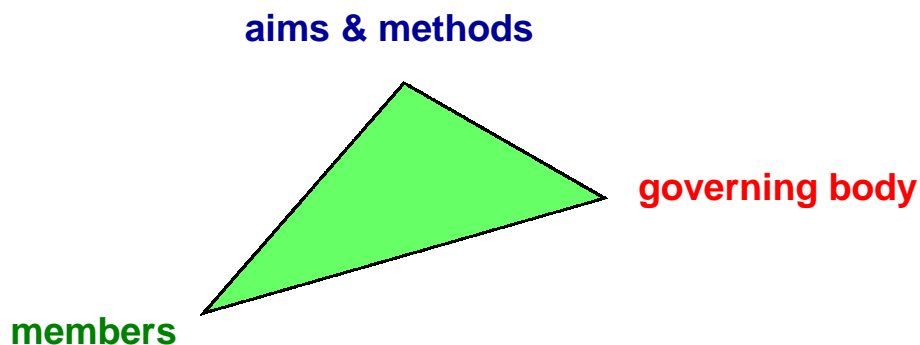




UNIT 17: SUPPORT MATERIAL

WHAT IS A CONSTITUTION?

Many organisations have a written constitution. A constitution defines the core aims of the organisation, the rights and responsibilities of its members and the powers and responsibilities of its governing bodies.

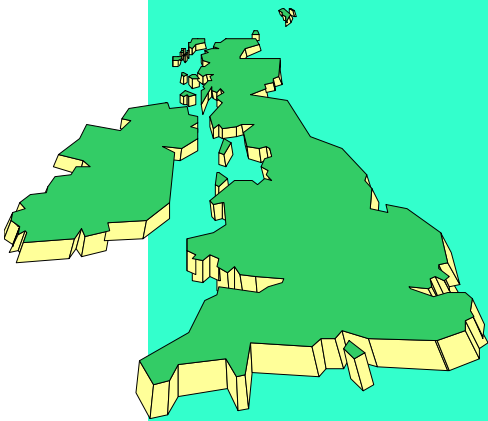


The Boys' Brigade constitution does exactly this and can only be changed by a two thirds majority at Brigade Council, the Brigade's supreme governing body, at which each company has a vote. Why do you think that it is made more difficult to change the constitution than a simple 50% majority?

The constitution of a country follows the same principle as one for any organisation. There are two types of constitution

- unwritten
- written

Unwritten Constitution



The **United Kingdom** does not have a formal constitution written down in a single document. Rather its constitution has evolved over 1000 years.

It consists of a body of statutory law (such as Magna Carta), customs, and judicial interpretations. For instance there is no written law that states that the government should consist of a cabinet, or who should be in it. This form of the executive of government has evolved slowly since the 15th century when its original purpose was to advise the monarch. This most important of aspects of government is simply a matter of custom. **The advantage of this form of government is that it can be easily changed by a simple act of Parliament, or by modifying a custom, or by a judge reinterpreting a law.** As examples new laws have been passed creating a Welsh Assembly, a Scottish Parliament, and a Northern Ireland Assembly as simple acts of Parliament. Prime Minister Blair has changed the custom of being present in the Commons to answer questions personally from twice a week to once a week.

This means that the British constitution has been easily able to cope with governing England or the United Kingdom or the British Empire, and can easily evolve to match the needs of the future.



Written Constitution

The most famous and longest lasting written constitution still in force today is that of the **United States of America**. The original 13 colonies had, in 1776, just gained independence from the British Crown in whom maintenance of the British constitution is entrusted. They wanted clearly to define their new form of government which was careful not to create an all powerful President (seeming much like the British Monarch) but to split power between the President, the House of Congress, which has representatives from each state in proportion to their population, the Senate, in which all States have equal representation regardless of their size, and the judiciary. The powers and composition of each component is clearly defined by the 7 articles and 27 amendments of the Constitution.

The US constitution has on the whole served the United States very well. However to change the constitution requires a two thirds majority in Congress and a three quarters majority of the individual States. This makes it difficult to make changes to the constitution, for instance states with large populations or a number of smaller states can block changes.

An example of where this is a problem is in the area of gun control. The individual states protect jealously their right to raise militia which means the citizens have the right to keep guns at home. In fact there are more guns per head of population in the USA than anywhere else. Unfortunately the USA also has the highest murder rate and some feel that it would be better if there were far fewer guns in society but unlike in Britain, where a law was recently passed by Parliament banning all but a very few guns for farmers etc. by a simple majority, it would be very difficult to ban guns in the USA. The recent shootings by children in schools has made some Americans to rethink.

Federations

There are a number of federal countries such as the USA, Canada, Australia, Germany. The constitution is vital to a federation of states which defines the powers of the federal government versus the state government. Some famous instances where the constitution has been very important are

- The American Civil War (1861-1865) arose from some states of the original US federation (or Union) disagreeing about the powers that should be allowed to the federal government. These states left the federation and formed a confederation (The Confederacy). The original constitution led to a war which claimed many lives.
- Canada is a confederation of 10 provinces and 3 territories. The constitution is required to balance the power of central government versus the power of the provinces. In particular Quebec is the only French speaking province and many in Quebec look to the constitution to give it the freedom to keep its distinctive culture within a largely English speaking Canada and indeed North America.
- The individual British colonies of Australia could only agree on a constitution under which to form the federal Commonwealth of Australia as late as 1901, as there was much rivalry between states. Canada has united some 50 years earlier.
- Germany is a federation of the various states or Länder. The constitution for West Germany was carefully crafted after the Second World War so that the states of old East Germany would be able to join if the possibility arose. Although this seemed a remote possibility during the "Cold War" Germany is today again one country.

Dictatorship versus Constitution



Ultimately the constitution of a country is the only defence the population has against being dominated by a few powerful people or dictators. Whether this is sufficient depends on the respect people have for the constitution.



In England and Scotland 1000 years ago the monarch was all powerful and over the centuries laws, agreements and customs have arisen to limit the power of the Crown. However ultimately the Crown is today the keeper of the constitution, the only continuing power which ensures that the power of the politicians is regulated. Politicians only hold their power through the Crown, not in their own right, thus providing the necessary checks and balances required for a stable society. This is the key role of the monarchy today. Whether the constitution is written down or custom and law the constitution is only as good as the respect that powerful people in the land have for it.

