

Politics A level: PREPARATION FOR YOUR FIRST LESSON

Miss Taylor teaches Component 2: UK Government and Component 3: Global Politics. She would like you to read the glossary and source below and answer the questions that follow, then bring them to the first lesson in September (ETA on your timetable).

Glossary:

- a. High Court: one of the senior courts of the UK; it deals with cases of high importance and supervises any of the lower courts in the UK
- b. Sovereign: often the monarch; more usually in the UK it refers to the institution (i.e. Parliament) that holds the most power
- c. Parliamentary sovereignty: the principle that law made in parliament is the most important law, and that one parliament can never bind a future parliament's decisions
- d. Uncodified: not written in one document
- e. Monarchical absolutism: rule by one person (e.g. king or queen) in which their actions are not restricted by law
- f. Cabinet government: a political system in which executive power lies with a group of people (the Cabinet); in the UK, the cabinet has collective responsibility and individual responsibility
- g. Accountable: being held responsible for one's actions
- h. Consent: to give permission for something to happen
- i. Technicality: a small rule or detail
- j. Popular sovereignty: the authority of a state comes from the people, who elect their representatives (and can also remove them from office) – the people are the source of all political power
- k. Rights: a moral or legal entitlement to have something or to be able to do something
- l. Authority: to have the power to give orders and make decisions, as well as enforcing those orders and decisions
- m. Separation of powers: a political structure in which the branches of government i.e. executive, legislature and judiciary, are separate, with no shared members and often separate buildings; this helps with the checks and balances between different branches
- n. Executive: the executive branch has the authority to enforce laws and govern the state; in the UK the core executive is comprised of the Prime Minister and the Cabinet; in the US, the executive (according to the constitution) is the President although he/she has assistance from the Vice President and their appointed cabinet
- o. Legislature: the law-making branch of government; in the UK this is Parliament (elected House of Commons and unelected House of Lords); in the US this is Congress (the House of Representatives and the Senate)
- p. Judiciary: the courts, which act to interpret the law and apply the law on behalf of the state
- q. Privileged elite: a select group (perhaps as a result of birth into wealthy or aristocratic families) that has significant influence and/or benefits
- r. Arbitrary: an outcome based on chance or one someone's whim, rather than as a result of reason; in politics, often linked with unrestrained or autocratic power
- s. Newfangled: something new and different, that is not always desirable or seen as a positive change

t. Uncodified constitution: a constitution is a set of rules and guidelines regarding the running of a country and the actions/checks of different branches; an uncodified constitution is one that is not contained in a single authoritative document and instead has many sources e.g. statute law, common law, conventions, treaties, historical documents, works of authority etc.

Source:

When David Davis, secretary of state for Brexit, responded to the High Court's decision that only parliament has the authority to trigger article 50, he became unusually incoherent: "Parliament is sovereign," he said, "has been sovereign, but of course the people are sovereign." The "sovereignty of parliament" is a unique feature of Britain's once durable uncodified arrangements. From 1688, monarchical absolutism, aristocratic privilege and capitalist energy combined into a new form of rule: cabinet government accountable to a parliament of Commons and Lords under the crown. It created an engine of global conquest with built-in checks that protected the kingdom from would-be dictators and, especially, democracy. It rested on domestic consent. But consent was – and was seen as being – the opposite of allowing "government by the people". This is why the outcome of the Brexit referendum is constitutional dynamite for Britain. The assumption was that it would confirm the status quo: that deference, self-interest and fear of the consequences would renew consent for the old regime with a remain vote. Instead, consent was withdrawn. A new sovereign i.e. "the people", has now displaced the old i.e. "parliament". The Commons and Lords – both with "remain" majorities – must vote to leave the EU. By terminating the 1972 European Communities Act as a result of Brexit, "parliamentary sovereignty" will be restored only as a technicality: for in fact and in spirit the referendum drove a stake through its heart. The "will of the people" must now prevail. Those who resist are "enemies of the people", as the Daily Mail newspaper described the high court judges involved in determining whether Parliament should vote to act on the Brexit referendum outcome. This is the raw meat of dictatorship. A new and democratic constitution is now essential, one that rests on popular sovereignty but protects the rights of all. Let's start with first principles. All constitutions do three things. First, they establish the authority that different centres of power have, how they relate to one another, and how these relations can be changed. This is where the famous separation of powers (between the executive, the legislature and the judiciary) comes in; or, as is the case in the UK, does not come in. Second, all constitutions define the powers and rights of citizens. Do individuals have the right to vote, to assemble, to free speech, and so on? Third, all constitutions express the aspirations of the society. The UK constitution was once the plaything of a privileged political elite. When he was head of the civil service and secretary to the cabinet, Robin Butler was asked by a student what the constitution was. He replied: "It is something we make up as we go along." His "we" was not the "we" of "we, the people". He meant those like him. The irony is that by leaving the EU, we now find ourselves in even more need of grownup, European-style arrangements. What is clear now is that our country must bury its arbitrary, hyper-centralised empire-state. For even a newfangled supreme court cannot preserve the uncodified constitution that is being shredded by Brexit. <https://www.theguardian.com/commentisfree/2016/nov/30/why-britain-needs-written-constitution>

Tasks:

1. Using two differently coloured highlighters, indicate the arguments in the SOURCE that:
 - a. Support the view that the UK should have a codified constitution (written in a single document).
 - b. Support the view that the UK should retain its uncoded constitution
2. Select 3 arguments from each side and add them to the balanced debate see-saw below.

WEAKER ARGUMENTS

1

2

3

STRONGER ARGUMENTS

1

2

3

3. Below is an example of an answer to this question: "Using the source, evaluate the view that the UK should adopt a codified constitution". After reading it, have a go at writing your own conclusion – it may agree or disagree with the one below, but make sure you clearly justify your decision using the source.

The source states that the uncoded nature of the constitution made it "the plaything of the privileged elite." From AO1 to AO2: The source states that the uncoded nature of the constitution made it "the plaything of the privileged elite." Civil servants and the political class were able quite literally to make it up as they went along. For example, there is a convention that referendums are used to give legitimacy to proposals for significant constitutional change, but there are no rules for this. Governments in recent times have been able to remove hereditary peers, establish a Supreme Court, sign significant EU treaties (like Nice and Lisbon) without any recourse to such a convention. However, the article suggests that this elite flexibility is no longer the case. Thanks to Brexit, all the old ways are overruled by "the will of the people". The example given is that, despite the High Court and Supreme Court ruling that parliament had to trigger Article 50 to begin the formal process of leaving the EU, in reality the government and the members of parliament (both houses) had no real choice but to vote in line with the referendum result. However, perhaps surprisingly, the writer does not see that as a positive development. While it is clearly undemocratic for the political class to make the

constitution up as they go along, it is also problematic for a crude idea of “the will of people” to prevent the political system from working or representatives from representing. The only solution, then, is to develop a codified constitution that sets out the rights and limitations of the powers of both the state and its citizens.

Let the excitement grow and the learning commence!