

Fundamental Rights in India and the United Kingdom - A Comparison

The concept of fundamental rights is an important one for the UPSC exam since it forms a vital part of the Indian Constitution. It is a crucial concept in democracy. In this article, you can get a comparison of the fundamental rights, as present in the Indian and British polity, for the [IAS exam](#).

Fundamental Rights Origin

The concept of human rights originated from natural law philosophers like John Locke and Jean-Jacques Rousseau. They pondered over the idea of human rights and tried to preserve them by postulating the **Social Contract Theory**. Locke propounded that man is born "with a title to perfect freedom and an uncontrolled enjoyment of all the rights and privileges of the Law of Nature." He also theorized that he has power, by nature, "to preserve his property that is, his life, liberty and estate against the injuries and attempts of other men."

Way back in 1215, the English were successful in exacting a promise from their monarch King John for the respect of the ancient liberties. Their success is evident in the form of the Magna Carta, the first written document with reference to the fundamental rights of citizens. Again in 1689, the **Bill of Rights** was enacted consolidating basic civil rights and liberties for the English. In 1789, the [Declaration of the French Revolution](#) stated that "the aim of all political association is the conservation of the natural and inalienable rights of man."

Fundamental Rights in India

In India, the explicit inclusion of the [fundamental rights](#) in the Constitution was inevitable because of a number of reasons. The chief reasons are discussed below:

1. The major political party, Indian National Congress, during the course of its struggle for independence, had been demanding these rights from the British.
2. British rule saw large scale violations of human rights in the country. Many of the Constitution-makers were themselves incarcerated by the British during the freedom struggle, and therefore, they had a positive attitude towards fundamental rights.
3. Another important reason for the inclusion of these rights was the fact that Indian society was fragmented into various religious, linguistic and cultural groups, and fundamental rights were needed to give all citizens a sense of security and confidence.

In India, the fundamental rights are provided for in Part III of the Constitution i.e., in Articles 12-35.

- These include rights that are universal in their nature and application like the [right of equality](#) guaranteed under Article 14 and the right to life and personal liberty provided for under Article 21.
- Moreover, there are also rights that are unique in application to India e.g. Abolition of Untouchability under Article 17 and protection of the rights of cultural and linguistic minorities under [Articles 29 and 30](#).
- In addition, the right to enforce these fundamental rights is also a fundamental right in India by virtue of Article 32 of the Constitution whereby an individual can approach the Supreme Court if any of his fundamental rights are violated.

The Supreme Court has, in addition to the rights that are explicitly provided under Part III, added some rights which according to its interpretation are implicit in the already provided rights. These rights include

Freedom of Press which the Supreme Court has stated is implicit in the Right to Freedom of speech and expression provided under Article 19(1)(a). Similarly, the apex court while interpreting [Article 21](#) has read into it rights like, right to human dignity, right to shelter, right to a clean environment and many others.

Fundamental Rights in the United Kingdom

The history of human rights in the United Kingdom is one of the oldest. An integral part of the UK Constitution, human rights derive from common law, from statutes such as the Magna Carta, the Bill of Rights of 1689 and the Human Rights Act 1998, from membership of the Council of Europe, and from international law. Codification of human rights is recent, but the UK law had one of the world's longest human rights traditions. Today the main source of jurisprudence is the Human Rights Act 1998, which incorporated the European Convention on Human Rights into domestic litigation.

The Human Rights Act of 1998 sets out the human rights under different articles, some of the more prominent rights set up in the Act are as follows:

- Right to life - Article 2
- Freedom from Slavery and Forced labour - Article 4
- Right to a Fair Trial - Article 6
- Freedom of Thought, Belief and Religion - Article 9
- Freedom of Expression - Article 10
- Right to Education - Protocol 1, Article 2
- Abolition of Death Penalty - Protocol 13, Article 1

The Act incorporates the rights provided in the European Convention of Human Rights which essentially means that the citizens can agitate the violation of their rights in the British Courts instead of going to the European Court of Human Rights. The Act requires all public bodies like Courts, Police and Hospitals to respect and protect the human rights that are guaranteed to individuals under this Act.

Conclusion

The concept of human rights developed in the UK long before they did in India and as such the basic human rights or fundamental rights were available to the British before they were to the Indians. However, the concrete codification of these rights into domestic law took place in India half a century before the United Kingdom. The fundamental rights provided in the Indian Constitution, while retaining the rights that are universal in application, also provides for rights that are unique to India because of its diversity. In conclusion, it must be said that while the development of human rights in the two countries is at different stages, it is largely due to historical and cultural factors.

