

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 Assembly¹. 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 state². There is no authority above it, and it is free to conduct its own affairs (both internal and external).

Though in 1949, India declared the continuation of her full membership of the Commonwealth of Nations and accepted the British Crown as the head of the Commonwealth, this extra-constitutional declaration does not affect India's sovereignty in any manner³. Further, India's membership of the United Nations Organisation (UNO) also in no way constitutes a limitation on her sovereignty⁴.

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 resolution⁵ 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 'communist 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 side⁶. As the Supreme Court says, 'Democratic socialism aims to end poverty, ignorance, disease and inequality of opportunity⁷. Indian socialism is a blend of Marxism and Gandhism, leaning heavily towards the Gandhian socialism'⁸.

The new Economic Policy (1991) of liberalisation, privatisation and globalisation has, however, diluted the socialist credentials of the Indian State.

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'⁹ 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 i.e., all religions in our country (irrespective of their strength) have the same status and support from the state¹⁰.

4. Democratic

A democratic¹¹ 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**¹². 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. Universal adult franchise, periodic elections, rule of law, independence of judiciary, and absence of discrimination on certain grounds are the manifestations of the democratic character of the Indian polity.

The term 'democratic' is used in the Preamble in the broader sense embracing not only political democracy but also social and economic democracy.

This dimension was stressed by Dr. Ambedkar in his concluding speech in the Constituent Assembly on November 25, 1949, in the following way:

“Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognises liberty, equality and fraternity. The principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty, would kill individual initiative”.^{12a}

In the same context, the Supreme Court observed in 1997 that: “The Constitution envisions to establish an egalitarian social order rendering to every citizen social, economic and political justice in a social and economic democracy of the Bharat Republic”.

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, e.g., Britain. In a republic, on the other hand, the head of the state is always elected directly or indirectly for a fixed period, e.g., 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.

A republic also means two more things: one, vesting of political sovereignty in the people and not in a single individual like a king; second, the absence of any privileged class and hence all public offices being opened to every citizen without any discrimination.

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. It means absence of privileges being extended to any particular section of the society, and improvement in the conditions of backward classes (SCs, STs and OBCs) and women.

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. However, liberty does not mean ‘license’ to do what one likes, and has to be enjoyed within the limitations mentioned in the Constitution itself. In brief, the liberty conceived by the Preamble or Fundamental Rights is not absolute but qualified.

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 following provisions of the chapter on Fundamental Rights ensure civic equality:

- (a) Equality before the law (Article 14).
- (b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
- (c) Equality of opportunity in matters of public employment (Article 16).
- (d) Abolition of untouchability (Article 17).
- (e) Abolition of titles (Article 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).

According to K.M. Munshi, a member of the Drafting Committee of the Constituent Assembly, the phrase 'dignity of the individual' signifies that the Constitution not only ensures material betterment and maintain a democratic set-up, but that it also recognises that the personality of every individual is sacred. This is highlighted through some of the provisions of the Fundamental Rights and Directive Principles of State Policy, which ensure the dignity of individuals. Further, the Fundamental Duties (Article 51-A) also protect the dignity of women by stating that it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women, and also makes it the duty of every citizen of India to uphold and protect the sovereignty, unity and integrity of India.

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. It aims at overcoming hindrances to national integration like communalism, regionalism, casteism, linguism, secessionism and so on.

SIGNIFICANCE OF THE PREAMBLE

The Preamble embodies the basic philosophy and fundamental values—political, moral and religious—on which the Constitution is based. It contains the grand and noble vision of the Constituent Assembly, and reflects the dreams and aspirations of the

founding fathers of the Constitution. In the words of Sir Alladi Krishnaswami Iyer, a member of the Constituent Assembly who played a significant role in making the Constitution, 'The Preamble to our Constitution expresses what we had thought or dreamt so long'.

According to K.M. Munshi, a member of the Drafting Committee of the Constituent Assembly, the Preamble is the 'horoscope of our sovereign democratic republic'.

Pandit Thakur Das Bhargava, another member of the Constituent Assembly, summed up the importance of the Preamble in the following words: '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'.

Sir Ernest Barker, a distinguished English political scientist, paid a glowing tribute to the political wisdom of the authors of the Preamble. He described the Preamble as the 'key-note'¹³ to the Constitution. He was so moved by the text of the preamble that he quoted¹⁴ it at the opening of his popular book, *Principles of Social and Political Theory* (1951).

M. Hidayatullah, a former Chief Justice of India, observed, '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'¹⁵.

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.

In the *Berubari Union*¹⁶ 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. Further, where the terms used in any article are ambiguous or capable of more than one meaning, some assistance at interpretation may be taken from the objectives enshrined in the Preamble. Despite this recognition of the significance of the Preamble, the Supreme Court specifically opined that Preamble is *not* a part of the Constitution.

In the *Kesavananda Bharati* case¹⁷ (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. In the *LIC of India* case¹⁸ (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. The reason for inserting the Preamble at the end was to ensure that it was in conformity with the Constitution as adopted by the Constituent Assembly. While forwarding the Preamble for votes, the President of the Constituent Assembly said, 'The question is that Preamble stands part of the Constitution'¹⁹. The motion was then adopted. Hence, the current opinion held by the Supreme Court that the Preamble is a part of the Constitution, is in consonance with the opinion of the founding fathers of the Constitution.

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.

AMENABILITY 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 *Kesavananda Bharati* case (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 368²⁰.

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.

THE PREAMBLE

(The Identity Card of the Constitution)

The preamble is a sort of preface or introduction to a constitution. Strictly speaking, it does not form a part of the constitution. Yet it definitely affords a key to its spirit and meaning. It proclaims the content and purpose of the constitution. It sets out the objectives or the goals for the achievement of which the constitution is framed. Mr. N.A. Palkivala calls it the 'Identity Card of the Constitution'.

The Indian constitution, like many other constitutions of the world, also begins with a preamble which is proclaimed to be one of the best of its kind ever drafted. The preamble as originally incorporated in the constitution has been amended. Three new terms—

Socialist, Secular and Integrity - have been added to it by the 42nd Amendment 1976. Mrs. Gandhi and her partymen praised these additions in glowing terms, though they add nothing to the substance of the preamble or the constitution. There is nothing original about them. They are unnecessary and redundant.

The Preamble to the Indian Constitution, in its amended or new form, proclaims :

“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 twentysixth day of November, 1949 do hereby Adopt, Enact and Give to Ourselves this Constitution.”

CRITICAL EVALUATION

The Preamble to the Indian Constitution is a short but significant statement. It is drafted on the pattern of 'Objective Resolution'. It is unrivalled both in expression and ideals. It is key to the understanding of our constitution. It indicates the source, the sanction, the objectives and the contents of the constitution. It is a charter of democracy and social revolution. It envisages for free India a welfare state committed to the ideal of socio-economic justice. According to B.K. Nehru, the preamble to our constitution does not specifically mention that one of its aims is to ensure the prosperity of the nation. Since none of its other objectives can be achieved in a non-prosperous society, it can be assumed that the creation of prosperity is its underlying assumption and aim. And this is amply borne out by the Directive Principles.¹²

We, the People of India

These opening words of the preamble are both striking and meaningful. Justice V.R. Krishna Iyer described them as 'the most revolutionary words' of the document. They proclaim clearly, with undoubted emphasis, that the constitution of free India has been drafted, enacted and ordained by the Indian people, and they are the real source of authority and sanction behind it. Elaborating this point with a due emphasis, Mr. H.V. Kamath, who was a prominent

member of the Constituent Assembly, observed at Chandigarh seminar in the seventies that the constitution was "sovereign"; since it derived its authority from the people, the people were "sovereign above all". The legislature, the judiciary and the executive were merely 'supreme' in their own spheres.

Viewed from the historical angle, 'We, the People of India' underlined the fact that the constitution, which was to govern the national life of free India, was different from the earlier constitutions of the colonial rule (Government of India Acts, 1909, 1919, 1935 etc.). They were enacted by the British Parliament in London and were imposed upon us. The new constitution was to be a home-spun constitution—a constitution springing from within the country. The preamble thus lays emphasis on the doctrine of the ultimate sovereignty of the Indian people. It also declares our break with an age-old history and tradition of submission to the rule of monarchs, native and foreign. It is however sad that 'We, the Citizens of India' have ceased to show respect either to the constitution or to the national symbols like the tri-colour and the national anthem.¹³ Alas! Values are on the cross.

Sovereign

The word 'Sovereign' in the preamble makes an announcement of much wider importance. It emphasises that India is no more a dependency of the British Empire as she was before passing the Independence Act, 1947; nor is her political status that of a 'Dominion' which she had from 15th of August, 1947 to 26th January, 1950. On the other hand, she is a sovereign state in the sense and manner in which Great Britain, the U.S.S.R., the United States of America and the Swiss Republic are. Being a sovereign power, she is completely free from external control. No outside power has the right to interfere with her internal administration or direct her in the conduct of her foreign policy.¹⁴

India is, no doubt, a member of the Commonwealth of Nations and accepts the Crown of England as the head of the Commonwealth. But this does not affect her sovereignty in any manner. For, the Commonwealth is no more than a voluntary association of free nations. India is free to break her association with the Commonwealth as easily as it had declared its membership in 1949. Pandit Jawaharlal Nehru had, thus, explained India's position in relation to the new Commonwealth: "The new Commonwealth does not restrict India's independence either in the external or internal sphere. It has no strings attached to it. India cannot be compelled to stay in the Commonwealth even one minute longer than she may desire to."¹⁵

India's membership of the U.N.O. is also not incompatible with her sovereignty. One sovereign power may enter into a treaty



or an alliance with any other sovereign power and such a treaty can not detract anything from its sovereignty. Moreover, the membership of the U.N.O. is a self-imposed limitation which can not be inconsistent with the sovereignty of India.

Socialist

The preamble proclaims India as a 'socialist' state. The meaning of socialism has undergone a long process of re-definition and re-evaluation at the hands of various socialist groups in India and abroad. It is, nevertheless, presumed that India, as a socialist state, would seek to secure a large measure of social and economic equality, a wide diffusion of political and economic power, and fair distribution of wealth. Besides, in the Socialist Republic of India, the accent would be on the attainment of positive goals, the raising of living standards, the enlargement of opportunities for all, the promotion of enterprise among disadvantaged classes and the creation of a sense of partnership among all sections of the community.

Even before the incorporation of the term 'socialist' in the preamble, the constitution of India had a socialist content. Article 39, for instance, directs the State to secure adequate means of livelihood for all citizens, equal pay for equal work, fair distribution of wealth etc. etc. Be it noted, that the constitution of almost every modern state has some socialist commitments. India as a socialist state does not envisage a very tall order, and its progress towards the goal of socialism has been disappointingly slow. Despite an avowed commitment to socialism, the inequalities have widened and monopolistic tendencies continue. The government professes adherence to the term socialism—state control and state ownership of the instruments of production and their gains—but surrenders its power to dispense social justice to organisations forged by financial sharks and money-changers. While Congress continues to derive its strength largely from the scheduled castes, scheduled tribes and other minorities, its policies, in their actual implementation, have served the interests of the landed and rich sectors of the society.¹⁶ Again, while an overwhelming majority of people cannot afford to travel even by train, there is hardly any politician, no matter to which party he belongs, who does not travel by plane. There is a very big gap between the life-style of an average Indian politician (even from small town) of to-day and that of pre-independence national leaders like Rajan Babu, Patel, Azad and Lal Bahadur Shastri.

Secular

By incorporating the term 'secular' in the preamble, renewed emphasis has been laid on the fact that the Indian Republic is to be a secular state. The principles of secularism are embodied in the Indian constitution which provides: equal rights to all irrespective of religion, community and birth; equality before law, prohibi-

16. V.R. Mehta : Ideology, Modernization and Politics in India, p. 9.

tion of discrimination, equality of educational facilities and universal adult franchise.) Besides, it finds no conflict between equality and protective discrimination. (Articles 29(1), 30, 330, 332, 335 provide the minorities the right to conserve distinctive languages, scripts and culture, the right to administer their educational institutions, reservations of seats in the legislatures and reservation of seats in admissions.) Amusingly enough, (Indian secularism even allows use of public funds for religious purposes.) This has been provided to remove the feeling of discrimination from the minds of different religious groups. Every citizen in secular state of India has the right to practise his or her faith, and has the same political and social rights as every other citizen. Every office from the highest to the lowest is open to him or her without any religious discrimination.) Pandit Jawaharlal Nehru, the leading champion of non-communal secular state, thus, explained the official position: "In the secular state of India, every religion and belief has full freedom and equal honour, and every citizen has equal liberty and equal opportunity. The minorities are given a fair and just treatment and equitable educational and economic facilities."

Despite numerous constitutional provisions and safeguards, India is not a secular state in real sense of the term. If secularism means an equidistant stance to all religions, that position has been formally attained. But the political operations which sustain the system not only rely largely on religious factors but some time accentuate the differences. More unfortunate, one hears constantly about 'fundamentalism' and revivalism, terms which should have disappeared long ago from our political vocabulary. There is, of course, no official religion, but it is difficult to reconcile with secularism the observance of certain kinds of religious rituals at state functions. Religion, superstitions, astrology are still dominant in shaping government action.¹⁷

The hold of religion on man's emotions and imagination in India is still quite strong. This does not allow the Indian Republic to become really secular. While some religious groups regard the sacred and secular realms as inseparables, for some religion is the basis of identity and cultural cohesion. There are others who do not accept either democracy or secularism or both. All this makes the co-existence of different religious communities within the same state a difficult problem unless the values of politics are translated into the values of society. It would not be out of place to recall that, in his effort to secularise Turkey, Ataturk adopted civil code based on Swiss code. But in India this issue is so volatile, so likely to become explosive, that policy-makers try to avoid its ultimate solution.

Democratic

The term 'democratic' in the Preamble holds forth a very pre-

17. Bhabatosh Datta : New Pledges for Old.

(The Statesman Supplement August 15, 1988)



cious assurance—that India has adopted a democratic way of life, and democracy is the operative principle of Indian political system. The Indian constitution seeks to establish a form of government which derives its authority from the will of the people. The people elect the rulers of the country and the latter are accountable to the people. The governments, both at the centre and in the states, function on the principles of broad suffrage and free and regular elections. The political leaders are not drawn from an exclusive section of Indian society but from all social, economic, religious and ethnic groups. Besides, India as a democratic state does not discriminate against any citizen on the grounds of religion, birth, sex, creed, caste or colour.

The parameters of democracy in India have been enlarged in a variety of ways. The motive force for a strong democracy is participation. Through the introduction of universal adult franchise the entire population has been encompassed in the political process. Popular participation has been sought to be further strengthened through the development of democracy at the grass-roots, by the introduction of Panchayati Raj system and decentralization of administration. Much more significant, the scheduled castes and tribes, which existed on the periphery of traditional society, have been guaranteed some special right and privileges with the result that they have become an active element in the politics of the country and press for increasing share in the national life.¹⁸

We can derive pride over the fact that self-rule has come to be firmly established in the country. But democracy is likely to degenerate if we fail to check the elements that attempt to undercut and undermine the electoral process; if we do not allow the opposition groups to criticise fairly, freely and frankly the policies of the government; and, lastly, if the elected representatives of the people fail to justify the trust imposed in them.

Republic

The term Republic implies an elected head of the state. Under a republican form the head of the state is always elected for a prescribed period.

The term 'Republic' in the preamble indicates that India has chosen to have an elected head of the State. Her chief executive—the President—is not a hereditary monarch like the British King. He is, on the other hand, an elected head chosen for a limited period. As a matter of fact, the acceptance of the republican form of government left no alternative for the fathers of the constitution but to have an elected head of the State. For, under the republican form of government, the head of the state, single or collective, is always elected for a specific period. The President of the U.S.A. is, for instance, elected for a fixed period of four years. The collegium in Swiss Republic enjoys a term of seven years. Similarly, the people of the Indian Republic also elect one of them as their President for five years. However, the Indian Republic is to be distinguished from the ancient Greek and the ancient Indian Republics which were essentially aristocratic, and also from the modern republic like the

18. V.R. Mehta : Ibid, p. 21.

By deciding to become a republic India has chosen the system of electing one of his citizens as President i.e. the head of the state at regular intervals.

U.S.S.R. which is of dictatorial nature. The Indian Republic is a democratic republic. *and not dictatorial in nature or autocratic*

FOUR-FOLD IDEALS

(Justice, Equality, Liberty and Fraternity)

After having described India as 'Sovereign Socialist Secular Democratic Republic', the Preamble unfolds the philosophy of the Indian constitution, with emphasis on individual rights. For, in all social, economic and political endeavours (the individual in the last analysis holds the master-key to all kinds of development. The four-fold ideals or objectives which the citizens of India want to achieve through the constitution are: Justice, Liberty, Equality and Fraternity.)

It implies, Harmonious reconciliation of individual conduct with the general welfare of society; Essence of justice - attainment of the common good.

Justice has been the cornerstone of all political thinking in India. (The term 'justice' has, therefore, been rightly placed at the head of other political values in the preamble. It is also used in its broadest sense. It holds forth the assurance that the State would strive to secure justice in the arrangements of society, in the distribution of wealth, and through participation in the decision-making structures. This preamble message of socio-economic justice has been translated into several articles enshrined in Part III and Part IV of the constitution. They conclusively affirm that the State would seek to remove social disabilities (like untouchability, bonded labour, illiteracy etc) based on birth, religion, custom and community. It would also take adequate steps to end poverty, ignorance and disease.) Not only that, the State would actively intervene in the economy to create equality of opportunity and of welfare. Development would not result in the affluence of a limited minority but would be reflected in the material betterment of the mass of population, and particularly the most impoverished sectors. Last but not least, to boost the position of severely deprived and excluded groups (women, scheduled castes and tribes), the State would provide for compensatory discrimination which would not be held inconsistent with the right to equality of opportunity.)

Obviously, our constitution embodies a number of features that contain the potentialities of establishing a new egalitarian principle of justice, and endorses a number of practical measures to create more favourable social conditions for the institutionalization of democratic norms over an extended period of time. According to Lish and Frank, "the break from colonial rule and the establishment of independence are accompanied by rising expectations. Popular notions of social justice and equal opportunity are mixed with the anticipation of new life styles; visions of motorcycles and automobiles, transistor radios and TV sets rather than the policy makers'

liberty and equality are complementary

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preoccupation with schoolhouses, hydroelectric power plants, and modern steel mills.¹⁰ Thus, the policy makers in the new nations are faced with a difficult situation.

Liberty and Equality ^{the term liberty used in preamble is not only in a -ve but in a +ve sense.}

(Besides 'Justice', the preamble also holds forth an assurance to secure to all citizens liberty of thought, expression, belief, faith and worship, and equality of status and opportunity. These values ensure the fullest physical, mental and moral development of an individual and provide those basic freedoms and conditions which alone can make life worth living. They also provide standards of conduct, citizenship, justice and fair play. They are essential to maintain human dignity.) It would not be out of context to point out that liberty of faith and worship is not admitted in many countries of the world. Its incorporation in the preamble reinforces the secular content of the Indian democracy. (The commitment to the idea of equality is ensured through the introduction of political equality in the form of one man one vote. It is to be followed by efforts to secure socio-economic equality. (But the economic and political developments in the country have, in fact, tended to increase economic disparities and inequalities.) The massive invasion of the political realm by a small minority of those who control economic power has increased the gulf between the rich and the poor.) It is, nevertheless, creditable that, while providing for equality of status and opportunity, positive discrimination or preferential treatment has been accepted as a means to achieve socially desirable end, namely, improvement in the social, economic and political position of those groups whose interests are not adequately represented in important institutions of the Indian society. Equality signifies equality of status, the status of free individual, and equality of opportunity. Another objective of the constitution, as proclaimed in its preamble, is to develop a sense of fraternity by which the dignity of the individual and the unity and integrity of the nation are guaranteed. According to Jaisukhlal Hathi (who was a member of the Constituent Assembly), the founding fathers of free India were all men of vision and wisdom; human dignity was their supreme aim.) If they had envisaged the dignity of the individual as the basic ingredient for the unity of the nation, it must be for good reason. It is a well known fact that in a democracy, it is the dignity of the individual which brings people together. So when we became a democracy it was but natural that the founding fathers inscribed it in bold letters in the preamble of the constitution. But, unfortunately, it is the dignity of the individual which has repeatedly come under assault. (Human dignity is being violated at every turn. The man in the street today is afflicted with a severe crisis of confidence and a loss of faith in his destiny. He feels that he is not more than a petty and meaningless cog in the massive wheel of the

the absence of an arbitrary restriction on individual freedom and

negatively it means

equality implies equality of status the status of a free individual and equality of opportunity the opportunity to develop one's capacities

sa. ensures dignity of individual and the Fraternity, Unity and Integrity of the nation. Another objective of the constitution, as proclaimed in its preamble, is to develop a sense of fraternity by which the dignity of the individual and the unity and integrity of the nation are guaranteed. According to Jaisukhlal Hathi (who was a member of the Constituent Assembly), the founding fathers of free India were all men of vision and wisdom; human dignity was their supreme aim.) If they had envisaged the dignity of the individual as the basic ingredient for the unity of the nation, it must be for good reason. It is a well known fact that in a democracy, it is the dignity of the individual which brings people together. So when we became a democracy it was but natural that the founding fathers inscribed it in bold letters in the preamble of the constitution. But, unfortunately, it is the dignity of the individual which has repeatedly come under assault. (Human dignity is being violated at every turn. The man in the street today is afflicted with a severe crisis of confidence and a loss of faith in his destiny. He feels that he is not more than a petty and meaningless cog in the massive wheel of the

19. Irish/Frank : Introduction to Comparative Politics, p. 361.

everyone to develop his or her capacities.

nation. With the sense of honour and dignity eluding him, he cannot be expected to stand and be counted for the integrity and unity of India.²⁰

In view of the fact that the commodity called 'fraternity' is in short supply and many barriers (like caste, communalism, regionalism) hinder the growth of this sentiment, its achievement is not an easy task. The members of the Constituent Assembly were fully aware of this fact. They, therefore, discarded all those constitutional devices of the 1935 Act which encouraged factions. To promote national unity, they substituted direct elections for indirect elections to the Lower House, adopted joint electorates for separate electorate. In the interest of national unity, the Indian leadership also adopted the three main pillars—army, bureaucracy, and police—of the British Raj, though they often criticised them as authoritarian instruments of the British Rule.

Summing Up

To sum up the message of the preamble in the words of Justice P.B. Gajendragadkar: "India is one country and there is only one citizenship in India. India is committed to the ideal of welfare state and must establish socio-economic justice. India is committed to democracy and respects individual liberty. India wants to give to all her citizens equality of status and opportunity, thereby attempting to create a mighty brotherhood of Indian citizens which would assist the Sovereign Democratic Republic of India in reaching its proclaimed objectives." Obviously, the preamble to Indian constitution is at once buoyant and stirring. About four decades ago, it inspired the hope to bring true freedom and opportunities of a meaningful existence to the common man—the peasant or the worker; to fight and end poverty, ignorance and disease; to build a prosperous, democratic and progressive nation and to create social, economic and political institutions which would ensure justice and fullness of life to every man and woman.

Favourably impressed with the language and substance of the preamble, Pandit Thakur Das Bhargava, a member of the Constituent Assembly, applauded it in these significant words: "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 superb prose-poem, nay, it is perfection in itself." Some critics of the Indian constitution hold the view that Mr. Bhargava has praised the preamble in somewhat superlative terms. The preamble does not deserve the appreciation which it has received at the hands of such enthusiastic admirers. This view of the critics is now untenable. For, the celebrated scholar like Prof. Ernest Barker has also paid a glowing tribute to the political wisdom of the authors of the Preamble.

Preamble characterises Indian state

20. M.G. Devasahayam: Unity without Dignity. (The Tribune, Feb. 7, 1988)

The significance or the importance of the Preamble.

So far as the wording and ideals are concerned, the Preamble to the Constitution of India may be regarded as the best of its kind till drafted. (It expresses the spirit of the constitution, the firm resolve of the people of India to unite themselves in a common venture of establishing a novel socio-economic and political order which will ensure the triumph of the ideas of justice, liberty, equality and fraternity.)

In the Constituent Assembly, Pandit Thakur Das Bhargava endorsed his esteemed appreciation about the preamble in these memorable words "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 the proper yard stick) with which one can measure the worth of the Constitution. All the 395 Articles of the Constitution have to be measured with the yard stick of the Preamble and such provisions as stand the test of the Preamble are good and others should be taken as worthless."

A critical study of the preamble to the Constitution of India reveals the following features :

First, the preamble may be regarded ^{as} a key to understand the motives and intentions of the makers of the Constitution.

Secondly, it expresses the socio-economic and political values which this Constitution intends to promote.

Thirdly, the preamble is not a part of the Constitution from the strict legal point of view. As such the judges are not expected to explain the legal or the constitutional implication of a challenged legislative or administrative measure with the help of the words embodied in the preamble. But (the preamble serves as a guide to the understanding) of the spirit of the Constitution by the appropriate interpretation of the various provisions of the Constitution by the judges of different courts.

The Preamble embodies the philosophy of the Indian Constitution. In the words of Hon'ble Justice Hidayatulla "The Preamble is more than a declaration. It is the soul of our Constitution and lays down the pattern of our political society. It contains a solemn resolve which nothing but a revolution can alter."

Finally, it may be said that the whole of the Constitution of India may be regarded as an elaboration and explanation of the Preamble.