



Examiners' Report

June 2010

GCE Government and Politics 6GP02



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June 2010

Publications Code US024026

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Introduction

General Comments

In terms of the way in which candidates approached the answering of questions there was certainly progress in this series. The stimulus questions were handled well, with careful reading of the source material, and longer answers were generally well structured with logical introductions and conclusions as well coherent progression of analysis.

There were two common weaknesses. The first concerned (b) questions in Section A. Here too many candidates did not use 'own knowledge' but were locked into the stimulus material alone. Whether this was because they lacked additional knowledge or misunderstood the exigencies of such questions is debatable. Possibly both problems were encountered. Of course 'own knowledge' can mean two things and both were credited. One meaning is issues not mentioned at all in the source, the other is additional elaboration of issues which are contained in the source. Ideally candidates should be able to include both these kinds of additional knowledge and/or analysis.

The second weakness concerned the Section B questions. This was a common lack of factual material and examples or illustrations to underpin analysis, evaluation and conclusions. Half the available marks for Section B questions are for knowledge and understanding (a higher proportion than for (c) parts in Section A), and this should be borne in mind. Candidates should come armed with more factual material to obtain the best marks in these questions. Examples of such failings can be seen in the individual question reports below.

The most popular questions were 1 and 3. The low response rate to question 4 was not surprising as questions on the judiciary are traditionally ignored. This was unfortunate in that the question was relatively straight forward and offered good opportunities for evaluation. More surprising was the low response to question 2. Possibly this was because it centred on the cabinet rather than the prime minister. It should therefore be emphasised that this section of the specification does concern the wider executive, not just the prime minister.

A Note on the events of May 6, 2010

The examination followed hard on the heels of a ground breaking election. Examiners followed the rule that candidates who did not refer to the election and its aftermath would certainly not be penalised. It was not at all necessary to refer to recent events. That said, candidates who used the experience of the election and the advent of coalition government appropriately, did receive credit. This was especially true of question 2. However, speculation (for example about whether parliament will become more 'effective' when the main governing party lacks a Commons majority) remained just that - speculation. It could not be a substitute for analysis and evaluation based on factual, hard evidence, nor could it receive as much credit.

From January 2011 onwards, however, there will be hard factual evidence from the experience of a hung parliament and coalition government, so this will become increasingly valuable.

Question 1

Nearly all candidates were able to identify three sources of the constitution and so were awarded at least three marks. Explanation of the sources - needed for additional marks - was more patchy. Little problem was encountered explaining and exemplifying statute law, but there were many shaky explanations of common law and, surprisingly, of conventions. The convention that elections are held on a Thursday was credited, but it would be good, in the future, to see more significant examples used such as the Salisbury convention or the conventional prerogative powers of the prime minister. A fairly common error which should be eliminated was that, because constitutional statutes appear to have the same form and procedure as other, non-constitutional statutes, all statutes are constitutional. This 'logic' is flawed.

Question 1(a)

One of the sources of the constitution is convention. This is a principle of understanding, an unwritten rule followed by all in the political process. For example, the Salisbury convention which allows the current government to pass any law which they have proposed in their manifesto without any hazard in terms of blocks from the House of Lords. Another convention, is holding a general election on the first Thursday of May. If these conventions are not followed they can easily be made into law by the government of the time.



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Examiner Comments

Here there is a good example of how to explain conventions successfully. A main example is given and then clearly explained. (The Salisbury Convention). A second example is briefly mentioned (albeit the actual convention is only Elections are held on a Thursday). The candidate ends by explaining how conventions can be upgraded to Statute Law by Parliament should they be seriously challenged and the government wants to entrench them.

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If you change your mind, put a line through the box ☐
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Chosen Question Number: **Question 1** ☒

Question 2 ☐

- (a) One source of the UK constitution is "conventions", these are uncodified laws that have administered through many years of historical importance. Another source of the UK constitution is "acts of parliament", these are laws and legislation that incorporate important constitutional significance in their documentation but these are not entrenched. A final source of the UK constitution is "European legislation", as the UK are part of the EU, these EU constitutional laws are also the UK's constitutional laws.



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Examiner Comments

This is a typical answer that scores 3 out of 5 because the candidate only names three factors without explaining/expanding or analysing any of them.



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Examiner Tip

You must explain/expand or analyse your main points. Otherwise you will lose marks that are easy to get. If the question asks for only two factors, this is vital.

Question 1(b)

A fair proportion of responses simply repeated what was in the stimulus without any development of the issue. Marks for such responses were inevitably very modest. However, most candidates could develop the three main issues and so moved into level 2 marks. However, level 3 was reserved for those who could identify additional issues such as the importance of entrenchment and the possibility of replacing unwritten conventions by more specific, codified arrangements. Better answers also pointed out that it was not merely a case of codifying the constitution, it was also important to make sure that rights and limits to executive powers should be entrenched and therefore protected against changes made by future governments. Thus for example, strong candidates showed how a codified constitution might prevent further drift towards executive or prime ministerial power. Similarly only stronger responses stated that codifying and entrenching

(b) A codified constitution has many advantages. There are a very few countries that have an uncoded constitution and this can be due to its impracticality. Most countries like the USA and Germany have codified constitutions which have resulted after revolutions, or independence was gained.

A codified constitution is one that has everything 'set out in clearly in any one document'. The Bill of Rights in America is known as the first 10 ~~amend~~ amendments of the constitution and clearly sets out the rights and freedoms of citizens. Our uncoded constitution does not have this but has recently incorporated a Human Rights Act 1998 which states our rights. The bill of rights however, is entrenched and so is the constitution. It is therefore hard to amend which is good as it can not be used to gain political advantage. In order to amend the constitution a $\frac{2}{3}$ majority is needed from Congress and a $\frac{3}{4}$ majority is needed from each state. This is due to the USA being a federal country where each state has the power to make certain rules and regulations. Central power is still maintained but the President is not overwhelmed by it.

A codified constitution is also good as the constitution is a higher law. There is a two tier system in the USA which sees the constitution as higher law to the state. As a result the Supreme Court of Judges in America can rule ~~things~~ actions of the President / Congress as unconstitutional. In the USA the judges have a lot of power. They are unbiased and neutrally independent.

((b) continued) Going back to the Bill of Rights / Educationally it is deemed better having the rights of citizens outlined as 'most people in the UK might struggle to put their finger on what their rights are'. In USA schools, children are taught about the Bill of Rights and are educated as to what rights they have and can exercise.

~~Also, better~~ Having a codified constitution sees everything set out in one single document, this limits the confusion brought about by the 'haphazard' way our uncodified constitution was put together from a number of different sources.

Also, many countries work well with a codified constitution and there are very few countries that have an uncodified constitution.



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Examiner Tip

It is important that you add in your own knowledge and not simply re-use the material given by the source. This could be an additional factor or example not given in the source or it could be an expansion of a point made briefly in the source. But simply repeating the source material (even well as in this example) will not earn you more than 6 out of 10.

Question 1(c)

Some candidates treated this as an evaluative question, deploying arguments both for and against a codified constitution. Positive marking meant they were not specifically penalised for this, but inevitably the irrelevant material received no credit and candidates were penalising themselves by wasting time. Fortunately most candidates focused on the specific demands of the question.

There were plenty of reasonably full accounts of the arguments for retaining the uncoded constitution and there was good use of examples demonstrating why flexibility remains important. Many candidates used conservative arguments against change to good effect. Some impressive answers used the post May 6 events to demonstrate the virtues of such flexibility, pointing out how a solution was found to the problems of a hung parliament with little problem. Some also discussed the status of the monarchy to good effect. Many compared the UK with the USA and this worked well. The best answers also referred to the judiciary, pointing out correctly that a codified constitution would bring the unelected judiciary too much into the political arena, as occurs in the USA.

AO2 marks were mostly awarded to those who did indeed 'make out a case' as the question demanded. This involved analysis of the arguments. Thus AO1 marks were gained for describing flexibility, but AO2 marks were reserved for those who could explain why flexibility would be desirable.

(c) There ~~have~~^{has} been ~~many~~ great opposition to the adoption of a codified constitution for the UK. In my opinion the greatest reason against a codified constitution ~~is~~ in the UK is the loss of flexibility it would create. Rules and rights would become fixed and therefore out of date, this is shown best by the ~~America~~ 'right to bear arms' in the US constitution. Relationship between institutions and freedoms of citizens are more hard to change, ~~and~~ ~~it~~ also gridlock is often ~~more~~ common in the US political system. However against this is the argument that it in fact ~~is~~ beneficially defines a citizens rights and freedoms.

Secondly of a similar importance to this in my opinion is a greater likelihood for judicial tyranny. The judiciary's power is greatly extended due to their status, as shown in the US legal as defenders of the constitution and as such their ability to deem ~~laws~~ ^{laws} 'unconstitutional'. This is shown historically in American history through President

((c) continued) it is argued that ^{a codified constitution} ~~it~~ does not heighten the power of the judiciary yet merely weakens the power of the government of the day.

A weak argument against the adoption of a codified constitution in the UK is that ~~it~~ it is merely ~~unnecessary~~ unnecessary. Many argue that simply ~~for~~ increasing Parliamentary scrutiny would do the job. Although it may be argued that a codified constitution ~~is~~ is necessary as citizens need to accurately acknowledge their rights and rules and also to establish clear rules, for example mandatory sentencing in ^{some} courts give judges clear regulations and guidelines.

lastly, I feel that a stronger argument than ~~it is~~ ~~the~~ the question of necessity and linked to judicial tyranny is that ~~the~~ a codified constitution would dictate laws in a way that only judges would understand. This therefore makes the argument of clarity invalid, also limits the extent of the public's education.

((c) continued) In conclusion I believe that the UK shouldn't have a codified constitution as it gives way to undemocratic occurrences most significantly judicial tyranny and gridlock.

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Examiner Comments

Here we have an answer that covers a wide range of points and follows the question by only making a case against a codified constitution. A brief conclusion also summarises their argument nicely. This is a good example of what a candidate can achieve by writing clearly and answering the question set directly.

Question 2

Question 2(a)

Most candidates could identify two issues discussed in cabinet, but too many failed to explain this. Thus full credit was given to those who not only informed us that the cabinet discusses strategic economic issues, but also referred to this as a fundamental function of government so it becomes a key role of cabinet. Similarly, discussion of parliamentary business was correct, but candidates needed to explain that government can only manage its business if it efficiently manages parliament. Thus identifying two functions could only garner three marks. Further explanation was needed for the other two marks.

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If you change your mind, put a line through the box ☒
and then indicate your new question with a cross ☒.

Chosen Question Number: **Question 1** ☒

Question 2 ☒

- (a) AS the cabinet is made up of ministers from different government departments, issues such as foreign policy, due to the foreign Secretary, and the economic situation, due to the Chancellor of the Exchequer, are discussed. These discussions are key in unifying the various Whitehall departments.



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Examiner Comments

Here we see an answer in which the candidate has only recycled the source material. But when the question asks for two factors - not three - too many marks are lost to even get half the total available. Candidates must explain/expand even in 5 mark questions.

Question 2(b)

Some candidates used the recent experience of choosing a cabinet for a coalition government as additional factors not in the source. This was successful as it was not speculation but hard fact. However, candidates who ignored the recent experience were not disadvantaged. A major weakness in many answers was an inability to find examples outside the source. In fact most candidates could not identify factors other than those referred to in the passage. There is a great deal of material from recent history which could have been used. Few candidates therefore were able to rise above level 2 marks.

(b) It is highly important that, when choosing Cabinet members, the Prime Minister ~~show~~ creates a body that is diverse and representative of the UK. ~~How~~ Therefore the Prime Minister considers key factors such as race and gender, however, the Prime Minister also needs to select members that will help their own personal success.

In June 2007, Gordon Brown selected a new Cabinet. His decision to appoint Jackie Smith as Home Secretary not only showed diversity in his Cabinet, but also represented a 'modern' Labour party as Smith was the first ever female Home Secretary.

Controversially Brown also selected David Miliband as Foreign Secretary. As the youngest Foreign Secretary in 30 years this also showed ~~Brown~~ the diversity in Brown Cabinet. However, the selection of Miliband was more controversial due to the fact that he had been tipped as

the fact that he had been tipped as Gordon Brown's rival for the Labour leadership before ruling himself out. Selecting rivals as cabinet members is normally a strategy taken by Prime Ministers to

((b) continued) prevent criticism from outside. Miliband's decision to run as Labour Party leader in 2010 may be evidence for Brown's strategy working.

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Examiner Comments

Again the candidate has answered the question well but failed to expand beyond the material given in the source. This can be remedied by either expanding on the material given or by introducing examples/points from the candidate's own knowledge. Otherwise 6 / 10 is the maximum that can be scored.

Question 2(c)

This was not a popular question, but responses were generally fairly strong. Most candidates were able to offer a balanced evaluation, pointing out both strengths and weaknesses in cabinet. A large proportion of responses used exemplar material from the premierships of Thatcher and Blair, which was perfectly satisfactory, though evidence from the cabinets of Major and Brown would have provided additional balance. The main strength in answers was good knowledge of ways in which the cabinet has become weaker and increasingly marginalised. This gave a good dynamic to responses, demonstrating that circumstances change over time. However, most candidates suggested that the drift away from cabinet power was one directional and inexorable, when in fact the power and significance of cabinet ebbs and flows.

Some candidates offered speculation that the cabinet might become more significant under coalition government, but speculation cannot receive as much credit as firm evidence. Certainly the formation of a coalition cabinet is more problematic, but there is no guarantee that cabinet will become stronger, or indeed weaker.

Responses that were based purely on the rise of prime ministerial control were perfectly valid but were limited if they did not relate prime ministerial developments to the cabinet specifically. It is perfectly valid to say that there is something of an inverse relationship between cabinet influence and prime ministerial power, but it should not be offered as the only form of analysis.

(c) The extent of the Cabinet's importance varies with each government. During the Thatcher years there wasn't a great deal of power wielded by the Cabinet. Thatcher and a few of her 'Big Beasts' controlled the Cabinet and were able to manipulate them to get their way. This shows how Cabinet is not strong as they were not a vital aspect of legislation. This view of a weak Cabinet can be demolished when we look at the Major Government of 1992-1997. There is a distinct lack of leadership from John Major as a politician and more powerful authority exercised by the Cabinet. This can be shown when Major lost the 1997 General election because, as a leader, he wasn't competent and his Cabinet had control.

The ~~Blair~~ Blair government (1997-2005) shows how Cabinet does have some authority but this importance does not extend to all Cabinet members. Tony Blair would regularly meet with sections of the Cabinet in smaller discussions. This created Cabinet power to be centered around

((c) continued) the ministers like Jack Straw and John Prescott. This ~~power~~ importance allowed Blair to segregate the Cabinet and choose supporters to create legislation instead of Cabinet as an entity.

The current Coalition government may show the strength of and importance of Cabinet grow. By having a two party coalition there will be more of an outcry for consensus politics. The Lib Dems and Conservatives were complete adversaries during their Election campaigns but this changed when the Coalition was formed. The Tories will now have to consult the 5 Cabinet Lib Dems regularly on issues to ensure the Coalition survives. The Lib Dems will have the power to influence legislation. If they don't like a certain law they will be able to ~~change the MPs~~ make the Liberal MPs: vote against an act and create a Conservative minority. Cabinet power will, as a result of the Coalition, grow immensely in the next few months.

The Brown Labour government was effective in using the Cabinet on certain

((c) continued) issues. However this Cabinet wasn't as divided as Blair's. The influence of 'Big Beasts' within Brown's government made Cabinet strong. Brown had the most importance but this was undermined by Alastair Darling. Brown had wished to fire Darling, which as prime minister is his power. But because Darling held some amount of power ~~that was~~ Brown was unable to fire him for fear of a party backlash. It would have been an unpopular decision showing how Cabinet is important sometimes.

Ultimately the importance of Cabinet is defined by the strength of the members within it. If the Prime Minister is strong and forceful like Thatcher then the Cabinet will be weak and unimportant. If the Prime Minister is weak however, like John Major, then Cabinet presides over legislation with much more power and importance.



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Examiner Comments

This candidate has taken a sensible and easy to achieve approach to the question. By examining the strength and weakness of Cabinet under different PM's they have managed to show the flow of power (and by extension deal with both sides of the argument). The conclusion nicely summarises the essay and answers the original question. Too often candidates neglect to write any sort of ending. Again this is an example of how candidates can write clearly and answer the question effectively.

Question 3

This was a popular question and, on the whole, a well balanced response was offered. The main problems included commonly omitting analysis of the House of Lords altogether or only a cursory mention, confusions about the kinds and roles of parliamentary committee and a tendency to overestimate the significance of prime ministerial power.

Strong answers tended to have a good grasp of the role of select committees especially and understood the significance of parliament's reserve powers. There were also some good evaluations of the powers and influence of the of the House of Lords, but very few were able to show how the influence of the Lords has grown, especially after 1997. There was general understanding that the size of the government's majority was an important and variable factor and that patronage plays a key role in executive dominance. Having said that there was a lack of sensitivity to the generally more activist approach of the House of Commons, especially after 2005.

In longer questions, there is a greater requirement for a good deal of factual evidence and information about recent historical developments. The lack of response to this requirement proved to be the key factor in most responses. Plenty of answers could give generalised, but not very detailed analyses of parliament's effectiveness. Examples of detailed analysis commonly omitted were the extent to which MPs are able effectively to represent the interest of constituents, or peers are able to represent outside interest, especially when scrutinising legislation.

Some candidates decided to speculate that a hung parliament will be more effective than what has gone before. As we have said above, this remains only speculation and there is no hard evidence as yet as to whether this will be true. Such speculation, therefore, received very limited credit, but was rewarded marginally if the argument was coherent and based on solid foundations.

Candidates who ignored the House of Lords altogether, and there was a significant minority who did, could not achieve a mark above level 2. Candidates should be reminded that questions which refer to parliament require consideration of both houses, especially now that the Lords has become more significant in terms of legislative control.

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Put a cross in the box ☒ indicating the second question that you have chosen.
If you change your mind, put a line through the box ☒
and then indicate your new question with a cross ☒.

Chosen Question Number: Question 3 ☒ Question 4 ☒

There are arguments both for and against the idea that parliament controls executive power. This essay aims to prove that Parliament controls executive power to a ^{small} extent.



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Examiner Comments

The Introduction here is short but to the point. It tells the examiner what the candidate intends to do. This is a good example of effective writing style. (A brief list of the main points to be raised would be even better).

Parliament recommendations sometimes come from select committees. These are based on the makeup of Parliament & therefore usually have a government majority. Whips also tend to make sure loyal backbenchers are selected to sit on the committee and chair it, therefore these can also be said to show bias. However, in ~~the~~ a coalition Government, there will be an inbuilt opposition majority. Meaning the role/power & scrutiny from select committees may be strengthened.

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Examiner Comments

This is a good example of a paragraph combining information with analysis. It also shows how to combine advantages and disadvantages in the same paragraph.

Indicate your second question choice on this page.

Put a cross in the box ☒ indicating the second question that you have chosen.
If you change your mind, put a line through the box ☒
and then indicate your new question with a cross ☒.

Chosen Question Number: Question 3 ☒

Question 4 ☒

Traditionally Parliament is viewed as the ^{key area of} sovereign power in the UK government system. However with the rise in the trend ~~for~~ of 'Primeministerial Government' and often 'Presidential Government', the extent of the control ~~the~~ Parliament has over the executive power has been called into question.

One of Parliament's key jobs is to scrutinise the executive this is done through Prime ministers questions, however, this is often viewed as 'theatrical politics' and therefore twice a week the Prime minister is subject to Liaison Committee scrutiny. This allows more experienced back benchers to question the Prime ministers actions and monitor his or her executive power. Additionally it ~~is~~ takes place on the cabinet floor, away from the ongoing competition between the party in power and the opposition. Although

this does mean the Prime minister is only scrutinised by members of their own party.

The Prime minister's ideas can be thwarted by the House of Lords and the House of Commons. This shows huge Parliamentary control over the executive's power. For example in 2003, Tony Blair's Terror Bill was ~~approved~~ ^{overruled} by a 31 vote majority in the House of Commons.

However, the Prime minister can ratify treaties without discussion with the House of Commons. In 2007 Brown proposed that the Prime minister should have to discuss with the House of Commons regarding the ratification of treaties, ~~the~~ dissolving or reshuffling Parliament, appointing judges, choosing Bishops and declarations of war, however, the Prime minister still holds the power to take these actions without discussion. This therefore shows Parliament to have very little control over the executive.

~~However, Blair's~~
~~Additionally Blair's~~

Human Rights Act 2000 took away significant power from ~~the~~ Parliament effectively giving control to the electorate themselves. Blair also increased devolution in the UK, these factors seem to suggest ~~that~~ Parliament has very little power over the actions of the executive. This notion is emphasised by Brown's attempt to reduce executive power.

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Examiner Comments

This is a typical low scoring answer by a candidate who has the ability to do better. Although there is no word count etc, 2 1/2 sides is not going to provide enough points or detail to score highly on what is after all 25% of an AS.

Second, although there is a good introduction, the conclusion is very brief and does not even get its own paragraph.

Points are made briefly but not expanded often enough. Mention of factors like the Liaison Committee again suggest a candidate who knows the material but has not demonstrated that knowledge in depth to the examiner.

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Examiner Tip

The word 'Parliament' in a question should warn candidates that simply talking about the House of Commons will NOT be enough to earn high marks.

Question 4

As usual the judiciary question was not popular. This was a very straight forward question so those who had worked hard on this topic could have done very well. Some did, with a good number of excellent evaluations full of useful exemplar cases.

A common and largely unsuccessful, approach however, was to try to adapt knowledge about independence and neutrality to this question. There is some relevance to the increasing independence of the judiciary and, tenuously, some traction in discussing neutrality, but both fields are very limited. Furthermore the material on Griffiths is still being used despite the fact that it related to a bygone era. The fact that the judiciary is not socially representative does not seem to have affected its ability to protect individual or group rights.

The best answers, therefore, were those that focused on the exigencies of the question. They examined the increasing significance of judicial review and the importance of the Human Rights Act (with too few referring to freedom of information). These kind of stronger responses were able to deploy valuable cases to underpin the arguments. Perhaps too few referred to the enduring importance of parliamentary sovereignty which prevents the judiciary from being effective in securing rights in the way that the US Supreme Court, for example, does. It would have been encouraging to see examples of the cases involving the new Supreme Court, but, in the main, examples were sufficiently up to date to be valid (with the notable exceptions of Ponting and Spycatcher which have little significance today).

The common weaknesses were, as stated above, attempts to adapt a different answer to this question or to produce generalised narratives describing the role of the courts in delivering justice. These did not address the question directly enough and failed, on the whole, to be evaluative. Some candidates who were attempting to be focused and who did try to use examples, failed to use their exemplar cases effectively. In other words they did not understand or were unable to express clearly, why such cases as Belmarsh, Bulger etc, were significant. Those who did use case examples well were rewarded at a high level.

Indicate your second question choice on this page.

Put a cross in the box ☒ indicating the second question that you have chosen.
If you change your mind, put a line through the box ☒
and then indicate your new question with a cross ☒.

Chosen Question Number: Question 3 ☒

Question 4 ☒

It is very difficult to determine how effectively the judiciary can protect civil liberties ~~and~~ because ~~it~~ there are barriers that stop them from being fully effective due to our unwritten constitution.

One way in which the judiciary is effective in protecting civil liberties in the UK is through judicial review. When the government ~~and~~ have done something that can be considered 'unlawful', the judiciary can proclaim that the government are 'ultra vires'; acting beyond their power. The judiciary can therefore review certain cases ~~by~~ if they are ultra vires. An example of this would be in 1995 when Michael Howard (Foreign Secretary of the time) tried to increase the minimum term up to 15 years ~~off~~ for the ~~murderers~~ murderers of ~~the~~ Jamie Bulger. The judiciary declined that Michael Howard was acting beyond his power and so the case was overturned through judicial review. A more recent example would be in 2003 when James Blunkett tried to get rid of welfare benefits for Asylum Seekers, but it was overturned by the judiciary as he was acting beyond his power (ultra vires). But, the judiciary can only review certain cases and can't overturn things like Acts of Parliament.

Because Parliament is sovereign.

Because of the introduction of the Human Rights Act, citizens can use legal redress through the courts when they believe that their basic human rights are being infringed on. An example of this would be in 2003 when Catherine Zeta Jones put a restraining order on the media as they were infringing on her basic human rights. ~~Also~~, The Human Rights Act ~~also~~ gave the UK a better access to the ~~European Court~~, but European Convention, but access to the Strasbourg Court proved to be time consuming and costly. But, the judiciary may not be so effective at upholding civil liberties as the human Rights Act is not a Bill of Rights and so it can't overturn things like Acts of Parliament (if it is believed to be infringing on someone's rights). The best thing that the judiciary can do is to call a 'declaration of incompatibility'. This forces the government to rethink about a certain piece of legislation and so it can make ministers more sensitive to people's rights and this will help to make ministers more ~~and~~ accountable. But, the government can choose to derogate away from certain parts of the ~~law~~ law. This shows that the judiciary aren't all effective at protecting people's civil liberties as the government can just easily ~~more~~ remove parts of legislation so that they can pass other ~~pieces~~ ~~pieces~~ pieces of legislation. For example, the ~~gov~~ Labour government in 2001

removed Article 5 of the European Convention so that they could pass bolder laws on terrorism. This involves removing certain rights for those who are suspected of terrorism. This shows that the judiciary are ineffective at protecting civil liberties as the government can do whatever they want due to parliamentary sovereignty. The Conservative Party disagree with the Human Rights Act because they believe it sets out an abstract set of principles that can lead to bad judgment from the government. This is quite ironic as they agreed to the European Convention in 1953 which sets out the same principles as the Human Rights Act.

~~The~~ During the Labour government from 1997 onwards, it has been argued that they are drifting towards authoritarianism, which shows that the judiciary aren't doing an effective job in protecting civil liberties. It can be argued that in this time, the judiciary were effective due to the development of the Human Rights Act in 1998 and the Freedom of Information Act in 2000. But there is a lot more evidence to show that the Labour government had been drifting to authoritarianism. For example, in 1997 the Labour government restricted the use of a jury trial to those who are on trial for certain crimes e.g. theft. This undermines the basic principles of the rule of law as it isn't giving equality to all by doing this. Another example would be the

introduction of ASBO's, where restrictions were placed on mainly youths on the basis of hearsay and without a trial in front of a jury. The most notable examples are of the anti-terrorism laws that put restrictions on people's basic freedoms showing that the judiciary weren't very effective in protecting civil liberties. In 2001, the Anti-terrorism, Crime and Security Act was passed; ~~giving~~ ^{taking} away the freedom to have a fair trial for those who are suspected of terrorism. In 2006, the Prevention of Terrorism Act was passed; giving the foreign secretary the ability to impose restrictions on suspects who couldn't be deported. Finally, in 2006 the Terrorism Act was passed; which gave the government the power to hold suspects for 28 days without trial.

There are not enough examples of effective answers to Judiciary questions in the public domain. This is how it can be done by a good candidate.



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Examiner Comments

A good brief introduction. Notice how this candidate uses examples mainly from 1997 - 2010 period (showing contemporary knowledge by drawing on the [then] governing party's relationship with the judges). Significant examples from the previous Tory regime are mentioned only if they had a major impact (ie the Bulger case).

Also the candidate has addressed Human Rights at all levels (ie Terrorism Laws after 9/11 and ASBOs). The candidate has looked why the judiciary has become more active as well (HRA and Freedom of Information Act).

To summarise, this candidate has stuck to the question asked. They have produced about ten examples (all but one drawn from the last twelve years) and explained how this covers the ebb and flow of judicial defence of human rights in the UK. It is concise, contemporary and clear. It's not perfect, but it has scored highly. This is how a good candidate should answer this topic.

Grade Boundaries

Grade	Max. Mark	A	B	C	D	E	N	U
Raw boundary mark	80	49	44	39	34	30	26	0
Uniform boundary mark	100	80	70	60	50	40	30	0

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