

Analyse how independent the Supreme Courts in the USA and the UK are (Comparative: 12 marker)

1) Separation of Powers

- Both the UK SC and the US SC have a separation of powers of the judiciary branch and the legislative branches
- This means that for both SC, they can't have their decisions interfered with by the other branches, showing their independence as all decisions made are made completely by them
- **EXAMPLE:** In the **Gina Miller Brexit Case**, The Supreme Court ruled against the Government and showed that they had no problem in showing their independence because they ruled with what they believe the law to be, not with what the government wanted
- **EXAMPLE: US v Nixon (1974)**, SC ruled that Nixon had to turn over tapes that effectively contributed to his resignation, this showed the SC being independent as they were not swayed by another branch of the political system but instead ruled what they thought was correct

2) Sovereignty in the US and the UK

- In the UK, Parliament is sovereign and so the interpretation of the law, is what is in the constitution
- Because parliament is sovereign they have the ability to change the constitution at any point and it's made of all the laws that parliament has passed
- This means that there is a lack of independence in the UK Supreme Court as there is an ease for parliament to simply change a law if they don't like the ruling that the Supreme Court give on it
- Meaning that the independence is corrupted as they are not fully separate from the other branches
- However in America, it's the constitution that is sovereign and was the document that created the other branches
- The US SC interpret this document and although it can be altered by Congress, this amendment process is very difficult meaning the constitution has remained largely unchanged
- Therefore this has kept the SC independent because they are interpreting a document that has been constantly altered by the other branches but stands alone as the sovereign document that the judges use to make their rulings
- **EXAMPLE:** only 33 amendments have been ratified since the document was first penned in 1789

3) Appointment process

- In the UK, Appointments are recommended by the Special Commission and appointed by the Queen
- This means that the process has a lack of political influence, and so the party in government don't have a chance to get a judge that more closely aligns with their ideology
- Helping to retain the courts independence as the judges are separate from the other branches as they won't choose a certain political side over another based on which government got them into the court as the government have no say in this
- **EXAMPLE:** little is known about the political bias of judges on the UK court as there is such a lack of political interference in the process
- The appointment process for the US Supreme Court is far more politicised as the recommendation is made by the President and confirmed by a committee made up of senators
- This means that the court becomes less independent because the other branches have the ability to affect what goes on in the court as they can appoint someone that coincides with their own ideology, causing a bias in the court based on which ever party is in power
- **EXAMPLE:** Since 2016, Trump has appointed 2 justices to the court, both which have more conservative views that coincide with his right-wing views