



PHOENICIA UNIVERSITY

Constitutional Law

Foundations, Principles, and Sources of the Supreme Law

Definitions, hierarchy, the constitution, and its sources

1 What Is Law & Constitutional Law?

Law is a body of binding rules of conduct, prescribed and enforced by a controlling authority, that regulates behavior, maintains order, and establishes norms within society.

It governs the Constitution itself.

- Constitutional law sets forth the terms of the Constitution and describes the range and use of those terms.

It structures government relationships.

- It covers relationships between public authorities — executive, legislative, and judicial — and the rights of individuals and citizens.

It is the supreme law.

- Constitutional law supersedes all other laws and literally determines the founding of the nation.

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branches of government whose powers and relationships constitutional law defines and separates: executive, legislative, and judicial

Constitutionalism keeps this power limited — it checks the concentration of authority so no single actor can govern arbitrarily, guarding against tyranny.

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The Branches of Public Law

Public law governs the relationship between individuals and the State — distinct from private law, which governs relationships between individuals themselves. It comprises three branches:

Constitutional Law

Governs the powers of the State, relationships between public authorities, and the rights of citizens against the State.

Administrative Law

Governs the exercise of power and duties by public authorities carrying out the day-to-day business of government.

Criminal Law

Imposes state sanctions for defined offenses — even though the wrong is done to an individual, it is the State that prosecutes the wrongdoer.

Constitutional and administrative law together form the general basis of public administration by the State.



3 The Hierarchy of Laws

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Constitution — the highest law in any legal system; all other laws must conform to it or are deemed invalid.

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Statutes — laws enacted by the legislative body; they must align with the constitution.

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Regulations — created by government agencies to implement statutes; they must stay consistent with the statutes they derive from.

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Local Ordinances — laws enacted by local governments (cities, counties); they must conform to both state and federal law.

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Administrative Orders & Executive Actions — directives from executive authorities that carry legal effect but must comply with every higher law.

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Why it matters: the hierarchy keeps laws consistent, resolves conflicts between them, and gives a clear framework for interpretation and enforcement.

Respect for this hierarchy is fundamental to the rule of law — it dictates how each level of law applies in practice.



4 The Rule of Law

The rule of law ensures that all individuals and institutions are accountable to the law, fairly applied and enforced — no one is above it.

Equality

all people and institutions within a political body are subject to the same laws

Accountability

individuals and institutions alike must answer to the law, which is fairly applied and enforced

Non-Arbitrary

the rule of law secures a non-arbitrary form of government and prevents the arbitrary use of power

Supremacy

the mechanism, process, and institution that supports the equality of all citizens before the law

The rule of law is the foundation on which constitutional government and legitimate authority both rest.



5 Key Ingredients of a Constitution

Sovereignty & Application

Asserts the existence of a sovereign state to which the laws in the constitution apply.

Organs of State

Establishes the judicial, executive, and legislative organs and coordinates power among them.

Citizenship & Rights

Defines who is governed under the constitution and how citizens relate to the government.

Historical & Political Context

Reflects the historical and political background from which the state and its constitution emerged.

Security & Finance

Addresses matters of national security, taxation, and public finance.

Amendment Procedure

Sets out the procedure through which the constitution itself may be altered.

6 Classifications of Constitutions

Every constitution can be classified along two independent lines — how it is recorded, and how easily it can be changed.

- Written (codified) constitutions are set out in a single formal document — for example, the Lebanese and French constitutions.
- Unwritten (customary) constitutions rely instead on custom, judicial decisions, and legal precedent — as in the constitution of England.
- A rigid constitution requires a special amendment procedure, while a flexible constitution can be amended through ordinary legislation.

Takeaway: how a constitution is written and how easily it can change are two separate questions entirely.

Written

codified in one formal document — e.g. Lebanon, France

Unwritten

built from custom, precedent, and judicial decisions — e.g. England

Rigid

amendable only through a special, defined procedure

7 Supremacy of the Constitution

The constitution is the supreme law of the land — every other law and executive act must conform to it.

- It establishes the framework for government, defines its powers and duties, and outlines the rights of the people.
- It is the source of authority from which all other laws and executive actions must derive their legality.
- Any law or executive act inconsistent with the constitution is void — it simply has no legal effect.

Takeaway: nothing outranks the constitution — every rule in the legal system ultimately answers to it.

Supreme

takes precedence over all other laws, policies, and governmental acts

Void

the status of any law or act inconsistent with the constitution

Source

of legality and legitimacy for every other law and executive action

8 Characteristics of the Constitution

Whether written or unwritten, every constitution shares four defining characteristics.

Establishes Government Machinery

It creates the institutions and machinery through which the state is governed.

Prescribes Rules of Access

It sets out the rules for who may access and hold power within that machinery.

Regulates Interplay

It regulates how the different organs of government interact with one another.

Resolves Conflict

It prescribes rules for resolving conflicts that arise within that machinery.

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Functions of the Constitution

Beyond structuring government, every constitution performs five core functions for the state.

The five functions:

- Expresses the ideology of the state.
- Expresses the basic law of the land.
- Provides the organizational framework of government.
- Defines the levels of government.
- Sets out the amendment provision.

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core functions every constitution performs, from stating ideology to setting the amendment procedure

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Bill of Rights within the constitution, protecting citizens while restricting the power of the state

Not every constitutional rule sits inside the document itself — some are left to ordinary legislation, alterable like any other statute.

10 Sources of Constitutional Law

Constitutional Document

The main source of a written constitution — it defines the system of government, the public authorities, the state's borders, and safeguards basic rights.

Basic Laws

Special laws issued by the legislature to regulate constitutional issues, such as election law, following distinct drafting procedures.

Interpreted Custom

Clarifies an ambiguous constitutional text; it does not create or amend a rule found in clear provisions.

Complementary Custom

Fills a void the constitution leaves open — for example, specifying election conditions the text itself omits.

Amended Custom

Adds to or departs from the constitution's own provisions through settled practice, even without formal textual change.

Secondary Sources

Jurisprudence and legal doctrine interpret the constitution; international treaties and conventions add further guidance, especially on human rights.

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Constitutional Custom vs. Customary Constitution

Customary Constitution	Constitutional Custom
<i>A set of unwritten rules arising purely from custom and tradition.</i>	A set of customary rules that operate underneath and alongside a written constitution.
<i>Found only in states with no written constitution at all — such as England.</i>	Exists within a state that already has a written constitution.
<i>Is, in effect, the whole constitution of that state.</i>	Plays one of three roles toward the written text: interpreting, complementing, or amending it.
<i>Example: the unwritten constitution of England.</i>	Example: Lebanon's unwritten allocation of the presidency, premiership, and speakership.

Exercise 1: Map the Hierarchy

- Pick a recent law or regulation from Lebanon (or any country) and identify its place in the hierarchy of laws.
- Trace it upward: which statute authorizes it, and which constitutional provision underlies that statute?
- Explain what would happen if this rule directly conflicted with the constitution.

Exercise 2: Identify the Source

- Find one example of a constitutional custom (interpreted, complementary, or amended) from any country's practice.
- Classify which of the three types of custom it represents, and justify your choice.
- Compare it with a constitutional document provision on the same topic, if one exists.

Discuss: Could the custom you found in Exercise 2 ever be codified into the written constitution? What would that change?



Key Takeaways

- Constitutional law is the supreme law of the state — it governs the constitution's implementation, the relationships between branches of government, and the rights of citizens.
- The hierarchy of laws — constitution, statutes, regulations, ordinances, executive actions — keeps the legal system consistent and resolves conflicts between levels.
- A constitution may be written or unwritten, rigid or flexible, but it always defines government machinery, citizenship, and the procedure for its own amendment.
- Its sources range from the constitutional document and basic laws to constitutional custom, jurisprudence, and international treaties.