

The English Constitution – teacher's notes

By Nigel Haines

As most countries have a written constitution, the English example is usually particularly curious to foreign students. This lesson explores the anomalies of this situation and the how it works in relation to the judiciary as well as the role of courts. Hopefully, it will help students have a very general understanding of a difficult, but interesting, area of the English legal system.

Aim: to practise the skills of:

- **prediction** – about the English constitutional and judicial system
- **reading for specific information** – to check predictions and understand aspects of the English constitutional system
- **guessing or selecting vocabulary** – related to a text
- **speaking about their own constitution** - in comparison to the English example

Level: Upper Intermediate and above

Student profile: It is envisaged that students will have a better-than-basic knowledge of their own country's legal and constitutional system.

Time: The lesson is in 6 stages and should take at least 90 minutes.

This could be a first lesson as it is not only a way to introduce the nature of English constitutional law, its history and development, but also an opportunity for students to compare their own country's system with ours. It should produce some lively discussion, particularly in a mixed nationality class.

Stage 1

This is based around students predicting if certain statements about English law are true or false.

Procedure:

Either as a handout or displayed as an OHT or using an interactive whiteboard, students are encouraged to decide which statements are true or false. This should raise students' interest and start discussion about the subject.

It is suggested that the answers are not given and students are encouraged to read the text to check their answers.

Statements	Answers
1. English Law dates from 1189	False – the date when customs date from leading to the development of common law
2. Judges can influence the development of law	False – judges can exercise a considerable degree over the practical application of statutes
3. All laws are interpreted by the courts	True
4. Parliament's powers are limited	False – there is no legal limit to the power of Parliament
5. Parliament makes all the laws	True – it is sovereign
6. Custom is part of law	True – judges have applied customs, particularly in the past.
7. The decision of one court does not affect another	False – precedent means that a judge is bound by the decision of a superior Court in a similar case
8. The first written constitution in England was the Magna Carta	False – it established for the first time that the power of the King could be limited

Notes:

- You might want to draw students' attention to the difference in meaning between:

a law (n): a rule (written or unwritten) by which a country is governed and the activities of its citizens are controlled – in England this is an Act of Parliament

a statute (n): a written law, especially an Act of Parliament

an act (n): a statute which has been approved by Parliament

- 1189** was the date that Henry II died and Richard I became King. Henry II established courts in various parts of England, and first instituted the royal practice of granting magistrates the power to render legal decisions on a wide range of civil matters in the name of the Crown. His reign saw the production of the first written legal textbook, providing the basis of today's "Common Law"
- For information on the Magna Carta, its history and an image go to: <https://www.archives.gov/exhibits/featured-documents/magna-carta>

Stage 2

Procedure:

Students read the gapped text to check their predictions. Point out that the missing words will not hinder their ability to find the correct answers. They should not spend time trying to work out what these words are but concentrate on checking their predictions to stage 1.

Use the text and the task as a reading comprehension to raise interest and understanding in the topic.

Correct students' answers and deal with any questions. Hopefully the topic is fairly general that no detailed answers will need to be given at this stage.

Stage 3

Procedure:

This is a very Cambridge typical exam question. Some students may be familiar with this style of question. If not they will need some explanation.

Try not to let the students use dictionaries as their use would probably be more suitable for the next stage. Answers can be given orally and/or the completed version can be handed out. Deal with any questions raised when doing the exercise.

Answers in bold:

(1)	judicial	legislative	administrative
(2)	judiciary	judges	courts
(3)	enacts	makes	decides
(4)	consequent	consecutive	subsequent
(5)	doctrine	principle	theory
(6)	rulings	judgements	conclusions
(7)	constrained	bound	obligated
(8)	inconsistent	arbitrary	approximate
(9)	principles	purpose	objectives
(10)	adjust	redefine	modify

Stage 4

Procedure:

Try to encourage students who are not familiar with any of the words to work out their meaning from context. If necessary, let students use dictionaries. Answers can be given orally and/or the completed version handed out. Again, deal with any questions raised when doing the exercise.

Answers:

A	B
enacts	to make into law
principles	a rule or standard
modify	to change in form or character
arbitrary	based on or subject to individual judgment or preference

bound	being under an obligation
doctrine	a rule or principle of law, especially when established by precedent
subsequent	following in time or order
judiciary	a system of courts of law for the administration of justice
judgements	a judicial decision
legislative	having the power to create laws

Stage 5

Procedure:

The task is for each student on their own to complete the chart using information from the text for England and then for their own country.

1. Ask the students to complete the chart for England. Accept suitable answers as follows:

Main points	England
Type of constitution	unwritten
Its history	dates from the Magna Carta (1215). Since then Parliament has become Sovereign replacing the power of the Monarchy.
Sources of law	<ul style="list-style-type: none"> • Parliament/legislation • Judicial decisions/ precedents • Common law/custom
The role of Parliament	to represent the will of the people and enact law
The role of the judiciary	to interpret and apply the law They can influence the development of enacted law

Importance of previous cases and decisions	they ensure consistency so decisions made by a superior court are binding on subsequent courts in similar cases
The role of statutes	<ul style="list-style-type: none"> • a written record of the law – an Act – to be applied and administered by the judiciary • to modify or clarify the common law
Interpretation of statutes	by the courts who decide how they are applied

2. Students then individually complete the same chart for their own country. This could be optional depending on the make up of the class.

Procedure:

Students compare their answers with a partner or in groups:

- If they are from different countries with different legal backgrounds, compare their systems as well.
- If students are a mono-nationality class, students should check their answers with each other.

Stage 6

Procedure:

Either:

a group/open class discussion with maybe a presentation from students of their system of law and constitution

or

a debate, the motion being: Only a written constitution can provide a proper legal framework for a Parliament to govern.

or

a composition on the advantages and disadvantages of an unwritten constitution.

Completed version of text – missing words in bold

These words by Aristotle, the famous ancient Greek philosopher, could have been written to describe English law and its sources.

Where else would you find constitutional laws without any constitution? Most people have heard of the Magna Carta (1215). It is often described as the corner stone of liberty and the chief defence against arbitrary and unjust rule in England by establishing for the first time a very significant constitutional principle, namely that the power of the King could be limited.

Through the ages this principle has continued to be upheld in spite of various monarchs, civil war and riots resulting in Parliament making itself sovereign and representing the will of the people. As a result, all **legislative** power is vested in Parliament. There is no legal limit to the power of Parliament and the courts are bound by all legislation that is enacted by Parliament. So, what is the role of the **judiciary**?

The courts interpret the law, which means that although Parliament **enacts** the law, the courts decide how they are to be applied. These decisions are treated as precedents and **subsequent** courts will follow these decisions if they have similar issues to determine.

This **doctrine** of precedent developed from common law which itself is based on custom and dates from 'time immemorial' (or at least 1189). Often before government wrote new laws, judges applied local and ancient customs, and in order ensure that **judgements** were consistent relied on decisions made in previous cases. This has also led to the principle that a judge is **bound** by the decision of a superior court when reaching a decision in a similar case.

Judges do not exercise their discretion in an **arbitrary** way. They rest their judgements upon the general **principles** of case law and can have influence upon the development of enacted law. Accordingly, the courts can exercise a considerable degree over the practical application of statutes although governments make new laws or statutes which **modify** or clarify the common law.
