

## THE PREAMBLE

### INTRODUCTION

**T**he term Preamble means the introduction to the Statute. It is the introductory part of the Constitution. It is Customary on the part of a written Constitution to have a Preamble but not mandatory. The Preamble is regarded as a prelude to Constitution. It also contains the philosophy of the Constitution. The object of attaching a Preamble to a Statute is to explain certain facts which are necessary to be explained before the enactments contained in it can be understood. The framers of the Constitution gave to the Preamble *the pride of place*. The preamble was finalized by the Constituent Assembly in the last. The object was to see that it was in conformity with the Constitution as accepted by the Assembly. The Preamble to the Indian Constitution deals with the aims and objectives, the targets and ideals; and the basis and foundations of the Indian Constitution. The Preamble is directly related to the **Objective Resolution** passed by the Constituent Assembly on January 22, 1947. Some of the important provisions of the Resolution were as follows:

- (i) This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for the future governance a Constitution;
- (ii) Wherein all power and authority of the Sovereign Independent India, its constituent parts and organs of government are derived from the people;
- (iii) Wherein shall be guaranteed and secured to all the people of India justice – social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and actions, subject to law and public morality, and
- (iv) Wherein adequate safeguards shall be provided for minorities; backward and

tribal areas, and depressed and other classes.

B.N Rau, the Constitutional/legal advisor to the Constituent Assembly, prepared a draft of the Preamble based on this Resolution. The Drafting Committee considered this draft and after making some changes adopted it at the stages of the working of the Constituent Assembly so that it was in conformity with the Constitutional provisions. The Preamble states that

“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 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 day of November, 1949, do  
hereby Adopt, Enact and Give to Ourselves this Constitution”.

### PURPOSE OF THE PREAMBLE

- (1) It shows that the ultimate power lies with the people of India. The preamble starts with the words-“We the people of India”. Thus, it tries to establish that the Constitution of India is not an imposition upon the people of India by an alien power but it has been created by the people of India themselves through their representatives.
- (2) It contains a noble and grand vision kept before the people of India framers of the



Constitution. The spirit or the ideology behind the Constitution is sufficiently crystallized in the Preamble. It embodies the great purposes, objectives and the policy underlying the provisions of the Constitution. It expresses what we had thought or dreamt for so long. It embodies in a solemn form all the ideals and aspirations for which the nation had struggled during the British regime.

- (3) It contains the enacting clause i.e. the date, on which the Constitution was adopted i.e., 26<sup>th</sup> November, 1949.

### IS PREAMBLE A PART OF THE CONSTITUTION?

In an ordinary Statute, not much importance is given to the Preamble attached to it and it is not recognized as a part of the Statute. It may be because the Preamble is not enacted and adopted by the legislature in the same manner as the enacting part of the Statute. But all importance has to be attached to the Preamble when given with a Constitution. Dr. D.D. Basu holds that the view that "a statute must be read as a whole and a Preamble is as much a part of the statute as its enacting part."

The proceedings in the Constituent Assembly make it clear that the Preamble to our Constitution was adopted and enacted in the same manner as the rest of the Constitution. The Preamble was put to vote in the Constituent Assembly by a motion which stated that the "Preamble stands part of the Constitution" and the motion was adopted. It appears that this fact was not brought to the notice of the Supreme Court in *Re Berubari Union* case, wherein the Supreme Court had held that the preamble was not a part of the Constitution and therefore it could never be regarded as a source of any substantive powers conferred on government under the provisions of the Constitution. Later, when the history of the drafting and the ultimate adoption of Preamble were brought to the notice of the Supreme Court in *Keshavanand Bharti* case, the court laid down that the Preamble to the Indian Constitution was an integral part of the Constitution.

Thus, after the observation of the Supreme Court in this case, there remains no doubt that the Preamble to the Indian Constitution is a part of the Constitution.

### WHETHER THE PREAMBLE CAN BE AMENDED?

It was contended in *Keshavanand Bharti* case that the Preamble though a part of the Constitution, but was not a provision of the Constitution and, therefore, it could not be amended by the Parliament under Article 368. Rejecting the contention the court held that being a part of the Constitution, the Preamble was not outside the reach of the amending power of the Parliament under Article 368. It was in the exercise of this amending power that the **Constitution (42<sup>nd</sup> Amendment) Act, 1976** amended the preamble inserting therein the terms '*Socialist*', '*Secular*', and '*integrity*'.

### PHILOSOPHY OF THE CONSTITUTION

Every Constitution has a philosophy of its own. The fundamental values and the philosophy on which the Constitution is based and the aims and objectives which the founding fathers enjoined the polity to strive to achieve have been embodied in the Preamble of the Constitution. The Preamble of our Constitution as adopted by the Constituent Assembly spoke of "*We the people of India*" making a solemn resolve to constitute India into a Sovereign Democratic, Republic Securing for all its citizens—justice, liberty and equality and promoting among them all fraternity.

The Indian Constitution does not have any elaborate provision in regard to the vesting of sovereign powers. The only place from where the residence of sovereignty and the source of the Constitution can be ascertained is the Preamble. The sovereignty belonged to the whole people of India and not to those of separate states. The founding fathers sought to clarify for all times that all the organs and functionaries of the Union and the States draw their powers only from the people of India. Sovereignty means the independent authority of a state. It means that it has the power to administer internally and to legislate on any subject without the interference of any other state or external power.

The framers of the Constitution did not want the Constitution to be wedded to any particular political ideology or to be limited by any economic doctrine. They did not, therefore, agree to include any reference to the idea of socialism. The word



"Socialist", was introduced by the Constitution (42<sup>nd</sup> Amendment) Act, 1976. However, the term "Socialist" has not been defined by the Constitution. Indian brand of socialism is termed as *democratic socialism* or *Fabian socialism*. India strives to achieve a socialistic pattern of society by democratic means i.e. through Parliamentary laws. Socialism meant elimination of inequality in income and status and standard of living. This is mentioned in Article 39(b) and 39(c) of the Constitution. Article 39(b) says that ownership and control of the material resources of the community are so distributed as best to subserve the common good. Article 39(c) says that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment. These are two most important provisions explaining socialistic goals as provided in the Directive Principles of State Policy.

Secularism means religious neutralism on the part of the State. A secular state deals with the individual as a citizen irrespective of his religion, is not connected to a particular religion nor does it seek to promote or interfere with religion. In India, it is an essential characteristic of the State. The original text of the Preamble as adopted by the Constituent Assembly did not contain the word 'secular'. It was added by the 42<sup>nd</sup> Constitutional (Amendment) Act, 1976. The meaning sought to be given to the term has been that of treating all religions alike giving respect to all religions. It means that India as a state recognizes all religions to coexist on the soil of India. Secularism means religious neutralism on the part of the state. It means respect for diversity based on religion. Secularism thus recognizes the pluralism of religion which is so important to attain the goal of fraternity. In view of the distinct socio-cultural background the state can give equal assistance to all the religions e.g., the Indian government provides assistance to Haj Pilgrims and also to the Hindu Pilgrims who go to Mansarovar without any discrimination. Secularism has a legal basis also. The Constitution states that the state shall not discriminate on the basis of religion in matters of public-employment and equality of status. The Indian Constitution in its part III incorporates detailed provisions for the right to freedom of religion of individuals

under Articles 25 to 28. Also, Article 326 guarantees to all citizens irrespective of his or her religion right to vote.

Democratic form of government is one of the basic features of our Constitution. This cannot be altered even by an amendment of the Constitution. Democracy means government by the people and it is opposed to monarchy or dictatorship which was autocratic rule by one or few. We have adopted representative democracy or indirect democracy. The democratic element is manifested in Article 326 of the Constitution which provides for Universal Adult Franchise.

The concept of "republic" depicts the presence of an elected head of the State and not a hereditary monarch. The head of the Union is a President who is elected for a fixed tenure by an electoral college of the representatives of the people.

The Preamble promises justice to all citizens. Justice has been given a superior place the other principles of liberty, equality and fraternity. Justice is further defined as social, economic and political. Social justice implies that all citizens are treated equally irrespective of their status in society. The aim of social justice has to be achieved through article 15(right against discrimination), article 16(equality of opportunity in public employment), and article 17(prohibition of untouchability), and article 18(abolition of titles to prevent social distinction). In pursuance of the objective of economic justice, article 39 directs the State to try to secure that the citizens have an adequate means of livelihood, the ownership and control of the material resources of the community are so distributed so as to subserve the common good, that operation of the economic system does not result in concentration of wealth and means of production to the common detriment, that there is equal pay for equal work for both men and women etc. Political justice means equal share to all citizens in the political process of the country. Article 19 (1) (a) provides for freedom of speech and expression to all the citizens. Article 326 provides for universal adult franchise. In this regard, it is important to note that political justice is meaningless without social and economic justice.

Democracy cannot be established unless certain minimal rights are assured to every member of the society. The Preamble mentions these individual



rights as liberty of thought, expression, belief, faith and worship, and these are guaranteed against all the authorities of the state by Part III of the Constitution (vide articles 19, 25-28).

The guarantee of rights to the individuals would be meaningless unless all inequalities are removed from the society and each individual is assured of equality of status and opportunity.

Unity among the inhabitants of this great nation was the first requisite for maintaining the independence of the country as well as to make the democratic experiment. The ideal of unity has been buttressed by adding the words '*and integrity*' of the nation, in the Preamble by 42<sup>nd</sup> Constitutional (Amendment) Act, 1976.

The fraternity cherished by the framers of the Constitution will be achieved not only by abolishing untouchability amongst the different sects of the same community, but by abolishing all communal or sectional or even regional anti-social feelings which stand in the way of the unity of India.

Fraternity, however, cannot be established unless

the dignity of each of its members is maintained. The Preamble states that the State in India, will assure the dignity of the individual. The Constitution seeks to achieve this objective by guaranteeing equal Fundamental Rights to each individual and a number of directives have been included in Part IV of the Constitution.

An analysis of the various concepts and terms in the Preamble shows that the Preamble contains a noble and grand vision kept before them by the framers of the Constitution. In the words of Sir Alladi Krishnaswami, it expresses "*what we had thought or dreamt for so long.*" It embodies in a solemn form all the ideals and aspirations for which the country had struggled during the British regime. It explains the fundamentals underlying the structure of the Constitution. The noble words of our Preamble represent the philosophy of our entire Constitution. No wonder that the Supreme Court in the Keshavanand Bharti case observed that the objectives specified in the preamble contained the basic structure of the Constitution which could not be altered even by an Amendment of the Constitution.

