

Preamble to the Indian Constitution

THE PREAMBLE

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

A preamble is an introductory statement in a document that explains the document's philosophy and objectives.

- In a Constitution, it presents the intention of its framers, the history behind its creation, and the core values and principles of the nation.
- The preamble basically gives idea of the following things/objects:
 - Source of the Constitution
 - Nature of Indian State
 - Statement of its objectives
 - Date of its adoption

History of the Preamble to Indian Constitution

- The ideals behind the Preamble to India's Constitution were laid down by Jawaharlal Nehru's Objectives Resolution, adopted by the Constituent Assembly on January 22, 1947.

- Although not enforceable in court, the Preamble states the objectives of the Constitution, and acts as an aid during the interpretation of Articles when language is found ambiguous.

Components of Preamble

- It is indicated by the Preamble that the source of authority of the Constitution lies with the people of India.
- Preamble declares India to be a sovereign, socialist, secular and democratic republic.
- The objectives stated by the Preamble are to secure justice, liberty, equality to all citizens and promote fraternity to maintain unity and integrity of the nation.
- The date is mentioned in the preamble when it was adopted i.e. November 26, 1949.

Debate on Preamble

On November 15, 1948, India was in the midst of a heated debate in the Constituent Assembly, on the nature of the Constitution.

Secular, Federal, Socialist

Prof K T Shah proposed inserting the words, “Secular, Federal, Socialist”.

- His above-mentioned words to be read as, “*India shall be a Secular, Federal, Socialist Union of States.*” He was of the opinion that by using such words in the Preamble, it will give an idea about the governing ideals of the Constitution.
- He proposed the word “**Federal**” because he wanted the Indian Union not to be a Unitary State.
 - According to him, the word “Federal” implies an agreed association on equal terms of the states forming part of the Federation. The States in India must be “States forming part of the Federation”.
- He wanted India to be a **Secular** State.
 - He believed in a clear and emphatic description of the State. He stressed the secular character of the State because of the bitter experiences of the past. According to him, this would be an assurance to the people for matters concerning the governance of the country pertaining to injustice or inequality among citizens.

Finally in the ensuing discourse, while the members agreed on the nature of the Indian state adhering to secular principles, the word ‘secular’ was dropped from the Preamble.

- Prof. Shah proposed the word **socialist** which implies or conveys, a state in which equal justice and equal opportunity for everybody is assured, in which everyone is expected to contribute by his labour, by his intelligence, and by his work, all that he can to the maximum capacity, and everyone would be assured of getting all that he needs and all that he wants for maintaining a decent civilised standard of existence.
 - The word socialist is the synonym for curbing social abuses.
 - He further said this can be achieved without any violation of peaceful and orderly progress, and there is no need to fear in the implications of this term the possibility of a violent revolution resulting in the disestablishment of vested interests.

According to **Ambedkar**, this proposal was rejected because “What should be the policy of the State, how the Society should be organised in its social and economic side are matters which must be decided by the people themselves according to time and circumstances. It cannot be laid down in the Constitution itself, because that is destroying democracy altogether. If you state in the Constitution that the social organisation of the State shall take a particular form, you are, in my judgment, taking away the liberty of the people to decide what should be the social organisation in which they wish to live. It is perfectly possible today, for the majority people to hold that the socialist organisation of society is better than the capitalist organisation of society. But it would be perfectly possible for thinking people to devise some other form of social organisation which might be better than the socialist organisation of today or of tomorrow.”

Mr. H.V. Kamath also opposed the amendment proposed by Mr. K.T. Shah.

Sovereign Democratic Republic

When BR Ambedkar proposed the Preamble, “We, the people of India, having solemnly resolved to constitute India into a sovereign, democratic, republic,” it was vehemently opposed by Maulana Hasrat Mohani.

Maulana Hasrat Mohani was a leader of the Indian National Congress apart from being a noted Urdu poet and the man who coined the slogan Inquilab Zindabad.

- According to him, the Objectives Resolution had three words *Independent Sovereign Republic*.
- But the Drafting Committee had adopted the phrase *Sovereign Democratic Republic* because independence is usually implied in the word “Sovereign”.
- He then asked the Constituent Assembly to decide on the following three sets of words that are to be incorporated in the Preamble before the consideration of the Draft Constitution clause by clause.
 - Sovereign Independent Republic,
 - Sovereign Democratic Republic,
 - Sovereign Democratic State.”

After due deliberations, ‘Sovereign Democratic Republic’ was adopted.

Union of States

The Drafting Committee advised that India shall be the Union of States.

Pandit Lakshmi Kanta Mishra held that the constitutional literature of the word “State” includes the idea of sovereignty and absolute independence. He expressed his ambiguity regarding the connotation of the meaning of State for three words viz., provinces, Pradesh and the nation.

Pandit Jawaharlal Nehru suggested that the word State should be applied to Pradesh as well as Provinces.

The motion for inserting the word “Federal” before the word “Union”, and the second to substitute the word “Pradeshas” for the word “States” was negatived.

Shri Gopi Krishna Vijayavargiya told that Sovereignty is specifically mentioned in the Chinese Constitution as it is an important power.

- He considered this amendment an important one.

Professor Shibban Lal Saksena also considered it an important amendment.

Thereafter another amendment was proposed. The following aspects were to be decided through this amendment.

- The Union was named BHARAT;
- The character of Bharat is sovereign, independent, democratic, socialist, republic;
- The government must be established by the Constitution;
- The powers of the government, legislature, executive and judiciary shall be derived from the people.

The above amendment was supported by Maulana Hasrat Mohani and objected by Shri Prabhudayal Himat Singka, Shri M. Ananthasayanam Ayyangar and Shri Loknath Mishra. Dr. B.R. Ambedkar was of the opinion that sovereignty vests with the people. The said amendment was withdrawn by the leave of the Assembly.

According to Maulana Hasrat Mohani, the Union of India shall be the Union of Sovereign States.

- He affirmed that the Union of India shall include completely autonomous Provinces and groups of States in which each state shall contain smaller states merged in the form of Districts and Provinces.
- According to him, India shall be a federation of independent units.
- By doing so, provincial autonomy shall be gained for each unit under the federation.
- He opposed the move of Dr. Ambedkar because Dr. Ambedkar used the words “Union of States” instead of “Federal Republic”.
- He clarified the differences in the meaning of the words Union and Federation.
- According to him, the word *Union* means as that proposed by Kaiser William and Adolf Hitler. So, under the Union, the States come under the rule. There is no place for Provincial Autonomy.
- Provincial Autonomy is found under *Federation*.
- By using the word Union, India is made a Unitary Government or Unity empire. He didn't want to promote imperialism in any manner.

Shri B.M. Gupte clarified the intention of Dr. B.R. Ambedkar for using the word “Union” that Dr. Ambedkar wanted to negate the right of secession.

- If the word “Union” is not used then there remain the chances that the right of secession may remain open for the Provinces.
- According to him, as far as the Indian states are concerned, those which signed the first Instrument of Accession, there is a provision in that Instrument which allows them to secede after they have seen the full picture of the Constitution. But once they accede after the commencement of the Constitution they may perhaps not have the right. Thus, in the form of a Union, India can remain a decentralized unitary government.
- According to him, apart from Union, India is a federation because it bears one characteristic of federation i.e., provinces have jurisdiction over a large number of subjects.

In the name of God

A few members in the Constituent Assembly wanted to include ‘In the name of God’.

- Many were opposed to this suggestion – it was noted that it was unfortunate to put ‘God’ on a vote.
- One member believed that the inclusion of ‘God’ would amount to ‘compulsion of faith’ and violate the fundamental right to freedom of faith.

Status of Preamble

- The preamble being part of the Constitution is discussed several times in the Supreme Court. It can be understood by reading the following two cases.
 - **Berubari Case:** It was used as a reference under **Article 143(1)** of the Constitution which was on the implementation of the Indo-Pakistan Agreement related to the Berubari Union and in exchanging the enclaves which were decided for consideration by the bench consisting of eight judges.
 - Through the **Berubari case**, the Court stated that ‘Preamble is the key to open the mind of the makers’ but it can not be considered as part of the Constitution. Therefore it is not enforceable in a court of law.
- **Kesavananda Bharati Case:** In this case, for the first time, a bench of 13 judges was assembled to hear a writ petition. The Court held that:
 - The **Preamble of the Constitution** will now be considered **as part of the Constitution**.
 - The Preamble is not the supreme power or source of any restriction or prohibition but it plays an important role in the interpretation of statutes and provisions of the Constitution.
 - So, it can be concluded that preamble is part of the introductory part of the Constitution.
- In the 1995 case of **Union Government Vs LIC of India** also, the Supreme Court has once again held that Preamble is the integral part of the Constitution but is not directly enforceable in a court of justice in India.

Amendment of the Preamble

- **42nd Amendment Act, 1976:** After the judgment of the Kesavanand Bharati case, it was accepted that the preamble is part of the Constitution.
 - As a part of the Constitution, preamble can be amended under **Article 368** of the Constitution, but the **basic structure** of the preamble can not be amended.

- Because the structure of the Constitution is based on the basic elements of the Preamble. As of now, the preamble is only amended once through the **42nd Amendment Act, 1976**.
- The term 'Socialist', 'Secular', and 'Integrity' were added to the preamble through 42nd Amendment Act, 1976.
 - 'Socialist' and 'Secular' were added between 'Sovereign' and 'Democratic'.
 - 'Unity of the Nation' was changed to 'Unity and Integrity of the Nation'.