

TOPIC –I

THE PREAMBLE

ASPECT –I

The preamble embodies in a solemn form all the ideals and aspirations for which the country had struggled during the British regime. The constitution makers gave to the Preamble “the place of pride”. In the *Berubari* case, the Supreme Court has said that the Preamble to the Constitution is a key to open the mind of the makers, and shows the general purpose for which they made the several provisions in the Constitution.

The Preamble to the Constitution of India

The Preamble verbatim in its present form is 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 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”.

ASPECT -I

NATURE OF PREAMBLE

Preamble is inoperative part of constitution as it can't be enforced in court of law, and is non-justiciable in nature. It can't override and express provision of constitution. It confers neither substantive power nor limits the power executive, legislature and judiciary. They derive their powers from respective provisions of constitution. Hence, it has limited role to play. According to Supreme Court, if any provision is capable of two or more interpretations, help of preamble may be taken by courts. In such cases, that interpretation which tallies with preamble may be given effect by court.

THE PURPOSE OF THE PREAMBLE

The Preamble serves the following purposes:

- a) It indicates the source from which the Constitution comes, viz., the people of India.
- b) It contains the enacting clause which brings into force the Constitution.
- c) It declares the great rights and freedoms which the people of India intended to secure to all citizens and the basic type of government and polity which was to be established.

ASPECT –II

INTRODUCTION

- The preamble is the most precious part of the constitution. It is the **heart and soul of the constitution**. It is a key to the constitution, it contains the **political, moral and religious values** which the makers of constitution intended to promote.
- It embodies the **spirit of the constitution**, the determination of the Indian people to unite in a common venture of building up a new and independent nation which will ensure the triumph of justice, liberty, equality and fraternity. It outlines the essential ideas of the constitution.

INSIGHT GENERAL STUDIES

- The Preamble is a unique part of the constitution in the sense that it represents the entire constitution in its written words and the spirit.
- The **Preamble contains the basic features** of the constitution. It is a vital part of the constitution as it enables one to understand the constitution.
- The preamble of the constitution is extremely crucial element of our body politic. It does not make any grant of power but it gives a direction and purpose to the constitution which is reflected in part III and IV. A comparison of the preamble with the broad features of the constitution makes it clear that the preamble is an epitome of those features or to put it differently these features are an amplification or concretisation of the concepts set out in the Preamble.
- The history of the making of the constitution with special reference to the Preamble was considered in Kesavananda Bharti case and the opinion was generally unanimous that the preamble is a part of the constitution.
- In the Kesavananda Bharti case great emphasis was laid on the Preamble in reaching the conclusions that the power of amendment conferred by Article 368 was limited and did not enable Parliament to alter the basic structure or the framework of the constitution. It was observed that Preamble of our constitution is of extreme importance and the constitution should be read and interpreted in the light of the grand and noble vision expressed in the Preamble. Thus today **the Preamble is a part of the Constitution**.
- The decisions of the Supreme Court also show that the court is now inclined to take a larger cognizance of the Preamble as setting forth the goal of our political society, so that it may be invoked to determine the ambit of Fundamental Rights and Directives, because it is the ideals of socialism, secularism and democracy which are elaborated by the enacting provisions.
- By section 2 of the constitution (42nd amendment) Act, 1976 two amendments were made in Preamble. First for the words **Sovereign Democratic Republic** the words **Sovereign Socialist Secular Democratic Republic** were substituted and secondly for the words **Unity of the Nation** the words **Unity and Integrity of the Nation** were substituted.

ASPECT –III

INTERPRETATION OF THE WORDS & PHILOSOPHY OF THE PREAMBLE

- The term '**democratic**' is comprehensive. In a narrow political sense it refers only to the form of government, a representative and a responsible system under which those who administer the affairs of the state are chosen by the electorate and are accountable to them. But in its broadest sense, it embraces, in addition to political democracy, social and economic democracy. The term democratic is used in this sense in the Preamble.
- The '**Republic**' implies an elected head of the state. A democratic state may have an elected or a hereditary head. Great Britain is perhaps the best example of the latter type. There, the monarch, a hereditary ruler, is no hindrance to democratic government as the real power of the state is in the hands of the representatives of the electorate. Under a republication form, on the contrary, the head of the state, single or collective, is always elected for a prescribed period. For example, in the United States of America, the head of the state and chief executive, the President is elected for a fixed period of four years. In Switzerland, on the other hand, a collection of seven members is elected for a period of seven years to constitute the executive. To become a republic, India has chosen the system of electing one of its citizens as its President—the head of the state at regular intervals.
- According to the Preamble, the objectives of the state system are four in number; **Justice, Liberty, Equality and Fraternity**. Justice implies a "harmonious reconciliation of individual conduct with the

INSIGHT GENERAL STUDIES

general welfare of society". The essence of justice is the attainment of the common good. It embraces the entire social, economic and political spheres of human activity. Justice implies a general welfare of society.

- 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 individual action but also the creation of conditions which provide the essential ingredients necessary for the fullest development of the personality of the individual. Since society is constituted by individual, social progress depends on the progress of the individual. Hence it is in the interest of society to ensure the maximum liberty of thought and action to the individual commensurate with social conditions and circumstances.
- **Liberty and equality** are complementary to each other. Equality does not mean that all human beings are equal mentally and physically. It signifies equality of status, the status of free individuals, and equality of opportunity. As the French Revolutionaries proclaimed "Men are born and remain free and equal in rights. Social distinctions are based only upon public utility". Equality of opportunity implies the availability of opportunity to everyone to develop his or her potential capacities. The concept of equality that is envisaged in the Preamble embraces both equality of status and of opportunity, is widest in scope.
- Finally, the Preamble emphasises on the objective of "**fraternity**" in order to ensure both the dignity of the individual and the unity and integrity of the nation. It is this spirit of brotherhood that is emphasized by the use of the term "fraternity" in the Preamble. The necessity of spirit of brotherhood among the citizens was first emphasized by the French Revolution which adopted it along with liberty and equality as the foundation of the new social order that it aimed to establish. Even since, it has become a slogan of universal application. In its declaration of human rights the United Nations 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".
- In a country like India with many disruptive social forces; communal and caste, sectional and denominational, local and regional linguistic and cultural divisions, the unity and integrity of nation can be preserved only through a spirit of brotherhood that pervades the entire country among all its citizens irrespective of their differences. Through the establishment of a new nation based upon justice, liberty and equality, all must feel that they are the children of the same soil, of the same motherhood and members of the same fraternity.
- The concept of **secularism** and that of **socialism** were very much part of the constitution even before the 42nd Constitutional Amendment Act, 1976 in the original text, albeit in an indirect form. The essence of secularism was that no particular religion would receive any state patronage whatsoever. The state was not going to establish, patronise or endow any particular religion to the exclusion of or in preference to others. Also, no citizen would receive any preferential treatment from the state and its agencies. Nor would he be discriminated against simply on the ground that he professes a particular form of religion. In other words, in the affairs of the State the profession of any particular religion will not be taken into consideration at all. Nevertheless, the Parliament thought that it should be explicitly stated at a prominent place in the constitution and hence it was included in the preamble.
- The same is the case with **socialism**. The entire chapter on Directive Principles of State Policy embodies the basic concepts of socialism. In 1955, the Parliament adopted a full-fledged resolution on the objective of establishing a socialistic pattern of society in the country, thus making it an integral part of public policy. Yet in 1976, it was thought necessary to go a step further and include

INSIGHT GENERAL STUDIES

in the preamble, socialism, along with secularism, perhaps to remove any vagueness or to make it abundantly clear and explicit.

- **The philosophy of the constitution is based on the following foundations :**
 - (a) A sovereign, secular, socialist, democracy.
 - (b) Establishment of justice; social, economic and political.
 - (c) Ensuring Liberty of thought, expression, belief, faith and worship.
 - (d) Securing Equality of status and of opportunity.
 - (e) Promoting Fraternity assuring the dignity of the individual and the unity and integrity of the nation.
 - (f) Endeavouring to secure the promotion of international peace and security and maintenance of just and honourable relations between nations.

ASPECT –IV

NATURE OF THE INDIAN STATE AS ENSHRINED IN THE PREAMBLE

A Sovereign State

- The Preamble declares India to be a sovereign State. It implies that our country is no longer a part of the British Empire. The words, "We, the people of India adopt, enact and give to ourselves this Constitution", declare that the people of India are the ultimate sovereign. The Dominion Status conferred upon India under the Indian Independence Act, 1947 was terminated with the promulgation of the Constitution and India became a sovereign Republic.
- India is sovereign in the sense that she is the master of her own destiny and can chalk out an independent foreign policy without being dictated to by any outside power. The sovereignty of India, both in internal and external matters, is a tangible reality to all intents and purposes. No foreign power is allowed to interfere in the internal affairs of the country. India's membership of the Commonwealth of Nations of which the Queen of England is a symbolic head does not infringe upon her sovereignty. India chose to be a member of the Commonwealth of Nations voluntarily without accepting any formal or informal domination of the British Crown. In the words of Pandit Nehru, "It is an agreement by free will to be terminated by free will."

Socialist State

- The inclusion of the word socialist in the Constitution implies that the State policies should aim at achieving social, political and economic equality in the country. India's socialism is, however, a democratic socialism and not a 'communistic socialism'. This is a blend of Marxism and Gandhism leaning heavily towards Gandhian Socialism. This is the type of socialism which we wish to establish in our country.
- Special measures are to be undertaken to safeguard and protect the interests of the poor and weaker sections of society. Directive Principles of State Policy state that all possible efforts should be made to ensure equitable distribution of wealth among all classes of people. A programme for levelling incomes should be launched so as to bridge the gulf between the rich and the poor. Suitable restrictions are imposed on capitalists, landlords and moneyed people so as to bring about a fair and just distribution of wealth.
- In consonance with the socialist spirit of the Constitution successive governments have launched programmes so as to raise the standard of living of the poor. It is in keeping with this very spirit that the Right to Property has been deleted from the list of Fundamental Rights. The government can now take over private property of the citizens for public purposes and the matter cannot be challenged in the Courts the way it could be done earlier.

INSIGHT GENERAL STUDIES

A Secular State

- The word secular in the Preamble implies that India is not a religious or a theocratic state like Pakistan, Iran or Vatican City. The State in India shall not discriminate between one citizen and the other on grounds of religion. Nor will it identify itself with a particular religion. The citizens of the country have the freedom to profess, practice and propagate a religion of their choice.
- Complete religious tolerance underlines the spirit of the Constitution. There exists full religious freedom for all. No religion is given preferential treatment or superior status in the matters of the state. The citizens professing different religions enjoy equality before law. Similarly, discriminatory treatment cannot be accorded to any person on grounds of religion. In *S. R. Bommai v. Union of India* the Supreme Court has held that "secularism is the basic feature of the Constitution."
- It is the fundamental duty of the citizen of India to promote communal harmony and good-will and foster a spirit of common brotherhood. Nobody is allowed to carry on communal propaganda and spread hatred and ill-will among the different religious communities of the country.
- Different religious denominations can set up educational institutions of their own wherein religious education may be given. However, students cannot be forced to take part in religious instructions that may be imparted in such institutions. Admission to schools and college whether run by the Government or by religious denominations cannot be denied to any student on grounds of religion.

A Democratic State

- The word democratic in the Preamble signifies that the power to determine the major issues of public policy resides in the people. The Constitution introduces **universal adult franchise** conferring on the adult population of the country the right to elect representatives for the Union Parliament, the State Legislatures and the local bodies like municipalities and village Panchayats. In this way, our Constitution introduces a representative form of government under which those who administer the affairs of the state are chosen by the people themselves.
- Likewise, the citizens have been granted the right to contest elections for these bodies without any specific condition relating to property, education or the like. Ours is thus a government of the people, for the people and by the people.
- The introduction of universal adult franchise, established the biggest political democracy in the world in so far as the number of voters is concerned. Some critics had expressed doubts about the extension of the right to vote to all adults and felt that it was a dangerous experiment. It was feared that since a vast majority of our people were illiterate, they would not be able to exercise their right to vote judiciously.
- These apprehensions have been proved wrong, as is evident from the working of the Constitution for the last 60 years. In fact, the voting age was further reduced from 21 to 18 years and above. As many as fifteen general elections to the Lok Sabha and many elections to the State Assemblies and local bodies have so far been held. The citizens of our country everywhere, both in towns and villages, have taken a keen interest in these elections. Not only this, they have also demonstrated the soundness of their mind in electing their representatives.
- Apart from declaring India a political democracy, the Preamble goes a step further and establishes in India a social and economic democracy. Social democracy entails denial of special privileges based on religion, race, caste or sex. Economic democracy implies efforts to ensure that the material resources of the land subserve the common good.

A Republic

- The term Republic denotes that India shall have an elected representative as the head of the state. Our Constitution provides for the office of President as the head of the Indian Republic. The