

Indian Polity Notes Part 3 in English

3] Preamble

- Preamble is **neither enforceable not justifiable in a court of law**. It is the preface of the constitution.
- It is based on the objective Resolution passed by Jawaharlal Nehru in the Constitution Assembly in 13.12.1946.
- The concept of Preamble was borrowed from American constitution.
- This implies that courts cannot pass orders against the government in India to implement the ideas in the Preamble.
- The Preamble is like an introduction of the Indian Constitution, it is not a part of the contents but it explains the purposes and objectives with which the document has been written.
- It provides the guide lines of the Constitution and explains the objectives of the Constitution in two ways: about the structure of the governance about the ideals to be achieved in independent India.
- Therefore, the Preamble is considered key of the Constitution.
- The preamble **has been amended only once** so far.
- On 18 December **1976**, during the Emergency in India, the Indira Gandhi government pushed through several changes in **the Forty-second Amendment** of the constitution.
- The words **Socialist, Secular, and Integrity** were not in the original constitution and have been inserted by **42nd amendment act 1976**.
- Thus, the express declaration that India is a secular state came only with the 42nd amendment. Currently, the word "secular appears in constitution for two times – in Preamble and then in Article 25.

Objectives laid down in the Preamble

- Description of Indian State as **Sovereign, Socialist, Secular, Democratic- Republic (Socialist, Secular were added by 42nd Amendment, 1976)**.
- Provision to all the citizens of India of
 - Justice social, economic and political
 - Liberty of thought, expression, belief, faith and worship
 - Equality of status and opportunity
 - Fraternity assuring dignity of the individual and unity and integrity of the nation

Sovereignty

- Sovereignty is one of the essential elements of any independent State.
- It means absolute independence, i.e., a government which is not controlled by any other power : internal or external.

Socialist

- The word 'Socialism' had been used in the context of economic planning.
- It also means commitment to attain ideals like removal of inequalities, provision of minimum basic necessities to all, equal pay for equal work. This plays a major role in the economy.

Secularism

- Secularism in India is unique to the country, it is said that 'India is neither religious, nor irreligious nor anti-religious.' Now what does this mean?
- It means that in India there will be no 'State' religion – the 'State' will not support any particular religion out of public fund.
- French Revolution forced Secularism in the year 1789.

Democratic Republic

- The Democratic principles of the country flow from reading of the last line of the Preamble.
- Democracy is generally known as government of the people, by the people and for the people.

Justice

- Justice promises to give people what they are entitled to in terms of basic rights to food, clothing, housing, participation in the decision-making and living with dignity as human beings.

Liberty

- The Preamble mentions about liberty of thought and expression.
- These freedoms have been guaranteed in the Constitution through the fundamental Rights.

Equality

- Equality is considered to be the essence of modern democratic ideology.
- The Constitution makers placed the ideals of equality in a place of pride in the Preamble.

Fraternity

- With the background of India's multi-lingual, multi-cultural and multi religious society and keeping the partition of the country in view, the framers of the Constitution were much concerned about the unity and integrity of our newly independent country.

Important Cases Related to Preamble:

- Preamble is a part of Constitution, as the result of **S.R.Bommai case 1994**.
- In the **BERUBARI CASE of 1960** Honorable Supreme Court had held that the preamble isn't the part of Indian Constitution.

- Further where the terms used in any of the article of INDIAN CONSTITUTION are equivocal or ambiguous.
- These terms are capable of in more than one meaning.
- Some aids at interpretation may be taken from the objectives treasured in the PREAMBLE, the SUPREME COURT specifically gives an instruction that PREAMBLE isn't a part of the CONSTITUTION.
- **KESAVANANAD BHARTI CASE of 1973** Honorable Supreme Court rejected the earlier opinion or the earlier instruction which was taken under BERUBARI UNION CASE and held that PREAMBLE is an important part of INDIAN CONSTITUTION.
 - It observed that the Preamble 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.
- In the **LIC OF INDIA Vs CONSUMER EDUCATION & RESEARCH CENTRE of 1995** also the SUPREME COURT again held that the preamble is an integral part of the CONSTITUTION.

Highlights of Kesavanan Bharti Case:

- In the light of Kesavanad Bharti Case as well as other judgments, there are some key points about the constitution which must be remembered as far as the importance of the knowledge of PREAMBLE for every country people & for examination's point of view is concerned. These key things are as follows:-
 - Preamble is an integral Part of the Constitution.
 - Preamble Indicates basic structure of the Constitution (SR Bommai Case).
 - Preamble can be amended by Parliament using its amendment powers as per article 368.
 - The words Secular, Socialist and Integrity were added to the constitution.
 - Preamble enshrines the ideas and philosophy of the constitution, and NOT the narrow objectives of the governments.
 - It also does NOT provide any legal framework of constitutional law. Preamble is neither a source of power nor a source of limitations. It neither provides any power nor imposes any duty.
 - Its importance is in role to be played in interpretation of statues, also in the interpretation of provisions of the Constitution.
 - Constitution should be read and interpreted in the light of grand and novel vision expressed in the preamble.