Constitutions Essay

*‘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)**

A constitution is a set of rules which lay down the powers and duties of the institutions of government, in short it is a blueprint on how a state should be organised and run. The nature and status of the constitutions of the UK and the USA are most often considered vastly different however there are some similarities. Whilst the UK has an uncodified constitution which dictates that the country is a unitary state, the USA has a codified constitution which dictates that the country follows a federal system of government. Although both constitutions may be considered flexible, the form this flexibility takes in each is very different. This essay will discuss the significant differences between the us and UK constitutions.

The nature of the constitutions of the UK and USA are inherently different – the UK’s constitution is uncodified whereas the US constitution is arguably the most famous codified constitution of Western democracies. The UK constitution is uncodified meaning that there is no one single document which makes up the UK constitution. This has historical significance as the UK’s constitution is derived from a number of sources. The UK constitution has evolved over hundreds of years and is based on sources such as common law, statute law, EU treaties etc. For example, the Scotland Act 1997 changed the constitutional arrangements in the UK by creating the Scottish Parliament. As a result, statute law changed the constitutional arrangements of the UK and powers were devolved to the Scottish Parliament. On the other hand, the USA has a codified constitution contained within one written document. The US constitution was written by the Founding Fathers after America gained independence and sets out the federal system of government and the rights US citizens have. It provides clear rules and limits of government and ensures that all elements of government have clearly defined roles which cannot be deviated from. This can be seen in the first three articles of the Constitution which stipulate the differences in role between the Congress (Article I), the President (Article II) and the Judiciary (Article III). For example, the Constitution explicitly states that the President cannot also be a member of the Legislative branch. As such, the very nature of the constitutions of the UK and the USA show a distinct contrast. Whilst the uncodified nature of the UK constitution allows for changes to occur naturally and with ease over time, this can lead to instances where the executive branch of government has the ability to abuse its position. This is highly unlikely to happen in the USA as the codified nature of its constitution ensures that the various branches and levels of government cannot easily overpower their counterparts. The strict codification of the US constitution does however leave the people of the USA with a constitution which some would say is outdated and unfit for modern democracy unlike the UK constitution. Furthermore it could be argued that the us constitution is much more important to their political system than the UK one. This is because it exists almost as an untouchable document whereby all laws are held to it as a standard, on the other hand the UK constitution is much less powerful for stopping change.

A further key difference between the UK and US constitutions are their sources, the sources of the UK constitution are innumerable and varied in nature, mostly falling into prerogative powers, statute law, judicial positions, conventions, and authoritative works. therefore it is clear that the UK constitution Is multi-faceted and the culmination of hundreds of years of governments from a wide range of views. For example, Gordon brown announced as prime minister that the UK cannot declare war without parliamentary vote, since then this has been considered the norm. Despite the fact an act has never been passed through parliament to enshrine this in law it has been accepted as a convention. this is in stark contrast to the documentation of the US constitution which consists of the constitution itself, the Bill of Rights and just 17 further amendments. This creates a familiarity among citizens and politicians and defines clear boundaries of acceptable behaviour. for example, the second amendment gives Americans the right to bear arms and is probably the most quoted article in the us constitutions. This proves that the two constitutions are extremely different, and it could be argued that the UK constitution is much more representative as it has been the creation of thousands of different governments, lawmakers, monarchs, and citizens. The moveable nature of it allowed people to truly shape it and remove unpopular elements which would be more difficult to remove under the US constituency, for example the changing of the structure of senate representatives. Furthermore in the UK, it holds very little status politically or within the eyes of the public, this is in direct contrast with the us constitution where it is used as a political football in elections for example Donald trump accusing joe Biden of ‘taking away the constitutional rights’ during the 2020 presidential election.

UK is a unitary state meaning power is held by a centralised parliament in Westminster. This means that subnational governments in Scotland, Wales and Northern Ireland do not have constitutionally safeguarded and autonomous powers. Furthermore, local, and regional governments are weak with little power. In short, all other forms of government in the UK are subordinate to the Westminster Parliament. For example, The Scottish Parliament has control over devolved matters, however these are not constitutionally guaranteed and theoretically the UK Parliament could abolish the parliament at Holyrood through an act of parliament without any of Scotland’s 129 MSPs or Scottish Government having a say in it. This differs greatly from the American constitution in which it has established a federal state where power is shared between national (federal) and state governments. Each tier of government is given key areas of autonomy over issues identified in the constitution. Creates a balance of powers where no one branch can become too strong. For example, the US states have control over education and this power cannot be infringed upon by the national government. Despite this there are still some similarities in the sense that power is shared between a central government and more regional governments. However, the relationship between said governments is significantly different in both countries in the sense that UKs regional parliaments are devolved and therefore inferior to central Westminster government, furthermore their powers are not protected by UK constitution. On the other hand the US constitution embeds a separation of powers. It outlines a federal system that must be applied and creates a dual sovereignty that safeguards states’ rights to control legislative areas that they are responsible for.

A final difference between the UK and US constitution sis the differing levels of flexibilty each constitution has, on one hand the UK constitution is extremely flexible and there are no special or specific features for changing the constitution which allows the political system to adapt and meet the needs of the modern, dynamic world. On the other hand, the US constitution makes it deliberately difficult to amend the original document with each amendment requiring the support of overwhelming majorities from the senate, house of representatives and the state legislatures. The 17 amendment's over the past 220 years are clear examples how just how inflexible the US constitution is. Overall it is clear therefore that in terms of flexibility the UK and US constitutions are significantly different. The flexibility of the UK constitution brings with it the potential for it to be abused by governments and shaped to their will. The British constitution’s position is based on the concept of good faith and trust that majority governments will act in the best interests of the nation. Furthermore, unlike the US system there are no constitutional authorities to challenge the actions and amendments made other than parliament itself, which under the British system includes the Prime Minister, their government and usually is made up of a majority of their own party’s members. This is in distinct contrast the US constitution which is protected by the balance of powers between the legislative, executive and judicial branches of governance and the need for state legislature support for constitutional changes. It is therefore undoubtedly a more complex, rigid and inflexible constitution that has guided the US political system since the American Revolution.

In conclusion it is transparent that the UK and US constitutions are inherently different, these constitution are not only different from one another in terms of their key features but also in their levels of importance to their respective countries. The codified nature of the US constitution is one of the most obvious differences from the UK constitution and it arguably creates a better understanding of the laws and standards that the US population should follow whereas the UKs uncodified constitution is more historically significant. Moreover the simplicity of the actions needed to change the UK constitution are also in stark contrast with the US constitution, with the UK constitution constantly evolving without much notice by the general population whereas the American constitution has remained unchanged for the last 28 years as a result of the many barriers in place to ammend the document. Finally the importance of both documents also vary drastically from one another with the US constitution taking centre stage in political discourse with the term ‘constitution often levied at opponents in election campaigns while the UK constitution despite being shaped by its own people is often overlooked and is not part of the everyday political lexicon.