

## SECOND LECTURE

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### **Second stage: Sources of constitutional law:**

#### **Legislation as a source of constitutional law:**

a- Legislation laws made by the legislature are the first and the foremost source of constitutional law. Constitution does not always contain all the detailed laws, instead, such detailed laws are usually found in ordinary laws made by the legislator within the limit fixed by the constitution.

b- Such rules are almost as important as the enshrined in the constitution. They give effect to the constitutional rules and sometimes perhaps modify them.

In Britain, Magna Carta (1215) and the Petition of Rights (1628) are examples of such sources.

Another source of constitutional law is the judicial interpretation:

a- Judicial interpretation is the second source of constitutional law. In certain countries, courts and judges have the power and authority to interpret the law and explain its meaning in certain disputed cases.

b- The aim of this interpretation is to expound the true meaning of constitutional provisions and to decide whether certain legislative enactments and executive acts are compatible with them or not.

c- The importance of the judicial interpretation is that it takes the form of a decision that will be binding to all the state's organs and it is regarded as a judicial precedent.

Q3: Discuss the conventions as a third source of the constitutional law.

The third source of constitutional law is conventions :

A) The third source of the constitution is conventions. The latter are defined as a mixture of rules based on custom and expediency. Their existence is usually justified by the need for rules to supplement the legal framework of the constitution. It is generally agreed that no convention can be considered as part of the constitution unless it is regularly followed in practice.

B) Constitutional conventions are of great importance in countries which have no written constitutions. England affords by far the best example of this where conventions play a very important role.

Here, for example, the prerogative power of the Crown to veto a bill passed by parliament has disappeared through a convention. Similarly, through a convention, the queen would appoint as a prime minister some one who enjoys the confidences of the majority of the House of Commons.

**The two main sources from which the conventions arise:**

1-A course of conduct may continue over a long period and ultimately become obligatory, namely, a convention.

2-People may agree among themselves to adopt a particular rule of conduct. Such a rule is a convention. The difference between these two conventions is that while the first stems from custom, the second stems from agreement.

**What are the main ways in which the conventions operate?**

1-The first way is that conventions may nullify a provision of the constitution without formally abolishing it.

2-The second way in which a convention may work is by transforming powers granted in the constitution from one person to another.

3-The third way in which a convention may affect a constitution is by supplementing a provision in the constitution it self.

**This lecture is with the translation of every word and the participation of the students.**