

Y13 Government Term 3 — Comparative US/UK Constitutions

US and UK Constitution

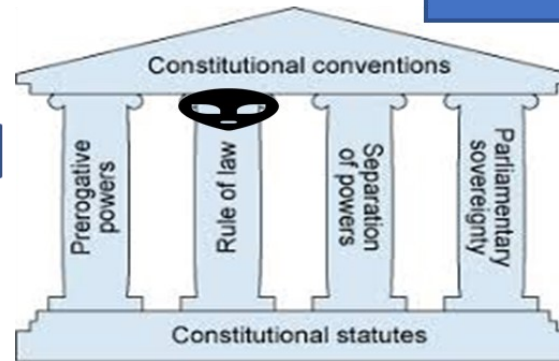


US Constitution

- Drawn up in Philadelphia in 1787 and ratified in 1788 as a codified document.
- By 1791 the Founding Fathers made 10 significant amendments to the US Constitution, the **Bill of Rights**. There have been 27 amendments made to the US Constitution since 1791.
- It was designed to avoid tyranny and so power is both separated and overlapping between the executive (Presidency), legislature (Congress) and judiciary (Supreme Court).
- Federalists, such as Hamilton and Adams, wanted most power to rest with the individual states, normally based on the power and population size. Hence, Texas, California and New York have greater **electoral college votes** than Rhode Island and Wyoming.
- The **Separation of Powers** was rebalanced with the issuance of an amendment enacting elected Senators (2 per state) in 1917 to over-represent and enhanced smaller states' power.
- Each branch **Checks and Balances** the other. For example, the President may veto an act of Congress, but Congress can impeach (remove) the President and override the veto.

US and Comparative Politics

How does the UK 'uncodified Constitution' compare to the US?



Boris Johnson used **prerogative powers** of the PM when he decided to prorogue Parliament following the Brexit debacle in December 2019. This required the consent of the Queen and challenged her autonomy to enforce dissolution since the 1688 Bill of Rights. The Supreme Court overturned the PM in 2019 with a majoritarian verdict reinstating the legality of Parliamentary sovereignty. Congress was temporarily suspended due to legislative gridlock in 2018, but the US President cannot prorogue Congress independently and indefinitely.



Fusion of powers: There are many points of fusion in the UK Constitution. For example, the PM and Cabinet sit in the legislature and fuse the executive powers together as a majoritarian government. Personnel (MPs, Secretaries of State) are also synchronised with the British Parliament. Prior to 2005, the Lord Chancellor and Law Lords (the highest Judicial Court) also sat in the House of Lords, blurring the boundaries of power. In the US Constitution, the fusion of personnel and government branches is prohibited in



Constitutional conventions are Parliamentary procedures which stretch back to King John's signing of the Magna Carta in 1215. Under the **Salisbury Convention**, the House of Lords is prevented from vetoing the Chancellor's Budget since the Constitutional Crisis in 1911. The leader of the Labour Party, Sir Keir Starmer, is only allowed 6 questions as a Parliamentary convention during PMQ's every Wednesday. The PM/Cabinet government system is based on **'first among equals'**. There are no conventions in US politics. All procedures for the legislature, executive and judiciary relate to the **Parliamentary US Constitution**. **Parliamentary US Sovereignty** has entrenched powers vested in the UK Parliament and the Monarchy. The common expression for this is a **constitutional monarchy**. Powers are heavily centralised in a **unitary system**. In the US, powers are excessively federalised to the 50 federal states, controlled by state law and the 10th Amendment where state's powers are sovereign.



The British Constitution gets the judiciary – as the third branch of governance – to oversee and review common, civil, criminal and statute law. The Crown Courts oversee criminal law and practise judicial review. Magistrates courts review civil law and the Supreme Court act as guardians of UK statute law. Super-injunctions initiated by the wealthy (Ryan Giggs) and enforced by the Supreme Court, have attempted to bypass Parliamentary sovereignty, but failed. Time and again the Supreme Court and Parliament have upheld Parliamentary sovereignty.