

Explain the Advantages and Disadvantages of the British and American Constitutions

No constitution is perfect, as it is impossible to satisfy everybody, so constitutions become a balance of philosophical ideas with practical applications. The Americans tend to be more liberal in their outlook hence after the American revolution they created a liberal codified constitution which deeply entrenched principles such as democracy, separation of powers and checks and balances. The British constitution has been allowed to evolve and is therefore more conservative. When the Americans created their constitution they had the benefit of consulting the British constitution, which perhaps suggests theirs should be better. However, I prefer the British Constitution as it sacrifices a degree of democracy that enables the government to act decisively and effectively.

Theoretical the US constitution is one codified document whereas the British constitution is uncodified and, therefore, found in sources such as statute law conventions and works of authority. However, in practice there is no mention in the US constitution of the Supreme Court's power of judicial review neither are congressional committees, presidential primaries, political parties or provisions of the 1973 War Act. So, in practice, the codified document isn't as codified as it suggests. But it is fair to agree that the American constitution is much easier access than the British constitution as it is barely written and unentrenched, instead it has evolved by conventions for example no where is it written down that if a government was to lose a vote of no confidence they must resign. However tradition dictates that they would find it very difficult if not impossible to continue. There have been no modern examples of a breach of convention suggesting that it works.

Another theoretical advantage is that constitutional law is entrenched and thus protected against the whims of temporary government, the drawback is that to become entrenched, legislation must be approved by two-thirds majority in both houses of congress and ratified by three quarters of state legislatures. This is a lengthy process meaning there have only been 27 constitutional amendments hence some commentators have branded the US constitution too rigid and inflexible. In Britain constitutional law is no different to normal acts of

parliament meaning some people, especially liberals, to want a codified document to protect civil rights and liberties. But in my opinion the European Convention on Human Rights has proved an effective safeguard- even if it is slower and more expensive, it serves its purpose. In defence of American constitution it is fair to say it maintains a degree of flexibility in that it is constantly evolving and changing its practical application i.e. via rulings at the Supreme Court, Ordinary legislation and Informal amendments. For example the Trueman Docterine was neither a constitutional amendment nor an act of congress but subsequent presidents have considered it binding.

The weak separation of power in Great Britain is subject to much debate. Liberals argue that as the legislative, executive and judiciary, are merged the government becomes too powerful and Montesquieu's theory of checks and balances is eroded.

Personally, I feel that this strong position of the Government allows them to implement their mandate whereas in America, congressmen and women owe the President nothing, making it difficult for him to introduce his manifesto.

For me the American system also puts too much power in the hands of the Judiciary which after all is an unelected body, for example the supreme court can declare any act or action of the executive or state government unconstitutional and, thereby, null and void, because it has the power to interpret the constitution which is sovereign. I prefer the British system whereby parliament is sovereign.

In conclusion, I think both constitutions suit their state. It is important to remember the size of both states. Perhaps in a large state such as America what seems to me as unnecessary bureaucracy is necessary to safeguard principals whereas the relatively flexibility of the British constitution suits the nature of the British people.