

TNPSC GROUP I / II - PRELIMINARY INDIAN POLITY - WORKSHEET

PREAMBLE OF THE CONSTITUTION

The American Constitution was the first to begin with a Preamble. Many countries including India, followed this practice. The term 'preamble' refers to the introduction or preface to the Constitution. It contains the summary or essence of the Constitution. N A Palkhivala, an eminent jurist and constitutional expert, called the Preamble as the 'identity card of the Constitution. The Preamble to the Indian Constitution is based on The 'Objectives Resolution', drafted and moved by Pandit Nehru, and adopted by the Constituent Assembly. It has been amended by the 42nd Constitutional Amendment Act (1976), which added three new words – socialist, secular and integrity.

TEXT OF THE PREAMBLE

The Preamble in its present form reads:

"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".

Ingredients of the Preamble

The Preamble reveals four ingredients or components:

1. Source of authority of the Constitution: The Preamble states that the Constitution derives its authority from the people of India.
2. Nature of Indian State: It declares India to be of a sovereign, socialist, secular democratic and republican polity.
3. Objectives of the Constitution: It specifies justice, liberty, equality and fraternity as the objectives.
4. Date of adoption of the Constitution: It stipulates November 26, 1949 as the date.

Key Words in the Preamble

Certain key words—Sovereign, Socialist, Secular, Democratic, Republic, Justice, Liberty, Equality and Fraternity – are explained as follows:

1. Sovereign

The word 'sovereign' implies that India is neither a dependency nor a dominion of any other nation, but an independent state. There is no authority above it, and it is free to conduct its own affairs (both internal and external). Being a sovereign state, India can either acquire a foreign territory or cede a part of its territory in favour of a foreign state.

2. Socialist

Even before the term was added by the 42nd Amendment in 1976, the Constitution had a socialist content in the form of certain Directive Principles of State Policy. In other words, what was hitherto implicit in the Constitution has now been made explicit. Moreover, the Congress party itself adopted a resolution to establish a 'socialistic pattern of society' in its Avadi session as early as in 1955 and took measures accordingly. Notably,

the Indian brand of socialism is a 'democratic socialism' and not a 'communistic socialism' (also known as 'state socialism') which involves the nationalisation of all means of production and distribution and the abolition of private property. Democratic socialism, on the other hand, holds faith in a 'mixed economy' where both public and private sectors co-exist side by side. Indian socialism is a blend of Marxism and Gandhism, leaning heavily towards Gandhian socialism'.

3. Secular

The term 'secular' too was added by the 42nd Constitutional Amendment Act of 1976. However, as the Supreme Court said in 1974, although the words 'secular state' were not expressly mentioned in the Constitution, there can be no doubt that Constitution-makers wanted to establish such a state and accordingly Articles 25 to 28 (guaranteeing the fundamental right to freedom of religion) have been included in the constitution. The Indian Constitution embodies the positive concept of secularism ie, all religions in our country (irrespective of their strength) have the same status and support from the state.

4. Democratic

A democratic polity, as stipulated in the Preamble, is based on the doctrine of popular sovereignty, that is, possession of supreme power by the people. Democracy is of two types – direct and indirect. In direct democracy, the people exercise their supreme power directly as is the case in Switzerland. There are four devices of direct democracy, namely, Referendum, Initiative, Recall and Plebiscite. In indirect democracy, on the other hand, the representatives elected by the people exercise the supreme power and thus carry on the government and make the laws. This type of democracy, also known as representative democracy, is of two kinds – parliamentary and presidential. The Indian Constitution provides for representative parliamentary democracy under which the executive is responsible to the legislature for all its policies and actions. The term 'democratic' is used in the Preamble in the broader sense embracing not only political democracy but also social and economic democracy.

5. Republic

A democratic polity can be classified into two categories – monarchy and republic. In a monarchy, the head of the state (usually king or queen)

enjoys a hereditary position, that is, he comes into office through succession, eg, Britain. In a republic, on the other hand, the head of the state is always elected directly or indirectly for a fixed period, eg, USA. Therefore, the term 'republic' in our Preamble indicates that India has an elected head called the president. He is elected indirectly for a fixed period of five years.

6. Justice

The term 'justice' in the Preamble embraces three distinct forms—social, economic and political, secured through various provisions of Fundamental Rights and Directive Principles. Social justice denotes the equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex and so on. Economic justice denotes the non-discrimination between people on the basis of economic factors. It involves the elimination of glaring inequalities in wealth, income and property. A combination of social justice and economic justice denotes what is known as 'distributive justice'. Political justice implies that all citizens should have equal political rights, equal access to all political offices and equal voice in the government. The ideal of justice—social, economic and political—has been taken from the Russian Revolution (1917).

7. Liberty

The term 'liberty' means the absence of restraints on the activities of individuals, and at the same time, providing opportunities for the development of individual personalities. The Preamble secures to all citizens of India liberty of thought, expression, belief, faith and worship, through their Fundamental Rights, enforceable in court of law, in case of violation. Liberty as elaborated in the Preamble is very essential for the successful functioning of the Indian democratic system.

The ideals of liberty, equality and fraternity in our Preamble have been taken from the French Revolution (1789-1799).

8. Equality

The term 'equality' means the absence of special privileges to any section of the society, and the provision of adequate opportunities for all individuals without any discrimination. The Preamble secures to all citizens of India equality of status and opportunity. This provision embraces three dimensions of equality—civic, political and economic.

The provisions of the chapter on Fundamental Rights ensure civic equality in articles 14 to 18.

There are two provisions in the Constitution that seek to achieve political equality. One, no person is to be declared ineligible for inclusion in electoral rolls on grounds of religion, race, caste or sex (Article 325). Two, elections to the Lok Sabha and the state assemblies to be on the basis of adult suffrage (Article 326).

The Directive Principles of State Policy (Article 39) secures to men and women equal right to an adequate means of livelihood and equal pay for equal work.

9. Fraternity

Fraternity means a sense of brotherhood. The Constitution promotes this feeling of fraternity by the system of single citizenship. Also, the Fundamental Duties (Article 51 -A) say that it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, regional or sectional diversities. The Preamble declares that fraternity has to assure two things—the dignity of the individual and the unity and integrity of the nation. **The word 'integrity' has been added to the preamble by the 42nd Constitutional Amendment (1976).**

The phrase 'unity and integrity of the nation' embraces both the psychological and territorial dimensions of national integration. Article 1 of the Constitution describes India as a 'Union of States' to make it clear that the states have no right to secede from the Union, implying the indestructible nature of the Indian Union

Significance of the Preamble

1. Sir Alladi Krishnaswami Iyer : 'The Preamble to our Constitution expresses what we had thought or dreamt so long'.

2. K M Munshi, a member : The Preamble is the 'horoscope of our sovereign democratic republic'.

3. Pandit Thakur Das Bhargava : 'The Preamble is the most precious part of the Constitution. It is the soul of the Constitution. It is a key to the Constitution. It is a jewel set in the Constitution. It is a proper yardstick with which one can measure the worth of the Constitution'.

4. Sir Ernest Barker : The Preamble as the 'key-note' to the Constitution. He was so moved by the text of the preamble that he quoted it at the opening of his popular book, Principles of Social and Political Theory (1951).

5. M Hidayatullah : 'Preamble resembles the Declaration of Independence of the United States of America, but is more than a declaration. It is the soul of our Constitution, which lays down the pattern of our political society. It contains a solemn resolve, which nothing but a revolution can alter.

Preamble as Part of the Constitution

One of the controversies about the Preamble is as to whether it is a part of the Constitution or not.

1. In the Berubari Union case (1960), the Supreme Court said that the Preamble shows the general purposes behind the several provisions in the Constitution, and is thus a key to the minds of the makers of, the Constitution. The Supreme Court specifically opined that Preamble is not a part of the Constitution.

2. In the Kesavananda Bharati case (1973), the Supreme Court rejected the earlier opinion and held that Preamble is a part of the 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.

3. In the LIC of India case (1995) also, the Supreme Court again held that the Preamble is an integral part of the Constitution. Like any other part of the Constitution, the Preamble was also enacted by the Constituent Assembly, but, after the rest of the Constitution was already enacted.

However, two things should be noted:

1. The Preamble is neither a source of power to legislature nor a prohibition upon the powers of legislature.
2. It is non-justiciable, that is, its provisions are not enforceable in courts of law.

Amendability of the Preamble

The question as to whether the Preamble can be amended under Article 368 of the Constitution arose for the first time in the historic case of

KesavanandaBharati (1973). It was urged that the Preamble cannot be amended as it is not a part of the Constitution. The petitioner contended that the amending power in Article 368 cannot be used to destroy or damage the basic elements or the fundamental features of the Constitution, which are enshrined in the Preamble.

The Supreme Court, however, held that the Preamble is a part of the Constitution. The Court stated that the opinion tendered by it in the Berubari Union (1960) in this regard was wrong, and held that the Preamble can be amended, subject to the condition that no amendment is done to the 'basic features'. In other words, the Court held that the basic elements or the fundamental features of the Constitution as contained in the Preamble cannot be altered by an amendment under Article 368.

The Preamble has been amended only once so far, in 1976, by the 42nd Constitutional Amendment Act, which has added three new words – Socialist, Secular and Integrity – to the Preamble. This amendment was held to be valid.

