**Seminar 3: Parliamentary Supremacy**

**Reading**

Required reading:

1. *R (on the application of Jackson) v. Attorney General* [2005] UKHL 56. [[LINK – Law Report (Westlaw](https://uk.practicallaw.thomsonreuters.com/Document/I79CE7810E42811DA8FC2A0F0355337E9/View/FullText.html?skipAnonymous=true))] [[LINK – Judgments Only]](https://publications.parliament.uk/pa/ld200506/ldjudgmt/jd051013/jack.pdf)

*(especially paras. 1-41 (Lord Bingham), 100-102 (Lord Steyn), 104-108 (Lord Hope) and 156-159 (Lady Hale), 168 (Lord Carswell))*

Recommended reading:

1. Lisa Webley & Harriet Samuels, *Complete Public Law* (4th Edn, OUP 2018), Chapter 7 [[LINK]](http://www.oxfordlawtrove.com/view/10.1093/he/9780198798064.001.0001/he-9780198798064-chapter-7) & Chapter 8 (especially 8.3 & 8.4) [[LINK]](http://www.oxfordlawtrove.com/view/10.1093/he/9780198798064.001.0001/he-9780198798064-chapter-8)
2. Mark Elliott, ‘Parliamentary Sovereignty in a Changing Constitutional Landscape’ in Jeffrey Jowell & Colm O’Cinneide (eds) *The Changing Constitution* (9th edn, OUP 2019), *(especially pp. 29-31 and* *39-57)* [[LINK]](https://www.oxfordlawtrove.com/view/10.1093/he/9780198806363.001.0001/he-9780198806363-chapter-2)
3. Tom Mullen, ‘Reflections on *Jackson v Attorney General’* (2007) (27) Legal Studies 1 [[LINK]](https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1748-121X.2006.00038.x)

*Optional skills reading – Reading Cases to Distinguish Ratio Decidendi and Obiter Dictum*

1. *Emily Finch & Stefan Fafinski,* Legal Skills *(7th edn, OUP 2019), Chapter 7, especially from 7.3 to end* [[LINK]](https://www.oxfordlawtrove.com/view/10.1093/he/9780198831273.001.0001/he-9780198831273-chapter-7#he-9780198831273-chapter-7-div1-26)

**Questions**

Quick Questions:

1. According to A.V. Dicey, what is ‘Parliamentary Sovereignty’?
2. Is there legal authority (case law) that supports Dicey’s definition?
3. Read *Jackson* [2005] UKHL 56 and answer the following questions. The most helpful paragraphs of the judgments are identified in brackets after each question.
	1. What are the facts of the case and the central legal issue for the court to decide? (*paras. 1-6*)
	2. What was the [*ratio decidendi*](https://uk.practicallaw.thomsonreuters.com/Document/I820acdc834ad11e598dc8b09b4f043e0/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad740120000016d160e0f64437486b9%3FNav%3DKNOWHOW_UK%26fragmentIdentifier%3DI820acdc834ad11e598dc8b09b4f043e0%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=f31d908ede3d1dbec41beb64f242db89&list=KNOWHOW_UK&rank=1&sessionScopeId=b3ffcce06d0e353a29df55f98c1d64d7201e08c8ac2c92e779f59a53a5f3aeda&originationContext=Search+Result&transitionType=SearchItem&contextData=%28sc.Search%29&comp=pluk)of the case? (i.e. what was the court’s decision on the central legal issue and what was its reasoning?)(*paras. 22-39*)
	3. What possible restrictions on Parliamentary Sovereignty are recognised in the [*obiter dicta*](https://uk.practicallaw.thomsonreuters.com/Document/I3f4a42f2e8db11e398db8b09b4f043e0/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad740120000016d160d79cc4374867a%3FNav%3DKNOWHOW_UK%26fragmentIdentifier%3DI3f4a42f2e8db11e398db8b09b4f043e0%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=08f7d66d84f2b8e8031fd7324e0d39d3&list=KNOWHOW_UK&rank=1&sessionScopeId=b3ffcce06d0e353a29df55f98c1d64d7201e08c8ac2c92e779f59a53a5f3aeda&originationContext=Search+Result&transitionType=SearchItem&contextData=%28sc.Search%29&comp=pluk) of Lord Steyn, Lord Hope, and Lady Hale? (*paras. 102; 104-107; 159*)
	4. Do the judgments of Lord Steyn, Lord Hope, and Lady Hale firmly establish that there are legal limits to Parliamentary sovereignty? (*paras. 102; 104-107; 159; 168*)

Essay Question:

1. “I myself would consider there were advantages in making it clear that ultimately there are even limits on the supremacy of Parliament which it is the courts' inalienable responsibility to identify and uphold.” (Lord Woolf, ‘Droit Public – English Style’ [1995] Public Law 57)

Does the *Jackson* case([2005] UKHL 56) prove Lord Woolf right?

**Learning Outcomes:**

By the end of this seminar, can you…

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| 1. Read and make notes on the judgments in a decided case? |  |
| 2. Understand the subject matter of this seminar, especially: |  |
| 1. Dicey’s traditional theory of Parliamentary sovereignty?
 |  |
| 1. The facts, holding, and important *obiter dicta* in the *Jackson* case?
 |  |
| 1. The range of possible limits to Parliamentary sovereignty?
 |  |
| 3. Orally communicate knowledge and criticism of the subject matter? |  |
| 4. Prepare a brief essay plan for a question about Parliamentary sovereignty? |  |

***Remember to test your general knowledge of the subject matter with the Quiz on blackboard.***