

## What are the advantages and disadvantages of a unwritten Constitution?

A constitution is a set of rules, which are generally written, it identifies the relationship between the different parts of the government, and also the relationship between the government and the citizens. In most countries the constitution is the ultimate source of legal power. Whether written or not written they will both share similarities, this being the identification of powers such as the executive, and the legislature. However it would be wrong to say that they are identical, apart from the most obvious difference under the surface this main difference has many effects, in particular the unwritten constitution.

With particular reference to the unwritten constitution, at present there are only three countries with no formally written constitution, Britain, Israel and New Zealand. All of which share the advantages and disadvantages.

The first advantage is that in relation to flexibility. By having no written constitution it allows a degree of flexibility, which unlike the American Constitution is not limiting due to its rigidity. This is particularly advantageous in keeping the constitution up-to-date, it has the ability of political change and development. Unlike a written constitution, which does not have the ability to change as freely, highlighting this, the fact the American constitution has only been altered 26 times.

Another advantage, particularly relating to Britain is the issue of who would write the constitution should we decide it to be written. With the possibility of having a written constitution the issue of considering who would write it would be one of great disagreement and debate. It would cause a great degree of pressure in locating a single group, or individual of a neutral position. Also, under the existing constitution there is no body that can legitimise a written constitution. Parliament would have to pass many bills to state that laws are not valid, this would be time consuming. As quoted by William Hague 'that there was no need for a written constitution as we already have internal stability, and Britain has been well served by its unwritten constitution'.

The power of the courts would also rise, should we have a written constitution. With a written constitution it would therefore mean that should there be any dispute over the current structure of the constitution, for example the relationship between the government and the citizens, would have to be resolved by the judiciary. The effect of this would be that judges would be able to make political decisions, and they would have the ability to create laws. All of which reduce the democratic identity of Britain.

Also by having a written constitution it potentially could mean the introduction of a Supreme Court, who would interpret the Constitution. This itself could be an issue of problems, in particular the debate into whether the court itself should be elected, and therefore democratic, or otherwise, open.

Historically there is also the argument in favour of not having a written constitution, this is that Britain has survived two World Wars, itself indicates strength and stability, it would also cause problems in due to the fact that with its introduction there would

be the compensatory taxes, which would be needed to fund a referendum, it would also be a radical change. The outcome of which could not be predicted.

However, there are disadvantages in having an unwritten constitution. The first of which is the matter of flexibility. Although previously indicated as an advantage, it can also be argued to be detrimental. For example it could be argued that if we remain with an unwritten constitution, civil rights could easily be abolished, should a political party wish to.

Another disadvantage in having an unwritten constitution is that there are amendments changed frequently without public debate or discussion. They are barely known to the public. This means that they things can be pushed through a lot easier, in effect the constitution can be bent.

The disadvantage which stems of this therefore is that with an unwritten constitution the Prime Minister does not have to think as deeply through constitutional changes, as he would have should it be written.

Therefore in conclusion of the constitution and the question as to whether or not it is more advantageous in having written constitution, through weighing the advantages and the disadvantages up, I believe that we should keep the unwritten constitution, the main reason, that we have survived for many years,, and highlighting this the fact that we have survived two world wars. There are many other benefits, each of which are in favour of the democratic element, it should not be a matter of arguing whether or not we should change, we should look at the present, and due to the fact that we are on a level of stability, it would difficult to introduce a constitutional change, due primarily to the volatility of its effects.