

Access to Information and Constitutional Governance: A Comparative Analysis of India and the United Kingdom

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Abstract

While law acts as the skeleton of democracy, access to information acts as its blood, fuelling the active participation necessary for a functioning constitutional system. By virtue of that, access to information is a striking development and endorsement of democracy for the proper functioning of all the limbs of the body called the state.

This comparative analysis of India and the UK stems from India's colonial legacy and it further aims to examine how both nations have evolved in constitutional governance. While India adopted a codified Constitution but the UK governs through an uncoded framework thereby reflecting divergent paths in upholding constitutionalism. The paper also reflects on how both the countries have managed to implement the provisions of their constitutions. Moreover, it is an attempt to highlight how adherence to legal principles results in safeguarding human rights.

Keywords: Democracy, Access to Information, Constitutionalism, Governance, Codified Framework, Safeguarding Rights

Origin of the Indian Constitution

In the words of the chairman of the drafting committee of the Indian Constitution, it is not just a mere lawyers' document rather it is the vehicle of an ideal life and a blueprint for a perfect nation. moreover, it provides the supreme and the epic law of the land, to understand the origins of the Indian constitution we must look at every aspect precisely including the colonial rule.

The origins of the Indian Constitution can be traced back to the fifteenth day of August in the year 1947 for on that day India was free of the colonial rule, After the long trenched era of the British rule was ended there was a question among the Indians that the void of the ruling system will now be filled, In

extremely diverse country like India whether In Cultural aspects or the social ones, it was a task to maintain an established and suitable system for governance. The constitution of India has guaranteed every possible instrument of a Bonafide life to the citizens for it empowers the citizens to hold the state liable for many domains and aspects of their ethics and regulated role profile, The constitution of India was originated by considering the government of India Act 1935 as the MAGNA CARTA, The constitution was drafted after a long trench of two years eleven months and eighteen days by a constituent assembly which was proposed by M.N Roy and demanded by the Congress in 1935, hence the elections were conducted in July-August 1946 and the members were indirectly elected by the provinces, A total of 389 members were elected who were later short listed to 299 post partition, The prestigious role of the President of the assembly was given to Dr. Rajendra Prasad, B.N Rau played the role as an advisor to the committee in addition to them some key leaders were given some special roles as Jawahar Lal Nehru for Union Powers and Sardar Patel for Provincial Constitutions, Initially Dr. Sachinananand Sinha was elected as the president but later on the responsibility was passed on to Dr. Rajendra Prasad in addition to this Dr. B.R Ambedkar was appointed as the Chairman of the drafting Committee, the committee has the significant and pivotal role in the framework of the Indian Constitution, The first meeting of the committee took place on the 9th day of December 1946, The objective resolution was moved by Jawahar Lal Nehru The resolution outlined the Principles of the adopted constitution, It was unanimously adopted on 22 January 1947, After the independence The official draft of the committee was submitted to the assembly and afterwards it was circulated for 8 months for the purpose of public feedback and reactions, The draft was then introduced in the assembly for a clause by clause discussion, which

lasted till October 17, 1949, during this period over 7000 amendments were proposed and nearly 2500 actually took place, The constituent assembly legitimately enacted and accepted the constitution, Now the day is Celebrated as the Constitution Day or Samvidhan Diwas, Proceeding in its final session the 284 members of the assembly signed two handwritten copies of the constitution (One in Hindi and One in English), The constitution officially commenced embarking the transition into sovereign democratic republic, this date was chosen to commemorate the 1930 declaration of Purna Swaraj (Complete Independence).

Information Transparency Statutes

As discussed, earlier India and the United Kingdom both have quite a hard-working time in establishing their constitutions and to secure all their citizens but it will not be incorrect to say that the biggest piece of puzzle is missing till now, that is the information transparency for the principle that a democracy and a state is as good as the information transparency mechanisms, Both the nations have worked on information transparency and got positive results, for some people there may arise a question that why the policy frameworks, implementation etc. should be made public an attempt can be made to answer them by the following illustration, If a person earns Rs. 100 per day and at the end of the day he must give Rs. 30 to Government for the sake of welfare tax, the natural justice principle gives him the right to ask where his hard-earned money is being utilised, As the constitution of India is a codified charter and on the other hand the constitution of United Kingdom is majorly based on equity and good concinse and is uncodedified, both have different mechanisms for Information transparency, let us discuss them one by one,

RIGHT TO INFORMATION ACT, A Cornerstone Development of Information Transparency in India

The Right to information Act, 2005 is a landmark statute which was enacted in India that gives the locus standi to the citizens against the state authorities and Public Authorities to ensure legitimacy and transparency which eventually leads to more accountability in the government, It

replaced its predecessor act which was the freedom of Information Act, 2002 and also overrides the colonial-era Official Secrets Act, 1923, in scenarios where disclosure serves a larger interest of the society, The core aims of the act include Strengthening the Citizens, Transparency and Accountability, Prevent the corruptions, Democratic Activision, The scope and Applicability of the act includes all the constitutional institutions, including all the three branches of the government, The executive, Legislature and the Judiciary including the office of the chief justice of India, RTI also Includes all the statutory institutions and entitles the acts of parliament and the state legislatures.

Another inclusion in the ambit of the Right to Information act are the Government Funded entities for instance the bodies which are owned or controlled or substantially financed by the government either directly or Indirectly by the government including some particular Non-Government Organisations, there are some organisations who enjoys exclusions from the Right to Information Act for example RAW, BSF, are generally exempted except for the Information regarding corruption and human Rights violations

Below are the Key Findings of the Survey by the Government of India regarding the implementation of the Right to Information Act- 2005

Table 1: Disposal of Appeals and Complaints by SIC (2006-2007)

S.No	State	Appls Received	Appls Disposed off	Disposal rate % (Appl)	Compts Received	Compts Disposed off	Disposal rate % (Comp)	Penalties imposed
1	Madhya Pradesh	1639	481	29 %	970	831	86 %	Nil
2	Rajasthan	415	248	60 %	56	32	57 %	Nil
3	Gujarat	869	385	44 %	1732	465	27 %	16
4	Himachal P	26	20	77 %	44	35	80 %	Nil
5	Haryana	443	442	99.7 %	442	440	99.5 %	-
6	Andhra P +	1283	840	66 %	-	-	-	Nil
7	Jharkhand	471	193	41 %	78	48	62 %	4
8	Chhattisgarh	585	375	64 %	828	679	82 %	-
9	Kerala	510	385	75 %	960	645	67 %	26
10	Punjab +	3101	2561	83 %	-	-	-	-
11	Uttarakhand	283	184	65 %	293	190	65 %	Nil
12	Bihar +	3065	1730	56 %	-	-	-	-
13	Goa +	176	136	77 %	-	-	-	-
	Total	9605	6114	64 %	5403	3365	59 %	46

Source: Data for all states except Punjab and Goa has been collected by PRIA investigator from State Information Commissions. Data of Punjab and Goa SIC is their on web site.

Table 2 : Budget of State Information Commissions (2006-07)

S.No.	State	Budget (Rs.)	Per capita budget (Rs.)
1	Madhya Pradesh	97.46 lakhs	.16
2	Rajasthan	25.90 lakhs	.04
3	Gujarat	42.51 lakhs	.08
4	Himachal P	59.61 lakhs	.98
5	Haryana	140.04 lakhs	.66
6	Andhra P	235 lakhs (05-07)	.15
7	Jharkhand	157 lakhs	.58
8	Chhattisgarh	135 lakhs	.64
9	Kerala	286 lakhs	.89
10	Punjab	147.70 lakhs	.60
11	Uttarakhand	100 lakhs (05-06)	1.17
12	Goa	8 lakhs	.59
13	Bihar	74.5 lakhs	.09

Source: Data for all states except Punjab and Goa has been collected by PRIA investigator from State Information Commissions. Data of Punjab and Goa SIC is on web site.

Table 3: Background of members in State Information Commission (2006-2007)

S.No.	State	A & G	Law	Ac	SS	Jrn	S&T	Mgt	Total
1	Madhya Pradesh		1						1
2	Rajasthan	1 [IAS Retired]							1
3	Gujarat	1 [IAS Retired]							1
4	Himachal P	1 [IAS Retired]							1
5	Haryana	2 [IAS Retired]							2
6	Andhra P	1 [IAS Retired]	1			1			3
7	Jharkhand		3	1	1	1		1	7
8	Chhattisgarh	1 [IAS Retired]							1
9	Kerala	2 [IAS Retired]	1			1			4
10	Punjab	3 [IAS Retired]							9
11	Uttarakhand	1 [IAS Retired]							1
12	Assam	1 [IPS Retired]							2
13	Goa	1 [IAS Retired]							2
		1 [State serv]							
14	Sikkim	1 [IAS Retired]							1
15	Bihar	2 [IAS Retired]	1						3
16	Karnataka	2 [IAS Retired]							2
17	Orissa	1 [IAS Retired]	1						5
18	Uttarpradesh	1 [IAS Retired]	1	1		1	1		5
19	Tamil Nadu	3 [IAS Retired]							3
20	Maharashtra	1 [IAS Retired]							1
Total		27	9	2	1	4	1	1	52

Table A. 2: ROLE OF STATE INFORMATION COMMISSION (SIC)

S.N.	SIC - DETAILS	Kerala	Punjab	Assam	Goa	Sikkim	Bihar **	Karnataka	Tamil Nadu
1	Annual Budget	Rs. 2. 86 crore	06-07 (147.70 lakhs)	06-07 (38.51 lakhs)	06-07 (8 lakhs)	06-07 (62 lakhs)	06-07 (74.5 lakhs) 07-08 (116 lakhs)		
2	Infrastructure								
2.1	No. of Rooms								
2.2	No. of staff	19	40		11	23	41		
2.3	Computer set								
2.4	Vehicles								
2.5	Any other								
3	Members * (Background)								
3.1	Name (BG)	Palat Mohandas (CIC) (IAS ret)	Rajan Kohli (CIC) (IAS ret)	Ranjit S. Mohandassery -CIC (IAS ret)	A. Venkataratnam (CIC) (IAS ret)	D K Gujmer (CIC) (IAS ret)	Shashank Kumar Singh (Law) (CIC)	K K Misra (CIC) (IAS ret)	S Ramakrishnan (CIC) (IAS ret)
3.2	Name (BG)	V V Giri (A & G)	Rupen Doot Biju (IAS ret)	Dr. B K Gopin	Sri Ganesha G Kumbh (state services)		Dr. M.J. Shaleel Ahmed (IAS ret)	K A Thippeswamy (CIC) (IAS ret)	G Ramakrishnan (CIC) (IAS ret)
3.3	Name (BG)	P. Fazalulhasan (Media)	P K Verma				P N Narayan (IAS ret)		R Radhakrishnan (CIC) (IAS ret)

SOURCE-

https://cic.gov.in/sites/default/files/rti_study_reports/PRIA-Tracking-RTI-in-States.pdf

Differential Factors of Codified and Uncodified Constitutions: India and the United Kingdom

This is interesting because both are democracies and yet both have fundamentally different constitutional structures. India's constitution is a codified form of single written document. While the British constitution on the other hand is a form of uncodified constitution drawing from multiple sources like statutes, conventions and precedents over centuries. These differential factors affects overall governance and access to information in constitutional matter.

Codified and Uncodified Constitution

A common point of confusion circles around the nature of "codified" and "uncodified" form of constitution. Codified Constitution like India is the constitutional rules that are assembled in one authoritative document that outline government structure, powers and fundamental rights. While uncodified constitution lacks a written document and mainly rely on evolving sources like statutes, conventions, judicial decision and customs. Which prioritize parliament's unlimited power to legislature.

Constitution of India and UK

India's constitution is world's longest written constitution currently featuring 448 articles (originally 395 articles) organised into 25 parts (originally 22 parts) and 12 schedules (originally 8 schedules) drawing from multiple sources. On the other hand UK's uncodified constitution primarily based on evolving Statues/Act of parliament like Magna Carta (1215), Bill of Right (1689) And Act of Settlement (1701), Common Law, Conventions like ministerial responsibility, and the work of A.V Dicey's writing.

Feature	Indian (Codified)	UK (Uncodified)
Sources	Single document(1950)	Statutes,Conventions ,Common law

Supremacy	Constitutional supreme, Judicial review	Parliament sovereign, No judicial review on Acts
Clarity & Accessibility	Explicit, accessible text	Fragmented, relies on interpretation
Length	Longest written constitution	No single document

Amendment Process

India's amendments process is a pure blend of rigidity and flexibility under Article 368: simple majority for some, special majority (two-third in each house) plus state ratification for federal aspects While in UK constitution there is no specific amendment procedure laid out in a single document. They amends via ordinary legislation with simple majority, which allows rapid changes without any special process.

Flexibility vs Rigidity

The written constitution is often seen as rigid and the unwritten constitution is seen as adaptable. This is true but not true as it seems to be true. The Indian Constitution has been amended over 106 times since it came into force in 1950. And while not all of them have been substantial but some have significantly redrawn the balance of power between the Center and the State. Like during Indira Gandhi's Emergency in 1976 which amend The Preamble of the Indian Constitution for the first time only and added "Socialist", "Secular" and "Integrity". His Holiness Kesvananda Bharati Sripandagalvaru & Ors. vs. State of Kerala & Anr. also known as Kesavananda Bharti judgment a landmark judgment of the Supreme court of India which laid down the basic structure doctrine that protects the core principles and prevents rapid

alterations and make Indian Constitution partly flexible and partly rigid.

While the UK's Constitution is highly flexible due to the parliamentary sovereignty and the lack of rigid amendments. The main reason is lack of entrenchment. Parliament can amend constitutional principles through ordinary legislation with simple majority unlike codified system which requires special procedure. This allows swift adaptation to crises, societal shifts or reforms without supermajorities or referendums. Some specific reforms which we enacted via simple parliamentary majorities like Devolution Acts (1998): Scotland Act 1998, Government of Wales Act 1998 and Northern Ireland Act of 1998 created regional assemblies without any special procedures, adapting unitary rule to demands for autonomy. Same in Brexit Legislature: European union (withdrawal) Act 2018 implemented referendum outcome, overriding prior European communities Act 1972.

Rights and Governance Features

India explicitly lists Fundamental Rights (Articles 12-35), Directive Principles and Fundamental duties, enforceable via courts. The UK has no bill of rights in the constitution; rights derive from common law, statutes like Human Rights Act 1998 and conventions. Both share parliamentary systems with real executive (PM/Cabinet) and nominal head (President/Monarch) but India is federal with single citizenship while UK is unitary. India prioritizes rigid safeguards while the UK evolves via Parliament.

Implications for Access to Information

Codified constitution complies rules in one document which make rights like information access easier for citizens to understand and invoke. Right to information often entrenched as fundamental such as Article 19(1)(a) of Indian Constitution give citizens freedom of speech and expression. While uncoded constitution offer flexibility but risk ambiguity which affect transparency and judicial enforcement like UK rely on scattered sources which confuse public and hinders the right of awareness. Uncoded constitution protects such right by statutes (e.g. UK's Freedom of Information Act 2000) which

parliament can amend easily and lacks rigid safeguards.

Advantages and Challenges

India's Constitution clearly protects rights by guarantees fundamental rights with judicial review under Article 13, 32 (empower supreme court to issue writs), 226 (grants high courts the power to issue writs) which ensures rule of law and minority safeguards. It is a perfect blend of rigidity and flexibility which balances stability with evolution in diverse nation but its length and rigid amendment process can slow changes and spark disputes.

The UK's uncoded constitution allows quick changes by simple majority as seen in devolution, Human Rights Act 1998 and in creating regional government keeping things practical and current but as it uncoded it leads to uncertainty, potential for abuse of power.

Findings of the Survey

The survey was conducted to analyse the perceptions amongst public with respect to the role of law, constitutional governance and access to information and how it strengthens accountability in democracy.

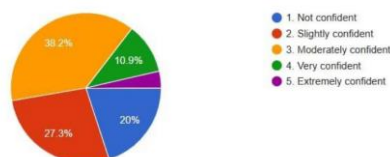
The respondents of this survey included academicians and employees from various fields like administration and law. Hence their experiences were vital to evaluate the diversity of perceptions that citizens have towards the accessibility of information framework in the country as well as their views on constitutionalism.

The findings revealed significant insights in understanding of constitutionalism, the rule of law, and democratic culture. It also revealed critical gaps in existing frameworks in society and what their practical implementations are.

A major observation from the survey was that most respondents considered that they were not very confident about accessibility of information particularly regarding government expenditure. The data indicated that the confidence level was overall moderate and not very high amongst the respondents. A very small proportion of approximately 12% people reported that they were

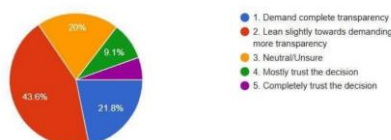
slightly or extremely confident about accessing such information. While a majority indicated that this information is not being made as transparent as it is needed. This reflected a disconnect between the constitutional principle of transparency and accountability and the citizens' practical experiences.

1) On a scale of 1–5, how confident are you that you can access information about how your tax money is being spent by the government?



Further, respondents were asked whether they would completely trust government's decisions to impose certain restrictions on information when justified on grounds of national security. To this, a substantiate proportion of them, about 43.6% were inclined towards demanding greater transparency. While 21.8% of respondents expressed that they strongly preferred complete transparency when it comes to maintaining information accessible. Thus, the findings reflect how strongly citizens advocate accountability and openness. These two perhaps are the essential components of democratic culture in a society. However around 20% respondents were neutral towards this issue. It signifies that there is a certain degree of ambiguity amongst the public with respect to understanding importance of state security and balancing it with individual rights.

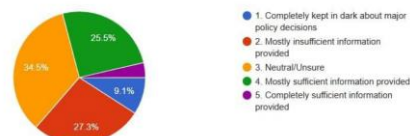
2) On a scale of 1-5, to what extent would you trust the government's decision or demand more transparency if the government restricts access to certain information citing national security concerns?



The survey also examined if citizens believed they could rely on the information that is provided to them for making informed voter choices. The responses highlighted that there are diverse perspectives amongst people. Nearly 25% people believed that sufficient information is mostly provided. Although a larger proportion either believed it was sufficient or remained neutral. Some respondents also believed that they were kept in dark about major policy decisions (around

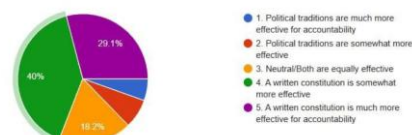
9%). These findings therefore signify that in democratic culture it is important to ensure informed electoral participation for a functional democracy.

3) On a scale of 1-5, to what extent do you believe the government provides enough information for citizens to make an informed voting decision?



Another important dimension that was explored through our survey indicated that people perceived written constitution as relatively effective in ensuring accountability of the government towards people. A majority of approximately 40% of the respondents believed that codified constitutional frameworks are somewhat more effective forms of legal structures. Only a small minority favoured relying on political traditions. Thus, people consider that written constitution makes it convenient to maintain checks and balances within a democracy.

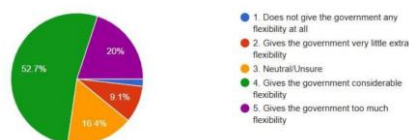
4) On a scale of 1-5, to what extent do you feel a written Constitution makes it easier to hold the government accountable compared to relying on political traditions?



This perception is further strengthened by responses that concerned the flexibility that governments get. Respondents consider higher flexibility rests with governments in the absence of a written or codified constitutional document. A majority of around 52.7% respondents believed

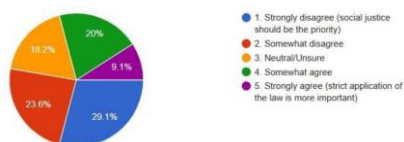
that absence of such framework enables the government to alter democratic rules and values thereby providing excessive flexibility in governance. In contrast, very few believed that availability of a constitutional document does not impact such alterations significantly. Hence it is perceived that limiting government's discretion goes along with significant principles of constitutionalism, by seeking to ensure that power is not exercised beyond reasonable legal boundaries.

5) On a scale of 1-5, to what extent do you feel that the absence of a single written constitutional document allows the government too much flexibility to change democratic rules?



By this survey, it was aimed to explore the public perception towards tensions between the concepts of adherence to the law and social justice. A diverse range of opinions was seen through responses. 29.1% of the respondents strongly disagreed to prioritize strict application of law over social justice. Around 20% respondents expressed their agreement. The responses denoted that citizens recognize that both principles are important. The distinction in preferences was over the difference in approaches to balance them. Rule of law is dependent on predictability but attainment of social justice needs context-sensitive approach.

6) On a scale of 1 to 5, to what extent do you agree that strictly following the letter of the law is more important than achieving social justice, even if the law appears unfair in a specific case?



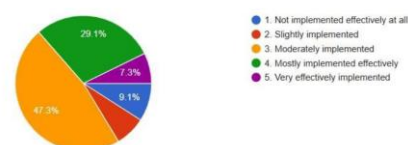
The survey also aimed to address the evolution of laws which originated from the colonial period towards modern legal system and if the modern laws hold relevance in governance from viewpoint of the citizens. A significant proportion of nearly 47.3% respondents believed that modern laws have been developed in a way that people's rights are somewhat prioritized. Around 23% respondents believed that there is a balance between state authority and the rights of individuals. Although some believed that laws still somewhat favoured state authority. Thus, the findings suggest that while there has been progress in balancing legal framework with values of democracy but still concerns regarding potential of these laws to favour state power over individual freedom continues.

7) On a scale of 1 to 5, to what extent do you believe that laws originating in the colonial period have evolved in modern times to prioritize the rights of the state versus the rights of the people?



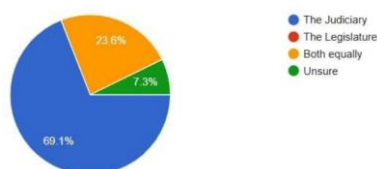
Another key finding was related to the effectiveness of implementation of Constitution in everyday life. The responses showed that majority of nearly 47.3% believed the Constitution is moderately implemented in everyday lives. Approximately 29.1% believed that Constitution is mostly implemented effectively. Very few believed that it is slightly implemented. Hence the findings suggest that the principles of Constitution are recognized but their enforcement in everyday lives varies. This leads to different levels of public confidence in the effectiveness of constitutional implementation.

8) On a scale of 1 to 5, how effectively do you believe the Constitution is implemented in everyday life in your country?



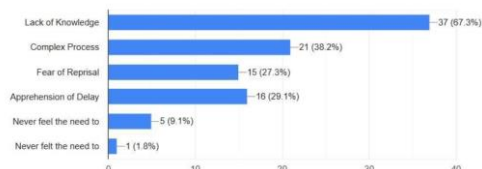
An important theme of the survey also included institutional trust. When asked which institution is more trusted to protect fundamental rights, majority expressed their trust in the judiciary. Around 23% respondents denoted trust on both the judiciary and legislature. Although the strong preference for judiciary highlights the assumption prevalent amongst public to consider it as the guardian of constitutional rights as well as the rule of law. At the same time, a lesser confidence vested with legislature expresses the perceptions of possible political influence or other inefficiencies. This varying trust and imbalance on reliance on institutions need to be strengthened to ensure accountability across all branches or organs of the government.

9) Who do you trust more to protect your fundamental rights: the Judiciary (Courts) or the Legislature (Parliament/MP's)?



Finally, the survey also examined barriers to the effective utilization of Right to Information framework in India. Respondents identified the most significant obstacle as lack of awareness with 67.3% of respondents agreeing to it as a primary barrier. This was followed by other barriers such as the complexity of process (38%), apprehension of delays (29%) and so on. Very few people also agreed that they never felt the need to access such mechanisms. Thus, the survey clearly indicated the critical gap between existence of legal rights and their actual utilization. Even though robust transparency laws exist, their effectiveness is challenged by limited public awareness as well as challenges involved with the procedure of these mechanisms.

10) What in your opinion is the primary barrier in effective utilization of the Right to Information Act among people in India?



In conclusion, the survey findings highlighted the complexity of relations between ideals in constitution and their realization in practicality. The respondents clearly favoured for transparency, accountability, oversight of judiciary. However there still remains challenges in terms of awareness, accessibility and trust vested in institutions. The data suggests that democratic culture needs to be strengthened. It requires not just robust legal frameworks but their implementation, promote awareness amongst public and make institutions accountable. It is essential to realize the full potential of constitutionalism and rule of law. Bridging the gap between law and lived experiences play a pivotal role in increasing trust of citizens on existing constitutional and democratic framework within their country.