

Volgograd State Medical University
Department of Philosophy, Bioethics and Law

Lectures on Law

Lecture 2.

Constitutional law.

What is Constitutional law?

- Constitutional law is the body of law. Fundamental law.
- A constitution is a set of fundamental principles or established precedents according to which a State is governed.
- A constitution defines the principles upon which the State is based, the procedure in which laws are made and by whom.
- Constitutions also act as limiters of state power, by establishing lines which a state's rulers cannot break, such as Human Rights.

Classification

1. A **codified constitution** is one that is contained in a single document, which is the single source of constitutional law in a State.

Most states in the world have codified constitutions.

Codified constitutions are often the product of some dramatic political change, such as a revolution.

Legal properties

States that have codified constitutions normally give the constitution supremacy over ordinary statute law. That is, if there is any conflict between a legal statute and the codified constitution, all or part of the statute can be struck down as unconstitutional.

Constitution discharges of the role of basis of all legal system.

Constitution is stable.

Uncodified constitution

2. An uncodified constitution (also known as unwritten constitution) is one that is not contained in a single document, consisting of several different sources, which may be written or unwritten.

At least four states have uncodified constitutions: Canada, Israel, New Zealand, and the United Kingdom.

Uncodified constitutions are the product of an "evolution" of laws and conventions over centuries.

By contrast to codified constitutions uncodified constitutions include written sources and also unwritten sources: constitutional conventions, precedents, royal prerogatives, and tradition.

Separation of Powers

- Constitutions usually explicitly divide power between various branches of government.
- The standard model, described by the Baron de Montesquieu, involves three branches of government: executive, legislative and judicial.
- Constitutions vary extensively as to the degree of separation of powers between these branches.

Presidential systems

- Department secretaries/ministers are accountable to the president, who has patronage powers to appoint and dismiss ministers.
- The president is accountable to the people in an election.

Parliamentary systems

- Cabinet Ministers are accountable to Parliament, but it is the prime minister who appoints and dismisses them.
- In the case of the United Kingdom and other countries with a Monarchy, it is the Monarch who appoints and dismisses ministers, on the advice of the Prime Minister.

Human Rights

- Most constitutions also attempt to define the relationship between individuals and the State, and to establish the broad rights of individual citizens.
- Human rights or civil liberties form a crucial part of a country's constitution and govern the rights of the individual against the state.
- The fundamental constitutional principle, inspired by John Locke, holds that the individual can do anything but that which is forbidden by law, and the State may do nothing but that which is authorised by law.

Constitution of the Russian Federation: main principles.

- The current Constitution of the Russian Federation was adopted by national referendum on December 12, 1993.
- The Russian Constitution is based on world standards for human rights and basic principles of democratic state-building such as ideological neutrality of the state, political pluralism, competitive elections and separation of powers.
- Man, his rights and freedoms are the supreme value in Russian Constitution.

- The bearer of sovereignty and the only source of power in the Russian Federation is its multinational people.
- The Russian Federation consists of Republics, areas, cities of federal importance, an autonomous regions and autonomous areas - equal subjects of the Russian Federation.
- The Russian Federation is a social State whose policy is aimed at creating conditions for a worthy life and a free development of man.

- The Russian Federation is a secular state. No religion may be established as a state or obligatory one.
- The state power in the Russian Federation shall be exercised on the basis of its division into legislative, executive and judicial power. The bodies of legislative, executive and judicial power shall be independent.

President of Russian Federation

- The President of the Russian Federation holds primary power in the Russian political system.
- The President, who is elected for a six year term, is the head of State and the Supreme Commander-in-Chief of the Armed Forces of the Russian Federation.
- He determines "guidelines for the domestic and foreign policy of the State".

- Although the President may preside over Government meetings, he is not the head of the Russian Government. As the head of State the President appoints the members of the Government and directs its activities. President has a direct authority over ministries dealing with defense, security, internal and foreign affairs.

Parliament of the Russian Federation

- The Federal Assembly is the representative and legislative body of the Russian Federation.
- The Federal Assembly consists of two chambers - the Council of the Federation and the State Duma.
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- The Council of the Federation includes two representatives from each subject of the Russian Federation: one from the legislative and one from the executive body of state authority.
- The State Duma consists of 450 deputies. The State Duma is elected for a term of five years.

Executive power

- The executive power in Russia is exercised by the Government of the Russian Federation.
- The Chairman of the Government (Prime-Minister) of the Russian Federation (Prime-Minister) is appointed by the President of the Russian Federation with the consent of the State Duma.

Courts

- The Russian Constitution provides for a Constitutional Court, a Supreme Court, a Supreme Court of Arbitration, and for the development of various lower courts.