**Constitutional Arrangements Revision Tasks**

**Task 1**

Outline the main sources of the UK constitution and the source of the US constitution.

**Task 2**

Outline the main principles of the UK constitution and the US constitution.

**Task 3**

Explain the difference between a unitary and a federal state, giving examples.

**Task 4**

Explain how easy it is to make amendments to the UK and the US constitution. Give an example of a change that has been made to the UK and the US constitution in the last 10 years.

**Task 5**

What are the possible limitations and benefits of the UK’s uncodified constitution and the USA’s codified constitution?

**Task 6**

Outline the ways that the UK and US constitution has protected the rights of individuals. Give an example from the last 10 years.

**Task 7**

Read the following essay which answers the question:

**There are significant differences between both the key features and the importance of constitutions.**

**Discuss with reference to two political systems you have studied.**

**(20 marks)**

Mark the essay by identifying:

* K (description/fact) points (maximum of 5)
* K (examples) (maximum of 5)

All of the K points should total 8 marks.

* Analysis points -a maximum of 6 marks are available. These must relate to the question.
* Conclusions points – these must not simply be a summary of what has been said in the main body. There are 4 marks available for this.
* Structure marks – is there a line of argument in the introduction? Is there an argument that is sustained throughout? Is it written in clear paragraphs? Are key features and importance of the constitutions both covered in this answer? There are 2 marks for this.

A constitution is a collection of fundamental principles which dictate how a state is organised and is governed. Although they all share this purpose, constitutions around the world vary greatly in a number of different respects. Some, like the constitution of the USA, are ‘codified’, meaning they are made up of a single key document. Other countries like the United Kingdom have ‘uncodified’ constitutions which, in contrast, do not consist of a single key document and are instead a large collection of different laws and precedents by which the state is run. This essay will compare these two examples of constitutions in modern democracies on the basis of their origins, their nature, their key features, and the role of the judiciary and constitution of safeguarding individual rights, in order to conclude that whilst there are some similarities, they are overall very different.

The first way in which the US and UK constitutions differ is in their origin and development. The US constitution is based on one single key text, drawn up in 1787 by delegates to the Constitutional Convention, following the American Revolution. It aimed to uphold specific values that it thought would stand the test of time and should always apply such as liberty, individualism, equality, representative democracy, limited government, and states rights. The aim of the US constitution to provide rights to each state is a major difference to the UK, making it a Federal system as opposed to a Unitary one. This means the rights of states are guaranteed by the constitution and cannot be infringed upon by the federal government. This is what allows each state to have different rules to each other as they are to a certain extent self-autonomous, for examples some states differ on whether or not the death penalty is used, or about whether marijuana is a legal substance. This is different from the UK constitution because the UK constitution does not allow for this intermediary level of government between the state and local level. The UK constitution has its origins elsewhere and was developed differently, over time. Originally it was based on written documents such as the Magna Carta of 1215 but developed to include other pieces of legislation such as the Human Rights Act. The origins of the two constitutions greatly impact their contents- the climate in which the US constitution emerged meant that it was based on fears about the culture of the country and its potential future, however the UK constitutions constantly evolving nature means that it is not reactionary in this way.

The nature of the UK constitution as an ‘uncodified’ constitution differs greatly from that of the US constitution which is a codified document. The UK constitution is drawn from many sources. Some are “written” into common law or statute law and others are “unwritten” such as conventions. Common law refers to the legal principles applied by UK courts which create a legal precedent in instances where statute law does not dictate a ruling or is unclear in doing so. Even then, when these decisions are made they do not suddenly become entrenched and ‘constitutional’- they can at any time be amended or overturned by a simple Act of Parliament. Unwritten elements of the constitution such as conventions include things such as getting the approval of parliament before going to war. Nowhere is it written in UK law that this should be done, but since Tony Blair did it as Prime Minister it became a convention to do so and now it would not be considered fair for a Prime Minister to go to war without consulting parliament in the way that Blair did. This is different to how the constitution operates in the USA because unless something is written in the constitution it does not need to be upheld just as a convention or precedent. For example, when the Republican Party blocked Obama from appointing a Supreme Court Justice in the final year of his term, it did not become a convention that this would be a rule from then on. Donald Trump was allowed to appoint a justice with far less time left on his term and this was approved because there was no constitutional rule against it and the decision for Obama doing the same did not become convention. This is where the ‘codified’ nature of the US constitution is so important- it is not easy to amend or to add to and all laws do not become part of the constitution.

There are also differences in the key features of the UK and US constitutions. The UK constitution is said to be based on four key principles: Parliamentary Sovereignty, the rule of law, a constitutional monarchy, and a unitary state. The inclusion of the setting out of a constitutional monarchy is one way in which the constitution has been able to stand the test of time as it does not conflict with modern democratic principles. If the monarchy refused to give concessions and wished to stay in absolute power then their role could be erased from society whereas establishing a constitutional monarchy protects their role in society as they are not seen to infringe on democracy. This is in some ways similar to the US constitution as the inclusion of this comes out of a desire for stability which the US constitution also valued because of its origin in revolutionary conflict. The Unitary nature of the UK government is another way it differs from the US. As previously detailed, the US government afforded states great autonomy over their own laws, but there is no real equivalent to this in the UK. Whilst devolution of powers to the Scottish, Irish, and Welsh parliaments may appear like a move towards a federal system this is not the case because actually the rights of these countries to have devolved power is not protected by the constitution and the national government at Westminster do technically have the ability to retract devolved powers as they wish by amending the legislation which allowed them to self-govern in the first place. This differs greatly to the US where the federal system and the states rights to self-govern is entrenched in the constitution and cannot be taken away by the president or the national government. Another key principle of the US constitution which is not reflected in the UK is the separation of powers. In the US, there is a system of checks and balances which means no branch of government can become too powerful- the legislative, executive, and judicial branches all have equal power to check the power of the other branches. The UK in contrast has a system often referred to as a fusion of powers, with the executive and legislative being closely linked as the cabinet are members of the legislative. One key feature that the two constitutions do share is the principle of the Rule of Law. This states that no one is above the law and that everyone has the same legal rights such as in court. This is an essential feature of a modern free democratic country and so it is no surprise that both of the constitutions protect it.

Finally, the role of the judiciary differs greatly between the UK constitution and the US constitution. The UK courts cannot declare the actions of the government “unconstitutional” because constitutional law is not a superior form of law than regular law. For example, the ruling made by the Supreme Court that Boris Johnson’s prorogation of parliament during Brexit negotiation was wrong simply stated that he acted “unlawfully” and not “unconstitutionally”. This comes as a result of the court drawing from many areas of UK law to come to a decision and not being able to draw upon one singular codified constitution that is superior to any usual laws. Just like the constitution itself, these decisions can easily be altered by another court ruling at a later time. If the decision no longer seems to fit with modern principles on legal matters, then it can be updated. Furthermore, because the UK constitution is just made up of a series of laws then usually the courts do not have to get involved at all and instead all decisions are taken solely by the legislators- the MPs in parliament. The UK constitution adopted the Human Rights Act in 1998, which means that it directly upholds Human Rights such as the right to life, education, freedom, freedom of expression, religion, and more. Before this, citizens of the UK would have had to directly appeal to the court of human rights if they thought they had been violated but now the UK courts themselves have a duty to protect these rights. The USA do not follow the Human Rights Act and instead they decide whether to uphold their laws based on if they are constitutional and not if they are compatible with human rights. One court ruling made in 2020 was in the case of Taylor vs Riojas, where an inmate, Taylor, alleged that his treatment by detention officers violated his rights as he was forced to be in unsanitary conditions in solitary confinement where sewage overflowed and he was forced to live amongst it. Instead of ruling that his human rights had been violated, the ruling was whether or not his constitutional rights had been. This shows that the role of the judiciary is different because constitutional rights are not something that would ever be ruled upon by UK courts and instead they would decide based on the Human Rights Act.

Lecturer in Politics, Dr Malcolm Walles, said that “If the British constitution developed in the mists of time, the American constitution emerged in the mists of gunpowder smoke, a creature of a revolution”. This view is a perfect summation of why the two constitutions are so different- the climate in which they were devised meant that the two had different goals and aims. The UK constitution, uncodified and formed by things such as conventions, royal prerogatives, and its inclusion of a constitutional monarchy, all show that the UK constitution is incredibly driven by a desire to maintain traditions slowly developed over time just like the constitution itself was. It is concerned with holding up the monarchy and maintaining a system of government that slowly evolved and emerged to be the best possible option. The US constitution on the other hand places emphasis on the protection of personal rights. It was originally created to allow individuals protection in the event that a tyrannical government emerge. This means that it its strict clauses around separation of power can actually hinder governmental progress because it is not designed in the way the UK constitution is- to allow for the most efficient form of government- but is instead designed to restrict the ways in which power can be utilised in order to protect its citizens. This is reflected in the flexibility of the UK constitution and the US constitution’s comparative rigidity. This is not a mistake or a flaw in the design of the US constitution but actually shows that its aims are working because it was supposed to be rigid so as not to allow for manipulation and exploitation by whoever is in power. The model of the UK constitution allows for more simple and frequent change because it wants to be kept up-to-date and not become antiquated as this could lead it to being abandoned altogether- which seemed more dangerous than allowing for evolutionary change.