

Uncodified constitution

An **uncodified constitution** is a type of constitution where the fundamental rules often take the form of customs, usage, precedent and a variety of statutes and legal instruments.^[1] An understanding of the constitution is obtained through reading commentary by the judiciary, government committees or legal experts. In such a constitutional system, all these elements may be (or may not be) recognized by courts, legislators and the bureaucracy as binding upon government and limiting its powers. Such a framework is sometimes imprecisely called an "unwritten constitution"; however, all the elements of an uncodified constitution are typically written down in a variety of official documents, though not codified in a single document.

An uncodified constitution has the advantages of elasticity, adaptability and resilience. A significant disadvantage, however, is that controversies may arise due to different understandings of the usages and customs that form the fundamental provisions of the constitution.^[1]

A new condition or situation of government may be resolved by precedent or passing legislation.^[1] Unlike a codified constitution, there are no special procedures for making a constitutional law and it will not be inherently superior to other legislation. A country with an uncodified constitution lacks a specific moment where the principles of its government were deliberately decided. Instead, these are allowed to evolve according to the political and social forces arising throughout its history.^[2]

When viewed as a whole system, the difference between a codified and uncodified constitution is one of degree. Any codified constitution will be overlaid with supplementary legislation and customary practice after a period of time.^[1]

Current sovereign states

The following sovereign states can be considered to have an uncodified constitution:

- **Canada:** Although there are Constitution Acts,^[3] important aspects of the constitutional system are uncodified. The preamble to the Constitution of Canada declares it to be "similar in principle to that of the United Kingdom" (which is uncodified.)^[3] This applies at the federal level and to the provinces,^[4] although each does have the power to modify or enact their own within their exclusive areas of responsibility. To date only British Columbia has enacted a codified provincial constitution (see Constitution of British Columbia), though the other provinces' roles and powers are spelled out in section 93 of the Constitution Act, 1867, and through amendments to it dealing with particular provinces such as the Manitoba Act and the Newfoundland Act. See Constitution of Canada.
- **China:** Some Chinese academics including legal theorist Jiang Shigong have argued that China has both a written constitution and an unwritten constitution based on the comprehensive leadership of the Communist Party.^[5]
- **Israel:** the declaration of independence promised a constitution by 2 October 1948, but due to irreconcilable differences in the Knesset, no complete codified constitution has been written yet. There are several Basic Laws, however. See Constitution of Israel.
- **New Zealand:** see Constitution of New Zealand.
- **San Marino:** San Marino has several documents that make its constitution, including some lasting centuries. See Constitution of San Marino
- **Saudi Arabia:** Saudi Arabia has no legally binding written constitution.^[6] In 1960, King Faisal declared the Quran to be the constitution. Although the Quran is the "Official Constitution of

Saudi Arabia", the Qu'ran is in fact the religious text of Islam and not a bespoke constitution for a certain sovereign state. See Constitution of Saudi Arabia. However, in 1992, the Basic Law of Saudi Arabia was adopted by royal decree.^[7]

- Sweden: there is no defining document that can be termed "the constitution". The Basic Laws of Sweden are the four fundamental laws of the Sweden that regulate the Swedish political system, acting in a similar manner to the constitutions of most countries. These are the Instrument of Government, the Freedom of the Press Act, the Fundamental Law on Freedom of Expression and the Act of Succession.
- United Kingdom: 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, collapse of government or overthrow of monarchy, it is continuously being defined by acts of Parliament and decisions of the Law Courts (see Constitution of the United Kingdom). 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. Due to the United Kingdom having an uncoded constitution it has meant that many acts have been added to the collection of constitutional statutes, e.g. The Freedom of Information Act 2000 and the Human Rights Act 1998.

Former examples

- Constitution of the Roman Republic, made up of the Twelve Tables and other statutes.
- Hungary had an uncoded constitution prior to 1949.
- The Constitution of the Grand Principality of Finland was never codified. The Emperor of Russia, who also served from 1809 to 1917 as Grand Prince of Finland, never specifically recognized the Constitution as that of a separate and autonomous Finland, in spite of the fact that that Constitution largely dictated the relationship between Finland and the Russian Empire throughout the Russian era in Finland. By the late 19th century leading Finnish intellectuals—liberals and nationalists, and later, socialists as well—had come to consider Finland as a constitutional state in its own right in a mere real union with Russia. This notion clashed with emerging Russian nationalism and with Russian calls for a unitary state for Slavs only, which eventually came into conflict with Finnish separatism and constitutionalism in the form of "russification policies", which restricted Finland's extensive autonomy from 1899 onwards, excluding a brief interruption between 1905 and 1908, all the way to the February Revolution in 1917. The Russian Provisional Government of 1917 eventually recognized the Finnish constitution, and after the October Revolution the Bolshevik government of RSFSR recognized Finland's declaration of independence on New Year's Eve 1917.
- The French Third Republic had an uncoded constitution. Several constitutional texts were adopted in the few years after the proclamation of the Republic in 1870 but in practice the institutions did not follow them, and the true organization of powers was made through customs. Despite this, it remains as of 2018 the longest lasting French constitution since the Revolution of 1789.
- The Constitution of Queensland before 2001
- Oman prior to 1996
- Libya between 1969 and 1975
- Thailand prior to 1932, had Dharmaśāstra of Manu as an uncoded constitution.

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This page was last edited on 16 July 2020, at 16:22 (UTC).

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