

5.4.1 HANDOUT

LAWS OF GOVERNMENT COMPARISON

Section 1: Read the following preambles and complete the chart below.

- *"We, the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."*

Preamble, Constitution of the United States (1789)

- *"Conscious of their responsibility before God and man, Inspired by the determination to promote world peace as an equal partner of a united Europe, the German people, in the exercise of their constituent power, have adopted, this Basic Law. The Germans in the Länder of Baden-Württemberg, Bavaria, Berlin, Brandenburg, Bremen, Hamburg, Hesse, Lower Saxony, Mecklenburg-Western Pomerania, North Rhine-Westphalia, Rhineland Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia have achieved the unity and freedom of Germany in free self-determination. The Basic Law thus applies to the entire German nation."*

Preamble, Basic Law of the Federal Republic of Germany (updated 1994)

What Is Stated About	USA	Germany
Purpose or objective of government		
Role of the people		
Role of individual states in the federal union		
Source of power to create the government		

Section 2

German “Basic Law” contains several provisions that are not found in the United States Constitution. Analyze Articles 20, 21 and 26 of German “Basic Law” and identify the key differences between the two countries. Why might these provisions have been included in German “Basic Law”? Summarize each article:

German Basic Law

Article 20

(4) All Germans shall have the right to resist any person or persons seeking to abolish this constitutional order, if no other remedy is available.

Article 21

(1) Political parties shall participate in the formation of the political will of the people. They may be freely established. Their internal organization must conform to democratic principles. They must publicly account for their assets and for the sources and uses of their funds.

(2) Parties that, by reason of their aims or the behavior of their adherents, seek to undermine or abolish the free democratic basic order or to endanger the existence of the Federal Republic of Germany shall be unconstitutional. The Federal Constitutional Court shall rule on the question of unconstitutionality.

(3) Details shall be regulated by federal laws.

Article 26

(1) Acts tending to and undertaken with intent to disturb the peaceful relations between nations, especially to prepare for a war of aggression, shall be unconstitutional. They shall be made a criminal offence.

(2) Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details shall be regulated by a federal law.

Section 3

The United States Congress and the German Legislature are both bicameral. While this similarity exists, the differences in these legislatures are great. Read Articles 38 and 51 from German “Basic Law” and analyze how both the Bundestag and Bundesrat operate. Conclude how the German system is different from that in the United States:

German Basic Law

Article 38

(1) Members of the German Bundestag shall be elected in general, direct, free, equal and secret elections. They shall be representatives of the whole people, not bound by orders and instructions, and shall be responsible only to their conscience.

(2) Any person who has attained the age of eighteen shall be entitled to vote; any person who has attained the age of majority may be elected.

Article 51

(1) The Bundesrat shall consist of members of the *Land* governments, which appoint and recall them. Other members of those governments may serve as alternates.

(2) Each *Land* shall have at least three votes; *Länder* with more than two million inhabitants shall have four, *Länder* with more than six million inhabitants five, and *Länder* with more than seven million inhabitants six votes.

(3) Each *Land* may appoint as many members as it has votes. The votes of each *Land* may be cast only as a unit and only by members present or their alternates.

Section 4

Pair with a fellow student and discuss the following questions. Be prepared to share your discussion points with the class:

Identify at least two differences between the German *Bundestag* and the United States Congress.

How does the *Bundesrat* guarantee the *Länder* a greater role in the federal government than is enjoyed by states in the United States government?

Is it accurate to say that the *Bundestag* is comparable to the House of Representatives while the *Bundesrat* is comparable to the Senate? Explain, using specific instances to support your position.