United Kingdom Versus EU Laws: Parliamentary Sovereignty

Under any constitution whether written or unwritten there is one sources of supreme authority like in written constitution the highest source is constitution but in UK highest source is Parliament itself.Uk Is a constitutional monarchy with an elected parliament which makes law for its people it comprises of House of commons , House of lords and monarch.

Parliamentary Sovereignty has been explained by Sir Av Dicey who takes a literal approach who says parliament can make or unmake any law on any subject matter what so ever, nobody can question the validity of an act of parliament and his third point was parliament cannot bind its successor or be bound by its predecessor. In earlier times whenever there was a conflict between Common law and Parliament common law used to prevail as seen in Bonham's case but after glorious revolution Parliament became more supreme as seen in Medzimbamutous vs Lardner Burke. In railway board vs pickin it was held if an act of parliament has passed both the house nobody can then question the validity of an act of Parliament. There is no legal limitation on parliament but there is political limitation as public elects members of the parliament

However there was controversy whether Parliament is sovereign after joining European Union after signing the treaty of Brussels and treaty of Accession in 1972.Eu is a unique community which is an economic partnership between 28 members and was created after world war. Now in UK EU law is binding on the courts after ECA 1972 now ECJ considers that member states are to give preference to EU law rather than their national law even if it conflicts with their constitutional laws of member states as held in International Handlegeselschaft.

EU law supremacy is under three sections it's affirmed under sec 2(1) of the ECA that now all community laws have a direct effect on all member states including UK. UK has surrendered their sovereignty with regard to community law as held in Vangendenloos .under sec 2(4) EU law must be prevailed whenever there is a conflict between the domestic law and EU law as held in McCarthy vs Smith thus now EU law has now become a source of binding law within the UK.

UK has struggled with the supremacy of the EU especially with doctrines of direct effect and supremacy. In Costa vs Enel it was said EU law will prevail as member states had voluntarily surrendered their rights to the EU for matters of EU domain. EU law supremacy was also expressed in Simmenthal case. Under s.2(4) of ECA whenever there is a conflict between community law and national law it must be interpreted in such a way to make it compatible with EU law. In UK courts it was held by Lord Diplock that local laws must be compatible with the community law. House of Lords faced difficult situation in factortame case there was a conflict between Merchant shipping Act and EU treaty provision on free movement house of Lords said that had no jurisdiction to grant such relief they referred to ECJ they said national laws should be set aside whenever there is a conflict it was first time UK courts disobey their Act of Parliament. In Thoburn vs Sunderland city council it was said that constitutional important statutes like ECA 1972 they can be repealed expressly not impliedly.

UK has struggled with the supremacy of the EU is none of the reasons for UK to leave The EU

during the Brexit referendum .Therefore we can conclude that EU law is reconciled and preferred in UK because UK himself passed ECA 1972 so it’s a defacto limitation on Uk courts whether they want to prevail EU law over their law or not it Uks choice. The solution of this debate has been provided under the EU withdrawal Act 2018 which provides for repealing the ECA 1972. So now it has become clear that majority of EU citizens believe in leaving the EU due to this UK has officially left the EU however even within the Brexit process reflections of Uks aim to take back Parliamentary Sovereignty is clear this has been highlighted in case of R(Miller) vs secretary of state for exiting the EU. Principles of Parliamentary sovereignty continues to be significant.