

"A written constitution, rather than gradual reform, is now essential for the UK to claim to be a modern democracy."

This essay will look at how a written constitution, according to some, would make Britain a modern democracy and it is therefore essential that the meaning of this phrase is fully understood before it can be explored in sufficient depth. A written constitution would outline the structures and powers of government in broad terms and the relationship between the different parts of government and citizens. Gradual reform, on the other hand, has no written record of the powers of government or a clear relationship between government and citizens; however, these are determined by laws that evolve with the current views and morals of Britain. A modern democracy can be interpreted differently by people and that is a fundamental reason for this conflict of interest. Some people, such as the Liberal Democrats, believe that the constitution would make Britain a 'modern democracy' because the basic principles of Britain would be defined and that there would be no loop holes in the law as to how the government can enforce new proposals. However, some political parties, such as Labour and the Conservatives, believe that gradual reform is more effective as laws can be easily enforced that meet the needs of society and that a written constitution would be difficult to edit and allow it to evolve with society.

As there are many different arguments both for and against a written constitution, only the key points will be considered in sufficient detail to allow both sides of the argument to be analysed. The three main points for the written constitution are that there is a need to define where power lies, power is too centralised and therefore it needs to be delegated and finally, that sovereignty has already been lost and, therefore, the role of Parliament in relation to Europe needs to be clearly defined and to set limits as to the powers that Europe can enforce on Britain. The key issues that are arguments against the written constitution are that it is unnecessary because gradual reform still works well, it is undesirable because power would be transferred to an unelected body of judges and that it would be unachievable due to the fact that there would be disagreement regarding who would write it and the content of the document.

The need to define where power lies is a key point in the argument for the written constitution and, according to the Liberal Democrats, it is a fundamental requirement of a 'modern democracy'. Due to the increasing proposals for regional assemblies, some believe that it must be made clear what powers local councils and authorities have, and the extent to which the government can affect their decisions. The role of the central government will be questioned and it is therefore, according to those who are pro constitution, essential to empirically define it, so that the regional assemblies are clear as to what their role is. The Scottish Parliament and the Welsh Assembly are the two main groups that are calling for clearer distinction of roles and powers to be made. A major disagreement is evitable over the amalgamation of Europe as a whole. The powers that the UN will have over Britain in terms of enforcing law and defence are the most controversial of the proposed powers that the UN could enforce. They would need to be stated in the constitution in order for Britain to safe guard itself against excessive control from Europe. The single currency would need to be considered, as it is fundamental to trade and commerce, as well as the sovereignty that Britain has. Therefore, due to the fact that parties such as the Liberal Democrats are pro European, they believe that a written constitution would remove any uncertainty regarding the relationship between Britain and Europe. Any alteration in power would

require an amendment to the written constitution and this would therefore mean greater popular control, as a referendum would be used. This is because a referendum could be made mandatory under the written constitution and this would satisfy the Liberal Democrats.

The individual rights of citizens could be improved by making government less centralised, thereby making political factors such as taxation, local decision and policies more representative of people in a constituency. A constitution could enforce the empowerment of local government and regional assemblies, such as the Scottish Parliament and the Welsh Assembly, and this would make decentralisation mandatory. Lord Hailsham referred to centralisation as "an elective dictatorship" and this clearly portrays some opinion towards the state of our current system of gradual reform. The advantages of decentralisation are that specialisation in certain fields would allow local government to provide better education, healthcare and legal orders, such as the 'anti social order' that can be used in areas of high crime and where public nuisances are. Even on a national scale, decentralisation can occur by setting up specialist areas of government to deal with more complex issues, such as the protection of minorities. Therefore, not only would a written constitution provide equality and fairness in local areas, but it would also improve the efficiency of the government regarding its relation to special areas.

An argument that supports the case against the written constitution is that it is unnecessary. The Labour Government, and to some extent the Conservatives, believe that the current constitution is still effective and that sufficient checks and balances are in place to provide Britain with a fair democracy. The restraints that can be applied on the government are represented in the law and therefore a written constitution is simply not needed. One of the most democratically focused arguments is that there is no social unrest, or demand for the constitution by the British people and therefore imposing it would be undemocratic and possibly against the wishes of a majority of UK citizens. Due to the fact that gradual reform allows for societies needs to be adopted into the legal system, a written constitution would prevent Britain from being, in the eyes of Labour and the Conservative, a 'modern democracy'. Therefore, not only would it be against the views of a majority of Britain, but it would also infringe on Britain being considered as a 'modern democracy' and therefore, according to some, a written constitution would remove the levels of democracy that Britain currently has and impeach on the equality of the law, as the legal system would eventually be outdated.

Another commonly used argument against a written constitution is that not only is it unnecessary, but it is also undesirable. A key issue of this argument of this point is that power would be transferred to an unelected body of judges and therefore, as with the written constitution being believed to be unnecessary, the level of democracy and the could be seen as decreasing, as the views of the public may not be fairly represented due to the fact that they have not voted judges to power, based on their stances on certain issues. Judges may be out of sync with society and therefore, more friction would be caused between the government and citizens. As the House of Lords is due to be reformed, this may be seen as a step backwards, as there have been calls for more elected peers. The unelected judges may interpret the constitution differently to Parliament and this would lead to public having little faith in the constitution. Hence, many people feel that a written constitution would be less democratic and that it would

destroy the extent to which the Human Rights Act can protect basic rights and the effectiveness of the legal system where laws are in disagreement.

Some economists, as well as the Labour Party and the Conservatives, predict that it would be costly to integrate the written constitution slowly and that it would, at the same time, be too severe to immediately implement it. The Scottish Parliament building is an example of how costs can sky rocket from their original predicted cost and also the length of time that is required to be extended. An estimated time to fully complete the constitution is ten years, by which time, societies needs will have changed. It would be unachievable for other reasons, such as the issue regarding who would write it. This would be unachievable because conflicts of interest would occur and therefore lengthy debates would delay the process and on some points such as immigration and tuition fees, no agreement could be made. The constitution would need to be flexible, yet definitive and therefore, in the opinion of some, because of the disagreement and mass debates, the constitution could not be flexible due to the fact that it would be difficult to amend and also that it could not possibly be definitive as it would have to be so vague that people reach a common opinion and understanding. Therefore, despite all the other reasons against the constitution, according to some, the written constitution is simply not possible due to the length of time it would require to be put in force and the disagreements that would prevent it from being definitive as a result of the broadness that would bring about any compromise.