

Jersey Studies

JERSEY'S CONSTITUTION

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I. Introduction

Jersey is not a sovereign state, wholly responsible for its own affairs. Rather, it is a British Crown Dependency, with the British Government able to exercise powers over the Island. In practice Jersey is responsible for its own internal affairs and also for international relations, within a framework agreed with the British Government.

II. Summary

Sovereign states can be monarchies, with a King or Queen as head of state, or republics with a President as head of state. In some countries the President is also the head of government. Jurisdictions that are not sovereign states are described in different ways – British Crown Dependencies and British Overseas Territories in the case of territories connected with Britain. Islands can range from fully independent states such as Malta to islands that are an integral part of a sovereign state, such as the Isle of Wight.

Jersey's constitution, like those of other territories, is heavily influenced by its history. Jersey's status as a British Crown Dependency dates back to 1204 and a series of charters in the 14th century.

Jersey is sometimes described as a "bailiwick" after the Bailiff, the person who in medieval times was the local political head of the Island and who is the civic head of the Island, the speaker of the parliament and the head of the judiciary.

The "States of Jersey" is a confusing term. It is used in different contexts to refer to the Island's parliament – the States Assembly, the Government of Jersey and the Island itself.

As a matter of strict law the UK government has responsibility for the international relations of the Crown Dependencies but in practice it is recognised but they have their own distinct identities. The UK recognises that the interests of Jersey may differ from those of the UK and seeks to represent any differing interests when acting in an international capacity. Jersey is not eligible to be a member of the United Nations or the Commonwealth.

There is no separate "Jersey citizenship". The rules governing eligibility for British citizenship apply equally to Jersey as they do to the UK and are the responsibility of the British Government.

III. Types of jurisdiction

Jurisdictions can be categorised in a number of different ways. A key distinction is between those that are sovereign states, which legally are entirely responsible for their own domestic and international affairs (such as the UK), and all other jurisdictions (Scotland and Jersey for example). Only fully sovereign states can be members of the United Nations and the Commonwealth.

Sovereign states fall into one of two basic categories –

- Monarchies where a king or queen is head of state and holds that position for life by inheriting it from another family member. Western countries are often described as

“constitutional monarchies”, the monarch having no political power, such as the position in the UK. However, in the Middle East and parts of Asia the monarchy is also in effect the government. It is helpful to note the special position of a number of commonwealth countries for which the British monarch is the head of state. Canada, New Zealand and Australia are among those countries and each is described as a “parliamentary democracy under a constitutional monarchy; a Commonwealth realm”.

- Republics, where the head of state is typically called “President”. In some countries the head of state is also the political head and is chosen by a democratic process, the position in France and the USA. In other countries the president has very limited political power, similar to that of a monarch. Such presidents are typically selected by the parliament for a fixed term. Germany, Italy and Ireland are among the countries that have this system.

Those territories that are not sovereign states have a relationship with one that is and are described in a number of different ways that are specific to the sovereign state –

- The UK has a direct responsibility for 14 jurisdictions - the British Overseas Territories. They include Bermuda, Gibraltar, Cayman Islands, British Virgin Islands and Falkland Islands. Jersey, Guernsey and the Isle of Man have a different status of British Crown Dependencies.
- The USA has responsibility for a number of territories. American Samoa is described as “unincorporated, unorganized territory of the US” whereas Guam and Puerto Rico each have the status of an “unincorporated organized territory of the US”.
- Greenland and the Faroe Islands are each described as “a self-governing division of Denmark”.
- New Caledonia and Saint Martin are each described as a “Territorial collectivity of France”.
- Sint Maarten is an “Autonomous territory of Netherlands”.

Internally, jurisdictions are broadly categorised into unitary states with a single government, and federal states where the constitution provides for the division of powers between the federal government and the states. The USA and Germany – or in full the United States of America and the Federal Republic of Germany - are examples of federal states. Unitary states do of course have sub-divisions but generally with lesser powers and a lower status than constituent parts of federal countries. The UK is exceptional in being a unitary state but with three devolved governments – in Scotland, Northern Ireland and Wales – and the local government structure in England varies between two tier authorities (counties and districts), unitary authorities and “metro mayors” covering part of the country.

So far, this section has been concerned with legal definitions, but in practice the position can be very different. There are some sovereign states that have little practical power because they can be heavily influenced by another state, and there are constituent parts of sovereign states that have very substantial powers.

It is helpful to conclude this section by categorising islands using this analysis –

- Islands that are fully independent sovereign states such as Malta and The Bahamas.
- Islands that have a strong connexion with another state but a substantial amount of self-government such as the British Crown Dependencies, Curacao (closely connected

with the Netherlands), Guam (a territory of the USA), the Faroe Islands (a self-governing division of Denmark) and the Balearic Islands (an autonomous community of Spain). Alderney describes itself as “a self-governing, democratic territory and one of the principal islands of the Bailiwick of Guernsey” and it also has representatives in the Guernsey parliament.

- Islands for which another state has responsibility for government. The UK has such a responsibility for the British Overseas Territories.
- Islands that are an integral part of another state such as in the case of the UK the Isle of Wight, Anglesey and the Shetland Islands.

IV. Historical background

Jersey’s constitution, like those of other territories, is heavily influenced by its history so a brief understanding of the history of Jersey is helpful. Little is known about Jersey’s history for most of the first millennium. However, it is certain that Jersey was part of the enlarged Kingdom of Brittany from 867. In 933 the Channel Islands were annexed by the Duke of Normandy and for all practical purposes became part of Normandy. In 1066 William, Duke of Normandy, defeated King Harold of England at the Battle of Hastings thereby unifying Normandy and England. In 1204 the Norman barons defected and Normandy, with the exception of the Channel Islands, was separated from England. 1204 is regarded as the year when Jersey became an English Crown Dependency.

A series of Royal charters, beginning in the 14th century, gave Jersey and the other Channel Islands a special status in relation to England, principally by allowing goods to be imported into England free of all duty and for people from Jersey to be able to enter England free of any restrictions. So, in effect, Jersey’s status as a British Crown Dependency dates back to 1204 and a series of charters in the 14th century, and there has been no basic change in the constitutional relationship with England and subsequently the UK since that time. Jersey has never been part of, or a colony of, England or the United Kingdom and has never had representation in the British Parliament.

V. The nature of the British Crown Dependencies

There are three British Crown dependencies –

- Jersey
- Guernsey, which includes the separate jurisdictions of Alderney and Sark and the islands of Herm, Jethou and Lihou
- The Isle of Man.

The precise relationship between the Crown Dependencies and the UK government is difficult to describe. It has evolved over a period of years in response to changing circumstances and relies to a large extent on custom and practice rather than legal documents. There is no single document which sets out the relationship in legal terms. A 2022 House of Commons briefing paper [The Crown Dependencies](#) provides the best overall description. This summarises the constitutional position as follows (updated to refer to the King rather than the Queen) –

The Crown Dependencies are the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man. Within the Bailiwick of Guernsey there are three separate jurisdictions: Guernsey (which includes the islands of Herm and Jethou); Alderney; and Sark (which includes the island of Brecqhou).

The Crown Dependencies are self-governing entities, over which the Crown has certain responsibilities. Each has a different historic and constitutional relationship with the Crown, but they are not part of the United Kingdom. The three Dependencies each have their own political, legal and fiscal systems, separate from the UK.

The King is Head of State in each Dependency and is represented in each island territory by a Lieutenant Governor. In the Channel Islands the King is styled Duke of Normandy, and in the Isle of Man, Lord of Mann.

The “British Islands” is a term within the law of the United Kingdom which has existed since 1889. The Interpretation Act 1978 defines this as “the United Kingdom, the Channel Islands and the Isle of Man”.

The paper referred to the 1973 report of the Royal Commission on the Constitution (also known as the “Kilbrandon Report”), which described the constitutional position of the Crown Dependencies as “unique” -

In some respects they are like miniature states with wide powers of self-government, while their method of functioning through committees is much more akin to that of United Kingdom local authorities.

In 2010 the House of Commons Justice Committee published a report [Crown Dependencies](#) which includes a useful discussion on constitutional issues. This noted that the UK parliament can legislate -

for the Crown Dependencies in the areas of defence, nationality, citizenship, Succession to the Throne, extradition and broadcasting, by implication limiting the competence of the Island jurisdictions in these areas.

The key point is that the Crown Dependencies are almost entirely self-governing in respect of their internal affairs, so they are free to have their own laws, education, health, policing, tax and other systems. Indeed, they do so, and their systems diverge quite significantly in some respects from those of the UK. However, this freedom comes with the qualification which might in theory limit that position. The UK government has formally to approve legislation made by the Crown Dependencies. It duly considers legislation passed by the parliaments in the Crown Dependencies, principally to ensure that there is no conflict with the UK’s international obligations or with any “fundamental constitutional principles”. Generally, any potential issues are settled amicably through appropriate consultation. The Ministry of Justice is responsible for handling the relationship.

The Crown dependencies each have a [Lieutenant Governor](#), appointed by the King for a five-year term, to be his personal representative and impartial adviser. The Lieutenant-Governor’s responsibilities include representing the King on ceremonial occasions; hosting royal, ambassadorial and VIP visits and occasions in conjunction with the Island’s authorities and the UK government; promoting and playing an active part in the social and charitable affairs of the Island; all matters relating to British citizenship; and making recommendations for the award of honours to Jersey residents.

VI. Terminology – Bailiwick and States of Jersey

Jersey is sometimes described as a “bailiwick” after the [Bailiff](#), the person who in medieval times was the local political head of the Island. Today the Bailiff is head of the judiciary, the President of the States Assembly and the local civic head of the Island, as distinct from the political head. The Bailiff is appointed by the Crown although on the advice of the Jersey Government.

The expression “bailiwick” no longer has any legal meaning in respect of the status of Jersey. Wikipedia usefully puts the term in context –

A **bailiwick** is usually the area of jurisdiction of a bailiff, and once also applied to territories in which a privately appointed bailiff exercised the sheriff's functions under a royal or imperial writ. The bailiwick is probably modelled on the administrative organization which was attempted for a very small time in Sicily and has its roots in the official state of the Hohenstaufen.

In English, the original French *bailie* combined with '-wic', the Anglo-Saxon suffix (meaning a village) to produce a term meaning literally 'bailiff's village' – the original geographic scope of a bailiwick. In the 19th century, it was absorbed into American English as a metaphor for a sphere of knowledge or activity.

The term survives in administrative usage in the British Crown Dependencies of the Channel Islands, which are grouped for administrative purposes into two bailiwicks – the Bailiwick of Jersey (comprising the island of Jersey and uninhabited islets such as the Minquiers and Écréhous) and the Bailiwick of Guernsey (comprising the islands of Guernsey, Sark, Alderney, Brecqhou Herm, Jethou and Lihou). A Bailiff heads each Channel Island bailiwick.

A bailiwick (German: *Ballei*) was also the territorial division of the Teutonic Order. Here, various “Komtur(en)” formed a *Ballei* province.

The word is now more generally used in a metaphorical sense, to indicate a sphere of authority, experience, activity, study, or interest.

Before the States of Jersey Law 2005, the States of Jersey was the legal entity encompassing both the Legislature (the States Assembly) and the Executive (government and public administration). Until this point, under Committee-led government, the Assembly, government and administrative departments were all within the same legal body, the States of Jersey.

The 2005 reforms, which created Ministerial government, separated the Executive and administrative departments from the Legislature in law. However, the “States of Jersey” continued to be used as the identity for both the government and the States Assembly, and it remains part of the official name of the States Assembly today.

In July 2014, the Council of Ministers adopted the “Government of Jersey” identity for use by Ministers in business cards, official correspondence and for use overseas, although in Jersey the government and administrative departments continued to use the States of Jersey identity.

VII. International relations

The UK has responsibility for defence matters as the Crown Dependencies do not have their own defence capabilities. As a matter of strict law the UK government does have responsibility for the international relations of the Crown Dependencies but in practice it is recognised but they have their own distinct identity. Jersey's position was formally recognised in a 2007 document (reproduced in the appendix) agreed by the British and Jersey Governments - [Framework for developing the international identity of Jersey](#). The purpose of the document was "to clarify the constitutional relationship between the UK and Jersey, which works well and within which methods are evolving to help achieve the mutual interests of both the UK and Jersey". The framework comprises -

1. The UK has no democratic accountability in and for Jersey which is governed by its own democratically elected assembly. In the context of the UK's responsibility for Jersey's international relations it is understood that -
 - The UK will not act internationally on behalf of Jersey without prior consultation.
 - The UK recognises that the interests of Jersey may differ from those of the UK, and the UK will seek to represent any differing interests when acting in an international capacity. This is particularly evident in respect of the relationship with the European Union where the UK interests can be expected to be those of an EU member state and the interests of Jersey can be expected to reflect the fact that the UK's membership of the EU only extends to Jersey in certain circumstances as set out in Protocol 3 of the UK's Treaty of Accession. [This provision is effectively redundant following Brexit.]
2. Jersey has an international identity which is different from that of the UK.
3. The UK recognises that Jersey is a long-standing, small democracy and supports the principle of Jersey further developing its international identity.
4. The UK has a role to play in assisting the development of Jersey's international identity. The role is one of support not interference. Jersey and the UK commit themselves to open, effective and meaningful dialogue with each other on any issue that may come to affect the constitutional relationship.
5. International identity is developed effectively through meeting international standards and obligations which are important components of Jersey's international identity.
6. The UK will clearly identify its priorities for delivery of its international obligations and agreements so that these are understood, and can be taken into account, by Jersey in developing its own position.
7. The activities of the UK in the international arena need to have regard to Jersey's international relations, policies and responsibilities.
8. The UK and Jersey will work together to resolve or clarify any differences which may arise between their respective interests.
9. Jersey and the UK will work jointly to promote the legitimate status of Jersey as a responsible, stable and mature democracy with its own broad policy interests and which is willing to engage positively with the international community across a wide range of issues.

The British Government entered into very similar arrangements with the Isle of Man and with Guernsey.

Jersey and the other Crown dependencies can sign international treaties if they have been authorised by the British Government to do so – a process known as “entrustment”. When the UK signs any treaty, convention or agreement the general practice is for this to be on behalf of the UK and “any of the Crown Dependencies or Overseas Territories” that wish the treaty to apply. The UK Government duly consults the Crown Dependencies and Overseas Territories at an early stage on their wishes.

In respect of international organisations –

- Jersey is not a member of the United Nations or the Commonwealth as membership is open only to fully independent sovereign states.
- There is a Jersey branch of the [Commonwealth Parliamentary Association](#). Branches can be formed within legislatures of members of the Commonwealth and their dependencies.
- Jersey is a member of the [Assemblée Parlementaire de la Francophonie](#), an organisation for parliaments which have French as an official language.
- When Britain was a member of the European Union, Jersey was not part of the Union, but had a special position under a protocol to the Treaty of Accession between Britain and the European Union. This provided for it to be within the customs union but otherwise not subject to single market provisions. This provision lapsed when Britain left the European Union.
- Jersey is a member of the [British-Irish Council](#) comprising the UK, the devolved administrations in Scotland, Wales and Northern Ireland, the Crown Dependencies and the Republic of Ireland. This was established under the 1998 “Good Friday Agreement”, which was the culmination of the peace process in Northern Ireland. Its aim is to “promote the harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands”.
- Jersey is a member of the [British-Irish Parliamentary Assembly](#) established in 1990, the membership of which mirrors that of the British-Irish Council.

VIII. Citizenship

There is no separate “Jersey citizenship”. The rules governing eligibility for British citizenship apply equally to Jersey as they do to the UK and are the responsibility of the British Government. This means that with a few exceptions people who were born in Jersey or whose parents were born in Jersey or the UK are automatically British citizens. People who are not British citizens can apply for citizenship on the same basis as people in the UK.

The passport office in Jersey can issue British passports to Jersey residents entitled to hold one. People with a Jersey connection living in the UK can also obtain a British passport in the usual way but it will be a standard UK one. The British passport issued in Jersey makes no reference to the UK on its front cover, has a different page design and is issued in the name of the Lieutenant Governor. However, the rights of holders of passports issued in Jersey are identical to those of holders of passports issued in the UK in respect of settling in the UK, meeting entry requirements in foreign countries and when the need arises receiving support from British Government consular services anywhere in the world.

Although there is no formal Jersey citizenship, people with strong connections with Jersey, including those living elsewhere, frequently describe themselves as coming from Jersey or being a Jerseyman or woman. This is similar to people calling themselves Scottish or Welsh or Cornish. People know what it means, and it is meaningful, but such expressions have no meaning in law and confer no rights or obligations on people. Many Jersey people would rightly call themselves “Jersey and British”, but definitely not “Jersey and English”.

Jersey, like other territories, imposes certain requirements for entitlement to vote and to stand for election and also for eligibility to buy or rent property or to work. But these are quite separate from either the citizenship issue or indeed the concept of being a Jerseyman or woman. For example, some people born in Jersey of Jersey parents but have recently returned to the Island after living in the UK may have no right to vote or to stand for election. And some Jersey-born British citizens have no right to buy or rent property in Jersey.

Further reading

Commons Justice Committee, [Crown Dependencies](#), 2010.
[The Crown Dependencies](#), House of Commons Briefing Paper 2022,
Royal Commission on the Constitution 1969-1973 Volume 1, Cmnd 5460, London: HMSO.