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PREAMBLE

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- The American Constitution was the first to begin with a Preamble. Many countries, including India, followed this practice. The term ‘preamble’ refers to the introduction or preface to the Constitution.
- The Preamble to the Indian Constitution is based on the ‘Objectives Resolution’, drafted and moved by Pandit Nehru, and adopted by the Constituent Assembly¹. It has been amended by the 42nd Constitutional Amendment Act (1976), which added three new words —socialist, secular and integrity.

The Preamble reveals four ingredients or components:

1. Source of authority of the Constitution: The Preamble states that the Constitution derives its authority from the people of India.
2. Nature of Indian State: It declares India to be of a sovereign, socialist, secular democratic and republican polity.
3. Objectives of the Constitution: It specifies justice, liberty, equality and fraternity as the objectives.
4. Date of adoption of the Constitution: It stipulates November 26, 1949 as the date.

The Preamble embodies the basic philosophy and fundamental values— political, moral and religious—on which the Constitution is based. It contains the grand and noble vision of the Constituent Assembly, and reflects the dreams and aspirations of the founding fathers of the Constitution.

KEY WORDS IN THE PREAMBLE

Sovereign

The word ‘sovereign’ implies that India is neither a dependency nor a dominion of any other nation, but an independent state. There is no authority above it, and it is free to conduct its own affairs (both internal and external).



Socialist

Notably, the Indian brand of socialism is a 'democratic socialism' and not a 'communistic socialism' (also known as 'state socialism') which involves the nationalisation of all means of production and distribution and the abolition of private property.

Democratic socialism, on the other hand, holds faith in a 'mixed economy' where both public and private sectors co-exist side by side. As the Supreme Court says, 'Democratic socialism aims to end poverty, ignorance, disease and inequality of opportunity. Indian socialism is a blend of Marxism and Gandhism, leaning heavily towards Gandhian socialism'

Secular:

The Indian Constitution embodies the positive concept of secularism i.e., all religions in our country (irrespective of their strength) have the same status and support from the state

Democratic:

The term 'democratic' is used in the Preamble in the broader sense embracing not only political democracy but also social and economic democracy.

The Indian Constitution provides for representative parliamentary democracy under which the executive is responsible to the legislature for all its policies and actions. Universal adult franchise, periodic elections, rule of law, independence of judiciary, and absence of discrimination on certain grounds are the manifestations of the democratic character of the Indian polity.

Republic:

The term 'republic' in our Preamble indicates that India has an elected head called the president. He is elected indirectly for a fixed period of five years.

A republic also means two more things: one, vesting of political sovereignty in the people and not in a single individual like a king; second, the absence of any privileged class and hence all public offices being opened to every citizen without any discrimination.



Justice:

The term ‘justice’ in the Preamble embraces three distinct forms—social, economic and political, secured through various provisions of Fundamental Rights and Directive Principles. Social justice denotes the equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex and so on.

Economic justice denotes the non-discrimination between people on the basis of economic factors. It involves the elimination of glaring inequalities in wealth, income and property. Political justice implies that all citizens should have equal political rights, equal access to all political offices and equal voice in the government

Liberty

The term ‘liberty’ means the absence of restraints on the activities of individuals, and at the same time, providing opportunities for the development of individual personalities

Equality

The term ‘equality’ means the absence of special privileges to any section of the society, and the provision of adequate opportunities for all individuals without any discrimination. The Preamble secures to all citizens of India equality of status and opportunity. This provision embraces three dimensions of equality—civic, political and economic.

Fraternity

Fraternity means a sense of brotherhood. The Constitution promotes this feeling of fraternity by the system of single citizenship. The Preamble declares that fraternity has to assure two things—the dignity of the individual and the unity and integrity of the nation.

PREAMBLE AS PART OF THE CONSTITUTION:

One of the controversies about the Preamble is as to whether it is a part of the Constitution or not.

*Berubari Union*¹⁶ case (1960) - The Supreme Court said that the Preamble shows the general purposes behind the several provisions in the Constitution, and is thus a key to the minds of the makers of the Constitution. Further, where the terms used in any article are ambiguous or capable of more than one meaning, some assistance at

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interpretation may be taken from the objectives enshrined in the Preamble. Despite this recognition of the significance of the Preamble, the Supreme Court specifically opined that Preamble is *not* a part of the Constitution.

Kesavananda Bharati case (1973) - The Supreme Court rejected the earlier opinion and held that Preamble is a part of the Constitution. It observed that the Preamble is of extreme importance and the Constitution should be read and interpreted in the light of the grand and noble vision expressed in the Preamble.

LIC of India case (1995) – The Supreme Court again held that the Preamble is an integral part of the Constitution. Like any other part of the Constitution, the Preamble was also enacted by the Constituent Assembly, but after the rest of the Constitution was already enacted. The reason for inserting the Preamble at the end was to ensure that it was in conformity with the Constitution as adopted by the Constituent Assembly.

While forwarding the Preamble for votes, the president of the Constituent Assembly said, ‘The question is that Preamble stands part of the Constitution’. The motion was then adopted. Hence, the current opinion held by the Supreme Court that the Preamble is a part of the Constitution, is in consonance with the opinion of the founding fathers of the Constitution.

However, two things should be noted:

1. The Preamble is neither a source of power to legislature nor a prohibition upon the powers of legislature.
2. It is non-justiciable, that is, its provisions are not enforceable in courts of law.

Amendment in Preamble:

The Preamble has been amended only once so far, in 1976, by the 42nd Constitutional Amendment Act, which has added three new words— Socialist, Secular and Integrity—to the Preamble. This amendment was held to be valid.

Questions:

1. Discuss in detail about the Preamble of Indian Constitution.