. The UTO will do everything possible to ensure the integrity of any document converted but to avoid issue, please submit in Word format as requested.

### **Extensions**

If you have good reason for not meeting a coursework deadline, you may request an extension. Before you request an extension, make sure you have read all the guidance on our [webpages](#)

and take note of the key points below. You will also be able to access the online extension request form through our [webpages](#).

- Extensions are granted for 7 calendar days.
- If you miss the deadline for requesting an extension for a valid reason, you should submit your coursework as soon as you are able, and apply for Special Circumstances to disregard penalties for late submission. You should also contact your Student Support Officer or Personal Tutor and make them aware of your situation.
- If you have a valid reason and require an extension of more than 7 calendar days, you should submit your coursework as soon as you are able, and apply for Special Circumstances to disregard penalties for late submission. You should also contact your Student Support Officer or Personal Tutor and make them aware of your situation.
- If you have a Learning Profile from the Disability Service allowing you potential for flexibility over deadlines, you must still make an extension request for this to be taken into account.

### **Exam Feedback and Viewing Exam Scripts:**

General exam feedback will be provided for all courses with an examination. General feedback will be uploaded to the relevant course learn page within 24 hours of the overall marks for the course being returned to Students.

Students who sit the exam will also receive individual feedback. The relevant Course Secretary will contact students to let them know when this is available and how to access it.

If students wish to view their scripts for any reason, they must contact the relevant Course Secretary via email to arrange this.

### **Plagiarism Guidance for Students: Avoiding Plagiarism**

Material you submit for assessment, such as your essays, must be your own work. You can, and should, draw upon published work, ideas from lectures and class discussions, and (if appropriate) even upon discussions with other students, but you must always make clear that you are doing so. **Passing off anyone else's work** (including another student's work or material from the Web or a published author) **as your own is plagiarism** and will be punished severely.

Copying part of one of your own assignments previously submitted for credit for the same or another course is **self-plagiarism**, which is also not allowed. This is an important consideration if you are retaking a course; an assignment submitted the previous year cannot be resubmitted the next, even for the same course.

When you upload your work to ELMA you will be asked to check a box to confirm the work is your own. All submissions will be run through 'Turnitin', our plagiarism detection software. Turnitin compares every essay against a constantly-updated database, which highlights all plagiarised work. Assessed work that contains plagiarised material will be awarded a mark of zero, and serious cases of plagiarism will also be reported to the College Academic Misconduct officer. In either case, the actions taken will be noted permanently on the student's record.

**For further details on plagiarism see the College website:**

<http://www.ed.ac.uk/arts-humanities-soc-sci/taught-students/student-conduct/academic-misconduct>

### **Data Protection Guidance for Students**

In most circumstances, students are responsible for ensuring that their work with information about living, identifiable individuals complies with the requirements of the Data Protection Act. The document, *Personal Data Processed by Students*, provides an explanation of why this is the case. It can be found, with advice on data protection compliance and ethical best practice in the handling of information about living, identifiable individuals, on the Records Management section of the University website at:

<https://www.ed.ac.uk/records-management/guidance/data-protection/dpforstudents>