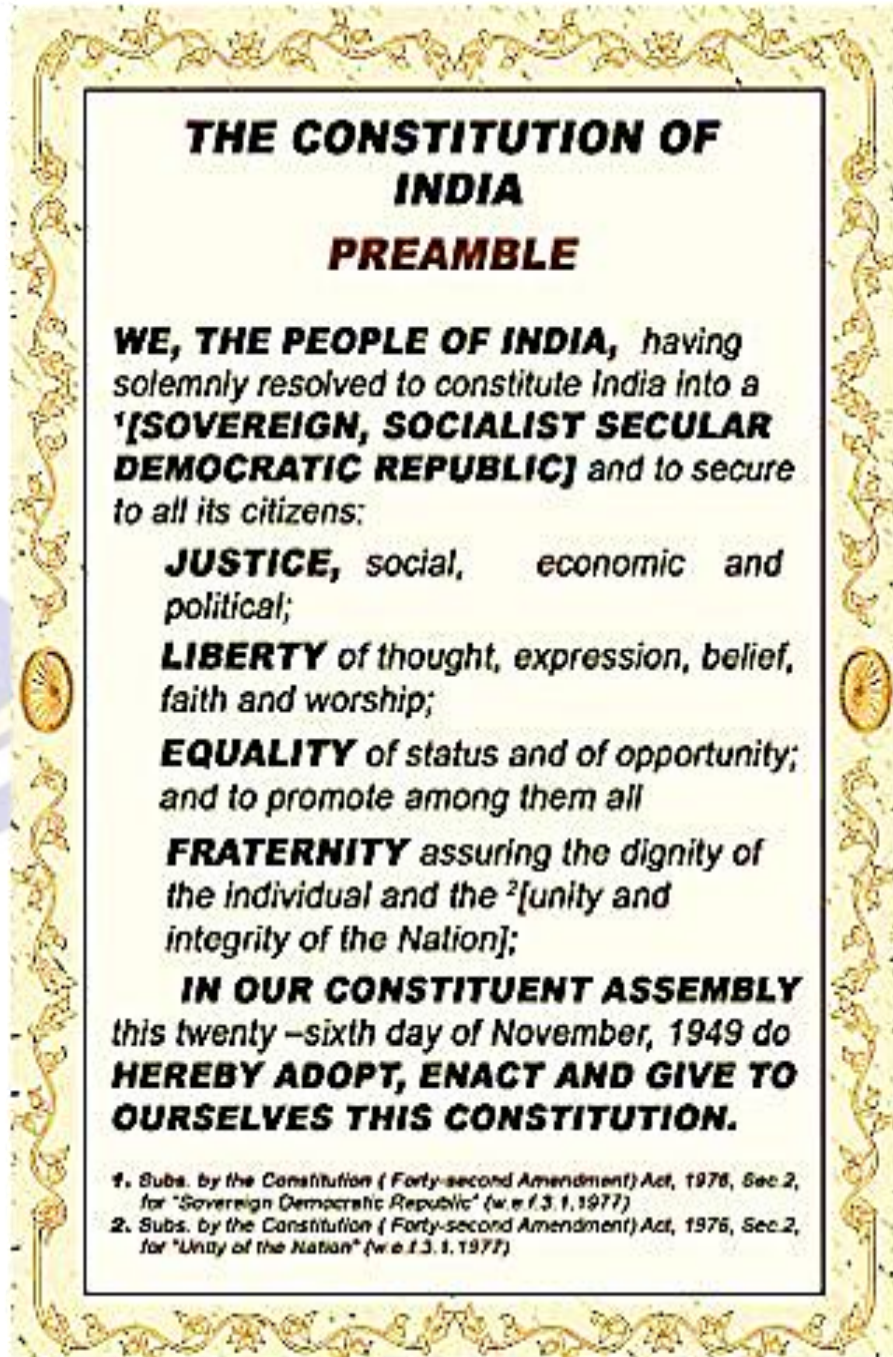




Preamble of the Constitution

The Preamble



What is Preamble?

In general, Constitutions all over the world consist of a Preamble in order to reflect a better understanding of the ideals and goals of the legal document. Although, the length, pattern, content and form of the Preamble of different Constitutions may vary from country to country. Put simply, a preamble is nothing but an introduction an act, statute, bill, or any other document. It gives a brief idea of what the document exactly purports.

The preamble of the Constitution of India is an introduction of the Constitution which contains the sets of rules and regulations to guide the people of the country. It gives us a reflection of goals and aspiration of citizens. The Preamble can be considered as the essence of the Constitution which throws light on the outline of the Constitution.

What purpose does the Preamble serve?

- The Preamble to the Constitution is a reflection of the core constitutional values that embody the Constitution. It declares India to be a Sovereign Socialist Secular Democratic Republic committed to Justice, Equality and Liberty for the people.
- The Preamble does not grant substantive rights and is not enforceable in the courts, but various Indian courts have engaged with the Preamble and have treated it as guiding light in the interpretation of the Constitution.
- The opening and last sentences of the Preamble: “We, the people...adopt enact and give to ourselves this Constitution” signifies the power that is vested in the hands of the people.

The preamble basically gives idea of the following things/objects:

1. Source of the Constitution
2. Nature of Indian State
3. Statement of its objectives
4. Date of its adoption

Historical background of the preamble

One of the first task that the Constituent Assembly was required to do was the drafting and setting up of the aims, objectives and guiding principles that will form the basis of the Constitution. The principles and objectives that were to be formulated were supposed to reflect the democratic spirit that the Constitution of India committed for.

An expert committee was appointed by the National Congress in 1946. The committee in its meeting dated 22nd of July drafted a 'declaration' that contained the objectives of the Constitution. Based on the contents of this draft, Nehru moved a draft resolution, which came to be known as '**Objectives Resolution**'.

It was presented before the Constituent Assembly on the 13th of December, 1946. After being debated at length this resolution was adopted by the Assembly on 22nd of January, 1947.

The main contents of this objective resolution are:

- The firm resolution of the Constituent Assembly to declare India as an independent sovereign republic which shall be governed by the Constitution.
- That, the territories of India that were under the British rule and the other provinces that were under the indirect rule of the British, shall together constitute and form a 'Union of India'.
- The said territories that will form part of the Union of India, shall be autonomous units, which will possess powers and shall function as a government.
- That, the powers and authority of the state units shall be derived from the people of the Independent sovereign.
- All people of India shall be secured and guaranteed justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality.
- The minorities, depressed and backward classes of people and people from tribal areas shall be provided adequate safeguards to thrive.
- That, the republic shall have sovereign rights on land, sea, and air according to justice and the law of civilised nations, and the integrity of territories shall be maintained.
- That, the country has a rightful and honoured place in the world and is willing to contribute to the promotion of peace, harmony and welfare of mankind.

The founding fathers described the objective resolution as ***“something that breathes life in humankind”***. It was also considered as a kind of spiritual preamble that would permeate each section, clause and schedule of the Constitution.

Thereafter, B.N Rao settled a draft of the Preamble. The draft settled by B.N Rao was reproduced before the Constituent Assembly, on the 4th of July, 1947. The Union Constituent Assembly decided that the Preamble of the Constitution of India will be based on the Objective Resolution. Later on, Nehru suggested that the drafting of the Preamble should be postponed until the Partition.

The Drafting Committee of the Assembly decided that the Preamble should be restricted to contain the essential features of the new India and its basic socio-political objectives, along with the other matters that were dealt with in the Objective Resolution. After a number of amendments were moved and rejected, the preamble was formulated containing the language and the spirit of the objective resolution up to a great extent. The draft of the Preamble was finalised after the finalisation of the Constitution so that it can be in consonance with the Constitution. It was adopted on 26th November 1949 and its enforcement date is 26th January 1950 also known as Republic Day.

Sir Dyer CJ states that the preamble is the ***“Key to open the minds of the makers of the Constitution”***, Shri K.M. Munshi states it as the ***“horoscope of over Sovereign Democratic Republic”***, and Sir Earnest Parker terms it as the ***“keynote to the Constitution”***. Nehru while emphasising the goals and objectives of the Preamble said that it is a ***“firm resolution and a solid promise”***.

Components of the Preamble

The components of the preamble are:

We the people of India

The opening words of the preamble show that the people of India are the source of authority and that the Constitution of India is the result of the will of the people of India. It means power lies with the citizens to elect their representatives and they also have the right to criticise their representatives.

Sovereign, Socialist, Secular, Republic, Democratic

The Preamble by the will of the people declares India as a ‘sovereign’, ‘socialist’, ‘secular’, ‘democratic’, and ‘republic’. These four terms reflect the nature of the Indian State.

Let's have an overview of these terms.

A. Sovereign

Sovereignty is one of the foremost elements of any independent State. It means absolute independence, i.e., a government which is not controlled by any other power: internal or external. A country cannot have its own constitution without being sovereign. India is a sovereign country. It is free from external control. It can frame its policies. India is free to formulate its own foreign policy.

B. Socialist

The word socialist was not there in the Preamble of the Constitution in its original form. In 1976, the 42nd Amendment to the Constitution incorporated 'Socialist' and 'Secular', in the Preamble. The word 'Socialism' had been used in the context of economic planning. It plays a major role in depicting India as a welfare state. It also means a commitment to attain ideals like removal of inequalities, provision of minimum basic necessities to all, equal pay for equal work. When you read about the Directive Principles of the State Policy, you will see how these ideals have been incorporated as well as partly, implemented in the Constitution.

C. Secular

In the context of secularism in India, it is said that 'India is neither religious, nor irreligious nor anti-religious.' Now what does this imply? It implies that in India there will be no 'State' religion – the 'State' will not support any particular religion out of public fund. This has two implications, a) every individual is free to believe in, and practice, any religion he/ she belongs to, and, b) State will not discriminate against any individual or group on the basis of religion.

D. Democratic

Preamble to the Constitution, that the Constitution belongs to the people of India. The last line of the Preamble says '.... Hereby Adopt, Enact And Give To Ourselves This Constitution'. In fact the Democratic principles of the country flow from this memorable last line of the Preamble. Democracy is generally known as **government of the people, by the people and for the people**. Effectively this means that the Government is elected by the people, it is responsible and accountable to the people. The democratic principles are highlighted with the provisions of universal adult franchise, elections, fundamental rights, and responsible government. These you will read in subsequent lessons.

E. Republic

The Preamble also declares India as a Republic. It means that the head of the State is the President who is indirectly elected and he is not a hereditary ruler as in case of the British Monarch. Under chapter of Union Executive you will read in detail about the election of the President of India.

Justice, Liberty, Equality and Fraternity

The Preamble further declares to secure all the citizens of the country 'justice', 'liberty', 'equality' and 'fraternity'.

a. Justice

Justice promises to give people what they are entitled to in terms of basic rights to food, clothing, housing, participation in the decision-making and living with dignity as human beings. The Preamble covers all these dimensions of **justice – social, economic and political**. Besides, the granting of political justice in the form of universal adult franchise or the representative form of democracy.

- **Social Justice** – Social justice means that the Constitution wants to create a society without discrimination on any grounds like caste, creed, gender, religion, etc.
- **Economic Justice** – Economic Justice means no discrimination can be caused by people on the basis of their wealth, income, and economic status. Every person must be paid equally for an equal position and all people must get opportunities to earn for their living.
- **Political Justice** – Political Justice means all the people have an equal, free and fair right without any discrimination to participate in political opportunities.

b. Liberty

The Preamble also mentions about liberty of thought and expression. These freedoms have been guaranteed in the Constitution through the Fundamental Rights. Though freedom from want has not been guaranteed in the Fundamental Rights, certain directives to the State have been mentioned in the Directive Principles.

c. Equality

Equality is considered to be the essence of modern democratic ideology. The Constitution makers placed the ideals of equality in a place of pride in the Preamble. All kinds of inequality based on the concept of rulers

and the ruled or on the basis of caste and gender, were to be eliminated. All citizens of India should be treated equally and extended equal protection of law without any discrimination based on caste, creed, birth, religion, sex etc. Similarly equality of opportunities implies that regardless of the socio-economic situations into which one is born, he/she will have the same chance as everybody else to develop his/ her talents and choose means of livelihood.

d. Fraternity

In the background of India's multi-lingual, multi-cultural and multi-religious society and keeping in view the partition of the country, the framers of the Constitution were very much concerned about the unity and integrity of our newly independent country. There was a need for harmonious co-existence among various religions, linguistic, cultural and economic groups. Inclusion of phrases like '**dignity of individuals**', '**fraternity among people**' and '**unity and integrity of the nation**' in the Preamble highlight such a need.

Adoption date

It comprises the date of its adoption which is November 26th, 1949. It is pertinent to note here that the Preamble was drafted after the making of the Indian Constitution. However, the commencement date of both is marked as 26th January 1950.

Is the Preamble a part of the Constitution

The question whether the preamble is a part of the Constitution or not was a topic of debates for a long time and was finally settled in the Kesavananda Bharati case. In order to understand whether or not the preamble is a part of the Constitution, the two cases, namely the *Berubari Case* and *Kesavananda Bharati case* play an important role. Initially, the view taken by the highest court was that the Preamble is not a part of the Constitution of India. However, later on, the same was reversed in the Kesavananda *Bharti* case.

The Berubari Case

In the *Berubari Case* the Apex Court stated that 'Preamble is the key to open the mind of the makers' but it cannot be considered as part of the Constitution.

Kesavananda Bharati v. State Of Kerala and anr. (1973)

This case created history and holds great importance. A bench comprising 13 judges was constituted to hear this landmark case, wherein the question before the court was, whether the Parliament has the power to amend the Preamble and the extent to which this power can be exercised. Along with this the petitioner also challenged the 24th and 25th Amendment of the Constitution. The Court, in this case, has held that:

1. The Preamble of the Constitution will now be considered as part of the Constitution.
2. The Preamble is not the supreme power or source of any restriction or prohibition but it plays an important role in the interpretation of statutes and provisions of the Constitution.

After the judgement of the Kesavanand Bharati case, it was accepted that the preamble is part of the Constitution.

Amendment to the Preamble

The question whether a preamble can be amended or not by the Parliament under the amending powers enunciated under Article 368 came before the Apex Court for the first time in the *Kesavananda Bharati case*. The court held that, since the Preamble is a part of the Constitution it can be amended, however, the scope for the same is limited. It cannot be amended in a way that the proposed amendment destroys the basic features. It was opined that the premise of our Constitution is largely based on the basic elements embodied in the Preamble. In the event of destruction or removal of any of these elements, the purpose and objective of the Constitution will not be served.

Since the enactment of the Constitution of India, the only instance of the Preamble being amended was in the year 1976. This amendment was introduced by the then government led by Indira Gandhi which left the Preamble in its present form. The three terms that were added by this amendment were secularism, socialism, and integrity. It was not that these concepts were not a part of the Constitution prior to this amendment. These concepts were merely spelled out clearly in this amendment by expressly mentioning these terms in the Preamble.

The changes brought by the 42nd Amendment Act, 1976 are mentioned as under:

42nd Amendment Act, 1976

The 42nd Amendment Act, 1976 was the first act ever to amend the preamble of the Constitution. On December 18th, 1976, 'Socialist', 'Secular',

and 'Integrity' were added to the preamble to protect economic justice and eliminate discrimination whatsoever. Through this amendment, 'socialist' and 'secular' were added between 'sovereign' and 'democratic', and 'Unity of the Nation' was changed to 'Unity and Integrity of the Nation'.

In conclusion, the preamble is an integral part of the Constitution and is widely appreciated as the quintessence of the soul, spirit, and backbone of the Constitution. The preamble highlights the fundamental values and guiding principles of the Constitution. The preamble declares that the citizens of India accepted the Constitution on 26th November 1949, but the date of commencement of the Constitution was decided to be 26th January 1950.

Facts about the Preamble

The 'Preamble' of the Constitution of India is a brief introductory statement that frames the guiding purpose and principles of the document, and it indicates the source from which the document derives its authority, meaning, the people. It was adopted on 26 November 1949 by the Constituent Assembly of India and came into effect on 26th January 1950.

- ❖ The **objective resolution** was moved in the Constituent Assembly on **13th December 1946** by Pt. Jawahar Lal Nehru which was adopted by the Constituent Assembly on 22 January 1947. Later, this Resolution became the foundation of the Preamble. The basic tenets that the objective resolution highlighted were-
 - ✓ Constituent Assembly's resolve to see India as independent, sovereign and republic
 - ✓ To draw a Constitution for India
 - ✓ To make all territories of the pre-independent India into united states of post-independent India
 - ✓ To realize residual powers, autonomy on such states as the Constitution of India reflects
 - ✓ To realize union with the power which will be different than those given to such states
 - ✓ The people of India to play the source of power and authority of the sovereignty, and the independence
 - ✓ To provide justice, social, economic and political equality of status of opportunity and, freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality before the law

- ✓ To provide adequate safeguards to the minorities, tribal and backward areas and other depressed and backward classes
 - ✓ To maintain the integrity of the Indian republic's territory and its territorial rights on land, sea, air according to the justice and law of the civilized nation
 - ✓ To promote peace and welfare among the worldly nations.
-
- ❖ The Preamble declares India as a Sovereign, Socialist, Secular, Democratic and Republic Nation. It secures to all its citizens justice of three types-Social, economic and political. It is very helpful in legal interpretation of the Indian Constitution.
 - ❖ The words '**Socialist**', '**Secular**' and '**Integrity**' were incorporated in the Preamble by the 42nd Constitutional Amendment Act 1976.
 - ❖ In the words of Sir Alladi Krishnaswami Ayyar "**The Preamble to our Constitution expresses what we had thought or dreamt so long**".
 - ❖ The Supreme Court accepted it as a part of the Constitution in the **Keshavanand Bharati case(1973)**.
 - ❖ Before this in the **Berubari case (1960)**, the Preamble was not considered as a part of the Constitution.
 - ❖ In **Golak Nath vs State of Punjab** the preamble was considered as the core soul of the Constitution.
 - ❖ In **SR Bommai vs Union of India** the **Supreme Court** gave a conception that the Preamble is a part of the Constitution. It is non-justiciable in nature.
 - ❖ It talks about the freedom of faith, belief, worship, expression and thought. "It also ensures dignity and equal opportunities to all.
 - ❖ It is called the soul of the Constitution. Dr. B. R. Ambedkar called the right to Constitutional remedies (Art. 32) as the heart and soul of the Constitution.
 - ❖ **K. M. Munshi** called it a political horoscope.
 - ❖ **Subhash Kashyap** said that if the Constitution is body then preamble is soul, if Constitution is building the preamble is foundation stone.
 - ❖ **Dr. B.R. Ambedkar** said that "the Constitution is a pious paper.

Practice Questions

1: What was the exact Constitutional Status of the Indian Republic on 26-1-1950 when the Constitution came into force?

- a) A Democratic Republic
- b) A Sovereign Democratic Republic
- c) A Sovereign Secular Democratic Republic
- d) A Sovereign Socialist Secular Democratic Republic

Ans. (b)

2: By which name/names is our country mentioned in the Constitution?

- a) Bharat and India
- b) Bharat only
- c) Hindustan and India
- d) Bharat Hindustan and India

Ans. (a)

3: In the context of the Preamble of the Indian Constitution, which of the following sequences is correct?

- a) Republic, People's, Democratic, Secular, Socialist, Universal, Sovereign
- b) Sovereign, Socialist, Democratic, People's, Secular, Republic
- c) Sovereign, Socialist, People's, Democratic, Secular Socialist Republic
- d) Sovereign, Socialist, Secular, Democratic, Republic

Ans. (d)

4: Which of the following words is NOT mentioned in the Preamble of the Constitution of India?

- a) Sovereign
- b) Democratic
- c) Federal
- d) Secular

Ans. (d)

5: Which one of the following describes India as a Secular State?

- a) Fundamental Rights
- b) Preamble to the Constitution
- c) 9th Schedule
- d) Directive Principles

Ans. (b)

6: Which one of the following words was not included in the Preamble of the Indian Constitution in 1975?

- (a) Fraternity
- (b) Sovereign
- (c) Equality
- (d) Integrity

Ans. (d)

7: Consider the following statements in regards to the Preamble of Constitution and select the correct one using the code given below.

- 1. The objectives Resolution by Jawaharlal Nehru finally became Preamble
- 2. It is non-Justiciable.
- 3. It can't be amended
- 4. Preamble cannot override the specific provision of the Constitution

Code:

- a) Only 1 and 2
- b) Only 1,2 and 3
- c) Only 2,3 and 4
- d) Only 1,2 and 3

Ans. (b)

8. The Preamble of the Constitution was amended by:

- a) 17 Amendment
- b) 24 Amendment
- c) 42 Amendment
- d) 44 Amendment

Ans. (c)

9: The goal of Constitution is to Secure /assure all its

- 1. Justice Social and Economic
- 2. Liberty of thought and Expression
- 3. Equality of Opportunity
- 4. dignity of the Individual

Choose the correct answer by using code:

- (a) 1 and 2
- (b) 1,2 and 3
- (c) 2,3 and 4
- (d) All above

Ans .(d)

10. 'India is a Republic' means

- a) It's the people who are the final authority in all matters
- b) There is no Parliamentary System of Government IN India
- c) There are no hereditary rulers in India
- d) India is the Union of States

Ans. (c)

11: India has people's sovereignty because the Preamble of the Constitution begins with the words:

- (a) Democratic India
- (b) Republic of People
- (c) Democracy of People
- (d) We, the People of India

Ans. (d)

12. "All individuals are fully and equally principle is known as -

- a) Universalism human" this
- b) Holism
- c) Socialism
- d) Interactionism

Ans. (a)

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