



- A preamble is an introductory statement in a document that explains the document's philosophy & objectives.
- It presents the intention of its framers, the history behind its creation, & the core values and principles of the nation.
- Preamble to a constitution is the window to know what is there inside the constitution.
- Although not enforceable in court, the Preamble states the objects of the Constitution, and acts as an aid during the interpretation of Articles when language is found ambiguous.
- It gives a glimpse about the philosophy and goals of Indian Constitution.
- It is a public resolution which people of India have passed themselves for their overall development
- It is not given to them by any other source than the people themselves.
- Preamble was written towards the end of the session of Constituent Assembly debate i.e. in October 1949
- Its aims & objectives which were to be discussed in the Constituent Assembly first were prepared by Jawaharlal Nehru in the form of Objectives Resolution.
- In the Constituent Assembly, it was presented by Jawaharlal Nehru & seconded by Purushottam Das Tandon.
- Objectives Resolution was accepted in the beginning of Constituent Assembly debates, but it was adapted into Preamble towards the end of the debates.
- The purpose of the Objectives Resolution was to give some hints about goals & course of action of making of the constitution.
- Objectives Resolution meant to lay certain ground on which structure of the Constitution could be built after the debates and deliberations
- Objective Resolutions were "in the nature of pledge" which the people of India through Constituent Assembly took for their fulfilment in future.
- The Resolution laid down certain "Fundamentals" for future constitution of India.

#### SIGNIFICANCE OF OBJECTIVE RESOLUTION

- When Objectives Resolution was laid in the Constituent Assembly, the representatives of the States were not present, and those of the Muslim League had boycotted it.
- But Nehru emphasized that despite their absence, the "republic" shall include all of India.
- Just on the fifth day of inaugural session the Constituent Assembly on 9 December 1946 the

Objectives Resolution was laid in the Assembly on 13 December 1946.

- It laid foundations about nature of political system, its territorial boundaries, division of power between union & its constituent units, supremacy of the people as source of all power and authority, social justice to all, and safeguarding interests of minorities.
- It recognised all the territories under Indian possession after British as autonomous units of governance
- Resolution identified people as the source of authority
- It also recognised philosophical values like justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith worship, vocation, association and action, subject to law and public morality.
- It recognised adequate safeguards shall be provided for minorities, backward & tribal areas, depressed & other backward classes.
- It recognises the concept of world peace.
- Objectives Resolution did not mention the word "democratic". About this, Jawaharlal Nehru opined that the word "republic" mentioned in Objectives Resolution implies democracy.
- He also clarified that the Objectives Resolution had not only "content of democracy" but also "content of economic democracy"
- The word 'Fraternity' found no place in objective resolution - It was considered as injection of Dr. Ambedkar in the Preamble
- Nehru also felt that there may be objection that the Resolution did not mention attainment of "a Socialist State" among the objectives of the Resolution.
- To this, he responded that India would move towards "Socialist State", and what form of Socialism would develop would depend on the nature of deliberations.
- Page 484 of Volume III of this series shows the word "fraternity" in the draft preamble for the first time, while providing minutes of the Drafting Committee's meeting of February 6, 1948.
- This date suggests that the inclusion of "fraternity" may have been connected to the assassination of Mahatma Gandhi, which had occurred a week earlier & partition of the united India .
- A letter that Ambedkar, writing as the Drafting Committee chairman, addressed on February 21, 1948, to Dr. Rajendra Prasad, president of the Constituent Assembly. In this letter, Ambedkar said:

“The [Drafting] Committee has added a clause about fraternity in the preamble, although it does not occur in the Objectives Resolution. The committee felt that the need for fraternal concord and goodwill in India was never greater than now & that this particular aim of the new Constitution should be emphasised by special mention in the preamble.” (p. 510 of The Framing Of India’s Constitution: Select Documents, Vol. III, edited by B. Shiva Rao (Digital Library of India Item 2015.278539).

- It was a momentous resolution that outlined the defining ideals of the Constitution of Independent India, and provided the framework within which the work of constitution-making was to proceed.
- It proclaimed India to be an “Independent Sovereign Republic”
- Nehru suggested that the resolution be regarded as “higher than the law” and nothing should be “added to or subtracted from” it.

#### PREAMBLE:-A PART OF THE CONSTITUTION

- Two cases gave contradictory reply to this question: Berubari case (1966), it ruled that the Preamble to Constitution is not part of the Constitution.
- Kesavananda Bharati case (1973), reversing the verdict of the Berubari case, the Kesavananda Bharati case ruled that the Preamble is Part of the Constitution.
- The Kesavananda Bharati case (1973) held that, Parliament can amend any part of the Constitution provided it did not violate the basic structure of the Constitution.
- According to Article 368, the Parliament amended the Constitution (42nd Constitutional Amendment) & inserted “Secular”, “Socialist”, and “& Integrity” in the Preamble.
- The Supreme Court in Bommai case (1994) which was specifically about the President’s power to dismiss government & dissolve legislature (according to Article 356) also dealt with secularism.
- It held that inter alia Preamble along with the Articles about religious freedom (25-30) are part of the basic structure of the Constitution.
- SC in S.R. Bommai case the verdict mentioned: “We do not know how the Constitution can be amended so as to remove secularism from the basic structure of the Constitution. Nor do we know that the Constitution does not provide such a course, that it does not provide for its own demise”.
- In the debate on Objectives Resolution (Constituent Assembly Debates Vol.1), the original source of Preamble, Nehru had said that it was not going to be part of Constitution.
- But, Before placing the draft Preamble for voting in the Constituent Assembly, President of the constituent Assembly, Dr. Rajendra Prasad, raised

question “That the Preamble stand Part of the Constitution”

- In 1995, in the LIC of India case also the Supreme Court confirmed that Preamble is part of the Constitution.
- Original version of the Preamble did not have “Secularism”, “Socialism” and “and Integrity”.
- The constitution makers did not feel the need to include “Secularism” & “Socialism” in the Constitution because various provisions of the Constitution imply that Indian Constitution was secular document and can attain socialism.
- According to Nehru, the system of govt, had to “fit in with the temper of our people and be acceptable to them”.
- The objective of the Constitution would be to fuse the liberal ideas of democracy with the socialist idea of economic justice, and re-adapt and re-work all these ideas within the Indian context.
- A Communist member, Somnath Lahiri saw the dark hand of British imperialism hanging over the deliberations of the Constituent Assembly.
- An interim administration headed by Jawaharlal Nehru was in place, but it could only operate under the directions of the Viceroy and the British Government in London.
- Lahiri exhorted his colleagues to realise that the Constituent Assembly was British-made and was “working the British plans as the British should like it to be worked out”.
- The Constituent Assembly was expected to express the aspirations of those who had participated in the movement for independence.
- Democracy, equality and justice were ideals that had become intimately associated with social struggles in India since the nineteenth century.
- In fact, as the demand for representation grew, the British had been forced to introduce a series of constitutional reforms. A number of Acts were passed (1909, 1919 and 1935), gradually enlarging the space for Indian participation in provincial governments.
- The executive was made partly responsible to the provincial legislature in 1919, and almost entirely so under the Government of India Act of 1935.
- When elections were held in 1937, under the 1935 Act, the Congress came to power in eight out of the 11 provinces.
- The earlier constitutional experiments were in response to the growing demand for a representative government, the Acts (1909, 1919 and 1935) were not directly debated and formulated by Indians.
- The legislatures elected under the 1935 Act operated within the framework of colonial rule, and were responsible to the Governor appointed by the British.

- While welcoming the Objectives Resolution, N.G. Ranga, a socialist who had been a leader of the peasant movement, urged that the term minorities be interpreted in economic terms.
- There was also the additional clause on “fraternity” that upheld “dignity of the individual” and “integrity of the nation”.
- Many members charged Dr. B. R. Ambedkar of hijacking the resolution & repacking it with fundamentals of his choice. Nehru did not intervene in defence of his characterisation of India.
- Ambedkar’s response was short, rounding off the debate: “This preamble embodies that this Constitution has its root, its authority, its sovereignty from the people”.
- The usage of the idea of ‘republic’ in the nationalist discourse of India was relatively feeble and even Nehru, when he used the term in his speech, seemed uncomfortable with it, contrasting it merely with monarchical regimes.
- The Drafting Committee & Dr. Ambedkar brought in the idea of ‘republic’ alongside ‘democracy’ as attributes of India’s sovereign polity, giving it a twist markedly different from Nehru’s usage as an anti-monarchical regime
- Dr. Ambedkar was the inheritor of an idea of republicanism with stress on the citizen, citizen agency and public spiritedness arising therefrom, and citizens bonding themselves into a community of equals, and enabling it in turn
- B.R. Ambedkar in his final speech in CA, on Nov 25, 1949, argued that if constitutional democracy did not make way for social and economic democracy, there was little hope of political democracy surviving in India.
- He saw in republicanism a hope that it would rally social capital to subserve the latter. But the spirit of republicanism could only be enabled through what he called constitutional morality i.e. a citizen acting by taking on board constitutional principles and norms.
- There was no doubt that by substituting the idea of ‘independent, sovereign, republic’, with ‘sovereign, democratic, republic’, Ambedkar was trying to redirect India into a very different trajectory.
- Constitution was born in an act of public participation. This public participation had begun with the mass movements of the freedom struggle
- The Constitution is not merely a legal document but a charter of values and principles; a vision of a free, just, and equal society.
- And it is a vision that is not static in time, but subject to constant renewal as each generation discovers a new, through discussion and debate, the founding principles of our Republic.
- The concept of equality enshrined in the preamble is with its majestic promise of equality before the law to all persons, is about much more than formal legal doctrine.
- The Preamble is not a legally binding document, but a vision statement we committed ourselves to when the country became a republic.
- The Preamble was really speaking on behalf of the people of India, the Constituent Assembly began the Preamble with the words
- Alladi Krishnaswami Ayyar, while replying to K Santhanam’s question in regard to the date of the coming into force of the Preamble, said: “The Preamble will come into force in all its plenitude when the Constitution comes into force.” (C.A.D. Vol. X, p. 418).
- According to, justice Hidayatullah in the Sankari Prasad [1952] case, the Preamble, which is an identity card of the Constitution, is more akin in nature to the American Declaration of Independence (July 4, 1776) than to the preamble to the Constitution of the United States
- The Preamble gives direction & purpose to the Constitution which is reflected in the Fundamental Rights and Directive Principles of State Policy.
- Currently, the Preamble is being read out during social protests as an affirmation of rights and as a mark of dissent.
- The philosophy of key terms like liberty, equality and fraternity which is delineated in the Preamble are considered sacred.
- We are under the oath of the supremacy of the Constitution, and rule of law mandates its abiding adherence not only for those who govern but also by the people at large.
- The Preamble acts as a constant reminder to lawmakers and policy-makers while formulating legislation and public policies.
- It is a key to open the mind of the makers, as to the mischiefs which are to be remedied and the objects which are to be accomplished are very relevant.
- The Preamble embodies Solus Populi Seprema Lex, which means the public welfare is the supreme law, in our Constitution as well.
- As the Preamble indicates, it was to secure the basic human rights like liberty and equality.
- Preamble records like a sun-beam the glowing thoughts and concepts of history which outline the objectives of the whole Constitution.
- Dr B R Ambedkar , proposes a way of life which recognises liberty, equality and fraternity which are not to be treated as separate items in a trinity.
- The 42nd Amendment to the Constitution, passed in 1976, replaced the words “sovereign democratic republic” to “sovereign socialist secular democratic republic”. It also changed “unity of the nation” to “unity and integrity of the nation”
- Another milestone on the journey to the Constitution was Ambedkar’s powerful 1936 text, Annihilation of Caste, where he wrote: “What is

your ideal society if you do not want caste, is a question that is bound to be asked of you. If you ask me, my ideal would be a society based on liberty, equality, and fraternity.

- American constitution - first to begin with preamble - introduction or preface to the constitution.
- Identity card of the constitution - N.A. Palkhivala.
- In the legislative history of India, for the first time, the GOI Act 1919 had a separate preamble- GOI Act 1935 had no preamble
- Source of authority - People
- Nature of state - Sovereign, socialist, secular, democratic, republican polity.
- Objective of constitution - justice, liberty, equality & fraternity.

#### KEY WORDS

- Sovereign
  - Neither dependency nor a dominion of any state- independent - no authority above it- free to conduct its own affairs.
  - Ratification of commonwealth membership and acceptance of British crown head- extra constitutional - doesn't affect sovereignty.
  - UNO membership - no effect on sovereignty.
- SOCIALIST
  - DPSP
  - 1955 - Avadi session- Congress adopted resolution to establish " socialistic pattern of society".
  - Indian brand of socialism - democratic socialism & not state socialism or communistic socialism.
- Constitutional historian Granville Austin — recalls how the “roots of the directive principles” - 1931 Karachi Congress resolution, & to the “two streams of socialist & nationalist sentiments in India
- State socialism - nationalisation of all means of production , distribution & abolition of private property.
- Democratic socialism- mixed economy - SC - it aims to end poverty, ignorance, disease & inequality of opportunity.
- Indian - blend of Marxism & Gandhism - leaning heavily towards Gandhian socialism.
- LPG Policy 1991- diluted socialistic credentials.
- SECULAR
  - SC - although word ' secular state' were not mentioned in constitution there can be no doubt that constitution makers wanted to establish such state -art.25-28
  - S.R. Bommai case(1994) the Supreme Court held that “secularism is an integral part” of the Constitution’s basic structure.
  - Currently, the word “secular appears in constitution for two times – in Preamble and then in Article 25.
- DEMOCRATIC
  - Based on" doctrine of popular sovereignty" i.e. Possession of supreme power by people .

- Direct democracy - People exercise their supreme power directly - Referendum, initiative, Recall , plebiscite.

- Indirect democracy - Representative elected by people exercise the supreme power - representative democracy .

- Political, Social & economic democracy.

#### ● REPUBLIC

- Elected Head of state.

- Vesting of political sovereignty in the people and not in individual head.

- Absence of any privileged class- public offices open to all without discrimination.

#### ● JUSTICE

- Social, economic, political - secured through FR, DPSP.

Equal treatment to all citizens - improvement in conditions of backward communities- social justice.

#### JUSTICE

- Social + economic justice =distributive justice .
  - Political justice - Equal political rights , equal access to all political offices & equal voice in govt.
  - Economic justice - non-discrimination on basis of economic factors - elimination of glaring inequalities in wealth, income, property.
  - Russian revolution 1917.
  - LIBERTY
    - Absence of restraint on activities of individuals & providing opportunities for development of individual personalities.
    - Liberty conceived in preamble is not absolute but qualified.
    - French revolution 1789-1799.
  - EQUALITY
    - Absence of special privileges to any section - provision of adequate opportunities for all individuals without any discrimination.
    - Equality of status & opportunity
    - Civic, political & economic
    - Civic equality - art.14-18.
  - Political equality - No person is to be declared ineligible for inclusion in electoral rolls on ground of religion, race, caste or sex ( art 325)
  - Elections to the LS & state assemblies to be on the basis of adult suffrage ( art 326) .
  - DPSP - secures to men & women equal right to an adequate means of livelihood & equal pay for equal work ( art 39)
  - FRATERNITY
    - Sense of brotherhood.
    - Promotion through single citizenship.
- FD - art 51-A - it shall be the duty of citizen of India to promote harmony & spirit of common brotherhood among people transcending religious, linguistic, regional or sectional diversities.
- Fraternity assured - dignity of individual & unity and integrity of the nation.

- Acc to K.M. Munshi - constitution not only ensures material betterment & maintains a democratic set up but it also recognises that the personality of every individual is sacred.

- FD Art. 51- A- protect the dignity of woman - shall be duty of citizen to renounce practices derogatory to dignity of woman- duty of citizen to uphold & protect the sovereignty, unity and integrity of India.
- - Unity & integrity - psychological & territorial dimensions of national integration.
- - art 1- union of state- no right to secede from union.

#### SIGNIFICANCE

- K.M. Munshi - preamble is horoscope of our sovereign democratic republic.
- Thakur Das Bhargava - most precious part -soul-jewel set- proper yardstick with which one can measure worth of the constitution.
- Sir Ernest Barker - book - Principles of social & political Theory (1951) - Preamble is key note to constitution.
- - M.Hidayatullah - former CJI - preamble resembles the declaration of Independence of USA - but more than a declaration - soul of constitution - which lays down the pattern of our political society - contains solemn resolve, which nothing but a revolution can alter.

- Preamble is neither a source of power to legislature nor a prohibition upon power of legislature.
- From August 15, 1947 to January 26, 1950 - India - dominion of British commonwealth — Pak continued as dominion till 1956.
- Atheistic state- State is anti-religion
- Theocratic state- state is pro- religion- declares state belonging to a particular religion - pak.

#### JANUARY 26

- At its annual session in Lahore in December 1929, after Jawaharlal Nehru was elected the party president, the Indian National Congress passed a resolution for “purna swaraj”
- Communist leader & poet Hasrat Mohani first asked for complete independence from the British in 1921 at an All-India Congress Forum
- At midnight of December 1930, Nehru hoisted the first swaraj flag — the Tricolour was to later form the basis of India’s national flag — on the banks of the Ravi river in Lahore
- The Congress party passed another resolution fixing the last Sunday of January 1930, which fell on January 26, as Independence Day.
- After 1930, the day was celebrated every year as Independence Day .



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