

PREAMBLE – CONSTITUTION OF INDIA

Introduction:-

The 'Preamble' of the Constitution of India is the introductory statement to the Constitution. It outlines the objectives and goals of the Constitution. It also indicates the sources of its authority which are the people of India. It helps in interpretation and evolution of the Constitution.

An eminent jurist **N. Palkhivala** has called it the '**Identity card of the Constitution**'. Similarly, K.M. Munshi has described it as the '**Political Horoscope, charting the course of Indian republic**'.

Historical background of the Preamble:-

- On December 13, 1946, Nehru moved the 'Objective Resolution' in the Constituent Assembly.
- This resolution affirms the aspirations of our founding fathers of the Indian Constitution.
- The objective of the Preamble was based on the socialist and secular ideals.
- It was first to be introduced as Objective Resolution and last to be approved as the Preamble of the Indian Constitution i.e. on 22nd January, 1947.

Components of the Preamble:-

- Source of authority of the Constitution – "**We, the people**".
- Nature of the Constitution – **Sovereign, Socialist, Secular, Democratic Republic**.
- Objective of the Constitution – **Justice, Liberty, Equality, Fraternity**.
- Date of adoption of the Constitution – **26th November, 1949**.

Key words in the Preamble:-

- i. "**We, the People of India**" –
 - This phrase signifies that the constitution of India originates from the will of the people. It is not imposed by any external authority.

- It affirms that the people of India are supreme. They govern themselves and participate in the Democratic process.
- Example – Civil society is the genesis of “We, the people of India”. Civil Society like Association of Democratic Reform Society questions the legitimacy of electoral bonds, which further led to its abolishment by the supreme court of India.

ii. *Sovereign –*

- The word “sovereign” implies that India shall not be under any external forces or influences while deciding its own matter.
- It is a self-governing state. It is free to manage its own external and internal affairs.

Example- America approached India for not to buy oil from Russia during war crisis. However, India denied the proposal of America in view of sovereign ideology. Thus no outside power can dictate India.

Example – India abolished Article 370 of the Indian constitution through its own Parliamentary procedure.

- Article 1, 2 & 3 of the Indian Constitution empowers India to admit and establish a new state. India can alter the boundaries, names and areas of existing states.
- Example – On 15th November, 2000, Jharkhand was formed as a new state from Bihar as per Article 2 of the Constitution of India.

iii. *Socialist –*

- 42nd Constitutional Amendment Act 1976 added the word “Socialist” in the Preamble of the Indian Constitution.
- It does not mean state socialism nor does it mean Marxist Socialism.
- The Indian form of socialism is based on “socialistic pattern of society”. It means that everyone shall benefit from the development.

- Example – India has progressive taxation policy, direct benefit transfer, subsidy on fertilizer etc.

iv. *Secular* –

- 42nd Constitutional Amendment Act 1976 added the word “Secular” in the Preamble of the Indian Constitution.
- Indian definition of Secularism is based on ‘Sarva Dharma Sambhava’.
- It is based on Gandhian concept of secularism.
- State is equidistant from religion, it is not separate from religion.
- Example – Article 14, 15, 16, 25, 26, 27, 28, 29,30, 44 of the Indian Constitution provide secular provisions.
- It is already given in Preamble as liberty of thought, expression, belief, faith and worship.

v. *Democratic* -

- The Democracy is government by the people, for the people and of the people i.e. power resides with the people, however it is exercised by the elected representatives.
- India is Democracy because we have free, fair and regular elections.
- The Indian Constitution provides for a representative parliamentary democracy under which the executive is responsible to the legislature for all its policies and actions.
- Example – MLAs or MPs (elected representatives)

vi. *Republic* –

- The word ‘Republic’ signifies a form of the government where the head of the state will be an elected representative.
- All public offices shall be open to all regardless of family and dynasty.
- It reflects the rejection of monarchy.

- Example – England is a constitutional monarchy whereas in India political sovereignty is vested in the people.

vii. *Justice* –

- Justice refers to the responsibility of State to ensure social, economic and political Justice for all the citizens.
- The ideal of Justice has been taken from the Russian revolution.
- Social Justice – It prohibits the exploitation of man by man. It ensures equal treatment of all citizens regardless of race, religion, caste, sex, place of birth etc.

Example – Article 17, 23, 24, 42 etc. of the Indian Constitution ensure social justice.

- Economic Justice – It promotes economic equality by prohibiting the concentration of wealth in one hand. It involves the elimination of inequalities in income, wealth, and property.

Example – Article 38, 39 etc. of the Indian Constitution ensure economic justice.

- Political Justice – It ensures equal political rights, equal access to all political offices, and equal voice in the government.

Example – Article 326 of the Indian Constitution grants universal adult suffrage to the citizens above the 18 years of age.

viii. *Liberty* –

- The term Liberty means freedom to do anything which the law allows. It means that Liberty is not absolute in nature.
- Liberty as a concept has been taken from the French Revolution.
- It means absence to restraints on the activities of individuals and at the same time providing

opportunities for the development of individual personalities.

- The Constitution secures to all citizens liberty of thought, expression, belief, faith and worship through fundamental rights which are enforceable in court of law.
- However, reasonable restrictions are placed on liberty by the Constitution itself.
- Example – Article 19 (1), 19 (2), 21, 25, 26, 27, 28 etc. of the Indian Constitution ensures liberty to the people.

ix. *Equality* –

- The Preamble provides equality of status and opportunity. It is based on Gandhian socialism.
- It removes all kinds of discrimination based on sex, caste, race, religion etc. Thus, ensures the absence of special privileges for any section of society.
- It provides adequate opportunities for individuals without any discrimination.
- This provision embraces three dimensions of equality i.e. civic, political and economic.
- Example –
 - The fundamental rights under the right to equality (Article 14 to 18) ensure civic equality.
 - Article 325 and 326 ensure political equality.
 - Article 39 ensures economic equality.

x. *Fraternity* –

- Fraternity ensures 'brotherhood'. Thus, seeks emotional attachment to all the people.
- It promotes the 'dignity' of the individuals and 'unity & integrity' of the nation.
- It aims at overcoming hindrances to national integration like communalism, regionalism, casteism, linguism, secessionism, and so on.

- **Example** – Fundamental duty under Article 51 (A) (e) of the Indian Constitution encourages brotherhood among individual.

Is the Preamble a part of the Indian Constitution:-

Following landmark judgments of the Supreme Court of India discussed the above mentioned issue.

- i. Berubari Union case (1960)
 - The Supreme Court observes that the Preamble is not a part of the Indian Constitution.
- ii. Kesavananda Bharti case (1973)
 - The Supreme Court reversed its stand on the Preamble and observes that it is a part of the Indian Constitution.
- iii. LIC of India Case (1995)
 - The Supreme Court follows the stand of Kesavananda Bharti case (1973).
 - It ruled that the Preamble is an integral part of the Indian Constitution, though it is not enforceable by court of law.

Significance of the Preamble of Indian Constitution:-

- It embodies basic philosophy and fundamental values on which the Constitution is based.
- It is an aspirational document. It reminds the stakeholders about the ultimate aim of the Constitution.
- It serves as the guiding light for governance of the nation.
- It symbolizes the unity and diversity in India.
- It tells about the nature of political landscape of India i.e. Democracy, Socialist, Secular etc.
- It serves as the summary of the Indian Constitution rather than plan.

Criticism:-

- Vagueness of the term.
Example – 'Liberty', it is not absolute liberty; 'Socialist', it does not refer to state socialism.
- Inconsistent with the reality.



Example – There is no economic equality in India as per Oxfam report.

- Prioritization of values like socialist, secular, fraternity etc. is inconsistent with practical reality of the Country.

Example – regionalism, casteism etc.

- It is non justiciable and non enforceable in the court of law.

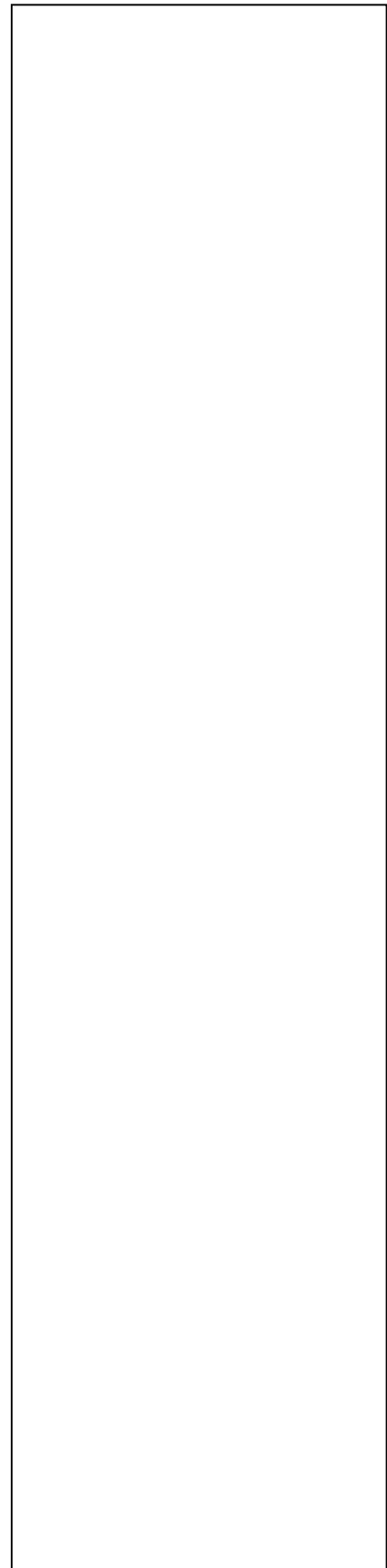
Way forward:-

- There may be open discourse and interpretation through informed debate, judicial pronouncement of terms like liberty, socialist etc. through law commission report.
- Focus on implementation.
- Balancing values.
- Secularism and inclusivity.

Conclusion:-

The Preamble is a short but weighty part of the Constitution. It is the spirit or the ideology behind the Constitution. It plays pivotal role in guiding the judiciary to fulfill its intended purpose of securing justice, liberty, equality and fraternity for all citizens. It is the way of life. It marks the transition of the people of India from the status of 'subject' to the status of 'citizens'.

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