

# Constitutional reform act of 2005

Law



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In this assignment I draw on Parpworth, Bradley & Ewing and Allen & Thompson thoughts and ideas to discuss and explore The Constitutional Reform Act of 2005.

I will discuss and explore the question has The Constitutional Reform Act of 2005 transformed the relationship between the Executive and the Legislature I will take a further look at the major principles including the Principle of the Separation of Powers, powers of the state and the work of government. In doing so I propose that the Constitutional Reform Act of 2005 has indeed transformed the relationship between the Executive and the Legislature. The answer is not straight forward although perhaps the most significant change is the role of authority between the Executive and the Legislature. I will discuss the changes in more detail during this assignment. The current British law makes it a requirement that every citizen should be under the same law and that the law seeks to act fairly by not punishing individuals who are innocent of crime. It is essential that the law has certainty and that all actions are regulated accordingly. The British legal system seeks to achieve these requirements and usually achieves this. However there are circumstances when these requirements have been a concern. The government previously had power over legislation and could reverse legislation, but with 'The Constitutional Reform Act of 2005 it no longer has that authority. (Bradley & Ewing, 2008)

Since it is essential that no individual should be more powerful than the law The Constitutional Reform Act of 2005 was created to form a distinct and unbiased judiciary. To completely understand the relationship between the Executive and the Legislature one has to examine the duties of the judiciary. (Parpworth N, 2008).

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As Parpworth points out the major role of Parliament is to make legislation and to make sure that the duties of the executive are followed through correctly. The Constitutional Reform Act of 2005 changed the way Parliament worked. It changed the roles between the Executive, the Legislative and the Judiciary. The Constitutional Reform Act of 2005 brings changes such as; the creation of a supreme court, separate from Parliament, in the final court of appeal the judges will no longer be members of the House of Lords. The Lord Chief Justice will now be the head of the judiciary rather than the Lord Chancellor. Although this Act has come under much scrutiny it follows the principle of the separation of powers and recognises the role of the judiciary as a third branch of the constitution.

The shift in powers was divided more equally between the three branches; the executive, the legislature and the judiciary. In the past the British Lord Chancellor was part of the legislative and there was no separation of powers. There are three different meanings to describe Separation of power.

1. That no one person should form one of the three branches.
2. That each branch should be distinct and not have the power to get involved with another's duties, and
3. That these branches shouldn't be allowed to take authority of the other branches. (Bradley & Ewing, 2008)

It was Montesquieu that introduced the principle of separation of powers in the 17th century. He believed that there should be three separate branches involved with the decision and law making process. Montesquieu argued that to avoid tyranny the Executive, Legislature and Judiciary should be separated.(Barnett, 2001)

Since The Constitutional Reform Act of 2005 the separation of power has  
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been more distinct. The relationship between the Executive and the Legislature was transformed by this new constitution in a way that would separate its powers and reflect today's societal changes better.

Since 2002, the Council has played a significant factor in providing a judiciary to debate and find solutions of policy, involving an important role in respect of forming the Concordat. Its working parties have contributed to the relations with the Executive.

The principle of legislative supremacy is a firmly rooted fact of British government and British political thought. The main principles of the separation of powers were never forgotten and were a firm part of British political thinking. It was important that these principles were interjected into constitutional theory. This would bring about a much more balanced constitution. Originally judges were not as significant as they are today. Therefore the Constitutional Reform Act was essential to give judges a distinct place and also to bring about a new way of political thought. The Constitutional Reform Act matched the new political thought and closely balanced the fundamental principles of the separation of powers. It would solve any altercations between authority creating three distinct branches that were balanced more equally. The Constitutional Reform Act of 2005 was brought about so that British citizens could have confidence in the government knowing that they could not change the legislative at any given moment. The Constitutional Reform Act of 2005 would improve credibility and effectiveness of public institutions. It would improve the strength of our democracy and public engagement with decision making. It would improve trust and accountability in public bodies. (Allen, M & Thompson, 2008)

The transformations since The Constitutional Reform Act of 2005 have

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helped strengthen the partnership between the executive and the judiciary. Some changes have happened to reflect the society that we live in and to show what a diverse world we are currently living in.

Power is shifting more fairly between the executive and the legislature helping to reduce areas of conflict. Not only does the Act bring solution to conflict it also improves the administration of justice, the up keeping of the rule of law and the safe guarding of the public interest. The main transformation that The Constitutional Reform Act of 2005 brings about is the change in Parliamentary Sovereignty.

In conclusion, The Constitutional Reform Act 2005 has transformed the relationship between the Executive and the Legislature' in many ways. There are not enough words to discuss every aspect of transformation that the Act has brought about, but there is a lot of scope to discuss this further and to go into more depth.

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#### References

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