

Is The US Constitution Too Rigid To Be Effective?

The United States Constitution has served as a vital framework for the government and as a guarantee of the individual freedoms of US citizens since 1788, but from its creation, people have had ideas on how to improve this fundamental document. The vast majority of these ideas have been unsuccessful due to the rigid nature of the Constitution and the lengthy process involved when trying to amend it. Whether or not the inflexible nature of the constitution is an advantage or disadvantage is debatable as there are arguments that suggest the Constitution is made ineffective since it is so hard to change but also points arguing otherwise.

Within 18 months of the Constitution's creation, the Bill of Rights was passed, adding 10 amendments to the brand new document. From 1789 to 1992, the Constitution was amended 27 times, and through judicial review, the meaning of various parts of the Constitution has changed many times. These changes were all relatively small, incremental, and evolutionary. In fact, the Constitution has no provision, directly, for full-scale change. There have been many proposals for substantial change to the Constitution. Thomas Jefferson himself was wary of the power of the dead over the living in the form of an unchanging Constitution. To ensure that each generation have a say in the framework of the government, he proposed that the Constitution, and each one following it, expire after 19 or 20 years. James Madison, Jefferson's contemporary, found comfort in knowing that the populace would not be thrust into political turmoil every 20 years. The 'founding fathers' all agreed that America needed to be a 'beacon on the hill' and having a strong constitution was part of this, they also needed to ensure that the individual liberties of citizens were not infringed upon. In doing so they created a system with a strong Government, which is checked, by various systems to ensure citizens are protected. The 'right to bear arms' protects citizens against a violent oppressive government as they are able to fight back and are also able to form themselves into an impressive militia for whatever purpose.

To amend the Constitution various stages must be passed. Usually a proposal is voted through with a two-thirds majority in both houses of Congress, the Senate and the House of Representatives, alternatively two-thirds of the state legislatures can ask Congress to call a national convention to propose amendments but this method has never been used. After the amendment is passed through Congress Three-fourths of the state legislatures approve it, or ratifying conventions in three-fourths of the states approve it. This method has been used only once; to ratify the 21st Amendment repealing Prohibition. The Supreme Court has also stated that ratification must be within "some reasonable time after the proposal." Beginning with the 18th amendment, it has been customary for Congress to set a definite period for ratification. In the case of the 18th, 20th, 21st, and 22nd amendments, the period set was 7 years, but there has been no determination as to just how long a "reasonable time" might extend. This long period of time taken to get proposals through the systems in place and time taken to ratify means that proposals rarely make any headway and the moment of their need has often passed by the time they are through Congress. This suggests that the system is too rigid to be effective as the time taken to get things done is ridiculous and often defeats the purpose of the amendment.

Another problem with the inflexibility of the Constitution is due to the way it sets out how checks and balances operate. With 3 branches involved in interpreting the constitution and these 3 rarely, for political or personal reasons, cooperating with each other fully there is usually a 'grid-lock' situation where nothing can get done. This year Obama's stimulus plans progress has been slowed down due to political opposition from the Republican Senators in Congress. This is an example of how bills can be popular but blocked by a small section of people and cannot be changed without amending the constitution, which cannot be done since it is so difficult to amend.

In times of War or Terror, the President is able to ride the wave of public support and get the Government emergency powers to defend the Country. After 9/11 George Bush was able to pass the Patriot Act and introduce the Terrorist Surveillance Programme to allow warrantless surveillance. This was deemed as unconstitutional later but at the time it was a popular action and this suggests that although the Constitution is rigid, in times of problems, it can be bypassed. This can only happen with the full support of both the public but more importantly the 3 branches. Without their assistance the Patriot Act, like the stimulus plan, could have been stalled and not put into effect.

On the other hand it can be argued that the Constitution is not rendered ineffective by its rigidity. The US is an incredibly rich and powerful country, if there had been problems at the very base of its framework then it would never have become such a huge powerful superpower. It can be argued that Americans have done well and that their constitution has been successful in both protecting their rights as well as providing the backbone for the 'beacon on the hill' nation that the US has become. The long amendment process has been able to prevent short-term political changes and instead people can rely on the Supreme Court to change their interpretation to match the times, allowing the Constitution to remain up to date. For example the Roper vs. Simmons in which the Supreme Court decided that there should be no death penalty for under 18's and deemed it unconstitutional to do so.

The vagueness of the Constitution seems to combat its rigidness, as it is so vague that it can have many different interpretations, which, as mentioned earlier, allow the Supreme Court to keep it up to date with modern interpretation. This also allows different states to hold laws different to their neighbouring states such as policies on same sex marriages, capital punishment and gun laws. This means that states can accommodate the different needs of their people through initiatives/referendums.