

## **Polity Class 07**

**26th May, 2023 at 9:00 AM**

### **EQUALITY OF STATUS AND OPPORTUNITY: (9:11:59 AM):**

- Another important objective of the Constitution is to ensure equality.
- It can be understood in 2 dimensions:
- **Equality of status:**
- This is natural equality between all the persons as equal and free citizens of India.
- **Equality of opportunity:**
- This means that people should not only be treated equally but should also be given a level playing field to improve their status.
- Some examples of this principle in the Indian constitution include articles 14, 15, and 29, etc.

### **LIBERTY OF THOUGHT AND EXPRESSION:**

- Liberty refers to freedom with a certain degree of restraint.
- These are important to protect everyone's liberty.
- Also means that these restraints on freedom should not be arbitrary in nature.
- Also means that every individual should have an opportunity to grow to the maximum possible extent.
- The Constitution promises liberty of thought and expression which is the cornerstone of any democratic society.
- Ex- Art 19(1)(A)- Provides freedom of speech and expression but in a limited manner.
- The Constitution also guarantees liberty of faith, belief, and worship allowing individuals to choose beliefs and practices according to their wishes.
- Ex- Articles 25 and 26.

### **FRATERNITY: (9:46:01 AM):**

- We all are belonging to the same family.
- Oneness and the spirit of brotherhood.
- Promoting a common feeling of belonging to one nation.
- According to the constitution, all Indian citizens should try and coexist peacefully.
- People should place their identity as an Indian over and above their religious, linguistic, and community-based identity.
- There is no explicit provision in the original constitution that highlights this aspect but it is present in the spirit of the constitution.

- According to Dr. Ambedkar, without fraternity, liberty, and equality would be useless as it would always require an external constable to enforce order in the society.

#### **DIGNITY:**

- Refers to the inherent respect that a person deserves.
- Dignity was a supreme value in our freedom struggle, the entire freedom movement was aimed at ending the second-rate treatment given to the Indians by the British.
- The constitution accords basic dignity to all the citizens which can be seen in articles 17 and 23.

#### **UNITY AND INTEGRITY OF NATION:**

- To protect all the above values maintaining the unity and integrity of the nation is crucial.
- This is because all the rights are granted and guaranteed only because the nation exists.
- It is one of the main themes of the Constitution to protect the integrity of the nation because the individual exists because of the nation and vice-versa.
- The issue was significant for our founding fathers who were tasked with keeping a nascent nation united.
- The word integrity was added in the preamble along with socialist and secular through the 42nd CAA, 1976.

#### **WHETHER THE PREAMBLE IS A PART OF THE CONSTITUTION OF INDIA: (10:28:59 AM):**

- In Re: Berubari Union case, a Constitutional bench of Supreme Court held that Preamble is not a part of the constitution of India and hence, cannot be amended as per the procedure prescribed in article 368.
- Since there is no other provision especially mentioned for the amendment of the preamble, it is unamendable.
- In the Keshavananda Bharti vs State of Kerala case, 1973, the Supreme Court overturned its previous opinion.
- It held that preamble is the part of the constitution as it has been adopted in the same manner as any other provision of the constitution.
- Therefore, it can be amended in the same manner as any other provision according to Article 368.
- As a result, the Parliament 1976 amended the preamble via the 42nd CAA, 1976.
- The court also stated that any such amendment of the constitution must not alter the basic structure of the constitution.

- **Legal Enforceability of the Preamble:**

- The legal enforceability of a text means that one can approach the court to seek its enforcement in case it is not followed.
- For example- Casual written or unwritten statements among friends or family cannot be taken to court if that statement is not fulfilled.
- The supreme court in the Keshavananda Bharati case stated that the preamble is not legally enforceable on its own.
- The court stated that it may be of considerable utility in understanding the meaning of ambiguous provisions of the Constitution.
- It may also be used to decide the constitutional validity of the law as it is key to the minds of the makers of the constitution and one may unlock the true spirit behind the provisions of the constitution by analyzing the preamble.
- Hence, the preamble has a legal value when read along with the other provisions of the Constitution.

**INTRODUCTION TO THE INDIAN CONSTITUTION: (11:18:39 AM):**

- In Indian Constitution, there are 395 articles.
- It consists of clauses and subclauses.
- There are 22 parts which are divided into chapters and chapters are divided into articles.
- Part I-Union and its Territory-Articles 1-4.
- Part II- Citizenship- Articles 5-11.
- Part III-Fundamental Rights -Articles 12-35.
- Part IV-Directive Principles of State Policy- Articles 36-51 -Non-enforceable.
- Part V-Union:
- Chapter I-Union executive -Articles 52-78.
- Chapter II-Union Legislature-Articles 79-122.
- Chapter III- Ordinance Making power-Articles 123.
- Chapter IV-Union Judiciary-Articles 124-147.
- Chapter V-Comptroller Auditor of India-Articles 148-151.
- Part- VI -State.
- Part VIII-Union Territories.
- Part IX -Panchayats:
- Part IXA -Municipalities.
- Part IXB- Co-operative societies.

## **SCHEDULES OF THE INDIAN CONSTITUTION: (11:55:23 AM):**

- The constitution makers originally included 8 schedules in the Indian constitutions.
- They carry additional information related to the constitution which is not a part of the main body of the constitution.
- This schedule serves two objectives:
  - To reduce the bulk of the main body of the constitution.
  - To provide flexibility to the parliament as some of the provisions can be amended by the Parliament with a simple majority.
- **Schedules of the Indian Constitution:**
  - First Schedule - Name of States and Union Territories along with their territories.
  - Second Schedule - Allowances, privileges, and emoluments.
  - Third Schedule - Oath and Affirmation.
  - Fourth Schedule - Allocation of seats for States and Union Territories in the Rajya Sabha.
  - Fifth Schedule - Relation to the administration and control of scheduled areas and scheduled tribes.
  - Sixth Schedule - Relation to the administration of tribal areas in the states of Assam, Meghalaya, Tripura, and Mizoram.
  - Seventh Schedule - This schedule deals with the three legislative lists: Union, State, and Concurrent.
  - Eighth Schedule - 22 official languages are recognized by Indian Constitutions.
  - Ninth Schedule - State acts and regulations deal with land reforms and the abolition of the Zamindari system.
  - Tenth Schedule - Anti-Defection law--52nd CAA, 1985.
  - Eleventh Schedule - Functions can be performed by Panchayats.--73rd CAA, 1992.
  - Twelfth Schedule - Functions can be performed by Municipalities--74th CAA, 1992.
  - Concepts related to total membership, maximum membership, and effective membership.

**The topic for the next class-Majorities used in the Parliament.**