

Advantages and disadvantages of an unwritten constitution



The advantages of an unwritten constitution far outweigh the disadvantages (40) You must make a judgement. A constitution is a set of rules that establish duties and functions of the government and defines the basic principles to which society must conform. In this essay I will discuss the advantages and disadvantages of an unwritten constitution and show that I agree with this statement.

On one hand, if a written constitution was introduced it would affect the power of government, relationship between judges and politician and individual freedoms and rights. One argument is that a written constitution would make the rules of the country clearer, as constitutional rules would be collected together and put into a single document and therefore more clearly defined than in an unwritten constitution where the laws, rights and rules are spread across many documents.

Thus, a written constitution would create less confusion and the meaning about laws and rights may be greater enforced. However, a written constitution is unnecessary in countries who do not have one as many believe that the unwritten constitutional nature of, for example, UK politics has ensured a long history of democracy, and written constitutions may not be the most effective way of limiting government power. A written constitution may also have an educational value as it highlights the central values and goals in the political system.

This may strengthen the population's feeling of belonging to the country as it creates a clearer sense of political identity. Furthermore, if these citizens feel a sense of belonging to a country they are more likely to become involved in, and be interested in what is going on in their country. On the other hand a <https://assignbuster.com/advantages-and-disadvantages-of-an-unwritten-constitution/>

written constitution can be considered rigid. With written constitutions a higher law is more difficult to change and it is easier and quicker to introduce an Act of Parliament than to alter a constitution.

Due to this inflexible nature of a written constitution it is difficult to ensure the constitution is up to date and relevant to current times as they cannot be changed easily and therefore it is harder for the government to respond to changing social, economic and political circumstances. Unwritten constitutions are flexible as they are not entrenched, and flexibility is extremely important and useful as the modern day is constantly changing. The strongest argument in favour of a written constitution is that it would protect the rights of its citizens and individual liberty would be more securely protected.

The rights would become more clearly defined due to a written constitution and perhaps easier to enforce than an unwritten constitution because it is difficult to be completely sure of what your rights are, these rights can be defined through a bill of rights in the written constitution. However, just because there is a written constitution does not ensure the rights of a countries citizens will receive their rights - rather, it could lead to an elective dictatorship which might further restrict rights and may go on to persecute some of its citizens, which happened in Germany and resulted in the Second World War.

Another disadvantage of a written constitution is that there may be tyranny within the judiciary. Judges are unelected and socially do not represent the population which could lead to a democratic deficit because of a lack of democratic legitimacy, as the public could be subjected to opinions which

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they do not agree with but have been implemented due to the preferences of senior judges.

On the other hand, another advantage of a written constitution is that it would end elective dictatorship, where, as long as a government is elected, it can effectively do as it wishes because it often maintains a majority over the House of Commons and therefore can pass any laws it wishes to. Also, a written constitution would prevent a government from interfering with any higher laws because there would be a higher law safeguarding the constitution. To conclude, I believe that the advantages of an unwritten constitution far outweighs the disadvantages because it has always worked so changing it would be a waste of time, effort and money.

In the UK there has been no constitutional crisis or major confusion over what rights citizens have but it remains stable and a part of the country's history. Although an unwritten constitution may be considered too flexible which causes government to almost do as they wish, a written constitution would be far too rigid and would cause major difficulties when wanting to change certain laws, and it would also be difficult to agree on what a new constitution would contain.