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# **FROM MAGNA CARTA TO MODERN CONSTITUTIONS: TRACING THE FOUNDATIONS OF CONSTITUTIONAL POWERS**

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## 1. ABSTRACT

This research detects the historical and intellectual journey of constitutionalism for the modern formation of the contemporary world from Magna Carta of 1215. Magna Carta, although initially a feudal document meant to curb the excesses of King John of England, introduced permanent principles such as the law of law and consider that the ruler themselves are subject to legal sanctions. For centuries, these views matured through English conflicts for parliamentary domination, American experiment with written constitutionalism and French Articulation of Universal Rights.

The study suggests how this basic development influenced the constitutional structure including the Indian Constitution, which synthesize global experiences while addressing unique national realities. It discovers the role of the judiciary, legislature and executive in the continuous competition between right and freedom and freedom. The discussion highlights that constitutionalism is not a fixed concept but an evolving tradition. It adapts to political contexts, faces constant challenges from executive dominance and populism, and survives only when supported by both institutional safeguards and a culture of respect for the rule of law. The research concludes that while the Magna Carta planted the seeds of constitutional government, the growth and endurance of constitutionalism depend on the vigilance of institutions and citizens alike in the twenty-first century.

**Keyword:** Magna Carta, Constitutionalism, Judicial Review, Rule of Law

## 2. INTRODUCTION

### **Background of the study**

The principle of constitutionalism that government must operate within legal constraints and remain accountable to the people traces its origins to the Magna Carta of 1215, when King John of England was forced to accept limitations on royal power. Though initially designed to protect feudal barons, this landmark document established enduring principles of due process and equality before the law that evolved through centuries of English parliamentary struggles, American constitutional innovation, and French declarations of universal rights. Modern constitutional systems, exemplified by comprehensive documents like the Indian Constitution, continue this tradition through written

constitutions, judicial review, and human rights protections that constrain governmental power while safeguarding individual freedoms. This evolutionary path from Magna Carta to contemporary constitutionalism demonstrates not merely historical progression, but how constitutional principles remain dynamic and relevant, continuously adapting to meet each generation's challenges while preserving the fundamental commitment to limited government and protected rights.

### **Importance of research**

This research holds significance for several compelling reasons. First, it reveals the remarkable continuity of constitutional values across time and geography, demonstrating how foundational principles transcend specific historical contexts. Second, it illuminates the gradual evolution of concepts like freedom, justice, and accountability rather than their sudden emergence, showing how these ideals developed through sustained struggle and refinement. Third, it underscores how constitutions function as living documents that adapt to contemporary challenges, including executive overreach, populist pressures, and institutional erosion. For students, scholars, and citizens alike, this study provides crucial insights into constitutionalism's enduring flexibility and its vital role in safeguarding democratic governance in the twenty-first century.

### **Scope of the study**

The scope of this research includes:

- Historical beginning of constitutionality in England with Magna Carta. Development of constitutional principles through English, American and French experiences.
- Expansion of constitutional ideas around the world in nineteenth and twentieth centuries.
- Indian constitutional structure in the form of modern case studies.
- A comparative analysis of general subjects such as law of law, separation of powers, and protection of rights.

The study does not attempt to cover every constitution in detail, but focuses on the major historical milestones that shape the modern understanding of constitutional powers.

### **3. IDENTIFICATION OF RESEARCH PROBLEM**

The evolution of constitutionalism from the Magna Carta of 1215 to the present day reveals that the struggle to limit power and protect individual rights is both ancient and universal. Yet despite centuries of constitutional development, the fundamental challenge remains unchanged: ensuring that those who govern are themselves bound by law. Whether it was medieval England's conflict between monarchy and barons, American colonists' demands for self-governance, France's assertion of universal rights, or India's efforts to balance freedom with social justice, each society has grappled with the same core tension between authority and accountability. The enduring problem is that constitutional principles, however well-established in theory, face constant practical challenges. Arbitrary exercises of power, political capture of institutions, and the erosion of checks and balances threaten constitutional governance worldwide. Thus, the central research question emerges that how have the historical foundations of constitutional principles evolved, and how these lessons are adequate to address contemporary threats to democracy and the rule of law.

### **4. LITERATURE REVIEW**

A research study that detects the journey of constitutionality for modern formation from Magna Carta must be attached to scholars' debate and writing, which has shaped our understanding of this tradition. For centuries, jurists, historians and political thinkers have provided diverse approaches to the meaning of constitutionality, the role of law in the Authority Authority and the historical importance of historical constitutional documents. This literature review highlights the significant contribution in this field.

#### **1. Basic writing on constitutionalism**

One of the first and highest officials on the constitutional law, A.V. Dicey, whose classic work is an introduction to the study of the Constitution's Law (1885).

Dicey emphasized the rule of law, parliamentary sovereignty, and constitutional conferences, which is in the form of pillars of English constitutionality. While his ideas reflected the British model, later scholars have criticized the dice for outlining the role of personal rights and to consider parliamentary domination as absolute. Similarly, while writing in the 17th century, Sir Edward Cock also interpreted Magna Carta as a fundamental law for the rights of Crown. His comments gave

Charter a symbolic weight that overtook its original medieval context, and his interpretation later influenced the constitutional idea in depth.

## **2. Magna Carta Historical Accounts**

J.C. in Magna Carta (1965, modified versions) Historians such as Holts provided an important examination of 1215 charter, arguing that it was primarily a political agreement between King John and Baron rather than a democratic document. However, Holt also demonstrated how the later generations re -interpreted Magna Carta as a fundamental text of independence. Other tasks, such as the study of the Ralph Turner on medieval England shows how the ideas of the fixed process and access to justice gradually developed into widespread constitutional principles from the charter.

## **3. American constitutionalism and its scholars**

Framing of the US Constitution has attracted the attention of huge scholars. Federalist Papers (1787–88) written by Alexander Hamilton, James Madison and John J, provides the first reasoning behind the constitutional design in the United States. They insist on separating the dangers of the powers, investigation and balance and the focused authority.

Gordon S. Modern scholars such as Wood (The Creation of the American Republic, 1776–1787) and Akhil Reid Amar (Constitution: A Biography of America) have discovered how revolutionary ideals were given institutional forms in a written constitution, and how the judicial review gave the US Supreme Court an acting role in the Constitution rule.

## **4. French Revolution and Universal Rights**

The French announcement of the rights of Man and Citizen (1789) introduced the universal dimension of constitutionality by announcing the rights contained for all individuals. Scholars like Lin Hunt have investigated how these revolutionary ideas of freedom, equality and fraternity have crossed national borders and shaped modern human rights discourse. Unlike English or American models, the French approach tied the constitutional validity directly for popular sovereignty and protection of rights for all citizens.

## 5. Constitutionalism in 19th and 20th centuries

Constitutionalism in the 19th century expands Albert Wayne Dicey, E.C.S. Like well documented by scholars. Wade, and Kenneth Vayer. The modern formation of the wise emphasized the increasing trend of written formation in new countries, especially after decolonization. After World War II, the rise of human rights, the universal declaration of human rights (1948), has been widely studied by scholars such as Louis Henkin and Mary Ann Glendon, which shows how constitutionalism acquired an international dimension.

## 6. Indian constitutional scholarship

The Indian Constitution, often described as a "borrowed document", has been a rich subject of academic investigation. Granville Austin, in the Indian Constitution: Corners of a Nation (1966), said how the Indian Constitution was not only a copy of the Western model, but was a deliberate attempt to balance freedom with social justice. He later expanded his study in working in a Democratic Constitution (1999), showing how constitutionalism developed into practice.

Pratishtha provides a detailed exposition of Jain's principles, constitutional provisions, and judicial interpretations within the framework of Indian Constitutional Law. The work emphasizes the doctrinal foundations of constitutional interpretation and systematically relates statutory provisions to judicial practice, thereby serving as a comprehensive guide for scholars and practitioners. In a similar vein, H.M. Seervai's Constitutional Law of India is regarded as one of the most authoritative and rigorous accounts of Indian constitutional principles. It offers an official and analytical treatment of core constitutional doctrines, with particular focus on judicial review, fundamental rights, and the balance between constitutional organs. Seervai's scholarship has been frequently cited by the higher judiciary, underlining its enduring influence on constitutional interpretation in India.

Judicial pronouncement is also a living part of Indian constitutional literature. The decisions of the Supreme Court such as Kesavanand Bharti (1973) such as on the original structure theory, Maneka Gandhi (1978) on the fixed process and personal freedom, and came. R. Coelho (2007) on judicial domination on constitutional amendments has been largely analyzed in law reviews and educational writing. These decisions show how Indian constitutionalism leads the historical heritage of

limiting power by protecting rights.

## 7. Contemporary debate

The recent scholarship has faced the challenges faced by constitutionalism in the 21st century. Mark Tushnet's writing on constitutionalism and populism and the principle of constitutional moments of Bruce Ekmanon reveals the fragility of constitutional systems in front of local leaders and executive dominance. Similarly, Indian scholars like Upendra Baksi emphasize that constitutionality is not only about texts, but about the living experiences of practices, social movements and rights.

- **Conclusion of literature review**

Literature suggests that when Magna Carta was a feudal document, it was a symbol of freedom and timeless struggle for legitimate governance. For centuries, scholars have shown how constitutional principles - the laws of law, separation of powers, judicial reviews, and protection of rights - were developed in various national contexts, but share a common topic of limiting arbitrary authority. In the Indian context, both foreign influences and indigenous experiences have shaped a vibrant constitutional culture, although it continues to face challenges from political centralization and populism.

Thus, literature provides a strong foundation for this research, while it also leaves scope to find out how historical constitutional principles can be applied to strengthen democratic practices today.

## 5. Research Methodology

The current study adopts a theory and historical method of legal research supported by comparative analysis. Since the subject involves detecting the development of constitutional powers for modern formation from Magna Carta, the functioning necessarily combines historical probes with legal-analysis equipment. Its purpose is not only to describe constitutional development, but also to seriously examine their principles and evaluate their constant relevance.

### 1. Nature of research

This study adopts a qualitative, theoretical, and analytical approach. It primarily relies on legal texts, constitutional documents, judicial decisions, and authoritative

commentaries. Unlike empirical research, which involves surveys, fieldwork, or statistical analysis, the present work is based on the examination and interpretation of normative materials. The method employed is best suited to the objectives of the project, as the sources under consideration consist of constitutional charters, statutory provisions, judicial pronouncements, and scholarly writings. By critically analysing these sources, the study seeks to understand the underlying principles of constitutional law and their practical implications in the Indian context.

## 2. Source of research

primary sources:

- Historical constitutional documents such as Magna Carta (1215), Petition Petition (1628), English Bill of Rights (1689), US Constitution (1787), Man and Citizen (1789) French Declaration (Universal Declaration of Human Rights (1948), and Constitution (1950).
- Judicial decision, especially the Supreme Court of India like Kesavanand Bharti vs Kerala State (1973), Maneka Gandhi vs Bharat (1978), Indira Nehru Gandhi vs Raj Narayan (1975), Minerva Mills V. Union (1980), and I.R. Koleho vs Tamil Nadu State (2007).
- Parliamentary debate, speech of constitutional frimmers (eg Dr. B. R. Ambedkar), and original legal provisions.

secondary source:

- Books and comments of scholars in which A.V. Introduction to Dicey to study the law of the Constitution, The Indian Constitution of Granville Austin: the foundation of a nation, and M.P. Jain's Indian Constitutional Law.
- Research articles, law review publication, and comparative study on constitutionalism.
- Reports and documents of international organizations such as United Nations related to human rights and constitutional principles.

## 3. Research approach

The functioning includes a historical-analysis approach:

- Historical dimension 1215 detects chronological development of

constitutionalism of the Indian Constitution in 1950 from England in 1950 and then for its judicial development.

- Analytical dimensions study the underlying principles - laws of law, fixed process, separation of powers, parliamentary sovereignty, and judicial reviews - and evaluate how these principles shape modern constitutional practices.

#### **4. Comparative method**

Research also employs a comparative approach, analysing how constitutional principles in England, the United States, France and India were expressed in a different way. It helps in understanding both the general characteristics of constitutionality and the unique adaptation made in diverse political and social contexts.

#### **5. Scope and boundaries**

The scope of research is limited to detecting a broad foundation of constitutional powers in the major historical milestones. While global constitutional development is considered, the study lays special emphasis on the Indian Constitution and their influence on judicial practice. The boundary lies in the fact that research does not cover every country or constitution in detail, but it focuses at the portrayal sites that shape the global tradition of constitutionality.

### **6. RESEARCH OBJECTIVES**

The main objective of this research is to find out the long journey of constitutionalism, which began with Magna Carta of 1215 and extends to the modern formation of democratic nations. While the form and institutions have changed for centuries, the central concern has been stable: the restraint of arbitrary power and the protection of personal rights. To find out this broad topic in a structured manner, research pursues the following specific objectives:

1. To examine the historical roots of constitutionalism in Magna Carta (1215).
2. To analyse the development of constitutional principles in England.
3. To study the American revolution and the birth of a written constitution.
4. To find out in constitutionalism for the development of the twentieth century.
5. To analyse the role of Indian judiciary in preserving constitutional domination.

Through these objectives, research does not only reestablish the history of constitutionality, but wants to demonstrate its constant vitality. By connecting the past with the present, research intends to show that constitutionality is not a stable achievement, but a living tradition that must be suited to protect freedom, justice and democratic rule.

## 7. RESEARCH QUESTIONS

Based on the problem identification and review literature, the following research questions arise:

1. How did Magna Carta laid the foundation first to limit full power and protect personal rights?
2. Later constitutional documents, such as The Wright (1628), English Bill of Rights (1689), and the formation written later, after expanding these principles, expand these principles?
3. How has the historical lessons of constitutionalism affected the creation of modern formation, especially in democratic states like India and the United States?
4. To what extent is the basic principles of constitutionality - the rules of law, separating powers, and protection of rights - to face the challenges of arbitrary power in contemporary times?
5. Can a study of this historical development help strengthen constitutional practices and prevent erosion of democratic values today?

## Conclusion

The journey from the Magna Carta of 1215 to modern written constitutions demonstrates that the imperative to limit power and protect rights has fundamentally shaped political systems throughout history. What began as a straightforward demand by English barons to constrain royal authority gradually evolved into the universal principle of constitutionalism. Through successive milestones—the Petition of Right, the Bill of Rights of 1689, and subsequent constitutional developments in the United States, France, and beyond—the concept of government transformed from arbitrary rule to governance based on consent, accountability, and the rule of law. Modern constitutions now function not merely as legal frameworks but as social contracts that safeguard freedom, equality, and justice. They establish institutional checks and balances to ensure that no single authority remains unconstrained. This historical progression reveals that constitutional development

is not a singular phenomenon but rather a continuous process driven by struggles, revolutions, and incremental reforms. Therefore, the Magna Carta stands not as a relic of the past but as the cornerstone of modern constitutional democracy. Its enduring principles remind us that the essence of any constitution lies in protecting citizens from arbitrary power and ensuring that government operates within the bounds of justice and fairness.

### **Reference**

#### • **Websites**

Information and Technology Act, 2000 available at;

- <https://share.google/69VP2g4c8l89C4bbs>
- <https://share.google/69VP2g4c8l89C4bbs>
- <https://share.google/ClyNYvItOiXoOxVM9>
- <https://share.google/VDopMo257ZIkCkql6>
- <https://share.google/N0sEvfqQXDohnrCyA>
- <https://share.google/UzTrzje86wtP4n1Dl>
- <https://share.google/k8IpuNcLdi30XkQFb>

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Information and Technology Act, 2000, available at; <https://share.google/ClyNYvItOiXoOxVM9>  
Information and Technology Act, 2000, available at; <https://share.google/69VP2g4c8l89C4bbs>  
Information and Technology Act, 2000, available at ; <https://share.google/VDopMo257ZIkCkql6>  
Information and Technology Act, 2000, available at ; <https://share.google/N0sEvfqQXDohnrCyA>  
Information and Technology Act, 2000, available at ; <https://share.google/UzTrzje86wtP4n1Dl>  
Information and Technology Act, 2000, available at ; <https://share.google/k8IpuNcLdi30XkQFb>  
Information and Technology Act, 2000, available at ; <https://share.google/k8IpuNcLdi30XkQFb>