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### **The Constitutional law**

#### **General concepts**

- 1- The constitution is a collection of rules which establish and regulate the government of a country.
- 2- The constitution is a universal phenomenon.
- 3- The constitution reflects the interests of the whole society .
- 4- A constitution change may be brought about through an amendment or abrogation.
- 5- Most constitutions in the developing countries are programmatic.
- 6- The constitution is supreme law in the country.
- 7- The legislative supremacy developed in countries which have no written constitution.
- 8- The principle of constitutional supremacy is expressly declared in the constitution .

#### **Sources of constitutional law:**

There are three main sources of constitutional law ,as follows:

##### **1-Legislation**

##### **2-Judicial interpretation**

### **3-Conventions**

#### **The difference between classic and modern constitutions:**

Most of the classic constitutions contain mainly the rules of law. The modern constitution, on the other hand, contains statements of political objectives. In addition, the modern constitution contains a political philosophy. This philosophy considers the state as a device to secure the good and welfare of the people, on the contrary to the case of the classic constitutions. Some modern constitutions contain so-called directive principles of state policy. These principles set out the economic, social and political goals of the constitutional system.

#### **Examples of directive principles;**

- A- That all citizens irrespective of sex, equally have the right to an adequate means of livelihood
- B- That equality of opportunity is guaranteed to all citizens.
- C- That there is equal pay for equal work for both men and women.
- D- That the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement secured.

#### **Preamble**

Most constitutions contain a preamble. There is a difference of opinion regarding the legal value of the preamble. There are those who believe it does not include any legal value. It has only moral value, while others see it as having legal value as well as moral value, which is the most correct opinion.

#### **The doctrine of separation of powers**

Montesquieu is considered the author of the theory of separation of powers which is implemented in many constitutions throughout the world.

**Montesquieu explained his idea as follows :**

- (1) There are three main organs of government in a state the Legislature , the Executive and the Judiciary . Each of them performs a distinction .
- (2) The concentration of more than one function in any one person or organ is a threat to individual liberty .
- (3) If the Executive and Legislature the same person or body of persons , there is a danger of the Legislature enacting oppressive law which the Executive will administer to attain its own ends .
- (4) Particularly is this true of a personal executive ,not responsible in law to the courts or politically to a representative assembly .
- (5) If the legislative and judicial powers are exercised by the same body the judge would then be a legislator rather than an interpreter of the law .

**Constitutional Development in Iraq"**

The constitutional history of Iraq may be divided into two periods.

***They are "***

**(1) The period of monarchial regime**

This period began with the establishment of the monarchial regime in 1921.

In 1925 , a constitution was promulgated declaring Iraq as {A constitutional hereditary monarchy with a representative government }The constitutional was officially approved by constituent assembly set up in 1923 .  
The constitution itself consisted of (123) Articles , divided into parts with an introduction .It was amended twice .  
The legislature was bicameral . parliament consisted of two houses : the Senate and the Chamber of Deputies .

## **(2) The period of the republican regime**

This period has witnessed the establishment of a number of constitution .Among these are the following .

### **(A) The provisional constitution of 1958**

The constitution was drawn up by a committee appointed by the council of ministers .The draft was submitted to the council who approved it.

The constitution consisted of a preamble and (30) articles divided into four heads.

### **(B) The provisional constitution of 1968**

This constitution was declared by a decision taken by the council of the revolution command . most of its provision were derived from the United Arab Republic's constitution of 1964.

## **Legal terms**

Act	فعل ، تصرف	Abrogation	إلغاء
Aggregate	مجموع	Affect	يؤثر في

Amend	يَعْدِل	Aim	هدف
Aspiration	مطمح	Amendment	تعديل
Based on	مستند إلى	Authority	سلطة
Binding	ملزم لـ	Basis	أساس
Certain	محدد ، معين	Case in point	مثل على ذلك
Changing	متغير	Citizen	مواطن
Coherent	متربط	Clause	فقرة ، بند
Condition	يقرر ، يتحكم بـ	Component	عنصر ، أو جزء أساسي
Constitute	يؤلف	Confirm	يؤكد
Constitutional	دستوري	Constitution	دستور
Context	السياق	Contrary to	مناقض ، على العكس من
Declare	يعلن	Deal with	يتعامل مع
Define	يَعْرِف	Deduce	يستنتج
Denote	يشير	Definition	تعريف
Developing countries	دول متقدمة	Determine	يحدد
Doctrine	مذهب	Distinction	تمييز
Dominant	مهيمن	Document	وثيقة

Echo	صدى	Duty	الواجب
Effects	آثار، نتائج	Legislative	تشريعي
Enact	يسن، يشرع	Made (law)	وضع، شرع (قانونا)
Enshrined in	المحتواة في	Nullify	يلغي، يبطل، ينقض
Essence	جوهر	Operate	يعمل
Establish	يؤسس	Operative	نافذ المفعول
Execute	ينفذ	Organs	هيئات
Executive	تنفيذي	Overridden	يلغى عليه، يجب، يلغى
Expressly	بصراحة		يبطل
Formal	شكل، رسمي	Parts	أجزاء
Framework	إطار	Phenomenon	ظاهرة
Function	وظيفة	Politics	سياسة
Fundamental	أساسي	Power	سلطة
Government	حكم، حكومة	Procedure	اجزاء
Governmental	حكومي	Process	عملية
House of commons	مجلس العموم	Programmatic	برنامجي
Inferred from	مستنتج من	Prohibit	يحرم
Institution	مؤسسة	Regulate	ينظم
Interest	مصلحة	Relation	علاقة
Isolation	عزلة، معزل	Repeal	يلغى
Judicial	قضائي	Repugnant to	معارض، منافذ
Laid therein	منصوص عليه في ذلك	Right	حق
Land (law of)	بلاد، (قانون البلاد)	Rigidity	جمود
Law	قانون	Rule	قاعدة
legal	قانوني	Sanctity	حرمة، الزامية