

Should the uk's constitution remain uncodified?

[Law](#), [Constitution](#)



Should the UK's constitution remain uncodified? The UK constitution has an uncodified constitution, which means that it cannot be found in any single document unlike the USA's constitution. Our constitution comes from a number of various sources. Some are written and the others have just been accepted by the Government, such as EU Law, as it derives from the European Union. More examples of sources include the statute law, books written by Bagehot's "The British Constitution", which outlined the role of the cabinet, parliament and monarch. The constitution we have gives way for many benefits and advantages that imply that it shouldn't be altered or fully codified as this could result in major problems. Although there would be some benefits of the constitution remaining uncodified, some government ministers such as Gordon Brown who was Chancellor of the Exchequer and Prime Minister had called for the topic to be debated in Parliament back in 2006. The Liberal Democrats have also expressed their views on the topic also. To some extent there are many arguments for the British Constitution to become codified, if it was introduced it would significantly affect the power of government; the relationship between the executive and Parliament; multi-level governance; relationship between judges and politicians and individual rights and freedoms. One argument for a codified constitution is that it would make rules much clearer. Key constitutional rules would be collected together in one single document and they would be more clearly defined, unlike an uncodified constitution, where the rules are spread across several different documents. A codified constitution would create less confusion about the meaning of constitutional rules, which means that they could be enforced quicker with a great certainty. Another reason why there

should be a codified constitution in the UK is limited government. Having a codified constitution would cut down the size of the current government dramatically. It would also end the principle of parliamentary sovereignty and subsequently elective dictatorship. Elective dictatorship is a constitutional imbalance in which executive power is checked only by the need of the governments to win elections. In the UK, it is reflected in the ability of government to act in any way they wish as long as it maintains the control of the House of Commons. It would also mean that the government could not interfere with the law, as there would be a higher law safeguarding the constitution. A codified constitution would also be policed by senior judges who ensure that the provisions of the constitution are being properly upheld by other public bodies. Judges are also 'above' politics, which means that they would act as neutral and impartial constitutional arbiters. A third reason as to why there should be a codified constitution is that it protects rights. Individual liberty would be more securely protected by a codified constitution because it would define the relationship between the state and the citizens. As a result of this rights of the people would be more clearly defined and they would be easier to enforce than the current constitution. A codified constitution can also lead to elective dictatorship which further restricts rights. One way these rights could be defined could be through a bill of rights or through the codified constitution. A bill of rights is a document that specifies the rights and freedoms of the individual, and therefore defines the legal extent of civil liberty. On the other hand there are many arguments against the idea of a codified constitution. One argument is that a codified constitution can be considered as rigid. Higher law is also more

difficult to change than statute law. It is easier and quicker to introduce an Act of Parliament than to amend a constitution. An uncodified constitution is more flexible as they aren't entrenched unlike a codified constitution. Due to the codified constitution being rigid and inflexible, it is difficult for the constitution to remain up to date. Codified constitutions cannot be changed easily and therefore find it difficult to respond to constantly changing and therefore to changing political and social circumstances. Some argue that flexibility is a key ability for a constitution to have in the modern 'ever changing' environment. A second argument against a codified constitution is judicial tyranny and democratic rule in the UK. The UK's long period of unbroken democratic rule is often identified as one strength of the uncodified constitutional system. In the UK's uncodified constitution, supreme constitutional authority can be acknowledged in the House of Commons. Changes to the democratic system would therefore be made under pressure. For example, the powers of the House of Lords were reduced through both Parliament acts of 1911 and 1949 because there was a growing belief that an unelected second chamber should no longer be allowed to dismiss the policies of the elected government. Under a codified constitution the judges would have the responsibility of policing the constitution. Judges are unelected and social representative which would result in a democratic deficit due to a lack of democratic legitimacy. A codified constitution would be interpreted in a way that is not subject to public accountability. A third argument against adopting a codified constitution is that it would get rid of all parliamentary sovereignty. The idea of parliamentary sovereignty is that it outlines that Parliament is able to create, change or dismiss any law they

wish to. If the constitution became codified, parliament would not be able to do what they want to do due to the existence of a constitution. This would be because a codified constitution would act as a higher law. Therefore this would abolish all key elements of the representative democracy that we currently have in the UK. Another possible argument against a codified constitution is simply because it is deemed unnecessary. Many people believe an uncodified constitutional nature of UK politics has ensured we have a long history of democracy. They also argue that a codified constitution may not be the most effective way of limiting the government, an alternative could be creating checks in the current political system should be taken, instead of introducing a whole new constitution. In conclusion, I think that a codified constitution should be introduced in the British government, as it would easily state the rights of the citizen when needed to defend themselves in court; it would be accessible to the public at any time the rules would be clearly laid out. It would also mean that the government would not be able to amend the laws to benefit them, as they would be safeguarded by a higher law.