

UNIVERSITE D'ABOMEY-CALAVI (UAC)

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FACULTE des LETTRES, ARTS ET SCIENCES  
HUMAINES (FLASH)

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ECOLE DOCTORALE PLURIDISCIPLINAIRE  
(ESPACES CULTURELS ET DEVELOPEMENTS)

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ETUDES ANGLOPHONES

*Option* : ETUDES BRITANNIQUES

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**MEMOIRE DE DEA**

**IMPACTS OF THE UNWRITTEN CONSTITUTION  
ON THE PARLIAMENT AND SOCIETY IN THE  
UNITED KINGDOM**

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*Année Académique : 2013-2014*

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# DEDICATION

This research work is dedicated:

- ❖ To the Almighty God for assisting me in everything, and for giving me the right inspiration to write this work. Glory be to Him!
- ❖ To my beloved father and mother (AFFO Fataou and OFFRIN H  l  ne), for their valorous efforts in bringing me up.

# ACKNOWLEDGEMENTS

- ❖ My profound gratitude first goes to **Prof. Taofiki KOUMAKPAI**, for accepting to supervise this work despite his workload.
- ❖ My sincere thanks to **Dr. Ibrahim YEKINI** and **Dr. Bertin DANSOU**, for their advice; I am honored to follow your paths.
- ❖ I also owe thanks to all my lecturers of the English Department.
- ❖ To my mother **OFFRIN Hélène**, who has paved the way to my first steps in English learning, i am so grateful to her I promise she will always be proud of me; i do not forget my father **AFFO Fataou** and my grand mother **ALI Maimouna**, may God hear your prayers towards me.
- ❖ I lastly greet all my brothers, sisters and friends, your supports are of a big importance.

**God bless you!**

# **ABSTRACT**

A constitution is a set of rules, which are generally written, it identifies the relationship between the different parts of the government, and also the relationship between the government and the citizens. In most countries the constitution is the ultimate source of legal power. Whether written or not written they will both share similarities, this being the identification of powers such as the executive, and the legislature. However it would be wrong to say that they are identical, apart from the most obvious difference under the surface this main difference has many effects, in particular the unwritten constitution. This research represents a comparative analysis of the British constitution and the Beninese one. Our study will then be focused on the main institutions of both the United-Kingdom and the Republic of Benin.

# GENERAL INTRODUCTION

In our world, what makes a country is its power in terms of military force and economic force. But the most fundamental for each country are laws and texts ruling its institutions: namely, the constitution. As such, the United-Kingdom of Great Britain and Northern Ireland, also referred to as Britain, is a North-Western country of Europe, which for some reasons characterizing its history has a constitution often considered to be uncodified or unwritten in a single document. The United Kingdom was created by the Union in January 1801 of the Kingdom of Great Britain with the Kingdom of Ireland, which had been ruled by English and British monarchs since the Middle Ages, with the passing of the Act of Union 1800. Since the Glorious Revolution in 1688, the bedrock of the British constitution has traditionally been the doctrine of parliamentary sovereignty, according to which the statutes passed by Parliament are the UK's supreme and final source of law. It follows that Parliament can change the constitution simply by passing new Acts of Parliament. So there is no defining document that can be termed "the constitution". Because the political system evolved over time, rather than being changed suddenly in an event such as a revolution, it is continuously being defined by acts of Parliament and decisions of the Law Courts. The closest the UK has come to a constitutional code has been the Treaty of Union 1707, but this tends only to be subject to legal and academic scrutiny in Scotland, and has not received comparable attention in England and Wales. Most constitutions seek to regulate the relationship between institutions of the state, in a basic sense the relationship between the executive, legislature and the judiciary, but also the relationship of institutions within those branches. For example, executive branches can be divided into a head of government, government departments/ministries, executive agencies and a civil service/administration. Most constitutions also attempt to define the relationship between individuals and the state, and to establish the broad rights of individual citizens. It is thus the most basic law of a territory from which all the other laws and rules are hierarchically derived; in some territories it is in fact called "Basic Law". This is the case of most of other countries of the world whose constitutions are written instead. Benin, a West African country is an example among those countries which have written constitution. Indeed, the purpose of this study is to show the importance of a written constitution. This research represents a comparative analysis of the British constitution and the Beninese one. Our study will then be focused on the main

institutions of both the United-Kingdom and the Republic of Benin. Taking into account the methodological research as far as a comparative study is concerned, on one hand ,we will try to define what we call a constitution and giveabriefpresentation of the United kingdom and Benin, and on a the other hand, compare the UK's constitution to Beninese constitutionstudying the similitude and the differences, thenstate the drawbacks of an unwritten constitution taking into accountthe Scottish Republic's claim of independence from the UK (2014) and in the same way sayhow advantageous is it for a nation to have a written constitution studying Case of Benin Republic: PresidentYayi BONI's current project to revise the constitution (2011-2016). All this will be the basis to the development of my research work.

# **CHAPTER ONE: RESEARCH BACKGROUND AND INTRODUCTION TO THE STUDY**

## **1-1 Problem Statement**

“Government without a constitution is power without right” said Thomas Paine, in his Book ‘Rights of Man’. The constitution is the official document which sets the rights and duties of the people towards its country, but also the state’s prerogatives, limits and obligations towards its people. So every democratically constructed nation must have that document so as to rule rightfully and organize the relationship between the executive, the legislature and the Judiciary. The United Kingdom is one of the rare countries to not have a constitution. Since the Glorious Revolution in 1688, the bedrock of the British constitution has traditionally been the doctrine of parliamentary sovereignty, according to which the statutes passed by Parliament are the UK's supreme and final source of law. It follows that Parliament can change the constitution simply by passing new Acts of Parliament. So there is no defining document that can be termed "the constitution". Because the political system evolved over time, rather than being changed suddenly in an event such as a revolution, it is continuously being defined by acts of Parliament and decisions of the Law Courts. The closest the UK has come to a constitutional code has been the Treaty of Union 1707, but this tends only to be subject to legal and academic scrutiny in Scotland, and has not received comparable attention in England and Wales. In fact, UK is a very conservative country with a highly educated society ruled under parliamentary sovereignty whose laws are just derived and based on customs, traditions, religion and gentry. This aspect of the British constitution is so anchored into every UK citizen’s habits that they considered it like gentlemen agreement. They don’t actually give any importance to whether it is written or unwritten, since they survive in living through generations with it. But, that is where the danger resides, because all this is a facade. So how long will the UK stand ruling with unwritten constitution? This study actually raises the importance of a written constitution for a parliamentary sovereignty like the United Kingdom, and especially how an unwritten constitution can be dangerous for the democracy and socio-political and economical stability of a country. Also, this research will be focused on the case of Benin, a West African country whose constitution is well written. However, it is facing some major political issues as far as its constitution is concerned, since the time that, bills have been introduced at the National assembly by the Government for revision of the article 42 of the constitution, in order to run a third term.

## **1-2 Purpose of the Study**

The objective of this research work is to show the advantages and drawbacks of unwritten constitution on the parliament and society in the UK on one hand, and to highlight the positive aspects of a written constitution taking the example of Benin, on the other hand.

As far as a constitution is concerned, it represents the basic law of a territory from which all the other laws and rules are hierarchically derived; in some territories it is in fact called "Basic Law". This is the case of most of other countries of the world whose constitutions are written instead.

## **1-3 Significance of the study**

This research work represents a comparative analysis based on the impacts of unwritten constitution on the parliament and society in a country like UK versus the Beninese constitution.

## **1-4 Scope and limitation of the Study**

To carry out the study, I need to limit the study in order to make it in analyzing the constitutions of the UK and Benin. This research is going to analyse the British parliament, its institutions and how risky the British society is living when ruled under such a constitution. Besides, we will focus on the positive aspects of the Beninese written constitution.

## CHAPTER TWO: LITERATURE REVIEW AND CLARIFICATION OF CONCEPTS

### 2-1- Literature review

As far as this research work is concerned, a literature review is one of the important stages to go through so as to comprehend and make a deep analysis of the topic. Working on this theme of constitution, then requires the reading and study of the British constitution, the Beninese constitution and also due to the relevance a constitution, many scholars' point of views and comment on it in their works.

In the 19th century, A. V. Dicey, a highly influential constitutional scholar and lawyer, wrote of the twin pillars of the British constitution in his classic work *Introduction to the Study of the Law of the Constitution* (1885). These pillars are the principle of *Parliamentary sovereignty* and the *rule of law*. Parliamentary sovereignty means that Parliament is the supreme law-making body: its Acts are the highest source of English law. A. V. Dicey identified that ultimately "the electorate are politically sovereign," and Parliament is legally sovereign.

The legal scholar Eric Barendt argues that the uncodified nature of the United Kingdom constitution does not mean it should not be characterised as a "constitution", but also claims that the lack of an effective *separation of powers*, and the fact that *parliamentary sovereignty* allows Parliament to overrule fundamental rights, makes it to some extent a 'facade' constitution.

Prof. Bryce on "*Constitutions, Flexible and Rigid*." (February 4, 1885). We clip the following from reports of two lectures given by Prof. Bryce before the students of Oxford, His remarks will be of interest to those who are studying constitutional history. "The two Constitutions, which, by reason of the length of their history, and the influence which they have exercised on statesmen have most interest for the student of political evolution-those of Rome and England-belong to the same type ; the type usually described as unwritten, because in the main their rules and principles rest far more on usage than on any organic statute or body of statutes. In contrast with these is a class of Constitutions now beginning to attract more notice, and illustrated by those of Switzerland and the United States ; Constitutions usually known as written, because they are wholly contained in written enactments. But the current fashion of expressing, this distinction is unsatisfactory.

According to Kenneth Burke, works of art, including literature, "are strategic namings of situations" (Adams, 942) that allow the reader to better understand, and "gain a sort of control" (Adams, 942) over societal happenings through the work of art.

In "*The Commons Today*", (1988) Michael Ryle argues that the influence of the house of commons comes from its ability to speak to and for the people. However, those MPs who sit in the chamber cannot be described as a representative cross-section of the electorate at large.

MADGEWICK P. J., in *An Introduction to the British Constitution*, 1983, has called the cabinet "The directing committee or board of management of the British Government". Meaning that, the Government is an all-embracing concept and covers about one hundred ministers of varying rank. The Cabinet, on the other hand is a committee of the Government made up of twenty or so senior ministers, who meet for about five hours per week to coordinate the work of the Government.

## **2-2- CONCEPTUAL CLARIFICATION**

### **2-2-1- Definition of a constitution**

The term *constitution* comes through French from the Latin word *constitutio*, used for regulations and orders, such as the imperial enactments (*constitutiones principis*: edicta, mandata, decreta, rescripta). Later, the term was widely used in canon law for an important determination, especially a decree issued by the Pope, now referred to as an *apostolic constitution*. A **constitution** is a set of fundamental principles or established precedents according to which a state or other organization is governed. These rules together make up, i.e. *constitute*, what the entity is. When these principles are written down into a single document or set of legal documents, those documents may be said to embody a **written** constitution; if they are written down in a single comprehensive document, it is said to embody a **codified** constitution. In most but not all modern states the constitution has supremacy over ordinary Statutory law, in such states when an official act is unconstitutional, i.e. it is not a power granted to the government by the constitution, that act is **null and void**, and the nullification is **ab initio**, that is, from inception, not from the date of the finding. It was never "law", even though, it had been a statute or statutory provision, and it might have been adopted according

to the procedures for adopting legislation. Sometimes the problem is not that a statute is unconstitutional, but the application of it is, on a particular occasion, and a court may decide that while there are ways it could be applied that are constitutional, that instance was not allowed or legitimate. In such a case, only the application may be ruled unconstitutional. Historically, the remedy for such violations have been petitions for common law writs, such as *quo warranto*. Here are some forms of constitution we have in world:

### **2-2-2- Kind of Constitutions**

## **Either written or unwritten, we have a group of constitution that can be distinguished as far as period, history and traditions factors are concerned**

There is no doubt that each society has political activity that connects with its social, economic, geographic and political conditions, as well as constitutional studies come at the top of the legal studies due to the subject of the constitutional law connects directly with life and cares of all citizens in the state, rulers or subjects. If the constitutional law cares with the rulers from one corner, but it determines the general aspect of authorities and regime of the governing in the state and draws the limits for specification to each authority and its relations with others. Whatever point of view, there is no dispute on importance of the constitutional law because it cares with the rulers and subjects and upgrades to the top place. The constitution is a set of the legal rules organize entity of the state and human society that exists among definite geographic space regarding with constitution and legal rules are in permanent and continues movement.

### **Pre- modern constitutions**

#### **Antiquity**

In 621 BC a scribe named Draco codified the cruel oral laws of the city-state of Athens; this code prescribed the death penalty for many offences (nowadays very severe rules are often called "Draconian"). In 594 BC Solon, the ruler of Athens, created the new *Solonian Constitution*. It eased the burden of the workers, and determined that membership of the ruling class was to be based on wealth (plutocracy), rather than by birth (aristocracy). Cleisthenes again reformed the Athenian constitution and set it on a democratic footing in 508 BC. Aristotle (*ca* 350 BC) was one of the first in recorded history to make a formal distinction between ordinary law and constitutional law, establishing ideas of constitution and

constitutionalism, and attempting to classify different forms of constitutional government. The most basic definition he used to describe a constitution in general terms was "the arrangement of the offices in a state". In his works *Constitution of Athens*, *Politics*, and *Nicomachean Ethics* he explores different constitutions of his day, including those of Athens, Sparta, and Carthage. He classified both what he regarded as good and what he regarded as bad constitutions, and came to the conclusion that the best constitution was a mixed system, including monarchic, aristocratic, and democratic elements. He also distinguished between citizens, who had the right to participate in the state, and non-citizens and slaves, who did not. The Romans first codified their constitution in 450 BC as the *Twelve Tables*. They operated under a series of laws that were added from time to time, but Roman law was never reorganised into a single code until the *Codex Theodosianus* (AD 438); later, in the Eastern Empire the *Codex repetitæprælectionis* (534) was highly influential throughout Europe. This was followed in the east by the *Ecloga* of Leo III the Isaurian (740) and the *Basilica* of Basil I (878). The *Edicts of Ashoka* established constitutional principles for the 3rd century BC Maurya king's rule in Ancient India. For constitutional principles almost lost to antiquity. These continental codes were all composed in Latin, while Anglo-Saxon was used for those of England, beginning with the Code of Æthelberht of Kent (602). In ca. 893, Alfred the Great combined this and two other earlier Saxon codes, with various Mosaic and Christian precepts, to produce the *Doom book* code of laws for England.

### **Middle Ages**

The Constitution of Medina (Arabic: صحيفة المدينة, *Ṣaḥīfat al-Madīna*), also known as the Charter of Medina, was drafted by the Islamic prophet Muhammad. It constituted a formal agreement between Muhammad and all of the significant tribes and families of Yathrib (later known as Medina), including Muslims, Jews, and pagans. The document was drawn up with the explicit concern of bringing to an end the bitter inter tribal fighting between the clans of the Aws (Aus) and Khazraj within Medina. To this effect it instituted a number of rights and responsibilities for the Muslim, Jewish, and pagan communities of Medina bringing them within the fold of one community—the Ummah. The precise dating of the Constitution of Medina remains debated but generally scholars agree it was written shortly after the Hijra (622). It effectively established the first Islamic state. The Constitution established: the security of the community, religious freedoms, the role of Medina as a haram or sacred place (barring all violence and weapons), the security of women, stable tribal relations. In Wales, the *Cyfraith Hywel* was codified by Hywel Dda c. 942–950. The *Pravda Yaroslava*, originally

combined by Yaroslav the Wise the Grand Prince of Kiev, was granted to Great Novgorod around 1017, and in 1054 was incorporated into the *Russkaya Pravda*, that became the law for all of Kievan Rus. It survived only in later editions of the 15th century.

Copy of *Magna Carta* from 1297. In England, Henry I's proclamation of the Charter of Liberties in 1100 bound the king for the first time in his treatment of the clergy and the nobility. This idea was extended and refined by the English barony when they forced King John to sign *Magna Carta* in 1215. The most important single article of the *Magna Carta*, related to "*habeas corpus*", provided that the king was not permitted to imprison, outlaw, exile or kill anyone at a whim—there must be due process of law first. This article, Article 39, of the *Magna Carta* read:

*No free man shall be arrested, or imprisoned, or deprived of his property, or outlawed, or exiled, or in any way destroyed, nor shall we go against him or send against him, unless by legal judgement of his peers, or by the law of the land.*

This provision became the cornerstone of English liberty after that point. The social contract in the original case was between the king and the nobility, but was gradually extended to all of the people. It led to the system of Constitutional Monarchy, with further reforms shifting the balance of power from the monarchy and nobility to the House of Commons.

## **Iroquois "Great Law of Peace"**

### **Great Law of Peace**

The *Gayanashagowa*, the oral constitution of the Iroquois nation also known as the Great Law of Peace, established a system of governance in which sachems (tribal chiefs) of the members of the Iroquois League made decisions on the basis of universal consensus of all chiefs following discussions that were initiated by a single tribe. The position of sachem descended through families, and were allocated by senior female relatives.

### **Democratic constitutions**

What is sometimes called the "*enlightened constitution*" model was developed by philosophers of the Age of Enlightenment such as Thomas Hobbes, Jean-Jacques Rousseau, and John Locke. The model proposed that constitutional governments should be stable, adaptable, accountable, open and should represent the people (i.e. support democracy). The

United States Constitution, ratified June 21, 1788, was influenced by the British constitutional system and the political system of the United Provinces, plus the writings of Polybius, Locke, Montesquieu, and others. The document became a benchmark for republicanism and codified constitutions written thereafter. *Agreements and Constitutions of Laws and Freedoms of the Zaporizian Host* was the first European constitution in a modern sense.<sup>[29]</sup> It was written in 1710 by Pylyp Orlyk, *hetman* of the Zaporozhian Host. This "*Constitution of Pylyp Orlyk*" (as it is widely known) was written to establish a free Zaporozhian-Ukrainian Republic, with the support of Charles XII of Sweden. It is notable in that it established a democratic standard for the separation of powers in government between the legislative, executive, and judiciary branches, well before the publication of Montesquieu's *Spirit of the Laws*. This Constitution also limited the executive authority of the *hetman*, and established a democratically elected Cossack parliament called the General Council. However, Orlyk's project for an independent Ukrainian State never materialized, and his constitution, written in exile, never went into effect. Other examples of European constitutions of this era were the Corsican Constitution of 1755 and the Swedish Constitution of 1772. All of the British colonies in North America that were to become the 13 original United States, adopted their own constitutions in 1776 and 1777, during the American Revolution (and before the later Articles of Confederation and United States Constitution), with the exceptions of Massachusetts, Connecticut and Rhode Island. The Commonwealth of Massachusetts adopted its Constitution in 1780, the oldest still-functioning constitution of any U.S. state; while Connecticut and Rhode Island officially continued to operate under their old colonial charters, until they adopted their first state constitutions in 1818 and 1843, respectively. *May 3rd Constitution* (painting by Jan Matejko, 1891). Polish King Stanisław August (left, in regal ermine-trimmed cloak), enters St. John's Cathedral, where Sejm deputies will swear to uphold the new Constitution; in background, Warsaw's Royal Castle, where the Constitution has just been adopted. Next were the Polish-Lithuanian Commonwealth Constitution of May 3, 1791, and the French Constitution of September 3, 1791. On March 19, 1812 a enlightened constitution was ratified in Spain by a parliament gathered in Cadiz, the only Spanish continental city which was safe of French occupation. The Spanish Constitution served as a model for other liberal constitutions of several South-European and Latin American nations like, for example, Portuguese Constitution of 1822, constitutions of various Italian states during Carbonari revolts (i.e. in the Kingdom of the Two Sicilies), the Norwegian constitution of 1814, or the Mexican Constitution of 1824.<sup>[34]</sup>

The Constitution of Canada came into force on July 1, 1867 as the British North America Act, an act of the British Parliament. The BNA Act unified the colonies of Canada East (Quebec), Canada West (Ontario), Nova Scotia and New Brunswick into the self-governing Dominion of Canada. Over a century later, the BNA Act was patriated to the Canadian Parliament and augmented with the Canadian Charter of Rights and Freedoms. Since then, the constitution as a whole has been known as the Constitution Act 1982, while the original BNA Act is called the Constitution Act 1867. Canadian author and philosopher John Ralston Saul describes the Canadian Constitution as "the second-oldest working constitution in the world."

### **Governmental constitutions**

Most commonly, the term *constitution* refers to a set of rules and principles that define the nature and extent of government. Most constitutions also attempt to define the relationship between individuals and the state, and to establish the broad rights of individual citizens. It is thus the most basic law of a territory from which all the other laws and rules are hierarchically derived.

### **Modern constitutions**

Generally, every modern written constitution confers specific powers to an organization or institutional entity, established upon the primary condition that it abides by the said constitution's limitations. According to Scott Gordon, a political organization is constitutional to the extent that it "contain[s] institutionalized mechanisms of power control for the protection of the interests and liberties of the citizenry, including those that may be in the minority. The Latin term *ultra vires* describes activities of officials within an organization or polity that fall outside the constitutional or statutory authority of those officials. For example, a students' union may be prohibited as an organization from engaging in activities not concerning students; if the union becomes involved in non-student activities these activities are considered *ultra vires* of the union's charter, and nobody would be compelled by the charter to follow them. An example from the constitutional law of sovereign states would be a provincial government in a federal state trying to legislate in an area exclusively enumerated to the federal government in the constitution, such as ratifying a treaty. *Ultra vires* gives a legal justification for the forced cessation of such action, which might be enforced by the people with the support of a decision of the judiciary, in a case of judicial review. A violation of rights by an official would be *ultra vires* because a (constitutional) right is a restriction on

the powers of government, and therefore that official would be exercising powers he doesn't have.

## **Customary Constitutions And Written Constitutions**

It's known that the rules regarding with any political system of any state, it will be two ways, either resulting from customary without writing out any formal texts, in this case it's said there is customary constitution. The second case it may be wrote down in formal document that is made to be known at the all (Dr. Sabri, Said).

### **Customary Constitution**

The customary is considered the oldest formal resources of the legal rule. It remained the sole source of the constitutional rules in the world till 18th century. It is theoretic and needed source, whereas gives binding force to the legal rule in the performance. (Dr. Abu Steet, A). English constitution is the clearest example for such type of the constitutional laws because the constitutional laws were formed by the customary in Britain that often represents still constitutional rules. Customary rules include other written constitutional rules embody in the "the Greatest Era" of year 1215 A.D. "Magna Carta and Bill & Rights" of year 1689, and Parliament Act in 1911. Although such constitutional documents vary in Britain, it is not sufficient for political regime in the state that determined by customary rules in general. (Bashir, M. Ibid, page 42).

The cause may be that England takes the customary constitution, this is referred to nature of the English people itself who intends to develop its rules and laws quietly without violent, as well as constitutional history began in England early. Moreover, the causes that called most of the countries to take with written constituions that were not available in English regime. (Al Sha'r, R.). The importance of customary rules in the English constitution appears in survey the field that prevailed by it. Because of the English constitution is a set of the systems are often emerged in permanent customaries as long as new necessities made.

If the customary rules took great importance in establishing of the constitutional laws in non written constitutions of the countries. Such rules and laws are emerged as a result of following up a public authority in the definite country relating with habit of the any target of the constitutional law without any contrary of the other authorities till it remains in the minds of the people had to respect such rules, consequently it adds binding feature.

## **Written Constitutions**

The first written constitutions were English colonies constitutions in the North America after its freedom in 1776, USA Constitution in 1787 that still remains. Since written constitutions appeared, the idea of constitution liberty prevailed to be a tool for freedom whereas it remains with specific right for the citizen. The idea of written constitution transferred from America to France till it made the first written constitution on 3 September 1791, then conveyed into the remaining European countries. After that range of the written constitution expanded in First World War as well as expanded into the Arabian countries. Consequently, the written constitution acquired political sense because it connects closely with definite matter of the government. According to that written constitutions add on the constitutions rules emphasizing and determining. (Dr. Bashir, M).

## **Flexible And Rigid Constitutions**

Explainers indicated that flexible constitution that is can be amended by the authorities and with procedures may need for the ordinary laws. When there is flexible constitution such England Constitution, this means that there is no any constitution from the form aspect because there is no any conditions vary between the constitution amendments and ordinary legislation amendment, so that establishing authority mixes with legislative authority. As per the rigid constitution, it can't be amended but by authorities and different procedures than such methods that amend the ordinary laws. Whereas as amendment of the rigid constitution vary here than method of the flexible constitution amendment. On the second hand, the rigid constitution has firmness feature as a result of the special procedures that are shall be regarded at amendment of its items. As per the flexible constitution doesn't stipulate definite procedure that should be regarded to amend. (Bashir, Al Shafei Mohammed). This doesn't mean that the constitution can't be touched totally and it can't ever amended, but it means making and amendment it. In short, I can sum that the Standard can be taken for the difference between the flexible and rigid constitutions in as difficulty and complexity in amendment of the rigid constitution, if this difficulty increases, it will be rigid constitution, while this difficulty decreases, it will be half rigid or half flexible.

## **Constitutional Convention**

It may appear along with written constitution practical needs in which written constitutional rules doesn't complicate; in this case constitutional convention appears along with constitutional flexible rules officially. This convention may interpret or complete deficit in the constitution, but some says that the constitutional convention may be amended as constitutional item. The constitutional convention emerges along with written constitution and it consists with physical and spiritual article, i.e. with following up definite custom then is followed till to be binding matter. Such customs are emerged by political life in the country to exist to the written constitution as complementary or amended rules to some its items.

Accordingly, the constitutional convention is either interpretation or complementary, or amended to some items of the constitution. In the interpretation custom, the customs performs with interpreter for ambiguity of the constitutional text. To raise this role, it's supposed there is ambiguity constitutional text, as well as it shows way of application of the texts and conditions. Among examples of the interpreter custom what is made in accordance with French Constitution 1875. As per complementary custom, it overcomes interpreter custom role to play affected role along with written text, it represents in establishing new decision. As shown from its name, complementary custom may emerge to handle deficit problem of the written constitutional text because it supposes that the constitution neglects specific matter.

In short that complementary constitution is unlike interpreter custom because it doesn't relay on constitution item, and also it establish new constitutional rule. Among examples is French constitution 1875 provided that election shall be the ballot, and the custom completed this item whereas the election was directly and one degree. (Abu Al Magd, Ahmed Kamal). As per amended custom, that works to amend the constitutional text, it doesn't limited to its ambiguity as interpreter custom or complete what is required of deficit as complete custom, but it aims at amendment of constitutional text and abrogate it provision and add new provision or cancel the standing text.

## **CHAPTER THREE: METHODOLOGY**

### **3-1 Description of the methodology used in this research work:**

To work on this topic of constitution, some methodologies used in comparative studies have been necessary in order to have a qualitative analysis. I based my work mainly on historicism, sociocriticism, Geocriticism, religious and political analyses.

Let's then study each of them:

#### **3-1-1- Historicism**

Historicism is a mode of thinking that assigns a central and basic significance to a specific context, such as historical period, geographical place and local culture especially for a country like Britain. As such it is in contrast to individualist theories of knowledges such as empiricism and rationalism, which neglect the role of traditions. Historicism therefore tends to be hermeneutical, because it places great importance on cautious, rigorous and contextualized interpretation of information, or relativist, because it rejects notions of universal, fundamental and immutable interpretations. Historicism may be contrasted with reductionist theories, which suppose that all developments can be explained by fundamental principles (such as in economic determinism), or theories that posit historical changes as result of random chance. Also Talcott Parsons criticized historicism as a case of idealistic fallacy in *The Structure of Social Action* (1937). Post-structuralism uses the term New Historicism, which has some connections to both anthropology and Hegelianism. The theological use of the word denotes the interpretation of biblical prophecy as being related to church history.

#### **3-1-2- Geocriticism**

Geocriticism is a method of literary analysis and literary theory that incorporates the study of geographic space. The term designates a number of different critical practices. Geocriticism frequently involves the study of places described in the literature by various authors, but it can also study the effects of literary representations of a given space. An example of the range of geocritical practices can be found in Tally's collection *Geocritical Explorations: Space, Place, and Mapping in Literary and Cultural Studies*.

Geocriticism derives some of its practices from precursors whose theoretical work helped establish space as a valid topic for literary analysis. For example, in *The Poetics of Space* and elsewhere, Gaston Bachelard studied literary works to develop a typology of places according to their connotations. Maurice Blanchot's writings have legitimized the idea of literary space, an imaginary place for the creation of the work of literature. One might also look at the developments of cultural studies and especially postcolonial studies, such as Raymond Williams's *The Country and the City* or Edward Said's *Culture and Imperialism*, which employ what Said has called a "geographical inquiry into historical experience." Fredric Jameson's concept of cognitive mapping and his theoretical engagement with the postmodern condition also highlight the importance of spatial representation and aesthetic productions, including literature, film, architecture, and design. In *The Atlas of European Novel, 1800-1900*, Franco Moretti has examined the diffusion of literary spaces in Europe, focusing on the complex relationship between the text and space. Moretti has also promulgated a theory of literary history, or literary geography, that would use maps to bring to light new connections between the texts studied and their social spaces. And, in his study of Herman Melville's literary cartography, Robert Tally has offered a geocritical approach to certain texts. Geocriticism has intellectual and methodological affiliations with such fields as Literature and the Environment or ecocriticism, regional literature, urban studies, sociological and philosophical approaches to literature, and utopian studies.

### **3-1-3- Sociocriticism**

Sociological Criticism is literary criticism directed to understanding (or placing) literature in its larger social context; it codifies the literary strategies that are employed to represent social constructs through a sociological methodology. Sociological criticism analyzes both how the social functions in literature and how literature works in society. This form of literary criticism was introduced by Kenneth Burke, a 20th-century literary and critical theorist, whose article "Literature As Equipment for Living" outlines the specification and significance of such a critique. Sociological Criticism is influenced by New Criticism, however it adds a sociological element as found with critical theory (Frankfurt School), and considers art as a manifestation of society, one that contains metaphors and references directly applicable to the existing society at the time of its creation. This complicates the basic trend of New Criticism which simply calls for a close textual reading without considering affective response or the author's intentions. While Burke also avoids affective response and authorial intention, he specifically considers pieces of art and literature as systematic reflections of

society and societal behavior. He understands the way in which these artworks achieve this to be strategically employed through the work, and he therefore suggests the standardization of the methods used by the artists and authors so as to be able to consider works of art within a social context.

- Types of data and data sources

This study uses library data that can be classified into two categories: the primary and the secondary data.

The primary data are some documents related to British constitution and Beninese one

The secondary data include materials about civilization study

- Technique of data collection

In this research I used internet and library in collecting data and I follow some steps such as:

- a) Reading the history of British civilization from where I draw my topic.

- b) Reading the history of British constitution, the Benin constitution and some dissertations related to my topic.

- c) Trying to have a deep meaning of these books.

- Technique of data analysis.

The technique of analysis I used in this research is based on comparative work: organizing and classifying the data according to the plan of my dissertation.

## **CHAPTER FOUR: A COMPARATIVE STUDY OF THE BRITISH CONSTITUTION AND THE BENINESE CONSTITUTION**

### **4-1- A brief presentation of the United Kingdom and an analytical study of its Parliament.**

#### **4-1-1- The United Kingdom**

The **United Kingdom of Great Britain and Northern Ireland** commonly known as the **United Kingdom (UK)** or **Britain**, is a sovereign state in Europe. Lying off the north-western coast of the European mainland, the country includes the island of Great Britain a term also applied loosely to refer to the whole country the north-eastern part of the island of Ireland and many smaller islands. Northern Ireland is the only part of the UK that shares a land border with another state (the Republic of Ireland).

#### **Etymology and terminology**

The 1707 Acts of Union declared that the kingdoms of England and Scotland were "United into One Kingdom by the Name of Great Britain", though the new state is also referred to in the Acts as the "Kingdom of Great Britain", "United Kingdom of Great Britain" and "United Kingdom". However, the term "united kingdom" is only found in informal use during the 18th century and the country was only occasionally referred to as the "United Kingdom of Great Britain". The Acts of Union 1800 united the Kingdom of Great Britain and the Kingdom of Ireland in 1801, forming the United Kingdom of Great Britain and Ireland. The name "United Kingdom of Great Britain and Northern Ireland" was adopted following the independence of the Irish Free State, and the partition of Ireland, in 1922, which left Northern Ireland as the only part of the island of Ireland within the UK. Although the United Kingdom, as a sovereign state, is a country, England, Scotland, Wales, and to a lesser degree, Northern Ireland, are also regarded as *countries*, though they are not sovereign states. Scotland, Wales and Northern Ireland have devolved self-government. The British Prime Minister's website has used the phrase "countries within a country" to describe the United Kingdom.<sup>[13]</sup> Some statistical summaries, such as those for the twelve NUTS 1 regions of the UK, also refer to Scotland, Wales and Northern Ireland as "regions". Northern Ireland is also referred to as a "province". With regard to Northern Ireland, the descriptive name used "can be controversial, with the choice often revealing one's political preferences."<sup>1</sup>

The term *Britain* is often used as synonym for the United Kingdom. The term *Great Britain*, by contrast, refers conventionally to the island of Great Britain, or politically to England, Scotland and Wales in combination. However, it is sometimes used as a loose synonym for the United Kingdom as a whole. *GB* and *GBR* are the standard country codes for the United Kingdom (see ISO 3166-2 and ISO 3166-1 alpha-3) and are consequently used by international organisations to refer to the United Kingdom. Additionally, the United Kingdom's Olympic team competes under the name "Great Britain" or "Team GB". The adjective *British* is commonly used to refer to matters relating to the United Kingdom. The term has no definite legal connotation, but is used in law to refer to UK citizenship and matters to do with nationality. People of the United Kingdom use a number of different terms to describe their national identity and may identify themselves as being British; or as being English, Scottish, Welsh, Northern Irish, or Irish; or as being both. In 2006, a new design of British passport was introduced. Its first page shows the long form name of the state in English, Welsh and Scottish Gaelic.<sup>[47]</sup> In Welsh, the long form name of the state is "Teyrnas Unedig Prydain Fawr a Gogledd Iwerddon" with "Teyrnas Unedig" being used as a short form name on government websites. (However it is usually abbreviated to "DU" for the mutated form "Y Deyrnas Unedig".) In Scottish Gaelic, the long form is "Rìoghachd Aonaichte Bhreatainn is Èireann a Tuath" and the short form "Rìoghachd Aonaichte".

## History

### Before 1707

Settlement by anatomically modern humans of what was to become the United Kingdom occurred in waves beginning by about 30,000 years ago. By the end of the region's prehistoric period, the population is thought to have belonged, in the main, to a culture termed Insular Celtic, comprising Brythonic Britain and Gaelic Ireland. The Roman conquest, beginning in 43 AD, and the 400-year rule of southern Britain, was followed by an invasion by Germanic Anglo-Saxon settlers, reducing the Brythonic area mainly to what was to become Wales and the historic Kingdom of Strathclyde. Most of the region settled by the Anglo-Saxons became unified as the Kingdom of England in the 10th century. Meanwhile, Gaelic-speakers in north west Britain (with connections to the north-east of Ireland and traditionally supposed to have migrated from there in the 5th century) united with the Picts to create the Kingdom of Scotland in the 9th century. In 1066, the Normans invaded England from France and after its conquest, seized large parts of Wales, conquered much of Ireland and were invited to settle in

Scotland, bringing to each country feudalism on the Northern French model and Norman-French culture. The Norman elites greatly influenced, but eventually assimilated with, each of the local cultures. Subsequent medieval English kings completed the conquest of Wales and made an unsuccessful attempt to annex Scotland. Following the Declaration of Arbroath, Scotland maintained its independence, albeit in near-constant conflict with England. The English monarchs, through inheritance of substantial territories in France and claims to the French crown, were also heavily involved in conflicts in France, most notably the Hundred Years War, while the Kings of Scots were in an alliance with the French during this period.

### **Declaration of Arbroath, 1320**

The early modern period saw religious conflict resulting from the Reformation and the introduction of Protestant state churches in each country.<sup>[59]</sup> Wales was fully incorporated into the Kingdom of England,<sup>[60]</sup> and Ireland was constituted as a kingdom in personal union with the English crown.<sup>[61]</sup> In what was to become Northern Ireland, the lands of the independent Catholic Gaelic nobility were confiscated and given to Protestant settlers from England and Scotland. In 1603, the kingdoms of England, Scotland and Ireland were united in a personal union when James VI, King of Scots, inherited the crowns of England and Ireland and moved his court from Edinburgh to London; each country nevertheless remained a separate political entity and retained its separate political, legal, and religious institutions. In the mid-17th century, all three kingdoms were involved in a series of connected wars (including the English Civil War) which led to the temporary overthrow of the monarchy and the establishment of the short-lived unitary republic of the Commonwealth of England, Scotland and Ireland. Although the monarchy was restored, it ensured (with the Glorious Revolution of 1688 and subsequent Bill of Rights 1689) that, unlike much of the rest of Europe, royal absolutism would not prevail, and a professed Catholic could never accede to the throne. The British constitution would develop on the basis of constitutional monarchy and the parliamentary system.<sup>[67]</sup> With the constitutional rights of Parliament legally established, no monarch has since entered the House of Commons when it is sitting [meeting], which is annually commemorated at the State Opening of Parliament by the British monarch when the doors of the House of Commons are slammed in the face of the monarch's messenger, symbolising the rights of Parliament and its independence from the monarch. With the founding of the Royal Society in 1660, science was greatly encouraged. During this period, particularly in England, the development of naval power (and the interest in voyages of discovery) led to the acquisition and settlement of overseas colonies, particularly in North America.

## Since the Acts of Union of 1707

On 1 May 1707, the united Kingdom of Great Britain came into being, the result of Acts of Union being passed by the parliaments of England and Scotland to ratify the 1706 Treaty of Union and so unite the two kingdoms. In the 18th century, cabinet government developed under Robert Walpole, in practice the first prime minister (1721–1742). A series of Jacobite Uprisings sought to remove the Protestant House of Hanover from the British throne and restore the Catholic House of Stuart. The Jacobites were finally defeated at the Battle of Culloden in 1746, after which the Scottish Highlanders were brutally suppressed. The British colonies in North America that broke away from Britain in the American War of Independence became the United States of America in 1782. British imperial ambition turned elsewhere, particularly to India. During the 18th century, Britain was involved in the Atlantic slave trade. British ships transported an estimated 2 million slaves from Africa to the West Indies before banning the trade in 1807 and taking a leading role in the movement to abolish slavery worldwide by pressing other nations to end their trade with a series of treaties, and then formed the world's oldest international human rights organisation, Anti-Slavery International, in London in 1839. The term 'United Kingdom' became official in 1801 when the parliaments of Britain and Ireland each passed an Act of Union, uniting the two kingdoms and creating the United Kingdom of Great Britain and Ireland. In the early 19th century, the British-led Industrial Revolution began to transform the country. It slowly led to a shift in political power away from the old Tory and Whig landowning classes towards the new industrialists. An alliance of merchants and industrialists with the Whigs would lead to a new party, the Liberals, with an ideology of free trade and *laissez-faire*. In 1832 Parliament passed the Great Reform Act, which began the transfer of political power from the aristocracy to the middle classes. In the countryside, enclosure of the land was driving small farmers out. Towns and cities began to swell with a new urban working class. Few ordinary workers had the vote, and they created their own organisations in the form of trade unions. After the defeat of France in the Revolutionary and Napoleonic Wars (1792–1815), the UK emerged as the principal naval and imperial power of the 19th century (with London the largest city in the world from about 1830). Unchallenged at sea, British dominance was later described as *Pax Britannica*. By the time of the Great Exhibition of 1851, Britain was described as the "workshop of the world". The British Empire was expanded to include India, large parts of Africa and many other territories throughout the world. Alongside the formal control it exerted over its own colonies, British dominance of much of world trade meant that it

effectively controlled the economies of many countries, such as China, Argentina and Siam. Domestically, political attitudes favoured free trade and laissez-faire policies and a gradual widening of the voting franchise. During the century, the population increased at a dramatic rate, accompanied by rapid urbanisation, causing significant social and economic stresses. After 1875, the UK's industrial monopoly was challenged by Germany and the USA. To seek new markets and sources of raw materials, the Conservative Party under Disraeli launched a period of imperialist expansion in Egypt, South Africa and elsewhere. Canada, Australia and New Zealand became self-governing dominions. Social reform and home rule for Ireland were important domestic issues after 1900. The Labour Party emerged from an alliance of trade unions and small Socialist groups in 1900, and suffragettes campaigned for women's right to vote before 1914. The UK fought with France, Russia and (after 1917) the US, against Germany and its allies in World War I (1914–18). The UK armed forces were engaged across much of the British Empire and in several regions of Europe, particularly on the Western front. The high fatalities of trench warfare caused the loss of much of a generation of men, with lasting social effects in the nation and a great disruption in the social order.

After the war, the UK received the League of Nations mandate over a number of former German and Ottoman colonies. The British Empire reached its greatest extent, covering a fifth of the world's land surface and a quarter of its population.<sup>[90]</sup> However, the UK had suffered 2.5 million casualties and finished the war with a huge national debt.<sup>[89]</sup> The rise of Irish Nationalism and disputes within Ireland over the terms of Irish Home Rule led eventually to the partition of the island in 1921,<sup>[91]</sup> and the Irish Free State became independent with Dominion status in 1922. Northern Ireland remained part of the United Kingdom.<sup>[92]</sup> A wave of strikes in the mid-1920s culminated in the UK General Strike of 1926. The UK had still not recovered from the effects of the war when the Great Depression (1929–32) occurred. This led to considerable unemployment and hardship in the old industrial areas, as well as political and social unrest in the 1930s. A coalition government was formed in 1931. The UK entered World War II by declaring war on Germany in 1939, after it had invaded Poland and Czechoslovakia. In 1940, Winston Churchill became prime minister and head of a coalition government. Despite the defeat of its European allies in the first year of the war, the UK continued the fight alone against Germany. In 1940, the RAF defeated the German Luftwaffe in a struggle for control of the skies in the Battle of Britain. The UK suffered heavy bombing during the Blitz. There were also eventual hard-fought victories in the Battle of the Atlantic, the North Africa campaign and Burma campaign. UK forces played

an important role in the Normandy landings of 1944, achieved with its ally the US. After Germany's defeat, the UK was one of the Big Three powers who met to plan the post-war world; it was an original signatory to the Declaration of the United Nations. The UK became one of the five permanent members of the United Nations Security Council. However, the war left the UK severely weakened and depending financially on Marshall Aid and loans from the United States.

In the immediate post-war years, the Labour government initiated a radical programme of reforms, which had a significant effect on British society in the following decades.<sup>[95]</sup> Major industries and public utilities were nationalised, a Welfare State was established, and a comprehensive, publicly funded healthcare system, the National Health Service, was created.<sup>[96]</sup> The rise of nationalism in the colonies coincided with Britain's now much-diminished economic position, so that a policy of decolonisation was unavoidable. Independence was granted to India and Pakistan in 1947.<sup>[97]</sup> Over the next three decades, most colonies of the British Empire gained their independence. Many became members of the Commonwealth of Nations. Although the UK was the third country to develop a nuclear weapons arsenal (with its first atomic bomb test in 1952), the new post-war limits of Britain's international role were illustrated by the Suez Crisis of 1956. The international spread of the English language ensured the continuing international influence of its literature and culture. From the 1960s onward, its popular culture was also influential abroad. As a result of a shortage of workers in the 1950s, the UK government encouraged immigration from Commonwealth countries. In the following decades, the UK became a multi-ethnic society.<sup>[99]</sup> Despite rising living standards in the late 1950s and 1960s, the UK's economic performance was not as successful as many of its competitors, such as West Germany and Japan. In 1973, the UK joined the European Economic Community (EEC), and when the EEC became the European Union (EU) in 1992, it was one of the 12 founding members.

From the late 1960s, Northern Ireland suffered communal and paramilitary violence (sometimes affecting other parts of the UK) conventionally known as the Troubles. It is usually considered to have ended with the Belfast "Good Friday" Agreement of 1998.

Following a period of widespread economic slowdown and industrial strife in the 1970s, the Conservative Government of the 1980s initiated a radical policy of monetarism, deregulation, particularly of the financial sector (for example, Big Bang in 1986) and labour markets, the sale of state-owned companies (privatisation), and the withdrawal of subsidies to others. This

resulted in high unemployment and social unrest, but ultimately also economic growth, particularly in the services sector. From 1984, the economy was helped by the inflow of substantial North Sea oil revenues. Around the end of the 20th century there were major changes to the governance of the UK with the establishment of devolved administrations for Scotland, Wales and Northern Ireland.<sup>[14][105]</sup> The statutory incorporation followed acceptance of the European Convention on Human Rights. The UK is still a key global player diplomatically and militarily. It plays leading roles in the EU, UN and NATO. However, controversy surrounds some of Britain's overseas military deployments, particularly in Afghanistan and Iraq. The 2008 global financial crisis severely affected the UK economy. The coalition government of 2010 introduced austerity measures intended to tackle the substantial public deficits which resulted.<sup>[107]</sup> In 2014 the Scottish Government held a referendum on Scottish independence, with 55% of voters rejecting the independence proposal and opting to remain within the United Kingdom.

## **Geography**

The total area of the United Kingdom is approximately 243,610 square kilometres (94,060 sq mi). The country occupies the major part of the British Isles<sup>[109]</sup> archipelago and includes the island of Great Britain, the northeastern one-sixth of the island of Ireland and some smaller surrounding islands. It lies between the North Atlantic Ocean and the North Sea with the south-east coast coming within 22 miles (35 km) of the coast of northern France, from which it is separated by the English Channel.<sup>[110]</sup> In 1993 10% of the UK was forested, 46% used for pastures and 25% cultivated for agriculture.<sup>[111]</sup> The Royal Greenwich Observatory in London is the defining point of the Prime Meridian.<sup>[112]</sup>

The United Kingdom lies between latitudes 49° to 61° N, and longitudes 9° W to 2° E. Northern Ireland shares a 224-mile (360 km) land boundary with the Republic of Ireland.<sup>[110]</sup> The coastline of Great Britain is 11,073 miles (17,820 km) long.<sup>[113]</sup> It is connected to continental Europe by the Channel Tunnel, which at 31 miles (50 km) (24 miles (38 km) underwater) is the longest underwater tunnel in the world.<sup>[114]</sup>

England accounts for just over half of the total area of the UK, covering 130,395 square kilometres (50,350 sq mi).<sup>[115]</sup> Most of the country consists of lowland terrain,<sup>[111]</sup> with mountainous terrain north-west of the Tees-Exe line; including the Cumbrian Mountains of the Lake District, the Pennines and limestone hills of the Peak District, Exmoor and Dartmoor. The main rivers and estuaries are the Thames, Severn and the Humber. England's

highest mountain is Scafell Pike (978 metres (3,209 ft)) in the Lake District. Its principal rivers are the Severn, Thames, Humber, Tees, Tyne, Tweed, Avon, Exe and Mersey.<sup>[111]</sup>

Scotland accounts for just under a third of the total area of the UK, covering 78,772 square kilometres (30,410 sq mi)<sup>[116]</sup> and including nearly eight hundred islands,<sup>[117]</sup> predominantly west and north of the mainland; notably the Hebrides, Orkney Islands and Shetland Islands. The topography of Scotland is distinguished by the Highland Boundary Fault – a geological rock fracture – which traverses Scotland from Arran in the west to Stonehaven in the east.<sup>[118]</sup> The faultline separates two distinctively different regions; namely the Highlands to the north and west and the lowlands to the south and east. The more rugged Highland region contains the majority of Scotland's mountainous land, including Ben Nevis which at 1,343 metres (4,406 ft) is the highest point in the British Isles.<sup>[119]</sup> Lowland areas – especially the narrow waist of land between the Firth of Clyde and the Firth of Forth known as the Central Belt – are flatter and home to most of the population including Glasgow, Scotland's largest city, and Edinburgh, its capital and political centre.

Wales accounts for less than a tenth of the total area of the UK, covering 20,779 square kilometres (8,020 sq mi). Wales is mostly mountainous, though South Wales is less mountainous than North and mid Wales. The main population and industrial areas are in South Wales, consisting of the coastal cities of Cardiff, Swansea and Newport, and the South Wales Valleys to their north. The highest mountains in Wales are in Snowdonia and include Snowdon (Welsh: *Yr Wyddfa*) which, at 1,085 metres (3,560 ft), is the highest peak in Wales. The 14, or possibly 15, Welsh mountains over 3,000 feet (914 m) high are known collectively as the Welsh 3000s. Wales has over 2,704 kilometres (1,680 miles) of coastline.<sup>[113]</sup> Several islands lie off the Welsh mainland, the largest of which is Anglesey (*Ynys Môn*) in the northwest.

Northern Ireland, separated from Great Britain by the Irish Sea and North Channel, has an area of 14,160 square kilometres (5,470 sq mi) and is mostly hilly. It includes Lough Neagh which, at 388 square kilometres (150 sq mi), is the largest lake in the British Isles by area.<sup>[121]</sup> The highest peak in Northern Ireland is Slieve Donard in the Mourne Mountains at 852 metres (2,795 ft).<sup>[111]</sup>

Climate

The United Kingdom has a temperate climate, with plentiful rainfall all year round.<sup>[110]</sup> The temperature varies with the seasons seldom dropping below  $-11\text{ }^{\circ}\text{C}$  ( $12\text{ }^{\circ}\text{F}$ ) or rising above  $35\text{ }^{\circ}\text{C}$  ( $95\text{ }^{\circ}\text{F}$ ).<sup>[122]</sup> The prevailing wind is from the south-west and bears frequent spells of mild and wet weather from the Atlantic Ocean,<sup>[110]</sup> although the eastern parts are mostly sheltered from this wind since the majority of the rain falls over the western regions the eastern parts are therefore the driest. Atlantic currents, warmed by the Gulf Stream, bring mild winters; especially in the west where winters are wet and even more so over high ground. Summers are warmest in the south-east of England, being closest to the European mainland, and coolest in the north. Heavy snowfall can occur in winter and early spring on high ground, and occasionally settles to great depth away from the hills.

### **Administrative divisions**

The four countries of the United Kingdom.

Each country of the United Kingdom has its own system of administrative and geographic demarcation, whose origins often pre-date the formation of the United Kingdom. Thus there is "no common stratum of administrative unit encompassing the United Kingdom".<sup>[123]</sup> Until the 19th century there was little change to those arrangements, but there has since been a constant evolution of role and function.<sup>[124]</sup> Change did not occur in a uniform manner and the devolution of power over local government to Scotland, Wales and Northern Ireland means that future changes are also unlikely to be uniform. The organisation of local government in England is complex, with the distribution of functions varying according to local arrangements. Legislation concerning local government in England is the responsibility of the UK parliament and the Government of the United Kingdom, as England has no devolved parliament. The upper-tier subdivisions of England are the nine Government office regions or European Union government office regions.<sup>[125]</sup> One region, Greater London, has had a directly elected assembly and mayor since 2000 following popular support for the proposal in a referendum.<sup>[126]</sup> It was intended that other regions would also be given their own elected regional assemblies, but a proposed assembly in the North East region was rejected by a referendum in 2004.<sup>[127]</sup> Below the regional tier, some parts of England have county councils and district councils and others have unitary authorities; while London consists of 32 London boroughs and the City of London. Councillors are elected by the first-past-the-post system in single-member wards or by the multi-member plurality system in multi-member wards.

For local government purposes, Scotland is divided into 32 council areas, with wide variation in both size and population. The cities of Glasgow, Edinburgh, Aberdeen and Dundee are separate council areas, as is the Highland Council which includes a third of Scotland's area but only just over 200,000 people. Local councils are made up of elected councillors, of whom there are currently 1,223; they are paid a part-time salary. Elections are conducted by single transferable vote in multi-member wards that elect either three or four councillors. Each council elects a Provost, or Convenor, to chair meetings of the council and to act as a figurehead for the area. Councillors are subject to a code of conduct enforced by the Standards Commission for Scotland.<sup>[130]</sup> The representative association of Scotland's local authorities is the Convention of Scottish Local Authorities (COSLA). Local government in Wales consists of 22 unitary authorities. These include the cities of Cardiff, Swansea and Newport which are unitary authorities in their own right. Elections are held every four years under the first-past-the-post system. The most recent elections were held in May 2012, except for the Isle of Anglesey. The Welsh Local Government Association represents the interests of local authorities in Wales.

Local government in Northern Ireland has since 1973 been organised into 26 district councils, each elected by single transferable vote. Their powers are limited to services such as collecting waste, controlling dogs and maintaining parks and cemeteries.<sup>[135]</sup> On 13 March 2008 the executive agreed on proposals to create 11 new councils and replace the present system.<sup>[136]</sup> The next local elections were postponed until 2016 to facilitate this.<sup>[137]</sup>

## Dependencies

The United Kingdom has sovereignty over seventeen territories which do not form part of the United Kingdom itself: fourteen British Overseas Territories<sup>1</sup> and three Crown dependencies. The fourteen British Overseas Territories are: Anguilla; Bermuda; the British Antarctic Territory; the British Indian Ocean Territory; the British Virgin Islands; the Cayman Islands; the Falkland Islands; Gibraltar; Montserrat; Saint Helena, Ascension and Tristan da Cunha; the Turks and Caicos Islands; the Pitcairn Islands; South Georgia and the South Sandwich Islands; and Sovereign Base Areas on Cyprus. British claims in Antarctica are not universally recognised. Collectively Britain's overseas territories encompass an approximate land area of 1,727,570 square kilometres (667,018 sq mi) and a population of approximately 260,000 people.<sup>[144]</sup> They are the remnants of the British Empire and several have specifically voted to remain British territories (Bermuda in 1995, Gibraltar in 2002 and the Falkland Islands in

2013). The Crown dependencies are possessions of the Crown, as opposed to overseas territories of the UK. They comprise three independently administered jurisdictions: the Channel Islands of Jersey and Guernsey in the English Channel, and the Isle of Man in the Irish Sea. By mutual agreement, the British Government manages the islands' foreign affairs and defence and the UK Parliament has the authority to legislate on their behalf. However, internationally, they are regarded as "territories for which the United Kingdom is responsible".<sup>[147]</sup> The power to pass legislation affecting the islands ultimately rests with their own respective legislative assemblies, with the assent of the Crown (Privy Council or, in the case of the Isle of Man, in certain circumstances the Lieutenant-Governor). Since 2005 each Crown dependency has had a Chief Minister as its head of government.

## **Politics**

Elizabeth II, is Queen of the United Kingdom and the other Commonwealth realms. The United Kingdom is a unitary state under a constitutional monarchy. Queen Elizabeth II is the head of state of the UK as well as monarch of fifteen other independent Commonwealth countries. The monarch has "the right to be consulted, the right to encourage, and the right to warn". The United Kingdom is one of only four countries in the world to have an uncodified constitution. The Constitution of the United Kingdom thus consists mostly of a collection of disparate written sources, including statutes, judge-made case law and international treaties, together with constitutional conventions. As there is no technical difference between ordinary statutes and "constitutional law", the UK Parliament can perform "constitutional reform" simply by passing Acts of Parliament, and thus has the political power to change or abolish almost any written or unwritten element of the constitution. However, no Parliament can pass laws that future Parliaments cannot change.

## **Government**

The UK has a parliamentary government based on the Westminster system that has been emulated around the world: a legacy of the British Empire. The parliament of the United Kingdom meets in the Palace of Westminster and has two houses: an elected House of Commons and an appointed House of Lords. All bills passed are given Royal Assent before becoming law. The position of prime minister, the UK's head of government, belongs to the person most likely to command the confidence of the House of Commons; this individual is typically the leader of the political party or coalition of parties that holds the largest number of seats in that chamber. The prime minister chooses a cabinet and its members are formally

appointed by the monarch to form Her Majesty's Government. By convention, the Queen respects the prime minister's decisions of government. The Palace of Westminster, seat of both houses of the Parliament of the United Kingdom. The cabinet is traditionally drawn from members of the prime minister's party or coalition and mostly from the House of Commons but always from both legislative houses, the cabinet being responsible to both. Executive power is exercised by the prime minister and cabinet, all of whom are sworn into the Privy Council of the United Kingdom, and become Ministers of the Crown. The current Prime Minister is David Cameron, who has been in office since 11 May 2010.<sup>[155]</sup> Cameron is the leader of the Conservative Party and heads a coalition with the Liberal Democrats. For elections to the House of Commons, the UK is currently divided into 650 constituencies,<sup>[156]</sup> each electing a single member of parliament (MP) by simple plurality. General elections are called by the monarch when the prime minister so advises. The Parliament Acts 1911 and 1949 require that a new election must be called no later than five years after the previous general election. The UK's three major political parties are currently the Conservative Party (Tories), the Labour Party and the Liberal Democrats, representing the British traditions of conservatism, socialism and social liberalism, respectively. At the 2010 general election these three parties together won 622 out of 650 seats in the House of Commons.<sup>[158][159]</sup> Most of the remaining seats were won by parties that contest elections only in one part of the UK: the Scottish National Party (Scotland only); Plaid Cymru (Wales only); and the Alliance Party, Democratic Unionist Party, Social Democratic and Labour Party and Sinn Féin (Northern Ireland only<sup>[nb 10]</sup>). In accordance with party policy, no elected Sinn Féin members of parliament have ever attended the House of Commons to speak on behalf of their constituents because of the requirement to take an oath of allegiance to the monarch.

### **Devolved administrations**

Scotland, Wales and Northern Ireland each have their own government or executive, led by a First Minister (or, in the case of Northern Ireland, a diarchal First Minister and deputy First Minister), and a devolved unicameral legislature. England, the largest country of the United Kingdom, has no such devolved executive or legislature and is administered and legislated for directly by the UK government and parliament on all issues. This situation has given rise to the so-called West Lothian question which concerns the fact that members of parliament from Scotland, Wales and Northern Ireland can vote, sometimes decisively,<sup>[160]</sup> on matters that only affect England.<sup>[161]</sup> The McKay Commission reported on this matter in March 2013 recommending that laws affecting only England should need support from a majority of

English members of parliament. The Scottish Government and Parliament have wide-ranging powers over any matter that has not been specifically reserved to the UK parliament, including education, healthcare, Scots law and local government.<sup>[163]</sup> At the 2011 elections the Scottish National Party won re-election and achieved an overall majority in the Scottish parliament, with its leader, Alex Salmond, as First Minister of Scotland.<sup>[164][165]</sup> In 2012, the UK and Scottish governments signed the Edinburgh Agreement setting out the terms for a referendum on Scottish independence in 2014, which was defeated 55% to 45%. The Welsh Government and the National Assembly for Wales have more limited powers than those devolved to Scotland.<sup>[166]</sup> The Assembly is able to legislate on devolved matters through Acts of the Assembly, which require no prior consent from Westminster. The 2011 elections resulted in a minority Labour administration led by Carwyn Jones. The Northern Ireland Executive and Assembly have powers similar to those devolved to Scotland. The Executive is led by a diarchy representing unionist and nationalist members of the Assembly. Currently, Peter Robinson (Democratic Unionist Party) and Martin McGuinness (Sinn Féin) are First Minister and deputy First Minister respectively.<sup>[168]</sup> Devolution to Northern Ireland is contingent on participation by the Northern Ireland administration in the North-South Ministerial Council, where the Northern Ireland Executive cooperates and develops joint and shared policies with the Government of Ireland. The British and Irish governments co-operate on non-devolved matters affecting Northern Ireland through the British–Irish Intergovernmental Conference, which assumes the responsibilities of the Northern Ireland administration in the event of its non-operation.

### Law and criminal justice

The United Kingdom does not have a single legal system, as Article 19 of the 1706 Treaty of Union provided for the continuation of Scotland's separate legal system.<sup>[174]</sup> Today the UK has three distinct systems of law: English law, Northern Ireland law and Scots law. A new Supreme Court of the United Kingdom came into being in October 2009 to replace the Appellate Committee of the House of Lords. The Judicial Committee of the Privy Council, including the same members as the Supreme Court, is the highest court of appeal for several independent Commonwealth countries, the British Overseas Territories and the Crown Dependencies. Both English law, which applies in England and Wales, and Northern Ireland law are based on common-law principles.<sup>[178]</sup> The essence of common law is that, subject to statute, the law is developed by judges in courts, applying statute, precedent and common sense to the facts before them to give explanatory judgements of the relevant legal principles,

which are reported and binding in future similar cases (*stare decisis*).<sup>[179]</sup> The courts of England and Wales are headed by the Senior Courts of England and Wales, consisting of the Court of Appeal, the High Court of Justice (for civil cases) and the Crown Court (for criminal cases). The Supreme Court is the highest court in the land for both criminal and civil appeal cases in England, Wales and Northern Ireland and any decision it makes is binding on every other court in the same jurisdiction, often having a persuasive effect in other jurisdictions. Scots law is a hybrid system based on both common-law and civil-law principles. The chief courts are the Court of Session, for civil cases,<sup>[181]</sup> and the High Court of Justiciary, for criminal cases.<sup>[182]</sup> The Supreme Court of the United Kingdom serves as the highest court of appeal for civil cases under Scots law.<sup>[183]</sup> Sheriff courts deal with most civil and criminal cases including conducting criminal trials with a jury, known as sheriff solemn court, or with a sheriff and no jury, known as sheriff summary Court.<sup>[184]</sup> The Scots legal system is unique in having three possible verdicts for a criminal trial: "guilty", "not guilty" and "not proven". Both "not guilty" and "not proven" result in an acquittal. Crime in England and Wales increased in the period between 1981 and 1995, though since that peak there has been an overall fall of 48% in recorded crime from 1995 to 2007/08,<sup>[186]</sup> according to crime statistics. The prison population of England and Wales has almost doubled over the same period, to over 80,000, giving England and Wales the highest rate of incarceration in Western Europe at 147 per 100,000.<sup>[187]</sup> Her Majesty's Prison Service, which reports to the Ministry of Justice, manages most of the prisons within England and Wales. Crime in Scotland fell to its lowest recorded level for 32 years in 2009/10, falling by ten per cent.<sup>[188]</sup> At the same time Scotland's prison population, at over 8,000,<sup>[189]</sup> is at record levels and well above design capacity.<sup>[190]</sup> The Scottish Prison Service, which reports to the Cabinet Secretary for Justice, manages Scotland's prisons.

## **Foreign relations**

The UK is a permanent member of the United Nations Security Council, a member of NATO, the Commonwealth of Nations, G7, G8, G20, the OECD, the WTO, the Council of Europe, the OSCE, and is a member state of the European Union. The UK is said to have a "Special Relationship" with the United States and a close partnership with France—the "Entente cordiale"—and shares nuclear weapons technology with both countries.<sup>[191][192]</sup> The UK is also closely linked with the Republic of Ireland; the two countries share a Common Travel Area and co-operate through the British-Irish Intergovernmental Conference and the British-Irish Council. Britain's global presence and influence is further amplified through its

trading relations, foreign investments, official development assistance and military engagements.

## **Military**

The armed forces of the United Kingdom—officially, *Her Majesty's Armed Forces*—consist of three professional service branches: the Royal Navy and Royal Marines (forming the Naval Service), the British Army and the Royal Air Force.<sup>[194]</sup> The forces are managed by the Ministry of Defence and controlled by the Defence Council, chaired by the Secretary of State for Defence. The Commander-in-Chief is the British monarch, Elizabeth II, to whom members of the forces swear an oath of allegiance.<sup>[195]</sup> The Armed Forces are charged with protecting the UK and its overseas territories, promoting the UK's global security interests and supporting international peacekeeping efforts. They are active and regular participants in NATO, including the Allied Rapid Reaction Corps, as well as the Five Power Defence Arrangements, RIMPAC and other worldwide coalition operations. Overseas garrisons and facilities are maintained in Ascension Island, Belize, Brunei, Canada, Cyprus, Diego Garcia, the Falkland Islands, Germany, Gibraltar, Kenya and Qatar. The British armed forces played a key role in establishing the British Empire as the dominant world power in the 18th, 19th and early 20th centuries. Throughout its unique history the British forces have seen action in a number of major wars, such as the Seven Years' War, the Napoleonic Wars, the Crimean War, World War I and World War II—as well as many colonial conflicts. By emerging victorious from such conflicts, Britain has often been able to decisively influence world events. Since the end of the British Empire, the UK has nonetheless remained a major military power. Following the end of the Cold War, defence policy has a stated assumption that "the most demanding operations" will be undertaken as part of a coalition.<sup>[197]</sup> Setting aside the intervention in Sierra Leone, recent UK military operations in Bosnia, Kosovo, Afghanistan, Iraq and, most recently, Libya, have followed this approach. The last time the British military fought alone was the Falklands War of 1982. According to various sources, including the Stockholm International Peace Research Institute and the International Institute for Strategic Studies, the United Kingdom has the fifth- or sixth-highest military expenditure in the world. Total defence spending currently accounts for around 2.4% of total national GDP.

## **Economy**

The UK has a partially regulated market economy.<sup>[198]</sup> Based on market exchange rates the UK is today the sixth-largest economy in the world and the third-largest in Europe after

Germany and France, having fallen behind France for the first time in over a decade in 2008.<sup>[199]</sup> HM Treasury, led by the Chancellor of the Exchequer, is responsible for developing and executing the British government's public finance policy and economic policy. The Bank of England is the UK's central bank and is responsible for issuing notes and coins in the nation's currency, the pound sterling. Banks in Scotland and Northern Ireland retain the right to issue their own notes, subject to retaining enough Bank of England notes in reserve to cover their issue. Pound sterling is the world's third-largest reserve currency (after the US Dollar and the Euro).<sup>[200]</sup> Since 1997 the Bank of England's Monetary Policy Committee, headed by the Governor of the Bank of England, has been responsible for setting interest rates at the level necessary to achieve the overall inflation target for the economy that is set by the Chancellor each year. The UK service sector makes up around 73% of GDP.<sup>[202]</sup> London is one of the three "command centres" of the global economy (alongside New York City and Tokyo),<sup>[203]</sup> it is the world's largest financial centre alongside New York,<sup>[204][205][206]</sup> and it has the largest city GDP in Europe.<sup>[207]</sup> Edinburgh is also one of the largest financial centres in Europe.<sup>[208]</sup> Tourism is very important to the British economy and, with over 27 million tourists arriving in 2004, the United Kingdom is ranked as the sixth major tourist destination in the world and London has the most international visitors of any city in the world.<sup>[209][210]</sup> The creative industries accounted for 7% GVA in 2005 and grew at an average of 6% per annum between 1997 and 2005. The Industrial Revolution started in the UK with an initial concentration on the textile industry, followed by other heavy industries such as shipbuilding, coal mining and steelmaking. British merchants, shippers and bankers developed overwhelming advantage over those of other nations allowing the UK to dominate international trade in the 19th century. As other nations industrialised, coupled with economic decline after two world wars, the United Kingdom began to lose its competitive advantage and heavy industry declined, by degrees, throughout the 20th century. Manufacturing remains a significant part of the economy but accounted for only 16.7% of national output in 2003. The automotive industry is a significant part of the UK manufacturing sector and employs over 800,000 people, with a turnover of some £52 billion, generating £26.6 billion of exports. The aerospace industry of the UK is the second- or third-largest national aerospace industry in the world depending upon the method of measurement and has an annual turnover of around £20 billion. The wings for the Airbus A380 and the A350 XWB are designed and manufactured at Airbus UK's world-leading Broughton facility, whilst over a quarter of the value of the Boeing 787 comes from UK manufacturers including Eaton (fuel subsystem pumps), Messier-Bugatti-Dowty (the landing gear) and Rolls-Royce (the engines). Other key

names include GKN Aerospace – an expert in metallic and composite aerostructures that's involved in almost every civil and military fixed and rotary wing aircraft in production and development today. BAE Systems plays a critical role in some of the world's biggest defence aerospace projects. The company makes large sections of the Typhoon Eurofighter at its sub-assembly plant in Salmesbury and assembles the aircraft for the RAF at its Warton Plant, near Preston. It is also a principal subcontractor on the F35 Joint Strike Fighter—the world's largest single defence project—for which it designs and manufactures a range of components including the aft fuselage, vertical and horizontal tail and wing tips and fuel system. As well as this it manufactures the Hawk, the world's most successful jet training aircraft.<sup>[222]</sup> Airbus UK also manufactures the wings for the A400m military transporter. Rolls-Royce, is the world's second-largest aero-engine manufacturer. Its engines power more than 30 types of commercial aircraft and it has more than 30,000 engines currently in service across both the civil and defence sectors. Rolls-Royce is forecast to have more than 50% of the widebody market share by 2016, ahead of General Electric.<sup>1</sup> Agusta Westland designs and manufactures complete helicopters in the UK. The UK space industry is growing very fast. Worth £9.1bn in 2011 and employing 29,000 people, it is growing at a rate of some 7.5 per cent annually, according to its umbrella organisation, the UK Space Agency. Government strategy is for the space industry to be a £40bn business for the UK by 2030, capturing a 10 per cent share of the \$250bn world market for commercial space technology.<sup>[222]</sup> On 16 July 2013, the British government pledged £60m to the Skylon project: this investment will provide support at a "crucial stage" to allow a full-scale prototype of the SABRE engine to be built. The pharmaceutical industry plays an important role in the UK economy and the country has the third-highest share of global pharmaceutical R&D expenditures (after the United States and Japan). Agriculture is intensive, highly mechanised and efficient by European standards, producing about 60% of food needs with less than 1.6% of the labour force (535,000 workers).<sup>[226]</sup> Around two-thirds of production is devoted to livestock, one-third to arable crops. Farmers are subsidised by the EU's Common Agricultural Policy. The UK retains a significant, though much reduced fishing industry. It is also rich in a number of natural resources including coal, petroleum, natural gas, tin, limestone, iron ore, salt, clay, chalk, gypsum, lead, silica and an abundance of arable land.

The City of London is one of the world's largest financial centres. In the final quarter of 2008 the UK economy officially entered recession for the first time since 1991.<sup>[227]</sup> Unemployment increased from 5.2% in May 2008 to 7.6% in May 2009 and by January 2012

the unemployment rate among 18 to 24-year-olds had risen from 11.9% to 22.5%, the highest since current records began in 1992. Total UK government debt rose from 44.4% of GDP in 2007 to 82.9% of GDP in 2011. In February 2013, the UK lost its top AAA credit rating for the first time since 1978. Inflation-adjusted wages in the UK fell by 3.2% between the third quarter of 2010 and the third quarter of 2012.<sup>[232]</sup> Since the 1980s, economic inequality has grown faster in the UK than in any other developed country. The poverty line in the UK is commonly defined as being 60% of the median household income.<sup>1</sup> In 2007–2008 13.5 million people, or 22% of the population, lived below this line. This is a higher level of relative poverty than all but four other EU members.<sup>[234]</sup> In the same year 4.0 million children, 31% of the total, lived in households below the poverty line after housing costs were taken into account. This is a decrease of 400,000 children since 1998–1999.<sup>[235]</sup> The UK imports 40% of its food supplies.<sup>[236]</sup> The Office for National Statistics has estimated that in 2011, 14 million people were at risk of poverty or social exclusion, and that one person in 20 (5.1%) was now experiencing "severe material depression,"<sup>[237]</sup> up from 3 million people in 1977.

### **Science and technology**

Charles Darwin (1809–82), whose theory of evolution by natural selection is the foundation of modern biological sciences. England and Scotland were leading centres of the Scientific Revolution from the 17th century<sup>[240]</sup> and the United Kingdom led the Industrial Revolution from the 18th century,<sup>[212]</sup> and has continued to produce scientists and engineers credited with important advances.<sup>[241]</sup> Major theorists from the 17th and 18th centuries include Isaac Newton, whose laws of motion and illumination of gravity have been seen as a keystone of modern science,<sup>[242]</sup> from the 19th century Charles Darwin, whose theory of evolution by natural selection was fundamental to the development of modern biology, and James Clerk Maxwell, who formulated classical electromagnetic theory; and more recently Stephen Hawking, who has advanced major theories in the fields of cosmology, quantum gravity and the investigation of black holes.<sup>[243]</sup> Major scientific discoveries from the 18th century include hydrogen by Henry Cavendish,<sup>[244]</sup> from the 20th century penicillin by Alexander Fleming,<sup>[245]</sup> and the structure of DNA, by Francis Crick and others.<sup>[246]</sup> Major engineering projects and applications by people from the UK in the 18th century include the steam locomotive, developed by Richard Trevithick and Andrew Vivian,<sup>[247]</sup> from the 19th century the electric motor by Michael Faraday, the incandescent light bulb by Joseph Swan,<sup>[248]</sup> and the first practical telephone, patented by Alexander Graham Bell,<sup>[249]</sup> and in the 20th century the world's first working television system by John Logie Baird and others,<sup>[250]</sup> the jet engine

by Frank Whittle, the basis of the modern computer by Alan Turing, and the World Wide Web by Tim Berners-Lee. Scientific research and development remains important in British universities, with many establishing science parks to facilitate production and co-operation with industry.<sup>[252]</sup> Between 2004 and 2008 the UK produced 7% of the world's scientific research papers and had an 8% share of scientific citations, the third and second highest in the world (after the United States and China, and the United States, respectively).<sup>[253]</sup> Scientific journals produced in the UK include *Nature*, the *British Medical Journal* and *The Lancet*.<sup>[254]</sup>

## **Transport**

Heathrow Terminal 5 building. London Heathrow Airport has the most international passenger traffic of any airport in the world. A radial road network totals 29,145 miles (46,904 km) of main roads, 2,173 miles (3,497 km) of motorways and 213,750 miles (344,000 km) of paved roads.<sup>[110]</sup> In 2009 there were a total of 34 million licensed vehicles in Great Britain. The UK has a railway network of 10,072 miles (16,209 km) in Great Britain and 189 miles (304 km) in Northern Ireland. Railways in Northern Ireland are operated by NI Railways, a subsidiary of state-owned Translink. In Great Britain, the British Rail network was privatised between 1994 and 1997. Network Rail owns and manages most of the fixed assets (tracks, signals etc.). About 20 privately owned (and foreign state-owned railways including: Deutsche Bahn; SNCF and Nederlandse Spoorwegen) Train Operating Companies (including state-owned East Coast), operate passenger trains and carry over 18,000 passenger trains daily. There are also some 1,000 freight trains in daily operation.<sup>[110]</sup> The UK government is to spend £30 billion on a new high-speed railway line, HS2, to be operational by 2025.<sup>[258]</sup> Crossrail, under construction in London, is Europe's largest construction project with a £15 billion projected cost. In the year from October 2009 to September 2010 UK airports handled a total of 211.4 million passengers.<sup>[261]</sup> In that period the three largest airports were London Heathrow Airport (65.6 million passengers), Gatwick Airport (31.5 million passengers) and London Stansted Airport (18.9 million passengers).<sup>[261]</sup> London Heathrow Airport, located 15 miles (24 km) west of the capital, has the most international passenger traffic of any airport in the world and is the hub for the UK flag carrier British Airways, as well as for BMI and Virgin Atlantic.

## **Energy**

In 2006, the UK was the world's ninth-largest consumer of energy and the 15th-largest producer.<sup>[263]</sup> The UK is home to a number of large energy companies, including two of the

six oil and gas "supermajors" – BP and Royal Dutch Shell – and BG Group.<sup>[264][265]</sup> In 2011, 40% of the UK's electricity was produced by gas, 30% by coal, 19% by nuclear power and 4.2% by wind, hydro, biofuels and wastes. In 2009, the UK produced 1.5 million barrels per day (bbl/d) of oil and consumed 1.7 million bbl/d.<sup>[267]</sup> Production is now in decline and the UK has been a net importer of oil since 2005.<sup>[267]</sup> In 2010 the UK had around 3.1 billion barrels of proven crude oil reserves, the largest of any EU member state.<sup>[267]</sup> In 2009, 66.5% of the UK's oil supply was imported. In 2009, the UK was the 13th-largest producer of natural gas in the world and the largest producer in the EU.<sup>[269]</sup> Production is now in decline and the UK has been a net importer of natural gas since 2004.<sup>[269]</sup> In 2009, half of British gas was supplied from imports and this is expected to increase to at least 75% by 2015, as domestic reserves are depleted. Coal production played a key role in the UK economy in the 19th and 20th centuries. In the mid-1970s, 130 million tonnes of coal was being produced annually, not falling below 100 million tonnes until the early 1980s. During the 1980s and 1990s the industry was scaled back considerably. In 2011, the UK produced 18.3 million tonnes of coal.<sup>[270]</sup> In 2005 it had proven recoverable coal reserves of 171 million tons.<sup>[270]</sup> The UK Coal Authority has stated there is a potential to produce between 7 billion tonnes and 16 billion tonnes of coal through underground coal gasification (UCG) or 'fracking',<sup>[271]</sup> and that, based on current UK coal consumption, such reserves could last between 200 and 400 years.<sup>[272]</sup> However, environmental and social concerns have been raised over chemicals getting into the water table and minor earthquakes damaging homes. In the late 1990s, nuclear power plants contributed around 25% of total annual electricity generation in the UK, but this has gradually declined as old plants have been shut down and ageing-related problems affect plant availability. In 2012, the UK had 16 reactors normally generating about 19% of its electricity. All but one of the reactors will be retired by 2023. Unlike Germany and Japan, the UK intends to build a new generation of nuclear plants from about 2018.

## **Demographics**

A census is taken simultaneously in all parts of the UK every ten years.<sup>[275]</sup> The Office for National Statistics is responsible for collecting data for England and Wales, the General Register Office for Scotland and the Northern Ireland Statistics and Research Agency each being responsible for censuses in their respective countries.<sup>[276]</sup> In the 2011 census the total population of the United Kingdom was 63,181,775. It is the third-largest in the European Union, the fifth-largest in the Commonwealth and the 21st-largest in the world. 2010 was the third successive year in which natural change contributed more to population growth than net

long-term international migration. Between 2001 and 2011 the population increased by an average annual rate of approximately 0.7 per cent.<sup>[277]</sup> This compares to 0.3 per cent per year in the period 1991 to 2001 and 0.2 per cent in the decade 1981 to 1991.<sup>[278]</sup> The 2011 census also confirmed that the proportion of the population aged 0–14 has nearly halved (31 per cent in 1911 compared to 18 in 2011) and the proportion of older people aged 65 and over has more than tripled (from 5 to 16 per cent).<sup>[277]</sup> It has been estimated that the number of people aged 100 or over will rise steeply to reach over 626,000 by 2080. England's population in 2011 was found to be 53 million.<sup>[280]</sup> It is one of the most densely populated countries in the world, with 383 people resident per square kilometre in mid-2003,<sup>[281]</sup> with a particular concentration in London and the south-east.<sup>[282]</sup> The 2011 census put Scotland's population at 5.3 million,<sup>[283]</sup> Wales at 3.06 million and Northern Ireland at 1.81 million.<sup>[280]</sup> In percentage terms England has had the fastest growing population of any country of the UK in the period from 2001 to 2011, with an increase of 7.9%. In 2012 the average total fertility rate (TFR) across the UK was 1.92 children per woman.<sup>[284]</sup> While a rising birth rate is contributing to current population growth, it remains considerably below the 'baby boom' peak of 2.95 children per woman in 1964,<sup>[285]</sup> below the replacement rate of 2.1, but higher than the 2001 record low of 1.63.<sup>[284]</sup> In 2012, Scotland had the lowest TFR at only 1.67, followed by Wales at 1.88, England at 1.94, and Northern Ireland at 2.03.<sup>[284]</sup> In 2011, 47.3% of births in the UK were to unmarried women.<sup>[286]</sup> A government figure estimated that there are 3.6 million homosexual people in Britain comprising 6 per cent of the population.

### **Ethnic groups**

| Ethnic group                             | 2011<br>population | 2011<br>%  |
|--|--------------------|------------|
| White                                    | 55,010,359         | 87.1       |
| White: Irish Traveller                   | 63,193             | 0.1        |
| <i>Asian or Asian British: Indian</i>    | <i>1,451,862</i>   | <i>2.3</i> |
| <i>Asian or Asian British: Pakistani</i> | <i>1,173,892</i>   | <i>1.9</i> |

|  |            |     |
|--|------------|-----|
| <i>Asian or Asian British: Bangladeshi</i> | 451,529    | 0.7 |
| <i>Asian or Asian British: Chinese</i>     | 433,150    | 0.7 |
| <i>Asian or Asian British: Asian Other</i> | 861,815    | 1.4 |
| Asian or Asian British: Total              | 4,373,339  | 7.0 |
| Black or Black British                     | 1,904,684  | 3.0 |
| British Mixed                              | 1,250,229  | 2.0 |
| Other: Total                               | 580,374    | 0.9 |
| Total                                      | 63,182,178 | 100 |

Historically, indigenous British people were thought to be descended from the various ethnic groups that settled there before the 11th century: the Celts, Romans, Anglo-Saxons, Norse and the Normans. Welsh people could be the oldest ethnic group in the UK.<sup>[292]</sup> A 2006 genetic study shows that more than 50 per cent of England's gene pool contains Germanic Y chromosomes.<sup>[293]</sup> Another 2005 genetic analysis indicates that "about 75 per cent of the traceable ancestors of the modern British population had arrived in the British isles by about 6,200 years ago, at the start of the British Neolithic or Stone Age", and that the British broadly share a common ancestry with the Basque people. The UK has a history of small-scale non-white immigration, with Liverpool having the oldest Black population in the country dating back to at least the 1730s during the period of the African slave trade,<sup>[297]</sup> and the oldest Chinese community in Europe, dating to the arrival of Chinese seamen in the 19th century.<sup>[298]</sup> In 1950 there were probably fewer than 20,000 non-white residents in Britain, almost all born overseas. Since 1948 substantial immigration from Africa, the Caribbean and South Asia has been a legacy of ties forged by the British Empire. Migration from new EU member states in Central and Eastern Europe since 2004 has resulted in growth in these population groups but, as of 2008, the trend is reversing. Many of these migrants are returning to their home countries, leaving the size of these groups unknown.<sup>[300]</sup> In 2011, 86% of the population identified themselves as White, meaning 12.9% of the UK population identify themselves as of mixed ethnic minority. Ethnic diversity varies significantly across the UK. 30.4% of London's population and 37.4% of Leicester's was estimated to be non-white in 2005,<sup>[301][302]</sup> whereas less than 5% of the populations of North East England, Wales and the

South West were from ethnic minorities, according to the 2001 census.<sup>[303]</sup> In 2011, 26.5% of primary and 22.2% of secondary pupils at state schools in England were members of an ethnic minority. The non-white British population of England and Wales increased by 38% from 6.6 million in 2001 to 9.1 million in 2009.<sup>[305]</sup> The fastest-growing group was the mixed-ethnicity population, which doubled from 672,000 in 2001 to 986,600 in 2009. Also in the same period, a decrease of 36,000 white British people was recorded.<sup>[306]</sup>

## Languages

The English-speaking world. Countries in dark blue have a majority of native speakers; countries where English is an official but not a majority language are shaded in light blue. English is one of the official languages of the European Union<sup>[307]</sup> and the United Nations<sup>[309][310]</sup> The UK's *de facto* official language is English.<sup>[309][310]</sup> It is estimated that 95% of the UK's population are monolingual English speakers.<sup>[311]</sup> 5.5% of the population are estimated to speak languages brought to the UK as a result of relatively recent immigration.<sup>[311]</sup> South Asian languages, including Bengali, Tamil, Punjabi, Hindi and Gujarati, are the largest grouping and are spoken by 2.7% of the UK population.<sup>[311]</sup> According to the 2011 census, Polish has become the second-largest language spoken in England and has 546,000 speakers. Four Celtic languages are spoken in the UK: Welsh; Irish; Scottish Gaelic; and Cornish. All are recognised as regional or minority languages, subject to specific measures of protection and promotion under the European Charter for Regional or Minority Languages<sup>[2][313]</sup> and the Framework Convention for the Protection of National Minorities.<sup>[314]</sup> In the 2001 Census over a fifth (21%) of the population of Wales said they could speak Welsh,<sup>[315]</sup> an increase from the 1991 Census (18%).<sup>[316]</sup> In addition it is estimated that about 200,000 Welsh speakers live in England.<sup>[317]</sup> In the same census in Northern Ireland 167,487 people (10.4%) stated that they had "some knowledge of Irish" (see Irish language in Northern Ireland), almost exclusively in the nationalist (mainly Catholic) population. Over 92,000 people in Scotland (just under 2% of the population) had some Gaelic language ability, including 72% of those living in the Outer Hebrides.<sup>[318]</sup> The number of schoolchildren being taught through Welsh, Scottish Gaelic and Irish is increasing.<sup>[319]</sup> Among emigrant-descended populations some Scottish Gaelic is still spoken in Canada (principally Nova Scotia and Cape Breton Island),<sup>[320]</sup> and Welsh in Patagonia, Argentina. Scots, a language descended from early northern Middle English, has limited recognition alongside its regional variant, Ulster Scots in Northern Ireland, without specific commitments to protection and promotion. It is compulsory for pupils to study a second language up to the age of 14 in England,<sup>[323]</sup> and up to age 16 in

Scotland. French and German are the two most commonly taught second languages in England and Scotland. All pupils in Wales are taught Welsh as a second language up to age 16, or are taught in Welsh.

## **Religion**

Forms of Christianity have dominated religious life in what is now the United Kingdom for over 1,400 years.<sup>[325]</sup> Although a majority of citizens still identify with Christianity in many surveys, regular church attendance has fallen dramatically since the middle of the 20th century,<sup>[326]</sup> while immigration and demographic change have contributed to the growth of other faiths, most notably Islam.<sup>[327]</sup> This has led some commentators to variously describe the UK as a multi-faith,<sup>[328]</sup> secularised,<sup>[329]</sup> or post-Christian society. In the 2001 census 71.6% of all respondents indicated that they were Christians, with the next largest faiths (by number of adherents) being Islam (2.8%), Hinduism (1.0%), Sikhism (0.6%), Judaism (0.5%), Buddhism (0.3%) and all other religions (0.3%).<sup>[331]</sup> 15% of respondents stated that they had no religion, with a further 7% not stating a religious preference.<sup>[332]</sup> A Tearfund survey in 2007 showed only one in ten Britons actually attend church weekly.<sup>[333]</sup> Between the 2001 and 2011 census there was a decrease in the amount of people who identified as Christian by 12%, whilst the percentage of those reporting no religious affiliation doubled. This contrasted with growth in the other main religious group categories, with the number of Muslims increasing by the most substantial margin to a total of about 5%. The Church of England is the established church in England.<sup>[335]</sup> It retains a representation in the UK Parliament and the British monarch is its Supreme Governor.<sup>[336]</sup> In Scotland the Presbyterian Church of Scotland is recognised as the national church. It is not subject to state control, and the British monarch is an ordinary member, required to swear an oath to "maintain and preserve the Protestant Religion and Presbyterian Church Government" upon his or her accession.<sup>[337][338]</sup> The (Anglican) Church in Wales was disestablished in 1920 and, as the (Anglican) Church of Ireland was disestablished in 1870 before the partition of Ireland, there is no established church in Northern Ireland.<sup>[339]</sup> Although there are no UK-wide data in the 2001 census on adherence to individual Christian denominations, it has been estimated that 62% of Christians are Anglican, 13.5% Catholic, 6% Presbyterian, 3.4% Methodist with small numbers of other Protestant denominations such as Open Brethren, and Orthodox churches.

## Migration

The United Kingdom has experienced successive waves of migration. The Great Famine in Ireland, then part of the United Kingdom, resulted in perhaps a million people migrating to Great Britain.<sup>[341]</sup> Unable to return to Poland at the end of World War II, over 120,000 Polish veterans remained in the UK permanently.<sup>[342]</sup> After World War II, there was significant immigration from the colonies and newly independent former colonies, partly as a legacy of empire and partly driven by labour shortages. Many of these migrants came from the Caribbean and the Indian subcontinent.<sup>[343]</sup> The British Asian population has increased from 2.2 million in 2001 to over 4.2 million in 2011. One of the more recent trends in migration has been the arrival of workers from the new EU member states in Eastern Europe. In 2010, there were 7.0 million foreign-born residents in the UK, corresponding to 11.3% of the total population. Of these, 4.76 million (7.7%) were born outside the EU and 2.24 million (3.6%) were born in another EU Member State.<sup>[345]</sup> The proportion of foreign-born people in the UK remains slightly below that of many other European countries.<sup>[346]</sup> However, immigration is now contributing to a rising population<sup>[347]</sup> with arrivals and UK-born children of migrants accounting for about half of the population increase between 1991 and 2001. Analysis of Office for National Statistics (ONS) data shows that a net total of 2.3 million migrants moved to the UK in the 15 years from 1991 to 2006.<sup>[348][349]</sup> In 2008 it was predicted that migration would add 7 million to the UK population by 2031,<sup>[350]</sup> though these figures are disputed.<sup>[351]</sup> The ONS reported that net migration rose from 2009 to 2010 by 21 per cent to 239,000.<sup>[352]</sup> In 2011 the net increase was 251,000: immigration was 589,000, while the number of people emigrating (for more than 12 months) was 338,000. 195,046 foreign nationals became British citizens in 2010,<sup>[355]</sup> compared to 54,902 in 1999. A record 241,192 people were granted permanent settlement rights in 2010, of whom 51 per cent were from Asia and 27 per cent from Africa.<sup>[357]</sup> 25.5 per cent of babies born in England and Wales in 2011 were born to mothers born outside the UK, according to official statistics released in 2012. Citizens of the European Union, including those of the UK, have the right to live and work in any EU member state.<sup>[359]</sup> The UK applied temporary restrictions to citizens of Romania and Bulgaria, which joined the EU in January 2007.<sup>[360]</sup> Research conducted by the Migration Policy Institute for the Equality and Human Rights Commission suggests that, between May 2004 and September 2009, 1.5 million workers migrated from the new EU member states to the UK, two-thirds of them Polish, but that many subsequently returned home, resulting in a net increase in the number of nationals of the new member states in the

UK of some 700,000 over that period. The late-2000s recession in the UK reduced the economic incentive for Poles to migrate to the UK, the migration becoming temporary and circular.<sup>[364]</sup> In 2009, for the first time since enlargement, more nationals of the eight central and eastern European states that had joined the EU in 2004 left the UK than arrived.<sup>[365]</sup> In 2011, citizens of the new EU member states made up 13% of the immigrants entering the country.<sup>[353]</sup> Estimated number of British citizens living overseas by country, 2006 .The UK government has introduced a points-based immigration system for immigration from outside the European Economic Area to replace former schemes, including the Scottish Government's Fresh Talent Initiative.<sup>[366]</sup> In June 2010 the UK government introduced a temporary limit of 24,000 on immigration from outside the EU, aiming to discourage applications before a permanent cap was imposed in April 2011.<sup>[367]</sup> The cap has caused tension within the coalition: business secretary Vince Cable has argued that it is harming British businesses.<sup>[368]</sup> Emigration was an important feature of British society in the 19th century. Between 1815 and 1930 around 11.4 million people emigrated from Britain and 7.3 million from Ireland. Estimates show that by the end of the 20th century some 300 million people of British and Irish descent were permanently settled around the globe.<sup>[369]</sup> Today, at least 5.5 million UK-born people live abroad, mainly in Australia, Spain, the United States and Canada.

## **Education**

Education in the United Kingdom is a devolved matter, with each country having a separate education system. Whilst education in England is the responsibility of the Secretary of State for Education, the day-to-day administration and funding of state schools is the responsibility of local authorities.<sup>[374]</sup> Universally free of charge state education was introduced piecemeal between 1870 and 1944.<sup>[375][376]</sup> Education is now mandatory from ages five to sixteen (15 if born in late July or August). In 2011, the Trends in International Mathematics and Science Study (TIMSS) rated 13–14-year-old pupils in England and Wales 10th in the world for maths and 9th for science.<sup>[377]</sup> The majority of children are educated in state-sector schools, a small proportion of which select on the grounds of academic ability. Two of the top ten performing schools in terms of GCSE results in 2006 were state-run grammar schools. Over half of students at the leading universities of Cambridge and Oxford had attended state schools.<sup>[378]</sup> Despite a fall in actual numbers the proportion of children in England attending private schools has risen to over 7%.<sup>[379]</sup> In 2010, more than 45% of places at the University of Oxford and 40% at the University of Cambridge were taken by students

from private schools, even though they educate just 7% of the population.<sup>[380]</sup> England has the two oldest universities in English-speaking world, Universities of Oxford and Cambridge (jointly known as "Oxbridge") with history of over eight centuries. The United Kingdom has 9 universities featured in the Times Higher Education top 100 rankings, making it second to the United States in terms of representation.<sup>[381]</sup> Education in Scotland is the responsibility of the Cabinet Secretary for Education and Lifelong Learning, with day-to-day administration and funding of state schools the responsibility of Local Authorities. Two non-departmental public bodies have key roles in Scottish education. The Scottish Qualifications Authority is responsible for the development, accreditation, assessment and certification of qualifications other than degrees which are delivered at secondary schools, post-secondary colleges of further education and other centres.<sup>[383]</sup> The Learning and Teaching Scotland provides advice, resources and staff development to education professionals.<sup>[384]</sup> Scotland first legislated for compulsory education in 1496.<sup>[385]</sup> The proportion of children in Scotland attending private schools is just over 4%, and it has been rising slowly in recent years.<sup>[386]</sup> Scottish students who attend Scottish universities pay neither tuition fees nor graduate endowment charges, as fees were abolished in 2001 and the graduate endowment scheme was abolished in 2008.<sup>[387]</sup> The Welsh Government has responsibility for education in Wales. A significant number of Welsh students are taught either wholly or largely in the Welsh language; lessons in Welsh are compulsory for all until the age of 16.<sup>[388]</sup> There are plans to increase the provision of Welsh-medium schools as part of the policy of creating a fully bilingual Wales. Education in Northern Ireland is the responsibility of the Minister of Education and the Minister for Employment and Learning, although responsibility at a local level is administered by five education and library boards covering different geographical areas. The Council for the Curriculum, Examinations & Assessment (CCEA) is the body responsible for advising the government on what should be taught in Northern Ireland's schools, monitoring standards and awarding qualifications.<sup>[389]</sup> A government commission's report in 2014 found that privately educated people comprise 7% of the general population of the UK but much larger percentages of the top professions, the most extreme case quoted being 71% of senior judges.

## **Healthcare**

Healthcare in the United Kingdom is a devolved matter and each country has its own system of private and publicly funded health care, together with alternative, holistic and complementary treatments. Public healthcare is provided to all UK permanent residents and is

mostly free at the point of need, being paid for from general taxation. The World Health Organization, in 2000, ranked the provision of healthcare in the United Kingdom as fifteenth best in Europe and eighteenth in the world. Regulatory bodies are organised on a UK-wide basis such as the General Medical Council, the Nursing and Midwifery Council and non-governmental-based, such as the Royal Colleges. However, political and operational responsibility for healthcare lies with four national executives; healthcare in England is the responsibility of the UK Government; healthcare in Northern Ireland is the responsibility of the Northern Ireland Executive; healthcare in Scotland is the responsibility of the Scottish Government; and healthcare in Wales is the responsibility of the Welsh Assembly Government. Each National Health Service has different policies and priorities, resulting in contrasts. Since 1979 expenditure on healthcare has been increased significantly to bring it closer to the European Union average.<sup>[396]</sup> The UK spends around 8.4 per cent of its gross domestic product on healthcare, which is 0.5 percentage points below the Organisation for Economic Co-operation and Development average and about one percentage point below the average of the European Union.<sup>[397]</sup>

## **Culture**

The culture of the United Kingdom has been influenced by many factors including: the nation's island status; its history as a western liberal democracy and a major power; as well as being a political union of four countries with each preserving elements of distinctive traditions, customs and symbolism. As a result of the British Empire, British influence can be observed in the language, culture and legal systems of many of its former colonies including Australia, Canada, India, Ireland, New Zealand, South Africa and the United States. The substantial cultural influence of the United Kingdom has led it to be described as a "cultural superpower."<sup>[398][399]</sup>

## **Literature**

' British literature' refers to literature associated with the United Kingdom, the Isle of Man and the Channel Islands. Most British literature is in the English language. In 2005, some 206,000 books were published in the United Kingdom and in 2006 it was the largest publisher of books in the world.<sup>[400]</sup> The English playwright and poet William Shakespeare is widely regarded as the greatest dramatist of all time, and his contemporaries Christopher Marlowe and Ben Jonson have also been held in continuous high esteem. More recently the playwrights Alan Ayckbourn, Harold Pinter, Michael Frayn, Tom Stoppard and David Edgar

have combined elements of surrealism, realism and radicalism. Notable pre-modern and early-modern English writers include Geoffrey Chaucer (14th century), Thomas Malory (15th century), Sir Thomas More (16th century), John Bunyan (17th century) and John Milton (17th century). In the 18th century Daniel Defoe (author of *Robinson Crusoe*) and Samuel Richardson were pioneers of the modern novel. In the 19th century there followed further innovation by Jane Austen, the gothic novelist Mary Shelley, the children's writer Lewis Carroll, the Brontë sisters, the social campaigner Charles Dickens, the naturalist Thomas Hardy, the realist George Eliot, the visionary poet William Blake and romantic poet William Wordsworth. 20th-century English writers include the science-fiction novelist H. G. Wells; the writers of children's classics Rudyard Kipling, A. A. Milne (the creator of Winnie-the-Pooh), Roald Dahl and Enid Blyton; the controversial D. H. Lawrence; the modernist Virginia Woolf; the satirist Evelyn Waugh; the prophetic novelist George Orwell; the popular novelists W. Somerset Maugham and Graham Greene; the crime writer Agatha Christie (the best-selling novelist of all time);<sup>[404]</sup> Ian Fleming (the creator of James Bond); the poets T.S. Eliot, Philip Larkin and Ted Hughes; the fantasy writers J. R. R. Tolkien, C. S. Lewis and J. K. Rowling; the graphic novelist Alan Moore. Scotland's contributions include the detective writer Arthur Conan Doyle (the creator of Sherlock Holmes), romantic literature by Sir Walter Scott, the children's writer J. M. Barrie, the epic adventures of Robert Louis Stevenson and the celebrated poet Robert Burns. More recently the modernist and nationalist Hugh MacDiarmid and Neil M. Gunn contributed to the Scottish Renaissance. A more grim outlook is found in Ian Rankin's stories and the psychological horror-comedy of Iain Banks. Scotland's capital, Edinburgh, was UNESCO's first worldwide City of Literature.<sup>[405]</sup> Britain's oldest known poem, *Y Gododdin*, was composed in *Yr Hen Ogledd (The Old North)*, most likely in the late 6th century. It was written in Cumbric or Old Welsh and contains the earliest known reference to King Arthur.<sup>[406]</sup> From around the seventh century, the connection between Wales and the Old North was lost, and the focus of Welsh-language culture shifted to Wales, where Arthurian legend was further developed by Geoffrey of Monmouth.<sup>[407]</sup> Wales's most celebrated medieval poet, Dafydd ap Gwilym (*fl.* 1320–1370), composed poetry on themes including nature, religion and especially love. He is widely regarded as one of the greatest European poets of his age.<sup>[408]</sup> Until the late 19th century the majority of Welsh literature was in Welsh and much of the prose was religious in character. Daniel Owen is credited as the first Welsh-language novelist, publishing *Rhys Lewis* in 1885. The best-known of the Anglo-Welsh poets are both Thomases. Dylan Thomas became famous on both sides of the Atlantic in the mid-20th century. He is remembered for his poetry – his "Do not go gentle into that

good night; Rage, rage against the dying of the light." is one of the most quoted couplets of English language verse – and for his 'play for voices', *Under Milk Wood*. The influential Church in Wales 'poet-priest' and Welsh nationalist R. S. Thomas was nominated for the Nobel Prize in Literature in 1996. Leading Welsh novelists of the twentieth century include Richard Llewellyn and Kate Roberts. Authors of other nationalities, particularly from Commonwealth countries, the Republic of Ireland and the United States, have lived and worked in the UK. Significant examples through the centuries include Jonathan Swift, Oscar Wilde, Bram Stoker, George Bernard Shaw, Joseph Conrad, T.S. Eliot, Ezra Pound and more recently British authors born abroad such as Kazuo Ishiguro and Sir Salman Rushdie.<sup>[411][412]</sup>

## Music

Various styles of music are popular in the UK from the indigenous folk music of England, Wales, Scotland and Northern Ireland to heavy metal. Notable composers of classical music from the United Kingdom and the countries that preceded it include William Byrd, Henry Purcell, Sir Edward Elgar, Gustav Holst, Sir Arthur Sullivan (most famous for working with the librettist Sir W. S. Gilbert), Ralph Vaughan Williams and Benjamin Britten, pioneer of modern British opera. Sir Peter Maxwell Davies is one of the foremost living composers and current Master of the Queen's Music. The UK is also home to world-renowned symphonic orchestras and choruses such as the BBC Symphony Orchestra and the London Symphony Chorus. Notable conductors include Sir Simon Rattle, John Barbirolli and Sir Malcolm Sargent. Some of the notable film score composers include John Barry, Clint Mansell, Mike Oldfield, John Powell, Craig Armstrong, David Arnold, John Murphy, Monty Norman and Harry Gregson-Williams. George Frideric Handel, although born German, was a naturalised British citizen<sup>[416]</sup> and some of his best works, such as *Messiah*, were written in the English language.<sup>[417]</sup> Andrew Lloyd Webber has achieved enormous worldwide commercial success and is a prolific composer of musical theatre, works which have dominated London's West End for a number of years and have travelled to Broadway in New York.<sup>[418]</sup> The Beatles have international sales of over one billion units and are the biggest-selling and most influential band in the history of popular music.<sup>[413][414][415][419]</sup> Other prominent British contributors to have influenced popular music over the last 50 years include; The Rolling Stones, Led Zeppelin, Pink Floyd, Queen, the Bee Gees, and Elton John, all of whom have world wide record sales of 200 million or more.<sup>[420][421][422][423][424][425]</sup> The Brit Awards are the BPI's annual music awards, and some of the British recipients of the Outstanding Contribution to Music award include; The Who, David Bowie, Eric Clapton, Rod

Stewart and The Police.<sup>[426]</sup> More recent UK music acts that have had international success include Coldplay, Radiohead, Oasis, Spice Girls, Robbie Williams, Amy Winehouse and Adele.<sup>[427]</sup> A number of UK cities are known for their music. Acts from Liverpool have had more UK chart number one hit singles per capita (54) than any other city worldwide.<sup>[428]</sup> Glasgow's contribution to music was recognised in 2008 when it was named a UNESCO City of Music, one of only three cities in the world to have this honour.<sup>[429]</sup>

## **Visual art**

The history of British visual art forms part of western art history. Major British artists include: the Romantics William Blake, John Constable, Samuel Palmer and J.M.W. Turner; the portrait painters Sir Joshua Reynolds and Lucian Freud; the landscape artists Thomas Gainsborough and L. S. Lowry; the pioneer of the Arts and Crafts Movement William Morris; the figurative painter Francis Bacon; the Pop artists Peter Blake, Richard Hamilton and David Hockney; the collaborative duo Gilbert and George; the abstract artist Howard Hodgkin; and the sculptors Antony Gormley, Anish Kapoor and Henry Moore. During the late 1980s and 1990s the Saatchi Gallery in London helped to bring to public attention a group of multi-genre artists who would become known as the "Young British Artists": Damien Hirst, Chris Ofili, Rachel Whiteread, Tracey Emin, Mark Wallinger, Steve McQueen, Sam Taylor-Wood and the Chapman Brothers are among the better-known members of this loosely affiliated movement. The Royal Academy in London is a key organisation for the promotion of the visual arts in the United Kingdom. Major schools of art in the UK include: the six-school University of the Arts London, which includes the Central Saint Martins College of Art and Design and Chelsea College of Art and Design; Goldsmiths, University of London; the Slade School of Fine Art (part of University College London); the Glasgow School of Art; the Royal College of Art; and The Ruskin School of Drawing and Fine Art (part of the University of Oxford). The Courtauld Institute of Art is a leading centre for the teaching of the history of art. Important art galleries in the United Kingdom include the National Gallery, National Portrait Gallery, Tate Britain and Tate Modern (the most-visited modern art gallery in the world, with around 4.7 million visitors per year).<sup>[430]</sup>

## **Cinema**

The United Kingdom has had a considerable influence on the history of the cinema. The British directors Alfred Hitchcock, whose film *Vertigo* is considered by some critics as the best film of all time,<sup>[431]</sup> and David Lean are among the most critically acclaimed of all-

time.<sup>[432]</sup> Other important directors including Charlie Chaplin,<sup>[433]</sup> Michael Powell,<sup>[434]</sup> Carol Reed<sup>[435]</sup> and Ridley Scott.<sup>[436]</sup> Many British actors have achieved international fame and critical success, including: Julie Andrews,<sup>[437]</sup> Richard Burton,<sup>[438]</sup> Michael Caine,<sup>[439]</sup> Charlie Chaplin,<sup>[440]</sup> Sean Connery,<sup>[441]</sup> Vivien Leigh,<sup>[442]</sup> David Niven,<sup>[443]</sup> Laurence Olivier,<sup>[444]</sup> Peter Sellers,<sup>[445]</sup> Kate Winslet,<sup>[446]</sup> Anthony Hopkins,<sup>[447]</sup> and Daniel Day-Lewis.<sup>[448]</sup> Some of the most commercially successful films of all time have been produced in the United Kingdom, including the two highest-grossing film franchises (*Harry Potter* and *James Bond*).<sup>[449]</sup> Ealing Studios has a claim to being the oldest continuously working film studio in the world.<sup>[450]</sup> Despite a history of important and successful productions, the industry has often been characterised by a debate about its identity and the level of American and European influence. British producers are active in international co-productions and British actors, directors and crew feature regularly in American films. Many successful Hollywood films have been based on British people, stories or events, including *Titanic*, *The Lord of the Rings*, *Pirates of the Caribbean*. In 2009, British films grossed around \$2 billion worldwide and achieved a market share of around 7% globally and 17% in the United Kingdom.<sup>[451]</sup> UK box-office takings totalled £944 million in 2009, with around 173 million admissions.<sup>[451]</sup> The British Film Institute has produced a poll ranking of what it considers to be the 100 greatest British films of all time, the BFI Top 100 British films.<sup>[452]</sup> The annual British Academy Film Awards are hosted by the British Academy of Film and Television Arts.<sup>[453]</sup>

## Media

The BBC, founded in 1922, is the UK's publicly funded radio, television and Internet broadcasting corporation, and is the oldest and largest broadcaster in the world. It operates numerous television and radio stations in the UK and abroad and its domestic services are funded by the television licence.<sup>[457][458]</sup> Other major players in the UK media include ITV plc, which operates 11 of the 15 regional television broadcasters that make up the ITV Network,<sup>[459]</sup> and News Corporation, which owns a number of national newspapers through News International such as the most popular tabloid *The Sun* and the longest-established daily "broadsheet" *The Times*,<sup>[460]</sup> as well as holding a large stake in satellite broadcaster British Sky Broadcasting.<sup>[461]</sup> London dominates the media sector in the UK: national newspapers and television and radio are largely based there, although Manchester is also a significant national media centre. Edinburgh and Glasgow, and Cardiff, are important centres of newspaper and broadcasting production in Scotland and Wales respectively.<sup>[462]</sup> The UK publishing sector, including books, directories and databases, journals, magazines and

business media, newspapers and news agencies, has a combined turnover of around £20 billion and employs around 167,000 people.<sup>[463]</sup> In 2009, it was estimated that individuals viewed a mean of 3.75 hours of television per day and 2.81 hours of radio. In that year the main BBC public service broadcasting channels accounted for an estimated 28.4% of all television viewing; the three main independent channels accounted for 29.5% and the increasingly important other satellite and digital channels for the remaining 42.1%.<sup>[464]</sup> Sales of newspapers have fallen since the 1970s and in 2009 42% of people reported reading a daily national newspaper.<sup>[465]</sup> In 2010 82.5% of the UK population were Internet users, the highest proportion amongst the 20 countries with the largest total number of users in that year.<sup>[466]</sup>

## **Philosophy**

The United Kingdom is famous for the tradition of 'British Empiricism', a branch of the philosophy of knowledge that states that only knowledge verified by experience is valid, and 'Scottish Philosophy', sometimes referred to as the 'Scottish School of Common Sense'.<sup>[467]</sup> The most famous philosophers of British Empiricism are John Locke, George Berkeley and David Hume; while Dugald Stewart, Thomas Reid and William Hamilton were major exponents of the Scottish "common sense" school. Two Britons are also notable for a theory of moral philosophy utilitarianism, first used by Jeremy Bentham and later by John Stuart Mill in his short work *Utilitarianism*.<sup>[468][469]</sup> Other eminent philosophers from the UK and the unions and countries that preceded it include Duns Scotus, John Lilburne, Mary Wollstonecraft, Sir Francis Bacon, Adam Smith, Thomas Hobbes, William of Ockham, Bertrand Russell and A.J. "Freddie" Ayer. Foreign-born philosophers who settled in the UK include Isaiah Berlin, Karl Marx, Karl Popper and Ludwig Wittgenstein.

## **Sport**

Major sports, including association football, tennis, rugby union, rugby league, golf, boxing, rowing and cricket, originated or were substantially developed in the UK and the states that preceded it. With the rules and codes of many modern sports invented and codified in late 19th-century Victorian Britain, in 2012, the President of the IOC, Jacques Rogge, stated; "This great, sports-loving country is widely recognized as the birthplace of modern sport. It was here that the concepts of sportsmanship and fair play were first codified into clear rules and regulations. It was here that sport was included as an educational tool in the school curriculum".<sup>[471][472]</sup>

In most international competitions, separate teams represent England, Scotland and Wales. Northern Ireland and the Republic of Ireland usually field a single team representing all of Ireland, with notable exceptions being association football and the Commonwealth Games. In sporting contexts, the English, Scottish, Welsh and Irish / Northern Irish teams are often referred to collectively as the Home Nations. There are some sports in which a single team represents the whole of United Kingdom, including the Olympics, where the UK is represented by the Great Britain team. The 1908, 1948 and 2012 Summer Olympics were held in London, making it the first city to host the games three times. Britain has participated in every modern Olympic Games to date and is third in the medal count. A 2003 poll found that football is the most popular sport in the United Kingdom.<sup>[473]</sup> England is recognised by FIFA as the birthplace of club football, and The Football Association is the oldest of its kind, with the rules of football first drafted in 1863 by Ebenezer Cobb Morley.<sup>[474][475]</sup> Each of the Home Nations has its own football association, national team and league system. The English top division, the Premier League, is the most watched football league in the world.<sup>[476]</sup> The first-ever international football match was contested by England and Scotland on 30 November 1872.<sup>[477]</sup> England, Scotland, Wales and Northern Ireland compete as separate countries in international competitions.<sup>[478]</sup> A Great Britain Olympic football team was assembled for the first time to compete in the London 2012 Olympic Games. However, the Scottish, Welsh and Northern Irish football associations declined to participate, fearing that it would undermine their independent status – a fear confirmed by FIFA president Sepp Blatter.<sup>[479]</sup> In 2003, rugby union was ranked the second most popular sport in the UK.<sup>[473]</sup> The sport was created in Rugby School, Warwickshire, and the first rugby international took place on 27 March 1871 between England and Scotland. England, Scotland, Wales, Ireland, France and Italy compete in the Six Nations Championship; the premier international tournament in the northern hemisphere. Sport governing bodies in England, Scotland, Wales and Ireland organise and regulate the game separately.<sup>[482]</sup> If any of the British teams or the Irish team beat the other three in a tournament, then it is awarded the Triple Crown.<sup>[483]</sup> Cricket was invented in England, and its laws were established by Marylebone Cricket Club in 1788.<sup>[484]</sup> The England cricket team, controlled by the England and Wales Cricket Board,<sup>[485]</sup> is the only national team in the UK with Test status. Team members are drawn from the main county sides, and include both English and Welsh players. Cricket is distinct from football and rugby where Wales and England field separate national teams, although Wales had fielded its own team in the past. Irish and Scottish players have played for England because neither Scotland nor Ireland have Test status and have only recently started to play in One Day

Internationals.<sup>[486][487]</sup> Scotland, England (and Wales), and Ireland (including Northern Ireland) have competed at the Cricket World Cup, with England reaching the finals on three occasions. There is a professional league championship in which clubs representing 17 English counties and 1 Welsh county compete.<sup>[488]</sup> Rugby league originated in Huddersfield and is generally played in Northern England.<sup>[489]</sup> A single 'Great Britain Lions' team had competed in the Rugby League World Cup and Test match games, but this changed in 2008 when England, Scotland and Ireland competed as separate nations.<sup>[490]</sup> Great Britain is still being retained as the full national team for Ashes tours against Australia, New Zealand and France. Super League is the highest level of professional rugby league in the UK and Europe. It consists of 11 teams from Northern England, 1 from London, 1 from Wales and 1 from France. The modern game of tennis originated in Birmingham, England in the 1860s, before spreading around the world.<sup>[491]</sup> The world's oldest tennis tournament, the Wimbledon championships, first occurred in 1877, and today the event takes place over two weeks in late June and early July.<sup>[492]</sup> Thoroughbred racing, which originated under Charles II of England as the "sport of kings", is popular throughout the UK with world-famous races including the Grand National, the Epsom Derby, Royal Ascot and the Cheltenham National Hunt Festival (including the Cheltenham Gold Cup). The UK has proved successful in the international sporting arena in rowing. The UK is closely associated with motorsport. Many teams and drivers in Formula One (F1) are based in the UK, and the country has won more drivers' and constructors' titles than any other. The UK hosted the very first F1 Grand Prix in 1950 at Silverstone, the current location of the British Grand Prix held each year in July. The country also hosts legs of the Grand Prix motorcycle racing, World Rally Championship and FIA World Endurance Championship. The premier national auto racing event is the British Touring Car Championship (BTCC). Motorcycle road racing has a long tradition with races such as the Isle of Man TT and the North West 200. Golf is the sixth-most popular sport, by participation, in the UK. Although The Royal and Ancient Golf Club of St Andrews in Scotland is the sport's home course,<sup>[493]</sup> the world's oldest golf course is actually Musselburgh Links' Old Golf Course.<sup>[494]</sup> In 1764, the standard 18 hole golf course was created at St Andrews when members modified the course from 22 to 18 holes.<sup>[495]</sup> The oldest golf tournament in the world, and the first major championship in golf, The Open Championship, is played annually on the weekend of the third Friday in July.<sup>[496]</sup> Snooker is one of the UK's popular sporting exports, with the world championships held annually in Sheffield.<sup>[497]</sup> The modern game of lawn tennis first originated in the city of Birmingham between 1859 and 1865.<sup>[498]</sup> The Championships, Wimbledon are international tennis events held in Wimbledon

in south London every summer and are regarded as the most prestigious event of the global tennis calendar. In Northern Ireland Gaelic football and hurling are popular team sports, both in terms of participation and spectating, and Irish expatriates in the UK and the US also play them.<sup>[499]</sup> Shinty (or *camanachd*) is popular in the Scottish Highlands.<sup>[500]</sup>

## **Symbols**

The flag of the United Kingdom is the Union Flag (also referred to as the Union Jack). It was created in 1606 by the superimposition of the Flag of England on the Flag of Scotland and updated in 1801 with the addition of Saint Patrick's Flag. Wales is not represented in the Union Flag, as Wales had been conquered and annexed to England prior to the formation of the United Kingdom. The possibility of redesigning the Union Flag to include representation of Wales has not been completely ruled out.<sup>[501]</sup> The national anthem of the United Kingdom is "God Save the King", with "King" replaced with "Queen" in the lyrics whenever the monarch is a woman. Britannia is a national personification of the United Kingdom, originating from Roman Britain.<sup>[502]</sup> Britannia is symbolised as a young woman with brown or golden hair, wearing a Corinthian helmet and white robes. She holds Poseidon's three-pronged trident and a shield, bearing the Union Flag. Sometimes she is depicted as riding on the back of a lion. Since the height of the British Empire in the late 19th century, Britannia has often been associated with British maritime dominance, as in the patriotic song "Rule, Britannia!". Up until 2008, the lion symbol was depicted behind Britannia on the British fifty pence coin and on the back of the British ten pence coin. It is also used as a symbol on the non-ceremonial flag of the British Army. The bulldog is sometimes used as a symbol of the United Kingdom and has been associated with Winston Churchill's defiance of Nazi Germany.

### **4-1-2- The Parliament of the UK**

The Houses of Parliament in London is home to the British Parliament, comprising the House of Lords and the House of Commons, the latter consisting of elected representatives from constituencies across England, Northern Ireland, Scotland, and Wales. Parliament is bicameral, with two houses — the House of Commons and the House of Lords; the monarch formally forms a third element of Parliament. The House of Commons, which unlike the House of Lords is democratically elected, has supremacy by virtue of the Parliament Act 1911 and Parliament Act 1949. An Act of Parliament of the United Kingdom is primary legislation

and Parliament can (and does) alter the British constitution by passing such Acts. Thus, the United Kingdom is referred to as a Parliamentary sovereignty.

Parliamentary sovereignty means judges cannot invalidate legislation. But in practice the UK consents to British and European courts to review legislation to comply with international standards under the Human Rights Act 1998, and consents to follow EU law under the European Communities Act 1972. Parliamentary sovereignty means that Parliament is the supreme law-making body: its Acts are the highest source of English law (the concept of parliamentary sovereignty is disputed in Scots law. According to the doctrine of parliamentary sovereignty, Parliament may pass any legislation that it wishes. Historically, "No Act of Parliament can be unconstitutional, for the law of the land knows not the word or the idea." By contrast, in countries with a codified constitution, the legislature is normally forbidden from passing laws that contradict that constitution: constitutional amendments require a special procedure that is more arduous than that for regular laws. There are many Acts of Parliament which themselves have constitutional significance. For example, Parliament has the power to determine the length of its term. By the Parliament Acts 1911 and 1949, the maximum length of a term of parliament is five years but this may be extended with the consent of both Houses. This power was most recently used during World War II to extend the lifetime of the 1935 parliament in annual increments up to 1945. Parliament also has the power to change the make-up of its constituent houses and the relation between them. Examples include the House of Lords Act 1999 which changed the membership of the House of Lords, the Parliament Acts 1911 and 1949 which altered the relationship between the House of Commons and the House of Lords and the Reform Act 1832 which made changes to the system used to elect members of the House of Commons. The power extended to Parliament includes the power to determine the line of succession to the British throne. This power was used to pass His Majesty's Declaration of Abdication Act 1936, which gave constitutional effect to the abdication of Edward VIII and removed any of his putative descendants from the succession, and most recently to pass the Succession to the Crown Act 2013, which changed the succession to the throne to absolute primogeniture (not dependent on gender) and also removed the disqualification of marrying a Catholic. Parliament also has the power to remove or regulate the executive powers of the Monarch. Parliament consists of the Monarch, the House of Commons and the House of Lords. The House of Commons consists of more than 600 members elected by the people from single-member constituencies under a first past the post system. Following the passage of the House of Lords Act 1999, the House of Lords consists of 26 bishops of the Church of England (Lords Spiritual), 92

representatives of the hereditary peers and several hundred life peers. The power to nominate bishops of the Church of England and to create hereditary and life peers is exercised by the Monarch, on the advice of the prime minister. By the Parliament Acts 1911 and 1949 legislation may, in certain circumstances, be passed without the approval of the House of Lords. Although all legislation must receive the approval of the Monarch (Royal Assent), no Monarch has withheld such assent since 1708. The House of Commons alone possesses the power to pass a motion of no confidence in the Government, which requires the Government either to resign or seek fresh elections (this principle was codified in the Fixed-term Parliaments Act 2011). Parliament traditionally also has the power to remove individual members of the government by impeachment (with the Commons initiating the impeachment and the Lords trying the case), although this power has not been used since 1806. By the Constitutional Reform Act 2005 it has the power to remove individual judges from office for misconduct.

In short, the parliament of UK is such a supreme and inescapable power that even the constitution is nothing compared to it, since it controls every domain of the British society and neither judges, nor monarchs can contradict its decisions or legislations once they are made.

#### **4-2- Differences between the British constitution and Beninese constitution.**

##### **4-2- 1- The British constitution**

The constitution of the United Kingdom is the sum of laws and principles that make up the body politic of the country. It concerns both the relationship between the individual and the state, and the functioning of the legislature, the executive and judiciary. In the UK there is not a separation of powers. The biggest part of the executive comes from the legislature, namely the prime minister and the cabinet are members of the party which won the majority of seats in the House of Commons. Unlike most other sovereign states, the United Kingdom does not possess a document expressing itself to be the nation's fundamental or highest law. Instead, the British constitution is found in a number of sources. Because of this, the British constitution is often said to be an *unwritten constitution*; however, many parts of the constitution are indeed in written form, so it would be more accurate to refer to the body of the British constitution as an *uncodified constitution*. Many important elements of the British constitution are to be found in Acts of Parliament. In contrast with many other countries,

legislation affecting the constitution is not subject to any special procedure, and is passed using the same procedures as for ordinary legislation.

### **General constitutional principles**

*Act of Parliament, Common law, Treaties, Constitutional conventions of the United Kingdom and Works of authority on the British constitution .*

Acts of Parliament are bills which have received the approval of Parliament – that is, the Monarch, the House of Lords and the House of Commons. On rare occasions, the House of Commons uses the "Parliament Acts" (the Parliament Act 1911 and the Parliament Act 1949) to pass legislation without the approval of the House of Lords. It is unheard of in modern times for the Monarch to refuse to assent to a bill, though the possibility was contemplated by George V in relation to the fiercely controversial Government of Ireland Act 1914. Acts of Parliament are among the most important sources of the constitution. According to the traditional view, Parliament has the ability to legislate however it wishes on any subject it wishes. For example, most of the iconic mediaeval statute known as Magna Carta has been repealed since 1828, despite previously being regarded as sacrosanct. It has traditionally been the case that the courts are barred from questioning any Act of Parliament, a principle that can be traced back to the mediaeval period. On the other hand, this principle has not been without its dissidents and critics over the centuries, and attitudes among the judiciary in this area may be changing. One consequence of the principle of parliamentary sovereignty is that there is no hierarchy among Acts of Parliament: all parliamentary legislation is, in principle, of equal validity and effectiveness. However, the judgment of Lord Justice Laws in the *Thoburn* case in 2002 indicated that there may be a special class of "constitutional statutes" such as Magna Carta, the Human Rights Act 1998, the European Communities Act 1972, the Act of Union and Bill of Rights which have a higher status than other legislation. This part of his judgment was "*obiter*" (i.e. not binding) and, indeed, was controversial. It remains to be seen whether the doctrine will be accepted by other judges. Treaties do not, on ratification, automatically become incorporated into UK law. Important treaties have been incorporated into domestic law by means of Acts of Parliament. The European Convention on Human Rights, for example, was given "further effect" into domestic law through the preamble of the Human Rights Act 1998. Also, the Treaty of Union of 1707 was important in creating the unitary state which exists today. The treaty was between the governments of England and Scotland and

was put into effect by two Acts of Union which were passed by the Parliaments of England and Scotland, respectively. The Treaty, along with the subsequent Acts, brought into existence the Kingdom of Great Britain, uniting the Kingdom of England and the Kingdom of Scotland. Common law legal systems exist in Northern Ireland and in England and Wales but not in Scotland which has a hybrid system (see Scots law) which involves a great deal of Common Law. Court judgments also commonly form a source of the constitution: generally speaking in English Law, judgments of the higher courts form *precedents* or *case law* that binds lower courts and judges; Scots Law does not accord the same status to precedent and judgments in one legal system do not have a direct effect in the other legal systems.<sup>[10]</sup> Historically important court judgments include those in the Case of Proclamations, the Ship money case and *Entick v Carrington*, all of which imposed limits on the power of the executive. A constitutional precedent applicable to British colonies is *Campbell v. Hall*, which effectively extended those same constitutional limitations to any territory which has been granted a representative assembly. Many British constitutional conventions are ancient in origin, though others (like the Salisbury Convention) date from within living memory. Such conventions, which include the duty of the Monarch to act on the advice of his or her ministers, are not formally enforceable in a court of law; rather, they are primarily observed "because of the political difficulties which arise if they are not." Works of authority is the formal name for works that are sometimes cited as interpretations of aspects of the UK constitution. Most are works written by nineteenth- or early-twentieth-century constitutionalists, in particular A. V. Dicey, Walter Bagehot and Erskine May.

### **Rule of law**

The rule of law was AV Dicey's second core principle of the UK constitution. This is the idea that all laws and government actions conform to principles. These principles include equal application of the law: everyone is equal before the law and no person is above the law, including those in power. Another is no person is punishable in body or goods without a breach of the law: as held in *Entick v Carrington*, unless there is a clear breach of the law, persons are free to do anything, unless the law says otherwise; thus, no punishment without a clear breach of the law.

### **Unity and devolution**

The Scottish Parliament in Edinburgh is an institution created by recent devolution in the United Kingdom. The United Kingdom comprises four countries: England, Wales, Scotland

and Northern Ireland. Nevertheless, it is a unitary state, not a federation (like Australia, Argentina, Brazil, Canada, Germany, Russia or the United States), nor a confederation (like pre-1847 Switzerland or the former Serbia and Montenegro). Although Scotland, Wales and Northern Ireland have possessed legislatures and executives, England does not. The authority of all these bodies is dependent on Acts of Parliament and that they can in principle be abolished at the will of the Parliament of the United Kingdom. In England the established church is the Church of England. In Scotland, there is no state church, the Church of Scotland having been disestablished by the Church of Scotland Act 1921; Wales and Northern Ireland have no established church. England and Wales share the same legal system, while Scotland and Northern Ireland each has its own distinct legal system. These distinctions were created as a result of the United Kingdom being created by the union of separate countries according to the terms of the 1706 Treaty of Union, ratified by the 1707 Acts of Union. Reforms since 1997 have decentralised the UK by setting up a devolved Scottish Parliament and assemblies in Wales and Northern Ireland. The UK was formed as a unitary state, though Scotland and England retained separate legal systems. Some commentators have stated the UK is now a "quasi-federal" state: it is only "quasi" federal, because (unlike the other components of the UK) England has no legislature of its own, and is directly ruled from Westminster (the devolved bodies are not sovereign and could, in theory at least, be repealed by Parliament – unlike "true" federations such as the United States where the constituent states share sovereignty with the federal government). Attempts to extend devolution to the various regions of England have stalled, and the fact that Parliament functions both as a *British* and as an *English* legislature has created some dissatisfaction (the so-called "West Lothian question").

### **Important conventions**

The Monarch shall grant the Royal Assent to all Bills passed by Parliament. The monarch will ask the leader of the majority party in the House of Commons to form a government, and if there is no majority party, the person who appears most likely to command the confidence of the House of Commons to serve as Prime Minister and form a government.<sup>[33]</sup> The monarch will ask a member of the House of Commons (rather than the House of Lords or someone outside Parliament) to form a government. It remains possible, however, for a caretaker Prime Minister to be drawn from the House of Lords.

All ministers are to be drawn from the House of Commons or the House of Lords.

The House of Lords will accept any legislation that was in the Government's manifesto (the Salisbury Convention) – in recent years this convention has been broken by the Lords, though the composition of the Lords (which was the justification for the convention) has radically changed since the convention was introduced.

## **Monarchy**

The United Kingdom is a constitutional monarchy, and succession to the British throne is hereditary. The monarch, or Sovereign, is the Head of State of the United Kingdom and amongst several roles is notably the Commander-in-chief of the British Armed Forces.

## **Royal prerogative**

Under the British constitution, sweeping executive powers, known as the royal prerogative, are nominally vested in the monarch. In exercising these powers the monarch normally defers to the advice of the prime minister or other ministers. "the Queen reigns, but she does not rule". The precise extent of the royal prerogative has never formally been delineated, but in 2004, Her Majesty's Government published some of the powers, in order to be more transparent:

## **Domestic powers**

- The power to dismiss and appoint a Prime Minister
- The power to dismiss and appoint other ministers
- The power to summon and prorogue Parliament
- The power to grant or refuse Royal Assent to bills (making them valid and law)
- The power to commission officers in the Armed Forces
- The power to command the Armed Forces of the United Kingdom
- The power to appoint members to the Queen's Council
- The power to issue and withdraw passports
- The power to grant Prerogative of mercy (though Capital Punishment is abolished, this power is still used to remedy errors in sentence calculation)
- The power to grant honours
- The power to create corporations by Royal Charter
- The power to appoint bishops and archbishops of the Church of England.

## **Foreignpowers**

- The power to ratify and make treaties
- The power to declare War and Peace
- The power to deploy the Armed Forces overseas
- The power to recognise states
- The power to credit and receive diplomats

**Sources : "Administrative Law and Administrative Courts in the United Kingdom: An Overview". Retrieved 15 November 2014.**

The most important prerogative still personally exercised by the monarch is the choice of whom to appoint Prime Minister.

The monarch formerly enjoyed the power to dissolve Parliament (normally on the request of the prime minister). However, this power was explicitly removed from the monarch by the Fixed-term Parliaments Act 2011. The Royal Prerogative is not unlimited; this was established in the Case of Proclamations (1610), which confirmed that no new prerogative can be created and that Parliament can abolish individual prerogatives.

## **Parliament**

Parliament could create new prerogatives if it so wished regardless. Parliament possesses the power to remove powers from the Royal Prerogative: this was done in the Fixed-term Parliaments Act 2011 which removed the Royal Prerogative to dissolve Parliament. However, the monarch's consent is required before Parliament may pass legislation removing such powers. The monarch's approval ("Queen's consent") is required before Parliament may debate or pass proposed legislation affecting the Royal Prerogative, or the hereditary revenues, personal property, or personal interests of the Crown

## **Cabinet and government**

The Prime Minister is appointed by the monarch based on who can command support of a majority in the House of Commons. When one party has an absolute majority in the House of Commons, the monarch appoints the leader of that party as prime minister. When

there is a hung parliament, or the identity of the leader of the majority party is not clear (as was often the case for the Conservative Party up to the 1960s, and for all parties in the nineteenth century), the monarch has more flexibility in his or her choice. The monarch appoints and dismisses other ministers on the advice of the prime minister (and such appointments and dismissals occur quite frequently as part of cabinet reshuffles). The prime minister, together with other ministers, form the Government. The Government often includes ministers whose posts are sinecures (such as the Chancellor of the Duchy of Lancaster) or ministers with no specific responsibilities (minister without portfolio): such positions may be used by the prime minister as a form of patronage, or to reward officials such as the Chairman of the ruling Party with a governmental salary. If the Commons votes against the Government on a motion of no confidence, the Fixed-term Parliaments Act 2011 specifies that Parliament automatically dissolves unless a subsequent motion of confidence is passed within fourteen days.

## **Judiciary**

There are three regional judicial systems in the United Kingdom: that of England and Wales, that of Scotland, and that of Northern Ireland. Under the Constitutional Reform Act 2005 the final court of appeal for all cases, other than Scottish criminal cases, is the newly created Supreme Court of the United Kingdom: for Scottish criminal cases, the final court of appeal remains the High Court of Justiciary. Vacancies in the Supreme Court are filled by the monarch based on the recommendation of a special election commission consisting of that Court's President, Deputy President, and members of the judicial appointment commissions for the three judicial systems of the UK. The choice of the commission may be vetoed by the Lord Chancellor (a government minister). Members of the Supreme Court may be removed from office by Parliament, but only for misconduct. Judges may not sit or vote in either House of Parliament (before the 2005 Act, they had been permitted to sit and vote in the House of Lords).

## **Administrative law**

Administrative law is often called "public law". Administrative law restricts the exercise of the government's power over public administration; it covers areas such as policing, prisons, urban planning, education, the environment and immigration. It ensures the exercise of the government's power takes place within a legislative framework. This means the legal responsibilities of governmental bodies are properly defined and, at the same time, the rights

and interests of the country's citizens are protected from the misuse or abuse of government power over public administration.

### **Church of England**

The Church of England is the established church in England (i.e., not in Scotland, Wales or Northern Ireland). The monarch is *ex officio* Supreme Governor of the Church of England, and is required by the Act of Settlement 1701 to "join in communion with the Church of England".

This study enables us to discover the unwritten and uncodified nature of the British constitution. As the topic tells it, this research work is a comparative analysis of the British constitution to the Beninese one. Let's then study what the Beninese constitution is about.

### **4-2-2- Benin and its constitution**

#### **- Benin**

**Benin**/bə'ni:n,-'nim/ (French: *Bénin*), officially the **Republic of Benin** (French: *République du Bénin*) and formerly **Dahomey**, is a country in West Africa. It is bordered by Togo to the west, by Nigeria to the east and by Burkina Faso and Niger to the north. A majority of the population live on its small southern coastline on the Bight of Benin, part of the Gulf of Guinea in the northernmost tropical portion of the Atlantic Ocean. The capital of Benin is Porto-Novo, but the seat of government is in Cotonou, the country's largest city and economic capital. Benin covers an area of approximately 115,000 square kilometers (42,000 sq mi), with a population of approximately 9.98 million. Benin is a tropical, sub-Saharan nation, highly dependent on agriculture, with substantial employment and income arising from subsistence farming.

The official language of Benin is French. However, indigenous languages such as Fon and Yoruba are commonly spoken. The largest religious group in Benin is Roman Catholicism, followed closely by Islam, Vodun and Protestantism. Benin is a member of the United Nations, the African Union, the Organisation of Islamic Cooperation, the South Atlantic Peace and Cooperation Zone, La Francophonie, the Community of Sahel-Saharan States, the African Petroleum Producers Association and the Niger Basin Authority. From the 17th to the 19th century, the main political entities in the area were the Kingdom of Dahomey along with

the city-state of Porto-Novo and a large area with many different tribes to the north. This region was referred to as the Slave Coast from as early as the 17th century due to the large number of slaves shipped to the New World during the Trans-Atlantic slave trade. After slavery was abolished, France took over the country and renamed it French Dahomey. In 1960, Dahomey gained full independence from France, and had a tumultuous period with many different democratic governments, many military coups and military governments. A Marxist-Leninist state called the People's Republic of Benin existed between 1975 and 1990. In 1991, it was replaced by the current multi-party Republic of Benin.

## **Economy**

The economy of Benin is dependent on subsistence agriculture, cotton production, and regional trade. Cotton accounts for 40 percent of GDP and roughly 80 percent of official export receipts. Growth in real output has averaged around 5 percent in the past seven years, but rapid population growth has offset much of this increase. Inflation has subsided over the past several years. Benin uses the CFA franc, which is pegged to the euro. Benin's economy has continued to strengthen over the past years, with real GDP growth estimated at 5.1 and 5.7 percent in 2008 and 2009, respectively. The main driver of growth is the agricultural sector, with cotton being the country's main export, while services continue to contribute the largest part of GDP largely because of Benin's geographical location, enabling trade, transportation, transit and tourism activities with its neighbouring states. In order to raise growth still further, Benin plans to attract more foreign investment, place more emphasis on tourism, facilitate the development of new food processing systems and agricultural products, and encourage new information and communication technology. Projects to improve the business climate by reforms to the land tenure system, the commercial justice system, and the financial sector were included in Benin's US\$307 million Millennium Challenge Account grant signed in February 2006. The Paris Club and bilateral creditors have eased the external debt situation, with Benin benefiting from a G8 debt reduction announced in July 2005, while pressing for more rapid structural reforms. An insufficient electrical supply continues to adversely affect Benin's economic growth though the government recently has taken steps to increase domestic power production. Although trade unions in Benin represent up to 75% of the formal workforce, the large informal economy has been noted by the International Trade Union Confederation (ITCU) to contain ongoing problems, including a lack of women's wage equality, the use of child labour, and the continuing issue of forced labour. Benin is a member

of the Organization for the Harmonization of Business Law in Africa (OHADA). Cotonou harbors the country's only seaport and international airport. A new port is currently under construction between Cotonou and Porto Novo. Benin is connected by two-lane asphalted roads to its neighboring countries (Togo, Burkina Faso, Niger, and Nigeria). Mobile telephone service is available across the country through various operators. ADSL connections are available in some areas. Benin is connected to the Internet by way of satellite connections (since 1998) and a single submarine cable SAT-3/WASC (since 2001), keeping the price of data extremely high. Relief is expected with initiation of the Africa Coast to Europe cable in 2011. Currently, about a third of the population live below the international poverty line of US\$1.25 per day.

### **-The Beninese constitution**

The successive changes of political regimes and of governments have not blunted the determination of the Béninese people to search for, in their own spirit, the cultural, philosophical and spiritual values of civilization which sustain the forms of their patriotism. Thus, the National Conference of Active Forces of the Nation, held in Cotonou from February 19 to 28, 1990, in giving back confidence to the people, has permitted the national reconciliation and the advent of an era of democratic revival.

On the day after this Conference,

The Constitution was adopted by the Beninese people in the Constituent Referendum on 2 December 1990. It was promulgated by the President of the Republic as Law No. 9032 of 11 December 1990.

The constitution is the supreme law of the state. Also called “l’*loi fondamentale*” (The basic law), the Beninese constitution is a set of laws ruling its institutions and is written in 160 articles. Some will be studied through the main powers of the constitution: the Legislative, the Executive and the Judiciary. However the constitutional court shall be the highest jurisdiction of the State in constitutional matters. It shall be the judge of the constitutionality of the law and it shall guarantee the fundamental human rights and the public liberties. It shall be the regulatory body for the functioning of these institutions and for the activity of public authorities.

## **The institutions**

### **EXECUTIVE POWER**

Benin is a country ruled under presidential system, the president of the republic is the head of the state and head of the government.

-The President of the Republic shall be the Chief of State. He shall be elected by the Nation and shall embody the national unity. He shall be the guarantor of national independence, of territorial integrity, and of respect for the Constitution, treaties and international agreements.

Let's then see this in the following article of the constitution:

#### **ARTICLE 42.**

The President of the Republic shall be elected by direct universal suffrage for a mandate of five (5) years, renewable only one time. In any case, no one shall be able to exercise more than two presidential mandates.

### **THE LEGISLATIVE POWER**

-The National Assembly shall be directed by a President assisted by an Office Staff. They shall be elected for the duration of the Legislature under conditions fixed by the Rules of Procedure of the said Assembly. When he shall assume the interim period of the President of the Republic under the conditions provided for in Article 50 of the present Constitution, the President of the National Assembly shall be replaced in his duties in accordance with the Rules of Procedure of the Assembly. In case of vacancy of the Presidency of the National Assembly by death, resignation, or any other cause, the Assembly shall elect a new President within the fifteen days following the vacancy if it is in session; should it be otherwise, it shall reconvene in full session under the conditions fixed by its Rules of Procedure. In case of necessity, there shall be provision for the replacement of other members of the Office Staff according to the provisions of the Rules of Procedure of the said Assembly.

### **JUDICIAL POWER**

-The President of the Republic shall be the guarantor of the independence of justice. He shall be assisted by the Superior Council of the Magistrature.

-Judicial power shall be independent of the legislative power and of the executive power. It shall be exercised by the Supreme Court, and Courts and Tribunals created in accordance with

the present Constitution. Justice shall be rendered in the name of the Béninese people. The judges, in the exercise of their duties, shall be subject only to the authority of the law. Sitting magistrates shall be irremovable. The constitutional court, the Supreme Court, and the High Court of Justice are judicial bodies that animate the Judicial System of the country. Thus, their functions are explained through the following articles:

### **THE SUPREME COURT**

The Supreme Court shall be the highest court of law of the State in administrative and judicial matters and the management of the accounts of the State. It shall be equally competent in that which concerns disputed matters in local elections. The decisions of the Supreme Court shall not be subject to any appeal. They shall be imperative on executive power, on legislative power, as well as on all court of law.

#### **ARTICLE 133.**

The functions of the President of the Supreme Court shall be incompatible with the qualification of a member of the Government, with the exercise of any elective mandate, with any public employment -civil or military, with any other professional activity, as well as with any office of national representation.

### **THE HIGH COURT OF JUSTICE.**

The High Court of Justice shall be composed of members of the Constitutional Court, with the exception of its President, and of six Deputies elected by the National Assembly and by the President of the Supreme Court. The High Court shall elect from its midst its President.

#### **ARTICLE 136.**

The High Court of Justice shall be competent to judge the President of the Republic and the members of the Government by reason of blatant charges of high treason, of infractions committed in the exercise of or on the occasion of the exercise of their duties, as well as to judge their accomplices in case of a plot against the security of the State.

#### **ARTICLE 138.**

The President of the Republic and the members of the government shall be suspended from their duties in case of an indictment for high treason, insult to the National Assembly, and any injury to honor and honesty. In case of conviction, they shall forfeit their offices.

The **Press** also is a powerful institution; it is referred to as the fourth power of the country.

#### **4-2-3- Unwritten constitution versus written Constitution**

Both the Britain and Benin are countries with important political histories. No matter what they have gone through, the constitution is what makes a country. Comparing the two constitutions, we first notice that the United Kingdom does not have a written or codified constitution. Laws, provisions and statutes are written in many documents. It happens that the Britain is a highly educated society, where illiteracy is considered a crime so every citizen knows its rights and duties by heart and has taken their constitutional laws as gentlemen's agreement that, they are unaware of its unwritten nature. Since the Glorious Revolution in 1688, the bedrock of the British constitution has traditionally been the doctrine of parliamentary sovereignty, according to which the statutes passed by Parliament are the UK's supreme and final source of law. It follows that Parliament can change the constitution simply by passing new Acts of Parliament. All constitutional amendments can be made by a simple majority of the legislature. No distinction is made between the constitution making authority and the ordinary law making authority. No law is unconstitutional if passed by the Parliament. It is a sovereign body, at once enjoying the ordinary law making powers and constitutional law making powers. It is at once a legislature and a constituent assembly.

The British constitution is characterized with flexibility and elasticity, laws can be removed and added anyhow through simple acts in assembly. The constitution of England is a typical example of a flexible constitution, one that can be amended in an ordinary legislative process by the ordinary legislature. A Constitutional law and an ordinary law are treated alike. They are placed on an equal footing.

Unlike the UK, Beninese constitution is written instead. The constitution is the supreme law of the state, any entering president shall be the guarantor of respect for the Constitution as stated in article 41 of it, whereas in UK parliament is sovereign and has supremacy on the constitution. A written constitution protects the institutions, and also the liberties of the people whereas an unwritten like that of Britain may destroy democracy and

free running of the institutions by themselves. The Beninese constitution is a rigid one. A rigid constitution is one which cannot be amended, in the manner in which ordinary laws are passed amended or repealed. If a special procedure or organ is needed for its amendment, it is a rigid constitution. As Gettle says, "Its laws are thus fixed and emanate from a source different from that of ordinary laws, which must keep within the bounds fixed by the constitution". A law which the constitution forbids or a law made by an organ not empowered to do so by the constitution shall be an unconstitutional law. Ordinary legislature of the country is not competent to amend it in the ordinary legislative procedure. Under a rigid constitution distinction is always maintained between a constitutional law and an ordinary law, since a constitutional law is superior to an ordinary law. In Benin, Constitutional law cannot be amended by the ordinary legislature using normal legislative procedure.

The legislature under a rigid constitution is not sovereign. Its authority is limited by the constitution. There is a special procedure for constitutional amendment. For instance, ordinary law in U.S.A. can be passed by a simple majority of the Congress, whereas the constitutional laws can be amended only by the agreement of two thirds majority of the Congress and three fourths of the states. The Swiss constitution is still more rigid. An amendment whether proposed by the Federal Assembly or through initiative needs to be approved by the Cantons and the electorate through referendum. It must be, thus approved by majority of all the voters casting their vote and by majority of such votes in majority of Cantons.

Another point of difference is that, in Britain, there is no a separation of powers, all ministers of government are also Members of the parliament drawn from the majority party of the house of Common, while in Benin this is quite impossible, the executive is not compatible with the legislative that is a minister can not be a deputy at the same time. Besides, the Beninese system is presidential: the president is the head of state and of the government; he appoints his ministers and has the authority to dismiss or to proceed to a cabinet reshuffle if necessary. But in Britain, we have a parliamentary sovereignty with a constitutional monarchy where the Monarch is the head of state; the Prime minister is the head of the Government leader from the party which has the majority in the house of common. The British parliament is bicameral and has the supremacy whereas the Beninese one is unicameral and is the second power of the country but not sovereign as it is in the UK. In short, Benin and Britain have different constitution with powers differently ruled. To sum up, a country governed under a written constitution is better. Finally, because the British Constitution cannot be found in any single document, politicians and lawyers have relied on

constitutional authorities to locate and understand the constitution. This lead us to ask the question: What are the disadvantages of an unwritten constitution? Let's get a answer in the next chapter.

## **CHAPTER FIVE: IMPACTS OF UNWRITTEN CONSTITUTION ON THE PARLIAMENT AND THE SOCIETY IN THE UK.**

### **5-1- Advantages of unwritten constitution for the parliament and the society in the UK.**

Unwritten constitution is the one where various elements maybe written down but there is no one single document which outlines the constitution of the state. Britain is one of the few countries that has an unwritten constitution. Instead Britain's laws, policies and codes are developed through statutes, common law, convention and more recently U.E law. However, the British constitution clearly sets out how political power is allocated and where it is legally located. What are the positive aspects of the unwritten constitution on the parliament and the Society in UK by then? An unwritten constitution based on conventions has the advantage of being extremely adaptable or flexible. Since it is unwritten, it can be changed easily to deal with new situations and adapt to changing society and times. All that is necessary for the practices to be changed is for Parliament to agree that change is necessary. In term of democratic rules: The constitution, if changed is done so by democratically elected bodies, therefore such change is done so, because of pressure by the people of the country. There is an entrenchment, but one that gives democratic consensus may be more easily modified than as a written constitution. So long as democratic processes are in place and Parliament and the Judiciary act as elected guardians, then in many ways the British constitution appears more fitted to reflect a changing world and changing circumstances. Besides, unwritten constitution, provide an effective government: strong and effective governments are created as they are able to act as they want to better the country without being restricted by old archaic rules. Also, we have advantages in term of history and tradition: unwritten constitution have evolved over time and gained historical authority. They have been proved and tested to be effective so all rules and laws can be trusted. Thus, when we consider the way that ordinary laws pass and how constitutional acts are amended or changed, we can conclude that such constitution allows the British legislative process to go easily. If we take the whole house committees, it deals with several categories of Bills: straightforward and uncontroverial bills; bills that need to be passed with extreme urgency, for instance, the Prevention of Terrorism Act (1974), so the fact that the British constitution is unwritten and does not prevent any legislative process to go freely, helps urgent parliamentary acts to pass. In the case of terrorism threat or any safety issue, in order to save the whole country and preserve peace in the society. The counter-Terrorism Act of 2008 is an act that confers

further powers to gather and share information for counter-terrorism and other purposes; to make further provision about the detention and questioning of terrorist suspects and the prosecution and punishment of terrorist offences; to impose notification requirement on persons convicted of such offences; to confer further powers to act against terrorist financing, money laundering and certain other matters connected with, review proceedings; to amend the enactments relating to terrorist offences, control or advocates orders and the forfeiture of terrorist cash; to provide for recovering the cost of policing at certain gas facilities; to amend provisions about the appointment of special advocates in Northern Ireland; and for connected purposes. Finally, since parliament doesn't have to worry about a law being declared unconstitutional by the courts, it is very advantageous for him to pass acts that bring effective changes in the British people's lives. But, this same advantage of not worrying about a law being declared unconstitutional by court is a danger in itself. That's what we are going to study in the following title.

## **5-2- Drawbacks of unwritten constitution on the parliament and the society in the UK.**

A law does not have a legal value when not embedded in a formal document called, constitution. Hence, a nation that lacks of this, may suffer many problems as far as its democracy, civil rights of minorities: Indeed, the United Kingdom is one of three countries in the world which face such a situation. First, an unwritten constitution creates uncertainty, for it is difficult to know exactly and laws are often ambiguous and unclear, it can seem as if it is made up as we go along. Elective dictatorship is another serious issue, if the constitution is easily changed, it could rise to the problem that democratically elected government gain power and change the constitution to meet their needs and so form a dictatorship. Weak protection of Rights: there is nothing forcing the government into protecting individuals rights and freedoms, they theoretically can do as they please. A major disadvantage therefore of the UK's unwritten constitution is that in the absence of any higher form of law it is virtually impossible to ensure that the rights of minorities and individual citizens are protected against legislative infringement by Parliament. The government tends to have centralised power. Moreover, the absence of a written constitution means that there is no special procedure prescribed for legislation and constitutional importance. For example, before the Republic of Ireland could join the EEC, a constitutional amendment to the Irish constitution had to be approved by referendum of the people. In the United Kingdom, however, while the European Communities Act 1972 was debated at length in Parliament, the Act was passed by essentially

the same procedure as would apply to any legislation of purely domestic concern. With no written constitution in practice the British constitution depends far less on legal rules and safeguards and relies much more upon political and democratic principles. Besides, where there are democratic problems unity doesn't last to disrupt. A division is not profitable at all for the United Kingdom, in terms of economy, stability, welfare of the people. One of the recent problem that occurs with the UK's unwritten constitution is : The Scottish independence referendum. How does it happen ?

### **5-2-1- Case of the Scottish Republic's claim of independence from the UK (2014).**

The Scottish independence **referendum** was a referendum on Scottish independence that took place in Scotland on 18 September 2014. The independence referendum question, which voters answered with "Yes" or "No", was "Should Scotland be an independent country?". The "No" side won, with 2,001,926 (55.3%) voting against independence and 1,617,989 (44.7%) voting in favour. The turnout of 84.6% was the highest recorded for an election or referendum in the United Kingdom since the introduction of universal suffrage. The Scottish Independence Referendum Bill, setting out the arrangements for this referendum, was passed by the Scottish Parliament in November 2013, following an agreement between the Scottish and the United Kingdom governments, and was enacted as the Scottish Independence Referendum Act 2013. To pass, the independence proposal required a simple majority. With some exceptions, all European Union (EU) or Commonwealth citizens resident in Scotland aged 16 or over could vote, a total of almost 4.3 million people. Yes Scotland was the main campaign group for independence, while Better Together was the main campaign group in favour of maintaining the union. Many other campaign groups, political parties, businesses, newspapers and prominent individuals were also involved. Prominent issues raised during the referendum included which currency an independent Scotland would use, public expenditure, EU membership, and North Sea oil. In fact things started progressively since early 20<sup>th</sup> century with the Scottish home rule called the Scottish devolution :

### **Devolution**

The Labour Party was committed to home rule for Scotland in the 1920s, but it slipped down its agenda in the following years. The Scottish National Party (SNP) was formed in 1934, but did not achieve significant electoral success until the 1960s. A document calling for home rule, the Scottish Covenant, was signed by 2 million people (out of a population of 5 million) in the late 1940s. Home rule, now known as Scottish devolution, did not become a serious

proposal until the late 1970s as the Labour government of Jim Callaghan came under electoral pressure from the SNP. A proposal for a devolved Scottish Assembly was put to a referendum in 1979. A narrow majority of votes were cast in favour of change, but this had no effect due to a requirement that the number voting 'Yes' had to exceed 40% of the total electorate. No further constitutional reform was proposed until Labour returned to power in 1997, when a second Scottish devolution referendum was held. Clear majorities expressed support for both a devolved Scottish Parliament and that Parliament having the power to vary the basic rate of income tax. The Scotland Act 1998 established the new Scottish Parliament, first elected on 6 May 1999, with power to legislate on unreserved matters within Scotland.

### **Legality of a referendum**

There was debate as to whether the Scottish Parliament had the power to legislate for a referendum relating to the issue of Scottish independence, as the constitution is a reserved matter for the UK Parliament.<sup>[15]</sup> The Scottish government insisted in 2010 that they could legislate for a referendum, as it would be an "advisory referendum on extending the powers of the Scottish Parliament",<sup>[14]</sup> whose result would "have no legal effect on the Union".<sup>[13]:17</sup> Lord Wallace, Advocate General for Scotland, said in January 2012 that holding a referendum concerning the constitution would be outside the legislative power of the Scottish Parliament and that private individuals could challenge a Scottish Parliament referendum bill. The two governments signed the Edinburgh Agreement, which allowed for the temporary transfer of legal authority. In accordance with the Edinburgh Agreement, the UK government drafted an Order in Council granting the Scottish Parliament the necessary powers to hold, on or before 31 December 2014, an independence referendum. The draft Order was approved by resolutions of both Houses of Parliament, and the Order, titled The Scotland Act 1998 (Modification of Schedule 5) Order 2013, was approved by The Queen, following the advice of Her Ministers, at a meeting of the Privy Council on 12 February 2013. Under the powers temporarily transferred from Westminster under the section 30 Order, the Scottish Parliament adopted the Scottish Independence Referendum Act 2013, summoning the referendum, defining the question to be asked, giving the date on which the referendum was to be held, and establishing the rules governing the holding of the referendum. The Bill for the Act was passed by the Scottish Parliament on 14 November 2013 and received Royal Assent on 17 December 2013. Under section 36 of the Act, it came into force the day after Royal Assent.

## **Outcome of the vote**

The UK government stated that, if a simple majority of the votes cast were in favour of independence, then "Scotland would become an independent country after a process of negotiations". If the majority was against independence, Scotland would continue within the United Kingdom. Further powers would be devolved to the Scottish Parliament as a result of the Scotland Act 2012. The Electoral Commission prepared an information leaflet which confirmed that the UK and Scottish governments had reached agreement on these points.

## **Issues**

### **Agriculture**

In 2013, as part of a European Union (EU) member state, Scottish farmers received £583 million in subsidy payments from the EU under the Common Agricultural Policy (CAP).<sup>[64]</sup> Annual CAP payments are made to the UK, which then determines how much to allocate to each of the devolved administrations, including Scotland.<sup>[65]</sup> In the last CAP agreement, farmers in the UK qualified for additional convergence payments because Scottish farmers receive a lower average single farm payment per hectare, mainly due to the mountainous terrain in Scotland.<sup>[65][66]</sup> Supporters of independence therefore believed that an independent Scotland would receive greater agricultural subsidies than when part of the UK.<sup>[65]</sup> Opponents of independence believed that Scottish farmers benefited because the UK was one of the larger EU member states and therefore had a greater say in CAP negotiations.<sup>[65]</sup> They also questioned whether an independent Scotland would immediately receive full subsidy payments from the EU, as recent new member states had had their subsidies phased in.<sup>[65]</sup>

### **Border controls and immigration**

The UK has some opt-outs from EU policies. One is the opt-out from the Schengen Area, meaning there are full passport checks for travellers from other EU countries except Republic of Ireland, which is part of the Common Travel Area (CTA) with the UK. The Scottish government proposed that an independent Scotland should remain outside the Schengen Area and join the CTA,<sup>[67][68]</sup> ensuring that no passport controls would be needed at the Anglo-Scottish border. Nicola Sturgeon commented that an independent Scotland would negotiate with the EU to have the same visa arrangements as the UK has.<sup>[69]</sup> In May 2014, Labour MEP David Martin commented that the EU was "not going to force Scotland to join Schengen".<sup>[70]</sup>

Alistair Carmichael, the Secretary of State for Scotland, said in January 2014 that it would make sense for Scotland to be in the CTA, but it would have to operate similar immigration policies to the rest of the UK. This position was supported by Home Secretary Theresa May, who said in March 2014 that passport checks should be introduced if Scotland adopted a looser immigration policy. The Conservative MP Richard Bacon said there would be "no reason" for border controls to be implemented.

### **Childcare**

In the white paper *Scotland's Future*, the Scottish government pledged to expand childcare provision in an independent Scotland. The paper stated that this policy would cost £700 million, but that this would be financed by increased tax revenue from an additional 100,000 women returning to work.<sup>[72]</sup>

### **Citizenship**

The Scottish government proposed that all Scottish-born British citizens would automatically become Scottish citizens on the date of independence, regardless of whether or not they were then living in Scotland. British citizens "habitually resident" in Scotland would also be considered Scottish citizens, even if they already held the citizenship of another country. Every person who would automatically be considered a Scottish citizen would be able to opt out of Scottish citizenship provided they already held the citizenship of another country.

### **Defence**

#### **Budget**

The SNP said that there was a defence underspend of "at least £7.4 billion" between 2002 and 2012 in Scotland and that independence would allow the Scottish government to correct this imbalance.<sup>[80]</sup> In its white paper, the Scottish government planned that an independent Scotland would have a total of 15,000 regular and 5,000 reserve personnel across land, air and maritime forces by 2026.<sup>[81]</sup> In July 2013, the SNP proposed that there would be a £2.5 billion annual military budget in an independent Scotland.<sup>[82]</sup> The House of Commons Defence Select Committee said that the £2.5bn budget was too low.<sup>[83]</sup> Andrew Murrison, UK Minister for International Security Strategy agreed and said it was "risible" for the SNP to suggest it could create an independent force by "salami-slicing" from current British armed forces units.<sup>[84]</sup>

The House of Commons defence committee also stated that Scottish independence would have a negative effect on its industry,<sup>1</sup> while the UK government said it would not be willing to build warships in a foreign country. Geoff Searle, the director of BAE Systems' Type 26 Global Combat Ship programme, said in June 2014 that the company had no alternative plan for shipbuilding, but this position was later revised by the Chairman of BAE, who stated that they could resume shipbuilding in the English city of Portsmouth if an independent Scotland was established.<sup>1</sup> The chief executive of Thales, one of Britain's largest defence suppliers, said that if Scotland became independent that this might raise questions about continued investment from his firm.

The Royal United Services Institute said in 2012 that an independent Scotland could set up a Scottish Defence Force, comparable in size and strength to those of other small European states like Denmark, Norway and Ireland, at an annual cost of £1.8 billion.<sup>[90]</sup> The authors acknowledged that an independent Scotland would "need to come to some arrangement with the rest of the UK" on intelligence-gathering, cyber-warfare and cyber-defence, that the future cost of purchasing and maintaining equipment of its forces might be higher due to smaller orders, and that recruitment and training "may prove problematic" in the early years.<sup>[90]</sup>

Dorcha Lee, a former colonel in the Irish Army, said that Scotland could eschew forming an army based on inherited resources from the British Army and instead follow an Irish model of a limited self-defence force.<sup>[91]</sup>

## **Nuclear weapons**

A Trident missile-armed *Vanguard* class ballistic missile submarine leaving its base in the Firth of Clyde

The Trident nuclear missile system is based at Coulport weapons depot and naval base of Faslane in the Firth of Clyde area. While the SNP objects to having nuclear weapons on Scottish territory, British military leaders have said that there is no alternative site for the missiles; in April 2014, several British military leaders co-signed a letter stating that forcing Trident to leave Scottish waters would place the UK nuclear deterrent in jeopardy. *Nowhere to Go*, a report by Scottish CND, concluded that the removal of Trident from Scotland would force unilateral nuclear disarmament by the United Kingdom, as the weapons have no viable alternative base. A report by the Royal United Services Institute said that relocating Trident would be "very difficult, but not impossible" and estimated that it would take about 10 years

and create an additional cost of around £3 billion. A seminar hosted by the Carnegie Endowment for International Peace stated that the Royal Navy would have to consider a range of alternatives, including disarmament. A report in 2013 from the Scotland Institute think tank suggested a future Scottish government could be convinced to lease the Faslane nuclear base to the rest of the UK to maintain good diplomatic relations and expedite NATO entry negotiations.

### **NATO membership**

In 2012 the SNP dropped a long-standing policy of opposition in principle to NATO membership. MSPs John Finnie and Jean Urquhart resigned from the SNP over the policy change. The Scottish Green Party and Scottish Socialist Party remained opposed to continued membership of NATO. The SNP position that Trident nuclear weapons should be removed from Scotland but that it should hold NATO membership was criticised by Willie Rennie, leader of the Scottish Liberal Democrats, and Patrick Harvie, co-convenor of the Scottish Green Party. Alex Salmond said it would be "perfectly feasible" to join NATO while maintaining an anti-nuclear stance and that Scotland would pursue NATO membership only "subject to an agreement that Scotland will not host nuclear weapons and NATO continues to respect the right of members to only take part in UN sanctioned operations". In 2013, Professor Malcolm Chalmers of the Royal United Services Institute stated that "pragmatists" in the SNP accepted that NATO membership would be likely to involve a long-term basing deal enabling the UK to keep Trident on the Clyde.<sup>[106]</sup> The former Secretary General of NATO and Scottish Labour peer Lord Robertson said in 2013 that "either the SNP accept the central nuclear role of NATO ... or they reject the nuclear role of NATO and ensure that a separate Scottish state stays out of the world's most successful defence alliance."<sup>[106]</sup> General Richard Shirreff criticised SNP proposals for defence and questioned whether other NATO members would accept an independent Scotland that rejected the principle of nuclear deterrence.<sup>[107]</sup> This was disputed by Mariot Leslie, a former UK permanent representative to NATO, who stated that NATO would not want to disrupt its arrangements by excluding Scotland.<sup>[108]</sup>

### **Intelligence**

A UK government paper on security stated that Police Scotland would lose access to the intelligence apparatus of the UK, including MI5, SIS and GCHQ. The paper also said that an independent Scottish state would need to build its own security infrastructure.<sup>[109]</sup> Theresa

May commented that an independent Scotland would have access to less security capability, but would not necessarily face a reduced threat.<sup>[109]</sup> In 2013, Allan Burnett, former head of intelligence with Strathclyde Police and Scotland's counter-terrorism co-ordinator until 2010, said that "an independent Scotland would face less of a threat, intelligence institutions will be readily created, and allies will remain allies".

## **Democracy**

The Scottish government and pro-independence campaigners said that a democratic deficit existed in Scotland because the UK was a unitary state that did not have a codified constitution. The SNP also described the unelected House of Lords as an "affront to democracy". The "democratic deficit" label has sometimes been used to refer to the period between the 1979 and 1997 UK general elections, during which the Labour Party held a majority of Scottish seats but the Conservative Party governed the whole of the UK. Alex Salmond said in September 2013 that instances such as this amounted to a lack of democracy, and that "the people who live and work in Scotland are the people most likely to make the right choices for Scotland". In January 2012, Patrick Harvie said: "Greens have a vision of a more radical democracy in Scotland, with far greater levels of discussion and decision making at community level."

The Scottish Government intended that an independent Scotland should have a written constitution which "expresses our values, embeds the rights of our citizens and sets out clearly how our institutions of state interact with each other and serve the people".<sup>[121]</sup> In November 2013, Sandra Webster addressed the STUC's disabled workers' conference in Dundee and called for the rights of disabled people to be enshrined in an independent Scotland's constitution.

Menzies Campbell wrote in April 2014 that any democratic deficit had been addressed by creating the devolved Scottish Parliament, and that "Scotland and the Scottish have enjoyed influence beyond our size or reasonable expectation" within the British government and the wider political system. Conservative MP Daniel Kawczynski said in 2009 that the asymmetric devolution in place in the UK has created a democratic deficit for England. This is more commonly known as the West Lothian question, which cites the anomaly where English MPs cannot vote on affairs devolved to Scotland, but Scottish MPs can vote on the equivalent subjects in England. Kawczynski also pointed out that the average number of voters in a parliamentary constituency is larger in England than in Scotland. During the campaign each of

the three main UK parties conducted reviews into devolution, with each recommending that more powers should be devolved to the Scottish Parliament. On the morning prior to a televised debate between Alex Salmond and Alistair Darling. Besides, the most dangerous threat for UK, if Scotland become independent country will be a big economic loss, in terms of currency, oil and gaz. In February 2014, the *Financial Times* noted that Scotland's per capita GDP is bigger than that of France when a geographic share of oil and gas is taken into account, and still bigger than that of Italy when it is not. As of April 2014, Scotland had a similar rate of unemployment to the UK average (6.6%) and a lower fiscal deficit (including as a percentage of GDP) than the rest of the UK. Scotland performed better than the UK average in securing new Foreign Direct Investment in 2012–13 (measured by the number of projects), although not as well as Wales or Northern Ireland. GDP growth during 2013 was lower in Scotland than in the rest of the UK, although this was partly due to an industrial dispute at the Grangemouth Refinery.

### **Economy**

A principal issue in the referendum was the economy. The UK Treasury issued a report on 20 May 2013 which said that Scotland's banking systems would be too big to ensure depositor compensation in the event of a bank failure. The report indicated that Scottish banks would have assets worth 1,254% of GDP, which is more than Cyprus and Iceland before the last global financial crisis. It suggested Scottish taxpayers would each have £65,000 of potential liabilities during a hypothetical bailout in Scotland, versus £30,000 as part of the UK. Economists including Andrew Hughes Hallett, Professor of Economics at St Andrews University, rejected the idea that Scotland would have to underwrite these liabilities alone. He observed that banks operating in more than one country can be given a joint bailout by multiple governments. In this manner, Fortis Bank and the Dexia Bank were bailed out collectively by France, Belgium, and the Netherlands. The Federal Reserve System lent more than \$1 trillion to British banks, including \$446 billion to the Royal Bank of Scotland (RBS), because they had operations in the United States. Robert Peston reported in March 2014 that RBS and Lloyds Banking Group might be forced to relocate their head offices from Edinburgh to London in case of Scottish independence, due to a European law brought in after the 1991 collapse of the Bank of Credit and Commerce International. Financial groups The Royal Bank of Scotland, Lloyds, Clydesdale Bank, TSB and Tesco Bank later announced that they planned to move their registered headquarters from Scotland to England in the event of Scotland voting for independence; most indicated that they had no immediate intention to

transfer any jobs. Weir Group, one of the largest private companies based in Scotland, commissioned a study by Oxford Economics into the potential economic effects of Scottish independence. It found that Weir would pay more corporation tax, despite the Scottish government's proposal to cut the rate of corporation tax, due to it no longer being able to offset losses in Scotland against profits in the rest of the UK. It also stated that independence would result in additional costs and complexity in the operation of business pension schemes. The report found that 70% of all Scottish exports are sold to the rest of the UK, which it said would particularly affect the financial services sector. Standard Life, one of the largest businesses in the Scottish financial sector, said in February 2014 that it had started registering companies in England in case it had to relocate some of its operations there. Supporters of independence have said that Scotland does not meet its full economic potential because it is subject to the same economic policy as the rest of the UK. In 2013, the Jimmy Reid Foundation published a report stating that UK economic policy had become "overwhelmingly geared to helping London, meaning Scotland and other UK regions suffer from being denied the specific, local policies they need".<sup>1</sup> Later in January 2014, Colin Fox said that Scotland is "penalised by an economic model biased towards the South East of England". In November 2013, Chic Brodie said that Scotland was "deprived" of economic benefit in the 1980s after the Ministry of Defence blocked oil exploration off the West of Scotland, ostensibly to avoid interference with the UK's nuclear weapons arsenal.

## **Currency**

Another major economic issue was the currency that would be used by an independent Scotland. The principal options were to establish an independent Scottish currency, join the euro, or retain the pound sterling (a form of currency substitution). Throughout the 1990s and early 2000s, the SNP's policy was that an independent Scotland should adopt the euro, though this was relegated to a long-term rather than short-term goal by the party's 2009 conference. There was disagreement over whether Scotland would be required to join the euro if it wished to become an EU member state in its own right. All new members are required to commit to joining the single currency as a prerequisite of EU membership, but they must first be party to ERM II for two years, something that requires an own currency. The Scottish government argued that countries have a de facto opt-out from the euro because they are not obliged to join ERM II.<sup>1</sup> For example, Sweden has not yet adopted the euro. The people of Sweden rejected adopting the euro in a 2003 referendum and its government has not joined by refusing

to enter ERM II. The SNP favoured continued use of sterling in an independent Scotland through a formal currency union with the UK, with the Bank of England setting its interest rates and monetary policy and acting as its central bank. The white paper *Scotland's Future* identified five key reasons that a currency union "would be in both Scotland and the UK's interests immediately post-independence": Scotland's main trading partner is the UK (2/3 of exports in 2011); "companies operating in Scotland and the UK [...have] complex cross-border supply chains"; there is high labour mobility; "on key measurements of an optimal currency area, the Scottish and UK economies score well"; and short-term economic trends in the UK and Scotland have "a relatively high degree of synchronicity".<sup>1</sup> In June 2012, Alistair Darling said voters in the rest of the UK could choose not to be in a currency union with Scotland. Former Prime Minister Sir John Major rejected the idea of a currency union, saying it would require the UK to underwrite Scottish debt. Another former Prime Minister, Gordon Brown, said the SNP proposal would create a "colonial relationship" between Scotland and Westminster. The Welsh First Minister, Carwyn Jones, said in November 2013 that he would seek a veto on a currency union between Scotland and the rest of the UK. The Scottish government stated that not having a currency union could cost businesses in England, Wales, and Northern Ireland £500 million in transaction charges when trading with an independent Scotland; Plaid Cymru treasury spokesperson Jonathan Edwards commented that such costs were a "threat to Welsh business". Scottish Labour leader Johann Lamont said that any additional transaction costs would fall largely on Scottish companies, costing businesses in Scotland 11 times more than those in England. The Institute of Directors stated that any new transaction costs would "pale in comparison to the financial danger of entering an unstable currency union." If Scotland joined a currency union with the UK, some fiscal policy constraints could be imposed on the Scottish state.<sup>[152]</sup> Banking experts have said that being the "junior partner" in a currency arrangement could amount to "a loss of fiscal autonomy for Scotland". Dr Angus Armstrong of the National Institute of Economic and Social Research wrote that the implicit constraints on its economic policy would be more restrictive than the explicit ones it faces as a member of the UK. Salmond said in February 2014 that an independent Scotland in a currency union would retain tax and spending powers. Gavin McCrone, former chief economic adviser to the Scottish Office, stated that Scotland's retention of the pound would be pragmatic initially, but problematic thereafter if a Scottish government wished to implement independent policies, and he warned that keeping the pound could lead to the relocation of Scottish banks to London. The Chancellor of the Exchequer, as well as equivalent post-holders in the two other main UK political parties, rejected the idea of

a formal currency union with an independent Scotland in February 2014. Shadow Chancellor Ed Balls said the SNP's proposals for a currency union were "economically incoherent",<sup>[179]</sup> and that any currency option for an independent Scotland would be "less advantageous than what we have across the UK today".

The Scottish Socialist Party favoured an independent Scottish currency, pegged to sterling in the short term. The Scottish Green Party said that keeping sterling as "a short term transitional arrangement" should not be ruled out, but also said that the Scottish Government should "keep an open mind about moving towards an independent currency".

### **Government revenues and expenditure**

The Barnett formula has resulted in higher per-capita public spending in Scotland than England. If North Sea oil revenue is calculated on a geographic basis, Scotland also produces more per capita tax revenue than the UK average. The Institute for Fiscal Studies reported in November 2012 that a geographic share of North Sea oil would more than cover the higher public spending, but warned that oil prices are volatile and that oil is a finite resource. The Government Expenditure and Revenue Scotland report for 2012/13 found that North Sea oil revenue had fallen by 41.5% and that Scotland's public spending deficit had increased from £4.6 billion to £8.6 billion. In May 2014, the UK government published an analysis identifying a "Union dividend" of £1,400 per year for each person in Scotland, mainly due to the higher level of public spending under the Barnett formula. The Scottish government disputed this analysis, saying that each Scot would be £1,000 better off per year under independence by 2030. Three economic experts said that both estimates were possible, but they both depended on unknown variables such as the division of UK government debt, future North Sea oil revenues, possible spending commitments of an independent Scotland and future productivity gains. In its analysis, the UK government also estimated setup costs of £1.5 billion (1% of GDP) for establishing an independent state, or possibly £2.7 billion (180 public bodies costing £15 million each). Patrick Dunleavy of the London School of Economics criticised the UK government's "ludicrous" use of his research in arriving at the latter figure. The credit rating that an independent Scotland would merit also became a subject of debate. The credit-rating agency Fitch stated in 2012 that it could not give an opinion on what rating Scotland would have, because Scottish finances would largely depend on the result of negotiations between the UK and Scotland on the division of assets and liabilities. Standard & Poor's, another credit-rating agency, asserted in February 2014 that

Scotland would face "significant, but not unsurpassable" challenges, and that "even excluding North Sea output and calculating per capita GDP only by looking at onshore income, Scotland would qualify for our highest economic assessment".<sup>[204]</sup> Research published by Moody's in May 2014 said that an independent Scotland would be given an A rating, comparable with Poland, the Czech Republic and Mexico. An A rating would be two grades below its current rating for the UK, which Moody's said would be unaffected by Scottish independence.

## **Energy**

Most issues regarding energy are controlled by the UK government, although control over planning laws allows the Scottish government to prevent the construction of new nuclear power stations in Scotland. Supporters of independence want to retain a single energy market for the whole of Great Britain after independence, in order to maintain price stability and support for suppliers. Opponents have said that independence would threaten the single energy market. EuanPhimister, professor of economics at Aberdeen University, has said that although independence would affect the relationship, it is likely that there would be continued English demand for electricity generated in Scotland because Ofgem projections suggest that there is little spare capacity. The second largest supplier of energy in the UK, SSE plc, believes that a single market would be the most likely outcome under independence, although it would require negotiations and may involve changes to the existing system. Labour MP Caroline Flint has said that independence would mean higher energy bills in Scotland, as its customers would have to pay more to support renewable energy in Scotland, which represents one third of the UK total. EuanPhimister has said that bills are likely to increase across the whole of Great Britain because renewable schemes and new nuclear power stations in England are both receiving higher subsidies than the power plants which will shortly close due to environmental regulations. He also said that there is a distinction between existing and proposed renewable schemes in that the existing schemes have already been paid for, whereas any new construction requires the promise of subsidy from the consumer. Energy and Climate Change Secretary Ed Davey stated Scottish generators would no longer be eligible for UK subsidies, which would increase energy bills for consumers.

## **North Sea oil**

Approximately 90% of the United Kingdom's North Sea oil fields are located in Scottish territorial waters. The tax revenue generated from an offshore site is not counted within the nation or region nearest to it, but is instead allocated to the UK Continental Shelf. The

revenue from North Sea oil has been used to support current expenditure, rather than creating a sovereign oil fund. The SNP believes that a portion of the revenues should be invested in a sovereign oil fund. The Scottish government, citing industry regulator Oil and Gas UK, estimated in *Scotland's Future* that there were 24 billion barrels of oil equivalent (boe) remaining to be extracted. Sir Ian Wood, founder of oil services company Wood Group, said in August 2014 that he believed there were between 15 and 16.5 billion boe and that the impact from declining production would be felt by 2030. In September 2014, an investigation by industry recruitment website *Oil and Gas People* stated that there were extensive oil reserves to the west of the Western Isles and Shetland. The report anticipated that the region would be developed within the next 10 years because of improvements in drilling technology, rig design and surveying.

## **European Union**

The SNP advocated that an independent Scotland should become a full member state of the European Union (EU) with some exemptions, such as not having to adopt the euro. There was debate over whether Scotland would be required to re-apply for membership, and if it could retain the UK's opt-outs. The European Commission (EC) offered to provide an opinion to an existing member state on the matter, but the British government confirmed it would not seek this advice, as it did not want to negotiate the terms of independence ahead of the referendum.

There is no precedent for an EU member state dividing into two sovereign countries after joining the EU. Supporters of independence stated that an independent Scotland would become an EU member by treaty amendment under Article 48 of the EU treaties. Opponents say that this would not be possible and that an independent Scotland would need to apply for EU membership under Article 49, which would require ratification by each member state.

## **Future status of the United Kingdom in the European Union**

In January 2013, the British Prime Minister, David Cameron, committed the Conservative Party to a referendum in 2017 on UK membership of the EU if they win the 2015 general election. Legislation for an in/out EU referendum was approved by the House of Commons in November 2013. Studies have shown some divergence in attitudes to the EU in Scotland and the rest of the UK. Although a Scottish government review based on survey data between 1999 and 2005 found that people in Scotland reported "broadly similar Eurosceptic views as people in Britain as a whole", Ipsos MORI noted in February 2013 that voters in Scotland said

they would choose to remain in the EU in a referendum, while there was a majority for withdrawal in England.

Yes Scotland said that the UK government plans for an EU referendum have caused "economic uncertainty" for Scotland. During a CBI Scotland event attended by Cameron, businessman Mike Rake criticised him for creating uncertainty about EU membership. In response to such criticism, Cameron pointed to examples of inward investment in the UK that he said was not happening in the rest of Europe. Some commentators have suggested that the UK leaving the EU would undermine the case for Scottish independence, since free trade, freedom of movement and the absence of border controls with the UK could no longer be assumed.

### **Health care**

Responsibility for health care has been devolved to the Scottish Parliament since it was established in 1999. The Scottish government has enacted health policies which are different from those in England, such as abolishing charges for prescriptions and elderly personal care. NHS Scotland has been operationally independent of the NHS in the rest of the United Kingdom since the formation of the NHS in 1948. Supporters of independence argue that independence is needed because possible reductions in the NHS budget in England would result in reduced funding for Scotland, which would make it difficult to maintain the existing service.<sup>1</sup> Harry Burns a former chief medical officer for Scotland, said in July 2014 that he thought independence could be beneficial for public health because it may give people greater control of their lives.

### **Specialist treatment**

Opponents of independence say that being part of the UK is crucial in allowing Scots to obtain specialist treatment elsewhere in the UK. At present, NHS Scotland has reciprocal arrangements in place with the NHS services in the rest of the UK and specialist services are shared. Vote No Borders, a unionist campaign group, ran a cinema advert claiming that Scots would find it more difficult to obtain treatment at the Great Ormond Street Hospital (GOSH), a London facility which specialises in care for children. Vote No Borders withdrew the advert after GOSH complained that it had not been consulted about the advert and stated that they have reciprocal health care agreements with numerous countries.

## **International relations**

The white paper on independence proposes that an independent Scotland would open around 100 embassies around the world. David Cameron has suggested an independent Scotland would be "marginalised" at the United Nations, where the UK is a permanent member of the Security Council. John Major has suggested that, after Scottish independence, the remaining UK could lose its permanent seat at the UN Security Council.

## **Monarchy**

A republic is favoured by some pro-independence political parties and organisations, including the Scottish Green Party and the Scottish Socialist Party. The SNP is in favour of an independent Scotland retaining the Queen as head of state. Christine Grahame has said she believes that party policy is to hold a referendum on the matter, due to a 1997 SNP conference resolution. Some media sources speculated that instead of retaining Queen Elizabeth II as monarch, an independent Scotland may choose the Jacobite heir (Franz, Duke of Bavaria).

## **Pensions**

UK State Pensions are managed by the UK government, paying £113.10 per week to a single person who is of state pension age in 2013/14. The state pension age for men is 65, but this is due to rise to 66 in 2020 and 67 by 2028. Research by the National Institute of Economic and Social Research found that an independent Scotland could delay these increases, due to a lower life expectancy. The *Scotland's Future* white paper pledged to maintain a state pension at a similar rate to the UK.

Last but not least, what would become the Union's flag? Great Britain first will have to change its name, it would remain then a divided Kingdom of Wales-England and Northern Ireland since Scotland would have been cut apart. Serious reconstructions, will be done and we know that it is not going to be an easy task at all either politicaly, socioloicaly or economialy in terms of waste of time. A real rebirth that will take UK back to the mediaval period. !! And what would be the place of monarchy? Luckily for UK that the independence referendum fails, otherwise they would be victims of their own error: not having a written constitution. Thus, what are the advantages of a written constitution? In other words, how does the beninese constitution protect its people? These are what we are going to deal with in the coming chapter.

### **5-3- How a strongly written constitution can save a democracy?**

#### **5-3-1- Case of Benin with the example of President Yayi BONI's project to revise the constitution (2011-2016).**

As we explained it above, a written constitution is the best plan for a country, we know that it protects the democracy, and the minorities rights, a written constitution is sovereign. It is thank to this inflexible nature of our constitution, that the Beninese president 's attempt to modify it, in order to run a third term failed.

Indeed, much ink continues to be spilt over the question of revisions to the West African country of Benin's constitution. The country's President Yayi Boni has proposed an amendment to the constitution that would twist the law which puts a ban on presidential third terms to allow him to run one more time in the next presidential elections. Boni already has won two presidential elections in 2006 and 2011. In the past, the president of the republic has made his views on the subject very clear on several occasions, stating that he will not be standing for election in 2016. Boni submitted a draft proposal of the decree to the National Assembly on June 6, 2013 and wanted a vote on it four days later, leaving only four days for members of the parliament to review the proposal. A number of political players and public opinion accuse Boni of hurrying the amendment for his own political gain. Observers note that Boni got rid of a potential nuisance in Robert Dossou, who is former president of the Constitutional Court and who vehemently opposed any changes to the constitution. In principle, major changes in the constitution are still quite unlikely because the full draft text presented to the National Assembly clearly states that: The following options, as laid down in the National Conference of Active Forces of the Nation in February 1990, and considered to constitute the very core of our Constitution, will be retained. They are: – a State of Law – a liberal democracy; – A State based on republican principles; – a full multiparty system; – a presidential regime; – a time-limited Presidential mandate; – the age of candidates on election of the President of the Republic.

Furthermore, in an attempt to reassure the people of Benin and to guarantee a large consensus, the president of the National Assembly called for a consultation process to be organised on the content of the draft revisions to the constitution, stating that: This draft legislation, relating to the review of Benin's fundamental legislation, honours the commitments undertaken by the nation of Benin at the National Conference on Active Forces of the Nation in February 1990 in terms of the five-year presidential mandate, renewable only

once, with a lower age limit of 40 and the upper age limit of 70 for all presidential candidates and, lastly, the nature of the presidential political regime. Aside from these democratic gains, the Benin's Parliamentary President has stressed that this draft legislation, seeking to revise Benin's 11 December 1990 Constitution, also brings with it three main innovations which respond perfectly to the preoccupations of Benin's political classes, most notably the creation and constitutionalisation of the Auditor's court, the constitutionalisation of the national, independent Electoral Commission and, finally, immunity from accountability for economic crimes in public office.

Ministers are very supportive of the president as operation “hands on my constitution”, referring to the slogan “hands off my constitution” used by opponents of the revisions, was launched on June 20, 2013 by government minister Beniot Degla with the aim of supporting the head of state's reforms. However, all of this has fallen well short of reassuring public opinion. On his blog, Benoit Illassa accuses the president of wanting to cripple Benin's democracy:

According to journalist Abdourhamane Touré, another coup is being prepared in order to allow him to retain State power beyond 2016. We saw that coming. The first person to suspect something was lawyer Robert Dossou, former president of the Constitutional court. Believed throughout his presidency to be under the control of Yayi Boni, he refused to give carte blanche to an opportunistic revision of the 11 December, 1990 constitution. By way undoubtedly of retaliation and to manoeuvre himself into a stronger position to fulfill his ambitions, the president of the republic did not renew his mandate following nomination by members of the government to chair a fifth session of the constitutional court. The blogger also invites the president to refrain from touching so much as a single comma of the constitution. He thinks “the danger does not lie in modifying article 42 of our Constitution, but in the deft alterations which will pave the way for a new republic. And the journalist is not alone in his condemnation of this revision, politician Janvier Yahouedehou has also said no, and with reason: The regional context does not lend itself to this. Modification of a country's constitution in the middle of a second and final mandate is the latest discovery by those African heads of state wanting to remain in permanent power. The strategy is simple and always the same: Initially, in order to quell any concerns, make a public announcement firmly stating a commitment to not seek a future mandate; Then, by way of pretext for modifying a fundamental law, use arguments such as modernisation and the creation of new institutions that will make it possible to honour obligations to financial partners, etc. There are now

innumerable examples. 3 – the current situation within the country does not lend itself to this. There are more pressing concerns: – In 2006 you promised energy autonomy to the people of Benin, but seven years on, where are we on the question of power cuts? – In 2006 you promised the people of Benin that the entire country would go digital, where are we on that, bearing in mind that Benin is classified by socialnetlink as second last in terms of the quality of its Internet provision? ...

For others in opposition such as Charles Toko, an influential writer and Robert Dossou, former president of the constitutional court, a revision cannot be allowed. Dossou was removed from his position within the court because he decided: “[...] these are not things that can be subject to referendum, namely the fundamental options of the February 1990 National Conference: [...] the five-year presidential term, renewable only once...” and has thus sought to disrupt the despicable designs of the presidential circle. Benin's Internet users are also voicing their refusal to accept revisions to the constitution and discussion is ongoing, especially on Twitter:

However, a written constitution is born to live and rule for generations. The only reason that can modify such a constitution is, if it is becoming ageing, and does not answer to the people's need anymore. Even though this has to happen, it will be subject to complicated stages and can take years, but once it is amended, this law becomes constitutional. Review of constitutionality of family legislation (2004) is an example :

Benin: Review of constitutionality of family legislation (2004) AHRLR 127 (BeCC 2002)

### **Review of constitutionality of family legislation(2004) AHRLR 127 (BeCC 2002)**

Constitutional Court, decision DCC 02-144, 23 December 2002

Judges: Ouinsou, Sebo, Boukari, Glélé-Ahanhanzo, Hountondji, Mayaba, Medegan-Nougbo

*Practices discriminatory against women, such as polygamy, declared unconstitutional*

**Equality, non-discrimination** (discrimination on the grounds of sex, polygamy, 10)

[1.] With whom a request was lodged on 20 June 2002 and registered with its Secretariat on the same date under number 031-C/079/REC, by virtue of which the President of the Republic, in accordance with articles 117 and 121 of the Constitution, submitted Law 2002-07

on the Code of Individuals and Family, passed by the National Assembly on 7 June 2002, to be tested for compliance with the Constitution;

[2.] To whom also an appeal was made in a letter dated 24 June 2002, registered with its Secretariat on the same date under 1402/082/REC, in which Ms H RosineVieyra-Soglo, member of the National Assembly and leader of the parliamentary group 'RB', referred for unconstitutionality articles 126,143, 168, 185 and 335 of the same law to the High Court;

[3.] Considering that Ms H RosineVieyra-Soglo reproaches the National Assembly for having deleted paragraph 3 of article 126 as worded in the Bill and for thus having violated the Constitution by 'omission'; that she develops as follows 'any religious marriage must meet a minimum of legal conditions: majority age and consent exempt from any pressure on the future married couple. The law must impose this minimum control on ministers of religion';

[4.] Considering that she maintains moreover that article 143 of the referred law is discriminatory and violates 'the principle of equality between man and woman' in that 'whereas this clause allows a man to marry more than one woman, it does not allow a woman to marry more than one man'; that the applicant alleges moreover that the clauses of articles 185, 168 second bullet, which establish in common law the rule of division of property instead of that of communal estate comprising only property acquired after marriage, 'violate not only the principle of equality but are in contradiction with other clauses of the code such as articles 143, 74 (third bullet), etc ...'; that finally, she affirms that according to article 335 of the law under scrutiny: 'The suit to establish paternity is not open, therefore not admissible for any alleged child, on having attained his/her majority, in order to regain his/her human dignity, in violation of fundamental human rights';

[5.] Considering that she consequently appeals to the Court to kindly declare that articles 126, 143, 168, 185 and 335 of the referred law are not compliant with article 26 of the Constitution, with its Preamble and with articles 2, 3 and 5 of the African Charter of Human and Peoples' Rights.

### **Argument based on the violation of article 143**

[6.] Considering that according to the applicant, article 143 violates the principle of equality between man and woman; that the said article states: 'Both forms of marriage monogamic or polygamic are recognised. However, the future couple must choose one option before the marriage is celebrated';

[7.] Considering that in terms of article 26 paragraphs 1 and 2 of the Constitution: 'The state ensures for all equality before the law without distinction ... of gender ... Men and women have equal rights ...' That in view of the affirmation of this constitutional rule, there is unequal treatment between men and women in that the option for which provision is made in paragraph 2 of article 143 allows men to be polygamous while women can only be monogamous; that, in fact, article 1032 of the law under scrutiny decrees: 'Customs no longer have force of law in all matters regulated by the present Code' with the exception of transitory measures provided for notably in article 1023 paragraph 1 according to which: 'Marriages contracted in accordance with custom, before the date on which the present code came into force, remain subject for their validity to the conditions of content and form that were in force when the matrimonial bond was formed ...'; that it ensues from the above that article 143 under scrutiny is contrary to the Constitution;

On the whole of the law

### **Concerning the clauses that are not compliant with the Constitution**

[8.] Considering that the scrutiny of the text of the law has revealed that certain of its clauses are contrary to the Constitution in that:

[9.] Article 12, paragraph 1: this clause does not allow a wife to keep her maiden name following the example of her husband. This clause is thus contrary to article 26 of the Constitution. Moreover, it is not consistent with the clauses contained in Chapter V (articles 154 and following of the law under scrutiny). As marriage should not make a married woman lose her identity, she must be able to keep her maiden name to which she adds her husband's name.

[10.] Article 74: in the terms of the clauses of article 26, paragraphs 1 and 2 of the Constitution: 'The state ensures all of equality before the law without distinction ... of gender ... Men and women have equal rights ...'. In view of the affirmation of this constitutional rule,

there is unequal treatment between men and women in that the option for which provision is made in the 5th bullet of article 74 allows men to be polygamous, whereas women can only be monogamous; in any event, article 1032 of the law under scrutiny decrees: 'Customs no longer have force of law in all matters regulated by the present code' with the exception of transitory measures provided for notably in article 1023 paragraph 1 according to which: 'Marriages contracted in accordance with custom, before the date on which the present code came into force, remain subject for their validity to the conditions of content and form that were in force when the matrimonial bond was formed'. It ensues from the above that article 74 under scrutiny is contrary to the Constitution.

[11.] Articles 125, 127 4th bullet, 137, 141, 143, 144, 149, 150 and 154 paragraph 2: same observations as under article 74.

[12.] Article 128: same observations as under article 74 regarding the date and form of the union previously contracted.

[13.] Article 155: same observations as under article 74 regarding the reference to polygamic marriage.

[14.] Article 171: same observations as under article 74 regarding the phrase: '... in the case of monogamic marriage'.

[15.] Article 383 last paragraph: same observations as under article 74 in that the presence of other wives implies polygamy declared contrary to the Constitution.

[16.] Articles 605 and 614: same observations as under article 74.

Sub-section 4 of Chapter III of Title 1 of Book Three, articles 631, 633, 634, 635 and 636: same observations as under article 74 regarding the plurality of surviving spouses and widows.

[17.] Articles 732, 767, 768 paragraphs 1 and 2, 769, 770 and 784: same observations as under article 74 regarding the reference to the plurality of spouses.

[18.] Articles 813 and 820: same observations as under article 74.

[19.] Article 1023 paragraph 2, 1st bullet: same observations as under article 74 because reference is made there to two forms of marriage. Make provision, however, regarding

polygamic marriages contracted prior to the promulgation of this code, for transitory clauses to settle the effects.

### **Concerning the clauses that are compliant with the Constitution**

[20.] Considering that all the clauses of all the other articles of the law under scrutiny are compliant with the Constitution;

Decides

[21.] Are contrary to the Constitution: Articles 12 paragraph 1; 74; 125; 127, 4th bullet; 128; 137; 141; 143; 144; 149; 150; 154 paragraph 2; 155; 171; 383 last paragraph; 605 and 614; sub-section 4 of Chapter III of Title 1 of Book Three; 631, 633, 634, 635 and 636, 732, 767, 768 paragraphs 1 and 2, 769, 770 and 784; 813 and 820; 1023 paragraph 2, 1st bullet of Law 2002-07 passed on 7 June 2002 by the National Assembly

## CHAPTER SIX: PERSONAL STAND

### 6-1- Comment

A constitution is the first element that makes a country, every aspect of the people life turn around it, that is why we call it the supreme law. Due to that importance, any country in the world, from the smallest to the biggest one must have it written and respected in a manner that no one is above its rules. The constitution imposes limits on what may be done by ordinary legislation and the courts may declare certain legislative acts void. In most countries the constitution is the ultimate source of legal power. Whether written or not written they will both share similarities, this being the identification of powers such as the executive, and the legislature. However it would be wrong to say that they are identical, apart from the most obvious difference under the surface this main difference has many effects, in particular the unwritten constitution. With particular reference to the unwritten constitution, at present there are only three countries with no formally written constitution, Britain, Israel and New Zealand. All of which share the advantages and disadvantages. Be it unwritten or written, many scholars give their comments on it in different ways. Among them, we have Prof Bryce who argues that the influence which they have exercised on statesmen have most interest for the student of political evolution—those of Rome and England—belong to the same type; the type usually described as unwritten, because in the main their rules and principles rest far more on usage than on any organic statute or body of statutes. In contrast with these is a class of Constitutions now beginning to attract more notice, and illustrated by those of Switzerland and the United States; Constitutions usually known as written, because they are wholly contained in written enactments. But the current fashion of expressing this distinction is unsatisfactory. It does not indicate the true nature of the difference. The real and essential difference is that in Constitutions of the first kind all laws are of equal validity. He ordinary laws, constitutional laws, rules, statutes and treaties. The Queen, Lords and Commons, if they agreed, might legally effect the most radical changes in our constitution. In political systems of the other type, the law of the Constitution is exalted above the ordinary legislature, which can, by itself, effect no change in it whatever; it is law of a different kind from that made in the ordinary way, because it does not admit of "tinkering," save by a special process, which can be worked only by a different body of workmen. Hence the first kind of constitution is elastic, the second rigid; the first is admirable, able to bear sudden strains without any injury to its effectiveness, and modifies itself almost insensibly, so as to satisfy new ideas, new wants, new interests. An elastic constitution meets revolution half way. But when the people

live under a constitution contained in an organic written law, the slightest change will produce a visible strain, because every wheel, every bolt, and every connection of a highly elaborate mechanism is in clear light before their eyes.

The Rigid Constitution gains in influence by age, and its permanency is shown by the fact that amendments carried in the legislature are usually rejected by the mass of the people . The magic of self-love increases the respect felt for it ; but it is weakened by becoming a less adequate expression of the growing people's needs. The two great defects of the American Constitution are the absence of a uniform law of marriage, and the method of electing a president ; but so complicated is the machinery for altering the constitution that a reform in these points is hardly possible. Is the tendency of a fixed constitution, on revision, to an extension of legislative powers? No. The constitution of the Union has only been altered once or twice, at any rate before 1865, but the particular states afforded many instances of narrowed legislative competency. Some states, e. g. Louisiana, South Carolina, Georgia, have had as many as five constitutions. Contrary to our experience of corporate bodies, in whose charters general wording leaves room for the framing of byelaws, the newer American constitutions embody much criminal, family and police law. Such constitutions frequently need amending. Common people relish definiteness in a constitution, and the more rigid it is the better it is suited to the democratic mind, and by being rigid avoids two democratic dangers, disrespect for a minority and for fixed rules. But, is there a progress from rigidity to flexibility ? The time comes in a democracy when the people are completely masters, and do not value restrictions. The tendency to rigidity will therefore stop, and a larger authority be given the executive. As quoted by William Hague 'that there was no need for a written constitution as we already have internal stability, and Britain has been well served by its unwritten constitution'. The power of the courts would also rise, should we have a written constitution. With a written constitution it would therefore mean that should there be any dispute over the current structure of the constitution, for example the relationship between the government and the citizens, would have to be resolved by the judiciary. The effect of this would be that judges would be able to make political decisions, and they would have the ability to create laws. All of which reduce the democratic identity of Britain. Also by having a written constitution it potentially could mean the introduction of a Supreme Court, who would interpret the Constitution. This itself could be an issue of problems, in particular the debate into whether the court itself should be elected.

This means that the things can be pushed through a lot easier, in effect the constitution can be bent. The disadvantage which stems of this therefore is that with an unwritten

constitution the Prime Minister does not have to think as deeply through constitutional changes, as he would have should it be written. Therefore in conclusion of the constitution and the question as to whether or not it is more advantageous in having written constitution, through weighing the advantages and the disadvantages up, William believes that we should keep the unwritten constitution, the main reason, that UK has survived for many years,, and highlighting this the fact that they have survived two world wars. There are many other benefits, each of which are in favour of the democratic element, it should not be a matter of arguing whether or not we should change, we should look at the present, and due to the fact that we are on a level of stability, it would difficult to introduce a constitutional change, due primarily to the volatility of its effects.

## **6-2- Personal opinion and approach of solution**

From a personal opinion, I can confirm that there is no any state that can live without law and there is not law without sovereignty. So that sovereignty of the law represents in our belief distinctive standard of the state then others of human communities. Sovereignty of the law is not slogans but it is fact shall be committed and obligated till the people find it before them in their daily life. There is no doubt that constitutional law is the first law. We do believe that a rigid constitution is an absolute necessity in a federation ; but a semi-international compact of England and her colonies had better be effected by a British Statute. The benefits of a flexible constitution, a more developed common law, temperate habits of compromise, etc., are shared only by the small ruling class ; thus the new voters in England, though teachable, will be ignorant. What is the effect of living under a rigid constitution ? The first written constitutions were English colonies constitutions in the North America after its freedom in 1776, USA Constitution in 1787 that still remains. Since written constitutions appeared, the idea of constitution liberty prevailed to be a tool for freedom whereas it remains with specific right for the citizen. The idea of written constitution transferred from America to France till it made the first written constitution on 3 September 1791, then conveyed into the remaining European countries. After that range of the written constitution expanded in First World War as well as expanded into the Arabian countries. Consequently, the written constitution acquired political sense because it connects closely with definite matter of the government. According to that written constitutions add on the constitutions rules emphasizing and determining. (Dr. Bashir, M). There is no doubt that each society has

political activity that connects with its social, economic, geographic and political conditions, as well as constitutional studies come at the top of the legal studies due to the subject of the constitutional law connects directly with life and cares of all citizens in the state, rulers or subjects, if the constitutional law cares with the rulers from one corner, but it determines the general aspect of authorities and regime of the governing in the state and draws the limits for specification to each authority and its relations with others. In America the constitution is found in every house and taught in every school, and can be read aloud in seventeen minutes, and it is true that in Benin it is not taught and learnt by heart, but it is well written in a way that people know their rights and limits. The consequence of this is that politics tend to become legal, and the Bar has far more importance than in England, where Parliament is omnipotent. Beninese often say that their whole political history has been a struggle of strict as against loose constructionists. It is only fair to say that the beninese constitution works well, because it was imposed on a people educated in French legal habits. This explain the very conservative tone prevailing in France, and the love of old and fixed forms which they show." However this does not mean that it is exempt of defects. Since World War II, two-thirds of Third World countries establishing parliamentary governments successfully made the transition to democracy. By contrast, no Third World presidential system, especially african successfully made the transition to democracy without experiencing coups and other constitutional breakdowns. A recent World Bank study found that parliamentary systems are associated with less corruption.

## CONCLUSION

Constitutions organise, distribute and regulate state power. They set out the structure of the state, the major state institutions, and the principles governing their relations with each other and with the state's citizens. Britain is unusual in that it has an 'unwritten' constitution: unlike the great majority of countries there is no single legal document which sets out in one place the fundamental laws outlining how the state works. Britain's lack of a 'written' constitution can be explained by its history. In other countries, especially Benin, many of whom have experienced revolution or regime change, it has been necessary to start from scratch or begin from first principles, constructing new state institutions and defining in detail their relations with each other and their citizens. By contrast, the British Constitution has been evolved over a long period of time, reflecting the relative stability of the British polity. It has never been thought necessary to consolidate the basic building blocks of this order in Britain. What Britain has instead, is an accumulation of various statutes, conventions, judicial decisions and treaties which collectively can be referred to as the British Constitution. It is thus more accurate to refer to Britain's constitution as an 'uncodified' constitution, rather than an 'unwritten' one. It has been suggested that the British Constitution can be summed up in eight words: What the Queen in Parliament enacts is law. This means that Parliament, using the power of the Crown, enacts law which no other body can challenge. Parliamentary sovereignty is commonly regarded as the defining principle of the British Constitution. This is the ultimate lawmaking power vested in a democratically elected Parliament to create or abolish any law. Other core principles of the British Constitution are often thought to include the rule of law, the separation of government from executive, legislative, and judicial branches, and the existence of a unitary state, meaning ultimate power is held by 'the centre' – the sovereign Westminster Parliament. However, some of these principles are mythical (the British constitution may be better understood as involving the fusion of executive and legislature) or in doubt (Parliamentary sovereignty may now be called in question given the combined impact of Europe, devolution, the Courts, and human rights). The British Constitution is derived from a number of sources. Statutes are laws passed by Parliament and are generally the highest form of law. Conventions are unwritten practices. An uncodified constitution creates two problems. First, it makes it difficult to know what the state of the constitution actually is. Second, it suggests that it is easier to make changes to the UK's Constitution than in countries with written constitutions, because the latter have documents with a 'higher law' status against which ordinary statute law and government action can be

tested, and are only amendable via elaborate procedures. The flexibility of the UK constitution is evident from the large number of constitutional reforms since 1997, including the abolition of the majority of hereditary peers in the House of Lords, the introduction of codified rights of individuals for the first time in the Human Rights Act 1998, and devolution to Scotland, Wales and Northern Ireland. Arguably, however, these recent constitutional reforms may have made the constitution less flexible in some respects: it is debatable, for instance, whether the devolution settlements could ever be repealed. In short, what we can suggest is at least a new constitutional reform for Britain. But no African country can rule under parliamentary sovereignty or with an unwritten constitution, and if Britain survives it is simply for the maturity of their democracy, in comparison to that of Benin which still has much to learn in terms of experience and education of its citizens.

## BIBLIOGRAPHY

### BOOKS

- 1- AV Dicey, *Introduction to the Study of the Law of the Constitution* ,1885
- 2- Bradley, A.; Ewing, K. *Constitutional and Administrative Law*. London. 1997. p. 271.
- 3- Dicey, Albert Venn(1889. *An Introduction to the Study of the Law of the Constitution*. p. 86.
- 4- Smith, David L, "*Change & Continuity in 17th Century English Parliaments*". *HistoryReview*: 2002.
- 5- John McEldowney, *Report on the British constitution and proposed European constitution*, University of Warwick, published to the public on 15 October 2003.
- 6- David Jenkins , *From Unwritten to Written: Transformation in the British Common-Law Constitution* , 2003
- 7- ConorGearty, '*Are judges now out of their depth?*' 2007
- 8- Pike, Luke Owen *The Public Records and The Constitution*. London: Oxford UniversityPress 1907.
- 9- Lord Denning ,*Macartys Ltd v Smith [1979] ICR at p. 789"*
- 10- Thomas Paine, *The Rights of Man*, 1795
- 11- PylypOrlyk *Constitution, European commission for democracy through law (Venice Commission) The Constitutional Heritage of Europe*. Montpellier, 22–23 November 1996.
- 12- Brookshire, Jerry Hardman *Clement Attlee*. New York: Manchester UniversityPress. p. 15. ISBN 0-7190-3244-X. 1995.
- 13- The HonourableMr Justice Bernard McCloskey (17 October 2010). "Administrative Law and Administrative Courts in the United Kingdom: An Overview". Retrieved 15 November 2014.
- 14- Barendt, Eric 1997. "Is there a United Kingdom Constitution". *Oxford Journal of Legal Studies***137**.
- 15- Scarman, Leslie 20 July 2003. "Why Britain Needs a Written Constitution". *Charter88 Sovereignty lecture*. Charter88. Retrieved 31 January 2010.
- 16- Abbott, Lewis F. (2006). "Five: "The Legal Protection Of Democracy & Freedom: The Case for a New Written Constitution & Bill Of Rights"". *British Democracy: ItsRestoration& Extension*. ISR. ISBN 978-0-906321-31-7.
- 17- A V Dicey (1897) *Introduction to the Study of the Law of the Constitution*

- 18- "The British Constitution – Magna Carta – Icons of England". Icons.org.uk. Retrieved 7 November 2010.
- 19- From Unwritten to Written: Transformation in the British Common-Law Constitution, David Jenkins, 2003
- 20- Pike, Luke Owen (1907). *The Public Records and The Constitution*. London: Oxford University Press.
- 21- The Ministry of Foreign Affairs of the Russian Federation "*Comment by the Information and Press Department of the Russian Ministry of Foreign Affairs regarding the Scottish independence referendum*". 20 September 2014. Retrieved 25 September 2014.
- 22- NRK: – Skotsk kalldusj for demsomønskerløsrivelse 19 September 2014.
- 23- "Scottish no vote best outcome for Europe, says Spanish PM Mariano Rajoy". Reuters. 19 September 2014. Retrieved 19 September 2014.
- 24- "Urkullu: La voluntad del Gobierno vasco es avanzar por el camino de Escocia" [Urkullu: The responsibility of the Basque government is to follow in Scotland's footsteps]. *El País* (in Spanish). 18 September 2014. Retrieved 19 September 2014.
- 25- Elena Gyldenkerne (19 September 2014). "*Catalonia call independence vote despite Scottish 'no'*". Reuters. Retrieved 20 September 2014.
- 26- "Catalonian leader orders referendum on independence from Spain". Reuters. 27 September 2014.
- 27- Chris Green (19 September 2014). "'Scottish referendum results: 10 counts of electoral fraud alleged in Glasgow.'" The Independent. Retrieved 19 September 2014.
- 28- Scottish referendum: Police assess postal vote allegations, BBC News
- 29- Police probe claims pro-UK campaigners took illegal postal vote 'tallies', BBC News
- 30- Stephanie Linning , 20 September 2014. "Russia joins online conspiracy theorists in claiming Scottish referendum was rigged.". Daily Mail. Retrieved 21 September 2014.
- 31- Nolan Feeney , 21 September 2014. "Russia says Scottish referendum could have been rigged.". Time Magazine. Retrieved 27 September 2014.
- 32- Tabatha Kinder , 20 September 2014. "Scottish Independence: 70,000 Nationalists Demand Referendum be Re-Held After Voting Rigging Claims.". International Business Times. Retrieved 21 September 2014.
- 33- "Scottish referendum: Vote count was 'properly conducted' says counting officer". 22 September 2014. Retrieved 22 September 2014.
- 34- "Violence in Glasgow as loyalists attack pro-independence supporters". The Guardian. 20 September 2014.

- 35- "Eleven arrested after pro-union rally in Glasgow". *The Scotsman*. 20 September 2014.
- 36- "Police investigation into fire at Herald office". *Sunday Herald*. Retrieved 23 September 2014.
- 37- Green Party says membership up to 26,000 across Britain, BBC News
- 38- "Scottish referendum: 'Yes' parties see surge in members". *BBC News*. BBC. 22 September 2014. Retrieved 22 September 2014.
- 39- Conservative MP David Mundell hails surge in pro-UK activism, BBC News
- 40- "SNP membership trebles following indyref". *The Herald* (Herald & Times Group). 1 October 2014. Retrieved 2 October 2014.
- 41- What now for 'the vow'?, BBC News
- 42- Scotland votes 'No': What happens now?, BBC News
- 43- Brown calls on Scots to sign devolution 'promises' petition, BBC News

## WEBSITES

- [WWW.constitution-unit.com](http://WWW.constitution-unit.com)
- <http://www.refworld.org/docid/3ae6b57d4.html> [accessed 8 September 2014]
- © UNHCR 2014
- [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/271759/QC\\_PC\\_pamphlet\\_101013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271759/QC_PC_pamphlet_101013.pdf)
- <http://www.lawteacher.net/free-law-essays/constitutional-law/different-types-of-constitutions.php#ixzz3Tu3pS1Z6>
- WWW. WikimediaFoundation, Inc.,
- [http://www.droitsdelhomme-france.org/IMG/La\\_Constitution\\_de\\_la\\_Republique\\_du\\_Benin.pdf](http://www.droitsdelhomme-france.org/IMG/La_Constitution_de_la_Republique_du_Benin.pdf)
- <http://www.moibrahimfoundation.org/interact/>
- <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2155rank.html>
- <http://www.malaria.com/featured/malaria-beni>
- <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2223rank.html>
- <https://www.cia.gov/library/publications/the-world-factbook/fields/2103.html>