



Report

A journey through constitutional vexillology: a survey of the constitutions of member states of the United Nations

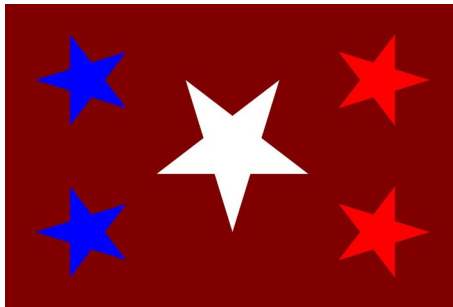
Nicholas Hugot

The United Nations has 193 member states. Fifteen of these states comprise the UN Security Council. The Security Council has five permanent members: China, France, the Russian Federation, the United Kingdom and the United States of America. The remaining ten, non-permanent, members for 2016-17 are Egypt, Japan, Senegal, Ukraine and Uruguay; these will be succeeded, for 2017-18, by Bolivia, Ethiopia, Italy, Kazakhstan and Sweden.

China

In the Chinese Constitution dated 4 December 1982, Chapter IV is entitled 'The national flag, the national anthem, the national emblem and the capital'. Article 136 states simply, 'The national flag of the People's Republic of China is a red flag with five stars.'

Does that mean this?



– or this?



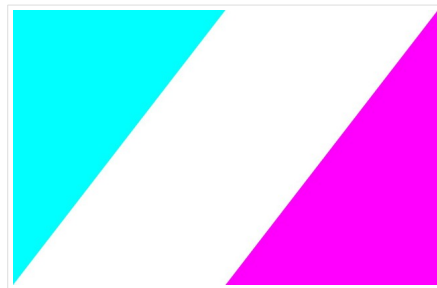
Apparently neither, even though they both fulfil the letter of the written constitution. The actual flag is, of course, this:



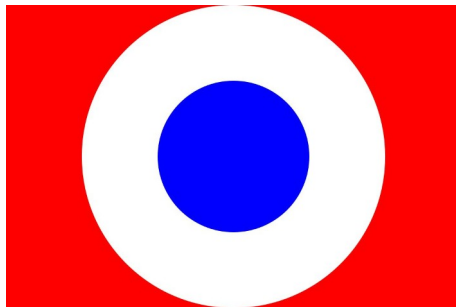
France

In Title I 'On Sovereignty', Article 2, the French Constitution of 4 October 1958 states, 'The national emblem shall be the blue, white and red tricolour flag.'

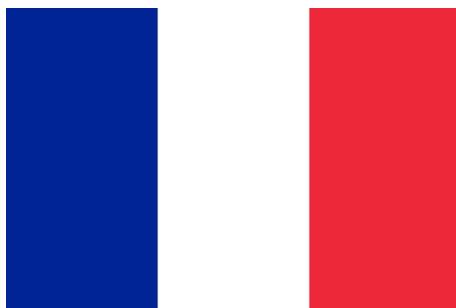
Does that mean this?



– or this?



Apparently neither, even though they too both fulfil the letter of the written constitution. The actual flag is, of course, this:





Russia

The Constitution of the Russian Federation, dated 12 December 1993, does not describe the country's flag at all.

Section One, Chapter 3 'The Federal Structure', Article 70, paragraph 1 states, 'The state flag, emblem and anthem of the Russian Federation, their description and the procedure for the official use thereof shall be established by federal constitutional law.'

The national flag is nevertheless:



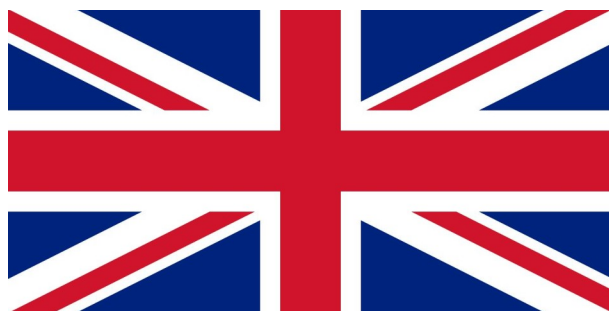
United Kingdom

The UK has no written constitution.

The First Article of the Union with Ireland Act 1800) and the First Article of the Act of Union (Ireland) 1800 both state, 'That it be the First Article of the Union of the kingdoms of Great Britain and Ireland, that the said kingdoms of Great Britain and Ireland shall, upon the first day of January which shall be in the year of our Lord one thousand eight hundred and one, and for ever after, be united into one kingdom, by the name of the United Kingdom of Great Britain and Ireland, and that the royal stile and the titles appertaining to the imperial crown of the said United Kingdom and its dependencies, and also the ensigns, armorial flags and banners thereof, shall be such as his Majesty, by his royal proclamation under the Great Seal of the United Kingdom, shall be pleased to appoint.'

So, the establishment of a national flag had to await a subsequent proclamation.

It was actually made a year later, giving us the modern flag:





United States of America

The Constitution of 21 June 1788 makes no provisions for a flag.



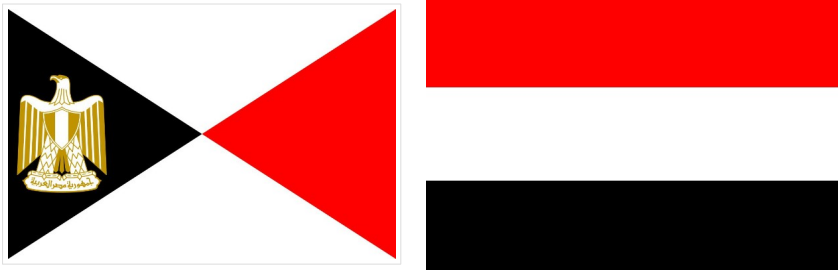
Egypt

In Chapter Six 'General and transitional provisions', Section One 'General provisions', Article 223 'Flag', the Constitution of 15 January 2014 states, 'The national flag of the Arab Republic of Egypt consists of three colours black, white and red with the eagle of Saladin in golden yellow. The emblem, decorations, insignia seal and the national anthem are defined by law.'

This is another ambiguous clause.

It does not even say explicitly that the 'eagle of Saladin' is placed on the flag.

Both the flags below are interpretations of this text:



But this is the correct version:

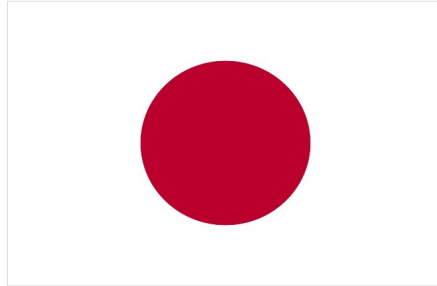


Despite this lack of clarity, the same article concludes by stating, 'Desecration of the Egyptian flag is a crime punishable by law.'



Japan

There are no vexillological provisions in the Constitution of 3 November 1946.



Senegal

In Title I 'Of the state and of sovereignty', Article 1, the Constitution of 7 January 2001 states, 'The flag of the Republic is composed of three bands, vertical and equal, of green, gold and red colour. It bears, in green, in the centre of the gold band, a star of five points.'

This is much clearer, and allows for no ambiguity.



Ukraine

The Ukraine Constitution (28 June 1996) is similarly complete.

Chapter I 'General principles', Article 20 states: 'The state symbols of Ukraine are the State Flag of Ukraine, the State Coat of Arms of Ukraine and the State Anthem of Ukraine. The State Flag of Ukraine is a banner of two equally sized horizontal bands of blue and yellow.'





Uruguay

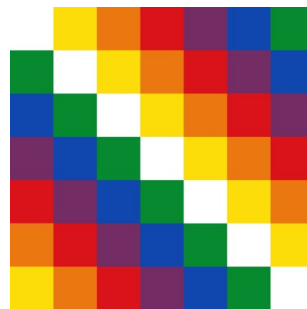
Like several other countries considered here, the Uruguayan constitution of 27 November 1966 includes no provision for the flag.



Bolivia

Under Part I 'Fundamental basis of the state: rights, duties and guarantees', Title I 'Fundamental basis of the state', Chapter I 'Model of the state', Article 6, the constitution of the Plurinational State of Bolivia of 25 January 2009 states: 'I. Sucre is the Capital of Bolivia. II. The symbols of the State are the red, yellow and green tri-colour flag; the Bolivian national anthem, the coat of arms, the wiphala, the rosette, the kankuta flower and the patajù flower.'

So while it partially defines the national flag, it only mentions, but does not describe, the second flag, the Wiphala.



Left, flag of Bolivia, partially defined by the Bolivian Constitution; right, the Wiphala, mentioned but not described in the Bolivian Constitution

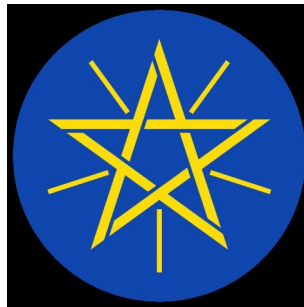
Ethiopia

In Chapter One 'General provisions', Article 3 'The Ethiopian flag', paragraph 1, the constitution of 8 December 1994 states: 'The Ethiopian flag shall consist of green at the top, yellow in the middle and red at the bottom, and shall have a national emblem at the centre. The three colours shall be set horizontally in equal dimensions.'

Paragraph 2 continues: 'The national emblem on the flag shall reflect the hope of the Nations, Nationalities, Peoples as well as religious communities of Ethiopia to live together in equality and unity.'

And paragraph 3 concludes the Article by stating: 'Members of the Federation may have their respective flags and emblems and shall determine the details thereof through their respective legislature.'

The flag is defined but not the 'national emblem'.



*Flag of Ethiopia and the National Emblem:
central device noted but not described by the Constitution*

Italy

Article 12 of the 'Fundamental Principles' of the Constitution of 27 December 1947 explicitly states: 'The flag of the Republic is the Italian tricolour: green, white and red, in three vertical bands of equal size.'



Kazakhstan

The Kazakhstan Constitution (30 August 1995), like those of some other countries, does not describe the flag explicitly, but leaves it to subsequent legislation.

Section I 'General provisions', Article 9 states, 'The Republic of Kazakhstan shall have its state symbols – the flag, emblem and anthem. Their description and order of official use shall be established by the constitutional law.'



Sweden

The final country in this survey of the flags and constitutions of the members of the UN Security Council makes no provision for vexillology in its Constitution (28 February 1974).



And a brief survey of some other countries ...

Algeria (26 November 1996, revised 2016). Title I 'Of general principles governing Algerian society', Chapter I 'Of Algeria', Article 6 states: 'The national emblem and the national anthem are achievements of the Revolution of 1 November 1954. They shall be unalterable. These two symbols of the Revolution, having become those of the Republic, shall have the following characteristics: 1. The national emblem shall be green and white bearing at the centre a red star and crescent'

Title Four 'Of constitutional revision' contains an article which proscribes any alteration of the flag: 'Article 212. None of the following shall be the object of a constitutional amendment: 1. the Republican character of the State; 2. the democratic order based on a multi-party system; 3. the role of Islam as the religion of the State; 4. the role of Arabic as the national and official language; 5. the fundamental liberties and the rights of man and of the citizen; 6. the integrity and unity of the national territory; 7. the national emblem and the national anthem as symbols of the Revolution and the Republic.'

Belgium (7 February 1831). Title VII 'General provisions', Article 193 states: 'The Belgian Nation adopts red, yellow and black colours, and as arms of the kingdom the Lion of Belgium with the motto: Union Is Strength.'

Cuba (24 February 1976). Chapter I 'Political, social and economic foundations of the state', Article 4 states: 'The national symbols are those that have presided for more than one hundred years over the Cuban struggles of independence, for the people's rights, and for social progress: the flag with the solitary star; the Bayamo anthem; the coat of arms with the royal palm.'

Cyprus (6 July 1960). Part I 'General provisions', Article 1 states: 'The State of Cyprus is an independent and sovereign Republic with a presidential regime, the President being Greek and the Vice-President being Turk elected by the Greek and the Turkish Communities of Cyprus respectively as hereinafter in this Constitution provided. ... Article 4, 1. The Republic shall have its own flag of neutral design and colour, chosen jointly by the President and the Vice-President of the Republic; 2. The authorities of the Republic and any public corporation or public utility body created by or under the laws of the Republic shall fly the flag of the Republic and they shall have the right to fly on holidays together with the flag of the Republic both the Greek and the Turkish flag at the same time; 3. The Communal authorities and institutions shall have the right to fly on holidays together with the flag of the Republic either the Greek or the Turkish flag at the same time; 4. Any citizen of the Republic or any body, corporate or unincorporate other than public, whose members are citizens of the Republic, shall have the right to fly on their premises the flag of the

Republic or the Greek or the Turkish flag without any restriction.'

Czech Republic (16 December 1992). Chapter I ' Fundamental provisions', Article 14 states: '1. The small and large state emblem, the state colours, the state flag, the flag of the President of the Republic, the state seal, and the national anthem are the state symbols of the Czech Republic. 2. The state symbols and their use shall be governed by statute.'



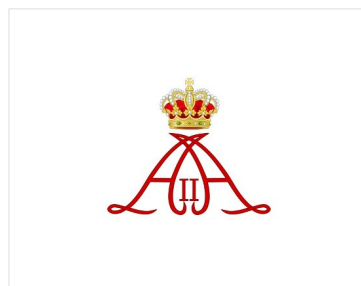
Czech Republic, President's flag

Hungary (25 April 2011). 'Foundation', Article I states that: '2. The flag of Hungary shall feature three horizontal bands of equal width coloured red, white and green from top to bottom as the symbols of strength, fidelity and hope respectively.'



Liechtenstein (5 October 1921). Chapter I 'The Principality', Article 5 states: 'The coat of arms of the State is that of the Princely House of Liechtenstein; the national colours are blue and red.'

Monaco (17 December 1962).



Monaco: standard of the Prince; left, obverse and right, reverse; reverse not mentioned in the Constitution

Chapter I 'The Principality – The public powers', Article 7 states: 'The Prince's standard consists of the coat of arms of the House of Grimaldi upon a white background. The National Flag consists of two equal stripes, red and white, arranged horizontally, the red in the upper part, the white in the lower part. The use of these standard and flag is governed by the provisions of the sovereign ordinance dated 4 April 1881.'

Mongolia (13 January 1992). Chapter One 'Sovereignty of Mongolia', Article 12 states: '1. The symbols of the independence and sovereignty of Mongolia shall be the State Coat of Arms, the Banner, the Flag, the Seal and the Anthem. 2. The State Coat of Arms, the Banner, the Flag, the Seal and the Anthem shall express the historical traditions, the vision and aspiration, the unity, the justice, and the spirit of Mongolian people. ... 4. The traditional Great White Banner of the unified Mongol Empire shall be the State ceremonial symbol of Mongolia.'



*The White Banner:
the 'State ceremonial symbol'
of Mongolia*

Myanmar (29 May 2008). Chapter XIII 'State flag, state seal, national anthem and the capital', 437 states: '(a) The State Flag shall be as shown below: [see illustration], (b) Law shall be promulgated concerning the State Flag.'



Nepal (16 September 2015). Part 1 'Preliminary', 8 'National flag' states: '1. The national flag of Nepal, consists of two juxtaposed triangular figures with a crimson coloured base and deep blue borders, there being a white emblem of the crescent moon with eight rays visible out of sixteen in the upper part and a white emblem of a twelve rayed sun in the lower part. 2. The method of drawing the flag and other particulars relating thereto shall be set out in Schedule-1.'



Flag of Nepal (1)



Flag of Nepal (2)

Panama (11 October 1972). Title I 'The Panamanian state', Article 6 states: 'The symbols of the Republic are the anthem, the flag, and the coat of arms adopted by Law No. 34 of 1949.'

South Sudan (7 July 2011). Part One 'South Sudan and the constitution', 7 'National Symbols' states: 'The flag, emblem, national anthem, coat of arms, public seal, medals, festivals and commemorations of the State shall be prescribed by law.'

Sudan (6 July 2005). Part One 'The state, the constitution and guiding principles', Chapter I 'The state and the constitution', 9 'National Symbols' states: 'The law shall specify the national flag, national emblem, national anthem, public seal, medals, national festivals and commemorations of the State.'

What do these constitutions have in common, and how do they differ? In one sense they are all different because circumstances alter cases. But there are some common features.

Twelve of the countries in this study make no provision for their national flag within their constitution.

Of these, however, eight (Cyprus, Czech Republic, Kazakhstan, Panama, Russia, South Sudan, Sudan and UK) state that the flag will be the subject of some further decree or legislation. Of the remainder, Mongolia mentions the existence of a flag, but does not describe it, while the others (Sweden, USA and Uruguay) remain mute on the subject.

Five countries (Belgium, China, Cuba, Egypt and France) make some mention of

the flag but only in the broadest terms, leaving some ambiguity in its appearance if the constitution were the only document available.

Of the rest, Algeria, Hungary, Italy, Myanmar, Nepal, Senegal, Ukraine include specific descriptions of the national flag, while Monaco supplies a reference to where that description might be obtained. Two further countries (Bolivia and Ethiopia) include a description of the flag but omit a detail (the Wiphala and the 'national emblem' respectively).

Perhaps significantly, many of the countries which contain no reference to the flag are 'older established' nations, who are well established as nation states.