

**Compare the United Kingdom and the United States of America - which one of the two is 'more democratic' and according to which standards?**Introduction

To define democracy, it is necessary but insufficient to speak of elections and the other institutions of representative government. No matter what set of institutional characteristics Lijphart<sup>1</sup> examines, in every case free citizens are required for democratic legitimacy. As, in aggregate, the state government has sovereignty over foreign affairs and the protection of private property and public safety, so every individual citizen must have sovereignty over his own affairs. The citizen must have 'negative' civil rights<sup>2</sup> entrenched in the national culture, and protected by the state. The free market economist Ludwig von Mises has argued that "What gives to the individuals as much freedom as is compatible with life in society is the operation of the market economy. The constitutions and bills of rights do not create freedom"<sup>3</sup>. Clearly economic freedom is very important: even when citizens are nominally guaranteed certain political rights, as under the 1936 Constitution of the Soviet Union<sup>4</sup>, these rights cannot conceivably be exercised in a regime of state property, where every individual relies wholly on the apparatus of government for survival.

In this comparison of the United Kingdom and the United States of America, I will look at the differences between the political institutions of the two polities and also at the level of economic freedom. First I shall outline the political system of the United Kingdom, then I shall compare the British institutions with their American counterparts, in each case judging which is more or less democratic by the standards already laid out. I chose these two countries because

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1 Lijphart, A., "Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries", Yale University Press, New Haven and London, 1999

2 Berlin, I., "Two Concepts of Liberty", Clarendon Press, Oxford, 1958

3 Von Mises, L., "The Anti-Capitalistic Mentality", Libertarian Press, Grove City PN, 1981, pp. 79, accessed online at the Ludwig von Mises Institute on 23/02/09 at <http://mises.org/etexts/mises/anticap.asp>

4 1936 Constitution of the USSR, available online at Bucknell University, Lewisburg PA on 23/02/09 at <http://www.departments.bucknell.edu/russian/const/1936toc.html>

the Constitution of the United States was designed to address the perceived deficiencies of that of the United Kingdom. There are clear similarities between the two systems, as well as divergences. The two countries are otherwise closely linked in terms of language, culture and political tradition.

I shall argue that historically, neither country was founded to be a democracy, but this is far less true of the United States than the United Kingdom. I shall note that both countries have significantly undemocratic features, but conclude that the United States is less undemocratic than the United Kingdom.

### The United Kingdom

The United Kingdom is a constitutional monarchy comprising the countries of England, Scotland, Wales and Northern Ireland. Queen-in-Parliament consists of the sovereign monarch who is head of state, the representatives of the feudal landowners and clergy, and the representatives of the common people. Parliament holds absolute unchecked legislative power, or as one jurist described it, “[Parliament] can, in short, do every thing that is not naturally impossible”<sup>5</sup>.

The British Constitution exists in several Acts of Parliament, as well as the common law, traditions and customs. There is no one codified document, nor any legal procedural entrenchments against constitutional change. There is a long standing tradition of the liberties of the English subject and the prerogatives and responsibilities of the Monarch, which pre-date but are affirmed by the Magna Carta. Much of the procedural operation of Parliament is determined by honoured custom, but custom can and does change over time. Now the monarch has a largely symbolic role, and since the 1911 and 1949 Parliament Acts, the House

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<sup>5</sup> Blackstone, Sir W., “Commentaries on the Laws of England”, Book 1, Ch 2 accessed online at the Avalon Project on 23/02/09 at [http://avalon.law.yale.edu/18th\\_century/blackstone\\_bk1ch2.asp](http://avalon.law.yale.edu/18th_century/blackstone_bk1ch2.asp)

of Lords is ultimately unable to block a mere plurality in the House of Commons changing the constitution, except where a bill would delay elections. Any Act of Parliament is, *ipso facto*, constitutional, without regard to individual rights, even if an Act is incompatible with the Human Rights Act 1998.

Hereditary male primogeniture still determines the succession of the Crown; the heir must be a protestant Christian, and child of married parents. The individual person of the monarch, though not the rest of the Royal Family or ministers of government, cannot be prosecuted or sued, as the entire judicial system acts on royal authority. The point need not be laboured that this is profoundly undemocratic and contrary to the rule of law. Nominally the Queen today holds a great deal of power but in practice the royal prerogative is executed on her behalf by her Prime Minister. No monarch has refused to grant royal assent to a Parliamentary bill since 1708<sup>6</sup>. Despite this, the Queen meets with her Prime Minister every week and has on two occasions hand-picked a prime minister. The Conservative Party has since adopted a leadership selection process so this is unlikely to occur again.

Even after the 1999 reforms of the House of Lords, there are still twenty-six sitting bishops who represent the established Church, and ninety-two hereditary peers. The rest are appointed by the Crown (on the advice of the government) for life. This undemocratic composition is reflected in the Parliament Acts and Salisbury Convention which recognise the illegitimacy of the Lords and limit its power. At present, until the new Supreme Court of the United Kingdom begins operation, nine 'Law Lords' are the highest court of appeal in the land, contrary to the separation of powers. Regardless of whether peers inherit their seat or are appointed by the government (the Opposition leader at the time of the reform called this arrangement a "house of cronies"<sup>7</sup>), the House of Lords remains undemocratic. The shift in the balance of power

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6 Black, J., "Parliament and Foreign Policy in the Eighteenth Century", Cambridge University Press, 2004, pp. 21

7 Hague, W., Commons Hansard 24 November 1998, Sixth Series, Volume 321, First Volume of Session 1998-1999, Column 24, accessed online at UK Parliament on 23/02/08 at [http://www.parliament.the-stationery-office.co.uk/pa/cm199899/cmhansrd/vo981124/debtext/81124-05.htm#column\\_24](http://www.parliament.the-stationery-office.co.uk/pa/cm199899/cmhansrd/vo981124/debtext/81124-05.htm#column_24)

exacerbates the problems of democratic deficit in the Commons. There is no separation of powers, nor is religion separate from the state!

In practical terms, power in the United Kingdom is concentrated in the House of Commons, especially in the Cabinet, headed and appointed by the Prime Minister. Term limits are somewhat elastic. Calling a General Election is a royal prerogative exercised on the advice of the Prime Minister. Universal suffrage has existed only since 1928, but Members have always been elected by plurality for single member constituencies. This has two effects: a two (and a half) party system and manufactured government majorities. For example, at the most recent 2005 General Election 21% of the eligible population voted for Labour party candidates, who formed a government with a 55% majority of seats in the House of Commons!

Government party MPs rely on the party apparatus for selection and campaign expenses, while party whips exist to remind potential 'rebel' Members where their allegiance lies. Bloc voting is normal and defeats of government policy are very rare. In other words, the legislature is controlled by the Executive. The parties out of government fulfil the role of Loyal Opposition only and play no part in government. In a system where a minority of votes is rewarded with power checked only by custom, there is a huge democratic deficit.

The United Kingdom was “the largest unitary state and among the most centralised of the major industrial countries in the world”<sup>8</sup>, but in 1998 Parliament established a Scottish Parliament and a Welsh Assembly, and re-established an Assembly for Northern Ireland. These bodies are not constitutionally protected. For example, government of Northern Ireland was returned to Westminster between 1973 and 1998 and again between 2002 and 2007. England has no assembly of its own, raising the 'West-Lothian Question'<sup>9</sup>, but is governed from within

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8 Kilbrandon, Baron C., “Royal Commission on the Constitution”, Stationery Office Books, London, 1973

9 Dalyell, T., Commons Hansard 14 November 1977, Volume 939, accessed online at Millbank Systems on 23/02/09 at [http://hansard.millbanksystems.com/commons/1977/nov/14/scotland-bill#column\\_123](http://hansard.millbanksystems.com/commons/1977/nov/14/scotland-bill#column_123)

England by a majority of English MPs. The United Kingdom is by no means a federal state. Still, devolution has been a move towards regional democratic self-government, especially as the Welsh Assembly is elected by a more proportional system than first past the post.

Membership of international organisations, in particular the European Union, has adversely affected Parliamentary sovereignty and British democracy. European Community laws take primacy over national laws. European regulations, which one think tank estimates account for 72% of the cost of regulation in the UK<sup>10</sup>, become instantly binding in the United Kingdom without Parliamentary scrutiny or veto possibility. British subjects may vote (using a proportional system) for representatives in the European Parliament, and the British government appoints a delegate to the Council of Ministers, but nevertheless Parliament has submitted itself to the jurisdiction of foreign institutions and courts. Under the rejected European Constitution (or Lisbon Treaty), an indication of plans for future integration, member states would have relinquished veto powers in more policy areas. There is also the danger that the United Kingdom could be coerced into joining the single currency zone in the future, transferring the central power over monetary policy to the European Central Bank. Parliament could in theory unilaterally withdraw from the European Union, but this seems unlikely in the immediate future.

One of the most undemocratic features of the government of the United Kingdom, though hardly unique in the world, is the money issue. The Bank of England was chartered in 1694, nationalised in 1946 and given independent authority in 1997. Nevertheless, it is still a central economic planner, has a monopoly on new money creation, as well as the monopoly privilege of fixing the prices of saving and borrowing (interest rates). Clearly if such an institution must exist, it should form part of the state, but in truth any such monopolistic cartel is undemocratic

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10 Open Europe, "Out of Control? Measuring A Decade Of EU Regulation", 2009, accessed online at Open Europe on 23/02/09 at <http://www.openeurope.org.uk/research/outofcontrol.pdf>

and economically harmful<sup>11</sup>. Only the people, through the marketplace, can legitimately set the prices of goods, including saving and borrowing - the marketplace is a democratic institution<sup>12</sup>. The situation today is even worse now that the legal tender laws favour the 'fiat' pound not redeemable in gold. The option of exchanging currency for a fixed weight of gold allows the people to protect themselves against the 'inflation tax'<sup>13 14</sup>. Mises wrote that "It is impossible to grasp the meaning of the idea of sound money if one does not realize that it was devised as an instrument for the protection of civil liberties against despotic inroads on the part of governments. Ideologically it belongs in the same class with political constitutions and bills of rights"<sup>15</sup>.

### The United States of America

The United States is a federal constitutional republic which won its independence from the British Empire in the late eighteenth century. The United States Constitution was an agreement between the thirteen former colonies to establish a limited national government, and remains the supreme law in the United States. It was drafted with the intention of restraining the national government, asserting the sovereignty of the states, protecting the individual's natural rights and correcting the disadvantages of the British Constitution. Unlike the British constitution, the U.S. Constitution is a short, written document, which can only be amended by

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11 Garrison, R. W., "Central Banking, Free Banking, and Financial Crises", Review of Austrian Economics 1996, Volume 9 Number 2, accessed online at the Ludwig von Mises Institute on 23/02/09 at

[http://mises.org/journals/rae/pdf/RAE9\\_2\\_6.pdf](http://mises.org/journals/rae/pdf/RAE9_2_6.pdf)

12 Von Mises, L., "Bureaucracy", Yale University Press, New Haven, 1964, pp. 21-22, accessed online at the Ludwig Von Mises Institute on 23/02/09 at <http://mises.org/etexts/bureaucracy.pdf>

13 Rothbard, M. N., "The Case Against The Fed", Ludwig Von Mises Institute, Alabama, 2008, pp. 11, accessed online at the Ludwig Von Mises Institute on 23/02/09 at <http://mises.org/books/fed.pdf>

14 Greenspan, A., "Gold and Economic Freedom", in Rand, A. (ed) "Capitalism: The Unknown Ideal", Signet, 1986 (first published 1967), accessed online at the Constitution Society on 23/02/09 at [http://www.constitution.org/mon/greenspan\\_gold.htm](http://www.constitution.org/mon/greenspan_gold.htm)

15 Von Mises, L., "The Theory of Money and Credit", Yale University Press, New Haven, 1953 (first published 1912), pp. 414, accessed online at Ludwig Von Mises Institute on 23/02/09 at <http://www.mises.org/books/tmc.pdf>

super-majorities of the states and federal government. The Constitution was not intended to create a 'democracy', which implies the tyranny of the majority, but a decentralised representative republic<sup>16</sup>.

As in the UK, the plurality voting system is used, so there is a two party system with the same problems of proportionality. Elections, however, occur on fixed dates regardless of the government's popularity. Whereas in the Westminster Parliamentary system the Executive controls the other branches of government, in the United States the federal and state governments are separated into the Executive, Legislature and Judiciary. The legislatures, moreover, are composed of two differently constituted elected chambers of equal power (with the exception of Nebraska) which sometimes come into conflict, unlike where the House of Commons overrides the Lords. Multiple elected institutions can result in a 'divided government', where one party is prevented from controlling the whole apparatus of the state. This is a more democratic system because the separation of powers protects minorities and the individual from government coercion. One party is prevented from enacting its agenda with less than a strong majority or without compromise. Also, citizens may vote for representatives in the executive and both parts of the legislature in addition to state and local government positions, rather than a vote for one Member of Parliament, no direct vote on the executive, and no way to change the head of state.

The party leadership does not exert the same power over congressmen that party whips do in London. Due to the federal system, national party organisations have less of a role in congressional election campaigns than local party members. Representatives voting 'against' their party is far more common than in the United Kingdom. Legislation is supposed to originate in Congress, but unfortunately since the 1930s the President has, to some extent, usurped this policy-making role. The decision to invest the war-making power in Congress was a very

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<sup>16</sup> Madison, J., Federalist X "The Same Subject Continued: The Union as a Safeguard Against Domestic Faction and Insurrection" in the Federalist Papers, accessed online at the University of Oklahoma College of Law on 23/02/09 at <http://www.law.ou.edu/hist/federalist/federalist-10-19/>

deliberate break with the royal prerogative tradition the revolutionaries had left behind<sup>17 18</sup>.

Sadly, however, since 1951 Congress has abdicated, and the President has usurped, this responsibility. President Clinton even continued a bombing campaign in Kosovo despite Congress voting *against* its authorisation<sup>19 20</sup>. This upset in the balance of power is unconstitutional, undemocratic and imperial.

Perhaps even more important than the separation of powers is American federalism. The ninth and tenth amendments reserve all powers not expressly given to the federal government to the states or the people. The Senate represents the interests of the states equally. This should mean that most decisions are made at a local level, states cannot impose their values on other states (e.g. slave states could not impose slavery nationwide), power is dispersed, and that the federal government's power should not resemble the omnipotence that the UK Parliament wields. In short, federalism preserves self-determination of the people and their local or regional governments. Unfortunately, over time this system has been weakened by the Civil War, multiple decisions of the Supreme Court, and the increased spending power the Federal government has had since the establishment of a general income tax and central bank in 1913. The seventeenth amendment superficially makes the Senate more democratic but is partly responsible for transforming the federal government of enumerated powers into a popular national government that overrides state and individual rights.

The criticisms already levelled at the Bank of England also apply to the Federal Reserve Bank. However, the 'Fed' is not a government institution, but a privately owned cartel. There is

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17 Adler, D.G., "The Constitution and Presidential Warmaking: The Enduring Debate", *Political Science Quarterly* 1988, Volume 103 Number 1

18 Woods, T. E. Jr., "Thirty Three Questions About American History You're Not Supposed To Ask", Crown Publishers, New York, 2007, pp. 85

19 Adler, D.G., "Clinton, the Constitution and the War Power" in Adler, D.G. And Genovese, M. A. (eds), "The Presidency and the Law: The Clinton Legacy", University Press of Kansas, Lawrence, 2002, pp. 19

20 Woods, T. E. Jr., "Thirty Three Questions About American History You're Not Supposed To Ask", Crown Publishers, New York, 2007, pp. 95



practically no Congressional oversight of its activities, making it even more secretive than the CIA<sup>21</sup>. Considering the United States dollar has been the reserve currency of the world since 1946, the unelected Chairman of the Federal Reserve may be one of the most powerful men in the world, answerable to no one – hardly compatible with democracy or economic liberalism.

### Conclusion

Despite superficial elections, despite that many other countries in the world may be in an even worse state, neither the United Kingdom nor the United States is very democratic. A practical example is that both countries have imposed an income tax and military conscription, totalitarian measures justified on the assumption that the state has total ownership of its' subjects lives and property<sup>22 23</sup>. Both countries are afflicted by the cancer of central banking and have 'mixed' economies.

In the United Kingdom, the Prime Minister controls both houses of Parliament and wields powers traditionally reserved for one whom, it was thought, gained his authority directly from God. Lord Hailsham has called this system an “elective dictatorship”<sup>24</sup>. The anachronisms of the monarchy and Lords persist, and even the House of Commons is disproportionately representative. The United Kingdom is highly centralised, with a very limited movement to decentralise in recent years.

The United States has a Constitution that guarantees the religious, political and economic self-

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21 Rothbard, M. N., “The Case Against The Fed”, Ludwig von Mises Institute, Alabama, 2008, accessed online at the Ludwig Von Mises Institute on 23/02/09 at <http://mises.org/books/fed.pdf>

22 Chodorov, F., “The Income Tax: Root of all Evil”, The Devin-Adair Company, 1954, accessed online at the Ludwig Von Mises Institute on 23/02/09 at <http://mises.org/etexts/rootofevil.pdf>

23 Paul, R. Dr. Rep., “Freedom Under Siege”, Foundation for Rational Economics and Education, 1987, pp. 63, accessed online at the Ludwig Von Mises Institute on 23/02/09 at <http://mises.org/books/freedomsiege.pdf>

24 “The Listener”, 21 October 1976, pp. 496–500

determination of the individual and the state governments, but the United States federal government today more closely resembles the British 'flexible' constitutional model, which one critic calls "a rubber stamp for approving almost any governmental activity imaginable"<sup>25</sup>. Yet the second amendment – the ultimate defence against domestic tyranny – has survived despite liberal opposition<sup>26 27</sup>. The separation of powers does still exist, but the President exercises far more power than he has constitutional authority. States' rights has been weakened and power centralised. Nevertheless, the structures of the separation of powers and federalism are still observed to some small extent, and strict constitutionalism could be returned to if a change in political education occurs across the United States. It is for this reason that I conclude that the United States is slightly more democratic than the United Kingdom.

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25 DiLorenzo, T. J., "Hamilton's Curse: How Jefferson's Archenemy Betrayed the American Revolution — and What It Means for America Today", Crown Publishers, New York, 2008, pp.197

26 Madison, J., Federalist XLVI "The Influence of the State and Federal Governments Compared" in the Federalist Papers, accessed online at the University of Oklahoma College of Law on 23/02/09 at <http://www.law.ou.edu/ushistory/federalist/federalist-40-49/federalist.46.shtml>

27 McAfee, T. B., Quinlan, M. J.. "Bringing Forward the Right to Keep and Bear Arms: Do Text, History, or Precedent Stand in the Way?", North Carolina Law Review 1997, Volume 75 Number 3, accessed online at Second Amendment Foundation Online on 23/02/09 at <http://www.saf.org/LawReviews/McAfeeAndQuinlan1.html>

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