

## \* Preamble to the Indian Constitution :-

We, The People of India, having solemnly resolved to constitute ~~of~~ India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens :

Justice, social, economic and political ; Liberty, of thought, expression, belief, faith and worship ;

Equality, of status and of opportunity and to promote among them all ;

Fraternity, assuring the dignity of the individual and the unity and integrity of the Nation ;

In Our Constituent Assembly this twenty-sixth of November, 1949 do hereby Adopt, Enact and Give to Ourselves this Constitution.

Q) What is a Preamble :-

① A preamble is an introductory statement in a document that explains the document's philosophy and objectives.

Q) Structure of Preamble of the I.C. :-

-The preamble basically gives idea of the following objects :

① Source of the Constitution :-

It indicates by the Preamble that the source of authority of the constitution lies with the people of India.

## ② Nature of Indian State :-

Preamble declares India to be a sovereign, socialist, secular and democratic republic.

## ③ Statement of its objectives:-

The objectives stated by the preamble are to secure justice, liberty, equality to all citizens and promote brotherhood to maintain unity and integrity of the nation.

## ④ Date of its adoption:-

The date is mentioned in the preamble when it was adopted i.e. 26th November, 1949.

## ⑤ Philosophy of Indian Constitution :-

Preamble gives us idea of philosophies that Indian Constitution has.

They are as follows:

### 1) Sovereign:

→ It means the independent authority of a state. It means that it has the power to legislate on any subject; and that is not subject to the control of any other state or external power.

→ This term means that India has own independent authority and it is not a dominion of any other external power.

(In the country, the legislature has the power to make laws which are subject to certain limitations)

## 2) Socialist :-

① The term means that the achievement of socialist ends through democratic means. It holds faith in a mixed economy where both private and public sector co-exist side by side.

② It was added in Preamble by 42<sup>nd</sup> amendment, 1976

## 3) Secular :-

① The term means that all the religions in India get equal respect, protection and support from the state.

② This was added in Preamble by 42<sup>nd</sup> amendment, 1976

③ Article 25 - 28 gave gives polish to this concept by adding the same as fundamental rights.

④ Honorable supreme court of India back up this concept in S.R. Bommai case of 1994 where it stated that, "In the matters of state, religion has no place." And if the constitution requires the state to be secular in thought and action, the same requirement attaches to political parties as well?"

## 4) Democratic :-

The term implies that constitution of India has an established form of constitution which gets its authority from the will of the people expressed in the election.

## 5) Republic :-

The term indicates that the head of the state is elected by the people. In India, the President of India is the elected head of the state.

## ↳ Objectives of Indian Constitution :-

Preamble of Indian Constitution gives idea of objectives of Indian constitution which it plans to achieve.

- ① The constitution is the supreme law and it helps to maintain integrity in the society and to promote harmony throughout the nation and promote unity among the citizens.  
→ Preamble includes following objectives :

### 1) Justice :-

1) It is necessary to maintain order in society that is promised through various provisions of Fundamental rights and DPSP provided by Constitution of India:

2) In Preamble there are three justices mentioned:

- (a) Social Justice
- (b) Economic Justice
- (c) Political Justice.

3) All three above mentioned promises citizens of India for all round development via justice and a step towards welfare state via justice.

### 2) Equality :-

1) The term 'Equality' means no section of society has any special privileges and all the people have given equal opportunities for everything without any discrimination.

2) It promotes Everyone is equal before the law.

### 3) Liberty :-

1) The term 'Liberty' means freedom for the people to choose their way of life, have political views and behaviour in society.

2) But it doesn't mean freedom to do 'anything', a person can't do anything but in the limit set by the law.

### 4) Fraternity :-

1) The term 'Fraternity' means a feeling of brotherhood and an emotional attachment with the country and all the people.

2) Fraternity helps to promote dignity and unity in the nation.

3) In absence of any <sup>one</sup> from a) equality b) liberty c) fraternity the other can not survive.

Without anyone from them the other will not have become the natural course of thing.

## ⇒ Amendment of the Preamble:

- 42<sup>nd</sup> Amendment Act - 1976:

(1) The term 'Socialist', 'Secular', and 'Integrity' were added to the preamble through this amendment.

## ⇒ Cases related to Preamble:-

### 1) Benubari Case :- (1960)

Through it, the court stated that 'Preamble is the key to open the mind of the makers' but it can not be considered as part of the constitution.

### 2) Kesavanand Bharti Case :- (1973)

In this case, for the first time, a bench of 13 judges was assembled to hear a writ petition. The Court held that:

⇒ The Preamble of the Constitution will now be considered as a part of the constitution.

## \* Fundamental Duties :-

→ are in part - IV A in article 51 A

→ From Russian Constitution

- 1) The fundamental duties were added by the 42<sup>nd</sup> Amendment Act of constitution in 1976, in addition to creating and promoting culture, also strengthen the hands of the legislature in enforcing these duties vis-a-vis the fundamental rights.
- 2) a) Firstly 10, FDs were added and 8 of them were from suggestions of 'Swaran Singh' Committee and other two was discussed by Parliament.  
b) 11<sup>th</sup> one was added by 86<sup>th</sup> Amendment law 2002.

→ The Fundamental Duties are as follows:

- 51A
- i) Abide by the Indian Constitution and respect its ideals and institutions, the National Flag and the National Anthem.
  - ii) Cherish and follow the noble ideals that inspired the national struggle of freedom.
  - iii) Uphold and protect the sovereignty, unity and integrity of India.
  - iv) Defend the country and render national service when called up to do so.

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- v) Promote harmony and the spirits of comm brotherhood amongst all Indians and to renounce practices derogatory to the dignity of woman.
  - vi) Value and preserve the rich heritage of the country's composite culture.
  - vii) Protect & improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.
  - viii) Develop scientific temper, humanism and the spirit of inquiry and reform.
  - ix) Safeguard public property and to abjure violence.
  - x) Strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.
  - \*xi)<sup>th</sup> Provide opportunities for education to his child or ward between the age of six and fourteen years.

(This duty was added by 86<sup>th</sup> Constitutional Amendment, 2002)

## → Importance of Fundamental Duties :-

- i) They remind Indian Citizens of their duty towards their society, fellow citizens and the nation.
- ii) They warn citizens against anti-national and anti-social activities.
- iii) They inspire citizens & promote a sense of discipline and commitment among them.
- iv) They help the courts in examining and determining the constitutional validity of a law.
- v) They are enforceable by law.

## ↳ F.D. in short :-

- i) Abide by constitution & respect national flag and national anthem
- ii) Follow ideals of who inspired freedom struggle.
- iii) Protect sovereignty & integrity of India.
- iv) Defend the country whenever called upon.
- v) Spirit of brotherhood
- vi) Preserve composite culture.
- vii) Preserve nature and environment.
- viii) Develop scientific temper.
- ix) Safeguard public property
- x) Strive for excellence of individual and country.
- xi) Provide opportunity to child or ward for education between age 6-14.

## \* Directive Principles of State Policy :-

↳ are in IV<sup>th</sup> part: in articles 36 to 51

↳ From - Constitution of Ireland

and they copied from spanish

→ Directive principles of state policies are (DPSP) ideals which are meant to be kept in mind by the state when it formulates policies and enacts laws.

↳ \*

- ① DPSP's are an 'instrument of instruction' which are enumerated in the GOI, Act 1935
- ② They seek to define / establish - economic and social democracy in the country
- ③ DPSP's are ideals which are not legally enforceable by the courts of their violation.

### • Definition :-

They are the principles that aim at providing social and economical justice and set the path towards the welfare state.

↳ Generally they are divided into:

- ① Socialist Principle
- ② Gandhian Principle
- ③ Liberal Principle

## ~~36 } Definition of DPSP~~

~~37~~

- ~~38~~ 1. Promote the welfare of people  
~~38~~ 2. to minimise the inequalities.

36 - Definition of the state.

37 - Application of the principles of DPSP

38 - State to secure a social order for the promotion of welfare of the people.

39 - Certain principles of policy to be followed by the state.

39A - Equal justice and free legal aid

40 - Organisation of village panchayats.

41 - Right to work, to education and to public assistance in certain cases.

42 - Provision for just and humane conditions of work and maternity relief.

43 - Living wage, etc for workers.

43A - Participation of workers in management of industries.

43B - Promotion of co-operative societies.

44 - Uniform civil code for the citizens.

45 - Provision for early childhood care and education to children below the age of

46 - Promotion of educational and economic interests of Schedule Castes, Schedule tribes and other weaker sections.

47 - Duty of the state to raise the level of nutrition and the standard of living and to improve public health.

48 - Organisation of agriculture and animal husbandry

48 A - Protection and improvement of environment and safeguarding of forest and wild life.

49 - Protection of monuments and places and objects of national importance.

50 - Separation of judiciary from executive.

51 - Promotion of international peace and security

## \* Fundamental Rights :

They are in part III<sup>rd</sup> in article 12 to 35

From American Constitution.

- ① F.R. in India are the rights guaranteed under part III of constitution of India.
- ② These rights are prohibition against state.
- ③ The state can not make law which takes away any of the rights of citizen guaranteed in part III of the constitution.
- ④ It must however be clearly understood that F.R. are not absolute rights.
- ⑤ They are subject to certain restrictions.
- ⑥ Our constitution tries to strike a balance between individual liberty and social interest.

→ We can divide F.R. as:

- ① Right to Equality (14-18)
- ② Right to Freedom (19-22)
- ③ Right to Exposition (23-24)
- ④ Right to freedom of Religion. (25-28)
- ⑤ Cultural & Educational Rights. (29-30)
- ⑥ Right to constitutional Remedies. (32)

↳ Article 19 :-

## The 6 Golden Freedoms:

- 19 (a) Freedom of speech & Expression
- (b) Freedom of assembly
- (c) Freedom to form associations (unions)  
Co-operative societies.
- (d) freedom of movement
- (e) Freedom of reside & to settle.
- (f) \*\*\*
- (g) Freedom of profession, occupation, trade  
or business.

↳

### (a) Freedom of speech :-

1) It is the matrix, the indispensable condition of nearly every other form of freedom. It is the well spring of civilization and without it liberty of thought would shrivel. Public decency and morality and thus is outside the purview of the protection of free speech and expression and thus a balance should be maintained between freedom of speech and expression and public decency and morality.

2) But, it is not absolute and can be subjected to reasonable restrictions on grounds such as decency and morality.

## Article 21:-

21 A - Protection of life and personal liberty.

↳ No person shall be deprived of his life or personal liberty except according to the procedure established by law.

↳ The right to live a free, full and dignified life is one of the most basic principles of human existence. Every person is entitled to live their life on their own terms, with no unfair interference from others. A successful democracy can only be one that guarantees its citizens the right to protect their own life and liberty.

↳ The meaning of personal liberty of a citizen in India has evolved and its scope has widened. Prior to the Maneka Gandhi case, it had a relatively narrow scope, comprising only some liberties of a person.

↳ A. K. Gopalan v.s. State of Madras Case - 1950

↳ Honorable Supreme court stated that : personal liberty meant liberty of a physical body and thus did not include the rights given under Article 19 (1). Hence, Personal liberty was considered to include some rights like the right to sleep and eat, etc. while the right to move freely was relatively minor and was not included in one's 'personal' liberty.

## \* Features of I.C. :-

- 1) A comprehensive Document.
- 2) Modern Constitution
- 3) Parliamentary form of Govt.
- 4) Unique blend of rigidity & flexibility
- 5) Federation with strong centre.
- 6) Fund. Rights.
- 7) D PSP
- 8) F. Duties.
- 9) Distribution of legislative powers.
- 10) Uniformity in all basic matters.
- 11) Independent Judiciary
- 12) Amending process.
- 13) Emergency provisions.
- 14) Adult suffrage.
- 15) Preventive Detention.
- 16) Single Citizenship
- 17) Independent Agencies.

# @ Constitution Before Independence

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## ► A] Regulating Act of 1773 :-

- 1) Shah Alam granted diwani to britishers in 1765
- ② As a result of Diwani the company became responsible for the administration of "civil justice" and collection of land revenue.
- ③ But EIC kept civil things for Indians and appointed '2' officers to look after that.
- ④ After Diwani; the small workers where using it for personal use;  
As a result; workers became rich and company felt to bank kurupcy.
- ⑤ For the administration, England government appointed a secret committee in 1772.
- ⑥ The suggestions which were given by that committee is implemented by E.G. For which they granted "Regulating Act of 1773".

## ⑦ Some Amidments of R.A. - 1773:-

- ① '4' members committee was appointed and sent to India as a suggesting and observing body to E.I.C.
- ② Trade of Enr.I.C. was responsible for a new post name 'Governer - General' and 4 committee members ,and they where here to the court of Directors in England.
- ③ Legislative powers were given to governer general and his council.
- \* ④ Established supreme Court at Calcutta - 1774

b) The Act of Settlement - 1781 - To remove the defects of  
regulating act - 1773 :-

c) The Pits Act; 1784

d) The charter Act - 1813 - The Indian trade was thrown open to all Britishers  
 ↗ - 1833 -  
 ↗ - 1853 - Separated legislative machinery from executive.

I] (E) The Government of India Act, 1858 :-

↳ The objective of Pits act which introduced to double Government failed.

② This act passed the Government of India to English crown from E.I.C.

③ Crown assigned a 15 member's council named 'Council of India'

↳ It was an advisory body.

④ The transformation of company's government to British Crown was announced as 'Royal Proclamation'.

₹ (राजीव जाहिरगामी)

II] (G) The council Act of 1861 :-

↳ -

① Indians were associated with the work of legislation for the first time:

H) The Indian Council Act of 1892:-

J) Morley- Minto reforms - 1909

\* k] The Government of India Act, 1919  
 [Montague - Chelmsford] -

↳ ① First time, English government announced that they will try to increase the half of Indians in their legislative, political and in all terms.

- ② It promised a responsible Government to Indians.
- ③ "Dyarchy" system was announced (introduced) in the Provinces.

it means that : legislative subjects were divided into central & Provincial.

↳ For outcome and results of this act, a commission was to be appointed to investigate after 10 years.

↳ In 1927, Simon Commission was appointed for the same.

↳ They suggested "Round Table Conference"

→ The result of it is  
 The Gov. of Ind. Act-1935

\* The Government of India Act - 1935 :-

- 321 - Articles
- 10 - schedules

↳ ① All India Federation.

② Federal Legislative :-

③ Upper House - Council of States - (शास्त्रसभा)

④ Lower House - The Legislative Assembly - (लोकसभा)

⑤ Provincial Legislative :-

- Two Houses at state:- ① Bombay ② Bengal ③ Madras  
 ④ Bihar ⑤ Assam

- Other '5' was unicameral.

## ④ Distribution of legislative Power:-

- ⇒  Federal List.
- Provincial List.
- Concurrent List.

## ⑤ Federal Court - 1+6 (structure)

### ⇒ Crips Mission :- (1942)

#### • Suggestions:-

- 1) Immediately after the war, steps shall be taken to setup in India an elected body of framing a new Constitution of India.
- 2) Provision shall be made, as set out below for participation of Indian states in constitution-making body.

### ⇒ Cabinet Mission :- (1946)

- 1) Only certain reserved subjects for state, rest should be given to the state.
- 2) The paramountcy of Crown was to lapse.
- \* 3) For a purpose of framing a new constitution a Constituent Assembly was to be elected.
- 4) An interim Government was to be set up having the support of major political parties.

→ These suggestions were accepted - 1946-elections took place.

## The Indian Independence Act, 1947 :-

- ① Creation of two independent dominions.  
A) India P) Pakistan.
- ② Each Dominion was to have - Governor-General.
- ③ After, 15-8-1947; the British Gov was not to control the Dominion.
- ④ Till constitution were frame; Dominions were to be governed by - Act - 1935

### ★ Dyarchy :- in the Provinces :-

↳ Responsible government in the provinces was sought to be introduced, without impairing the responsibility of the governor for administration of the province, by resorting to device known as 'Dyarchy' or dual government.

- 2) The subject of administration was devolved into two categories. - ① Central ② Provincial.
- 3) The provincial subjects were sub-devolved into 'transferred' & 'reserved' subjects.
- 4) The transferred subjects were to be administered by the governor with the aid of ministers responsible for (to) legislative council.
- 5) The 'reserved subjects' were to be administered by governor and its executive council without any responsibility to the legislature.

## CD Features

### CD Features of Indian Constitution :-

- 1) The lengthiest constitution in the world.
- 2) Parliamentary form of Government.
- 3) Unique blend of rigidity & flexibility.
- 4) Clearly mentioned fundamental rights.
- 5) A Federation with strong centralising tendency.
- 6) Adult Suffrage
- 7) An Independent Judiciary
- 8) A secular State.
- 9) Single Citizenship
- 10) Judicial Review.

### CD

The six freedoms in Article -19

- 19 (a) i) Freedom of speech & Expression
- (b) ii) Freedom of Assembly
- (c) iii) Freedom to form Association / Unions / co-operative societies
- (d) iv) Freedom of movement
- (e) v) Freedom of reside & to settle
- (f) vi) Freedom of profession, occupation, trade or business.