5.11 Comparative US/UK Constitutions: Federal and Unitary Government: Test Pack

EDEXCEL 9PL0 · about 15 minutes

Total Marks

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. Write full sentences for extended answers and for any question worth 6 marks or more. Time guidance: 15 minutes for the whole pack. The final question is a levels-marked essay; plan and write a structured response with a clear judgement.

1 Define the term 'codified constitution' as used when comparing the US Constitution with the UK constitution.

(Total for Question 1 is 1 mark)

2 Identify two constitutional features that demonstrate federalism in the United States, naming the relevant institutions or mechanisms.

(Total for Question 2 is 2 marks)

3 Explain two ways in which the UK unitary system with devolution differs from a federal system, using the UK context and the devolved institutions as examples.

(Total for Question 3 is 4 marks)

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4 State and briefly explain three different sources of the UK constitution, naming statute, convention and common law in the context of parliamentary sovereignty.

(Total for Question 4 is 5 marks)

5 Explain the difference between the powers of the US Supreme Court and UK courts to invalidate primary legislation. In your answer, explain the constitutional basis of this difference and the role of declarations of incompatibility under the Human Rights Act 1998.

(Total for Question 5 is 5 marks)

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Mark scheme · 5.11 Comparative US/UK Constitutions: Federal and Unitary Government: Test Pack

Question 1

a concise statement that a codified constitution is a single written document that sets out fundamental rules and structures of government **B1**

Answer: A codified constitution is a single, written document that formally sets out the fundamental rules, structures and powers of government, such as the United States Constitution.

Question 2

one feature with institution, e.g. division of powers between federal government and states, as set out in the US Constitution **B1**

a second feature with institution, e.g. the role of the US Supreme Court in resolving disputes between federal and state law **B1**

Answer: Any two of: division of powers between the federal government and state governments as in the US Constitution; the Tenth Amendment reserving powers to the states; a written amendment process under Article V; the Supreme Court resolving federal state disputes.

Question 3

identifies one way, e.g. ultimate sovereignty of the UK Parliament unlike state sovereignty in a federation **B1**

development of that point with an example, e.g. Westminster can legislate for Scotland and could in theory repeal devolution statutes **B1**

identifies a second way, e.g. asymmetry of devolution where Scotland, Wales and Northern Ireland have different powers **B1**

development of that point with example, e.g. Scottish Parliament has wider fiscal powers than the Senedd in Wales, showing lack of uniform constituent unit powers **B1**

Answer: One way is that the UK is legally unitary because Parliament is sovereign and can amend or repeal devolved arrangements created by statute, unlike US states which have sovereignty protected by the Constitution. A second way is asymmetry, for example Scotland, Wales and Northern Ireland have different powers and settlement histories, whereas in a typical federation constituent units have constitutionally equal status and clearly defined powers.

Question 4

identifies statute as a source, e.g. Acts of Parliament like the Human Rights Act 1998 **B1**

explains statute's role, e.g. statute is supreme in the UK and can change constitutional arrangements **B1**

identifies convention as a source, e.g. the convention of collective ministerial responsibility **B1**

explains convention's role, e.g. conventions guide political behaviour but are not legally enforceable **B1**

identifies common law as a source, e.g. judicial decisions that shape constitutional principles like habeas corpus **B1**

Answer: Statute: Acts of Parliament such as the Human Rights Act 1998 shape constitutional arrangements and are legally supreme. Convention: unwritten rules like collective ministerial responsibility guide political practice but are not legally enforceable. Common law: judicial decisions develop principles and protections, for example on habeas corpus and procedural fairness, and influence constitutional practice under parliamentary sovereignty.

Question 5

identifies the comparative difference: the US Supreme Court can invalidate unconstitutional federal or state statutes, whereas UK courts cannot strike down Acts of the UK Parliament **B1**

explains the US constitutional basis: the written Constitution is supreme, with judicial review rooted in Marbury v Madison **B1**

explains the UK constitutional basis: parliamentary sovereignty means courts cannot override Acts of the UK Parliament **B1**

explains the HRA mechanism: a declaration of incompatibility formally identifies that legislation is incompatible with rights under the European Convention on Human Rights **B1**

explains the comparative consequence: US judicial review can directly prevent unconstitutional legislation taking effect, whereas a UK declaration of incompatibility leaves the legislation in force and relies on Parliament for legislative change **B1**

Answer: The US Supreme Court can declare federal or state statutes unconstitutional and invalidate them, whereas UK courts cannot strike down Acts of the UK Parliament. This contrast arises because the written US Constitution is supreme, with judicial review rooted in Marbury v Madison, while the UK follows parliamentary sovereignty. Under the Human Rights Act 1998, UK courts can issue a declaration of incompatibility to identify legislation that is incompatible with rights under the European Convention on Human Rights. This does not invalidate the Act: Parliament decides whether to change the law. US judicial review therefore provides a direct legal check on legislation, while a UK declaration leaves the legislation in force and relies on Parliament for legislative change.

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