

UNIT1

CHAPTER3

PREAMBLE

An introductory statement in speech or writing to a statute or constitution is called as 'Preamble'; Every written constitution has a preamble. It embodies the objectives or basic purposes of it. It states the object or policy which it is designed to achieve. The preamble of Indian constitution was an opportunity for the framers of the constitution to give expressions to the dreams of a new order they were dreaming for years. Naturally they draw up a preamble, which embodies the fundamental principles of that new order.

The first meeting of the Constituent Assembly, was held on December 09, 1946, had taken the task of formulating the objectives and guiding principles of the constitution. The "objectives resolution" moved by Jawahar Lal Nehru on December 13, 1946, was adopted by the Constituent Assembly on January 22, 1947 and has been appreciated as the nature of the preamble of the Indian Constitution. The Drafting Committee of the Constituent Assembly while formulating the 'preamble' in the light of the 'objectives resolution' felt that the preamble restricted to defining the essential features of the new state. The Committee adopted the expression 'Sovereign Democratic Republic', in place of 'Sovereign Independent Republic', as used in the "objective resolution". The Committee also adopted the clause 'fraternity' which did not see in the 'objectives resolution'. By 42nd constitutional amendment Act of 1976, two amendments were made in the original preamble and the preamble after it, now reads as follows:

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute 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 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 day of November, 1949, do
HEREBY;**

**ADOPT ENACT AND GIVE TO OURSELVES THIS
CONSTITUTION".**

Reading through the preamble, one can see the purposes that it serves. They are the declaration of (i) the source of the constitution (2) types of govt. (3) objection of the political system and (4) the date of its adoption.

- (i) **Source of the constitution:** The opening words “We the people of India” and the closing words, ‘adopt enact and give to ourselves this constitution’ convey that the constitution emanated from the ‘people’ and the sovereignty under the constitution is vested in the people. Most of the modern constitutions emphasis the same principles.

Types of Government: The polity (Type of government) enacted adopted and assumed in the preamble by the people of India themselves, is ‘Sovereign Socialist, Secular Democratic, Republic’. The words ‘socialist’ and ‘secular’ were added in the preamble by 42nd amendment of the constitution.

The expression ‘sovereign’ signifies that the Republic is externally sovereign. By the passing of the ‘Indian Independence Act, 1947’ India ceased to be a dependent of British Empire and from 15th August 1947 to 26 the January 1950, it remained with a ‘dominion status’ in the British commonwealth of nations. But, with the inauguration of the Indian constitution. On 26th January 1950, India became ‘a Sovereign Republic’ However, India is still a member of common wealth of nations. This voluntary membership of India in the commonwealth indicates a free association with no legal obligation.

The concepts of socialism was implicit in the constitution in a number of provisions in Part IV dealing with Directive Principles of State Policy (Eg. Art. 38,39,40&41) Articles 14, 15 16 and 25 to 28 are intended to ensure the establishment and maintenance of ‘secular’ state in India. In order to explicit these concepts in the preamble itself, the 42nd amendment (1976) added the words ‘Socialist, Secular’ in it.

The word “socialist” added in the preamble is intended to bring out that ours is a socialist state which aims to secure to its people ‘justice’ – social economic and political. Its inclusion in the preamble was objected on the ground that it is a vague expression and mean different things to different persons. The term ‘socialism’ was defined by Janatha Government in the 45th constitutional amendment bill; but the bill was defeated in Rajya Sabha and hence the expression ‘socialism’ still remains undefined.

The word ‘secular’ has also been added in the preamble by the 42nd amendment of 1976. It gives the idea that India shall have no religion of its own and all persons shall be equally entitled to profess, practice and propagate religion. Its omission in the original preamble was deliberate, because Prof. K.T Shah made two attempts for that by suggesting amendments but, every time he was opposed. Dr. B.R. Ambedkar thought that the principles of ‘secularism’ are already enshrined in the chapter on Fundamental Rights.

The term ‘Democratic’ is comprehensive. In a narrow political sense, it refers only to the form of government, a representative and responsible system. The

administrators of the affairs of the state are chosen by the electorate and accountable to them. But in the broadest sense, it embraces, social and economic democracy.

The term 'Republic' implies an elected head of the state. A democratic state may have an elected or hereditary head. Britain has a hereditary head (The king/Queen). Under a republican form, the head of the state, is always elected for a prescribed period. In USA, the President, is the head and elected for a term of four years. India has chosen the system of electing one of its citizen as its President, for a term of five years

Objectives:

The preamble proceeds further to define the objectives of the Republic. These Objectives are four: Justice, Liberty, Equality and Fraternity.

Justice implies a “harmonious reconciliation of individual conducts with the general welfare of the society” The essence of justice is the attainment of the common good. It embraces the entire social, economic and political spheres of human activity.

The term ‘liberty’ is used in the Preamble not merely in a negative but also in a positive sense. It signifies not only the absence of any arbitrary restraint on the freedom of the individual action, but also the creation of conditions for the fullest development of the personality of the individual. Since society is constituted of individuals, social progress depends on the progress of the individual.

‘Equality’ is complementary to ‘Liberty’. Equality does not mean that all human beings are equal mentally and physically. It really signified the equality of status, the status of free individuals and equality of opportunity. Equality of opportunity implies the availability of opportunity to everyone to develop his or her potential capacities. The concept of ‘equality’ envisaged in the Preamble as it embraces both equality of status and of opportunity.

Finally, the Preamble signifies the objective of ‘Fraternity’. The concept of fraternity ensures both the dignity of the individual and the unity and integrity of the nation. The spirit of brotherhood among citizens was first emphasized by the French revolution and ever since, it has become a slogan of universal application. In the declaration of Human Rights, the UNO proclaims “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”. This spirit of brotherhood is emphasized by the use of term ‘fraternity’ in the Preamble

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4) Date of Adoption.

The last part of the Preamble mentions the date i.e., 26th November 1949, on which the Constituent Assembly adopted, enacted and gave this constitution to the nation. The constitution came to force, only on 26th January, 1950.

The preamble of the constitution of India is one of the best of its kind ever drafted. One of the members of the Constituent Assembly rose to poetic heights, when he commended, “The Preamble is the most precious part of the constitution. It is the soul of the constitution. It is a key to the constitution.” In *Kesavananda Bharati Vs , State of Kerala* case (1973), majority of Supreme

Court Judges referred Constituent Assembly debates and held that the Preamble was part of the constitution and contained its basic structure