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MAKING OF THE CONSTITUTION : THE PREAMBLE AND POLITICAL PHILOSOPHY

4.1 INTRODUCTION

After the attainment of Independence the people of India were looking for a government of their own to fulfill the aspirations they had cherished during the freedom struggle. As the leaders had promised that after independence India will have a government based on the ideals of democracy and justice, it was hence, necessary to give a proper shape to these ideas and ideals. In modern times, the ideals and structures of any state are enshrined in a document called the Constitution.

The Constitution of India was framed by a Constituent Assembly. This Assembly was indirectly elected body. It had laid down before it certain ideals to be included in the Constitution. These included, commitment to democracy, and guarantee to all the people — justice, equality and freedom. It had also proclaimed that India will be a Sovereign Democratic Republic. The makers of the Constitution were very much concerned with feeding the starved people, clothing the naked masses and ending the exploitation of the depressed. In order to build a just society the framers have incorporated these ideals at appropriate places in the shape of rights, objectives, institutions, etc.

To realise these objectives in the light and spirit of the Constitution, the Preamble was provided at the beginning of the Constitution. This Preamble is considered to be a reflection of the constitution's political philosophy.

In this lesson you will learn about the framing of Indian Constitution and its political philosophy as reflected in the Preamble. You will also learn how and when the Indian Constitution was framed and the significance of its goals and principles

4.2 OBJECTIVES

After studying these lesson, you will be able to:

- recognise the significance of the Constitution as the fundamental law of the land
- describe the composition of the Constituent Assembly and role of its Drafting Committee.

- recognise the objectives of the Constituent Assembly that it had before it,
- describe the Preamble of the Constitution and its relevance,
- identify the basic principles of Preamble and their association with constitutional provisions,
- explain sovereignty and identify factors that make India a Sovereign state,
- explain the meaning of the terms socialism and secularism and examine their relevance,
- describe meaning of democracy and republic and their significance in India,
- recognise the concepts of liberty, equality and justice as ideals of Indian Constitution,
- appreciate the emphasis on the dignity of the individual and unity and integrity of the nation.

4.3 THE CONSTITUTION

The modern state is considered to be a State for the welfare of people. It is, therefore, suggested that it should have a government of a particular form with appropriate powers and functions. The document containing laws and rules which determine and describe the form of the government, the relationship between the citizens and the government, etc. is called the Constitution. The Constitution of a state can be a single or, in some cases more than one document.

The Constitution is considered to be the basic or fundamental law of a state. It lays down the objectives of the state which it has to achieve. It also provides for the institutional framework that is, various structures and bodies of the government. In addition, it describes the rights and duties of the citizens. It is, therefore, considered to be the basis for the governance of the country both in terms of goals and objectives as also structures and function.

4.4 THE CONSTITUENT ASSEMBLY

The Constitution of India was framed by the Constituent Assembly of India. This assembly was elected in 1946 as a result of negotiations between British colonial rulers and leaders of Indian freedom struggle. The members of the Constituent Assembly were indirectly elected by the members of the then existing Provincial Assemblies. In addition, members were also nominated by rulers of princely states. For elected members, seats were reserved on communal basis. India was one and undivided when the Constituent Assembly was constituted. But at the time of Independence, the country got partitioned into India and Pakistan. As a result, members representing the areas included in Pakistan ceased to be members of India's Constituent Assembly.

After independence, the Constituent Assembly consisted of 324 members. Of these 232 were elected by provincial assemblies and the rest were nominated by rulers of princely states. The Constituent Assembly was dominated by the Congress members. Within the Congress, all prominent leaders of the freedom movement were members of the Assembly. Being leaders of the nationalist movement, these members, to a great extent were representatives of the aspirations and expectations of the people, though

they were not directly elected by the people.

Princely States : During British rule some parts of India were not directly under the British control. There were about 560 such areas. These were kingdoms or 'Riyasats' under Indian rulers or Princes. Therefore, these were called Princely States. Kashmir, Hyderabad, Patiala, Travancore, Mysore, Baroda, etc. are some examples of such states.

4.4.1 Working of the Constituent Assembly

The Constituent Assembly was chaired by the President of the Assembly. Dr. Rajendra Prasad was elected to that post. The Assembly worked through a large number of committees and sub-committees. The Committees were of two types: One relating to matters concerning with procedures and the other concerning important issues. There was also an Advisory Committee consisting of experts who were not members of the Assembly. This Committee advised from outside. The most important committee was the Drafting Committee. This was chaired by Dr.B.R. Ambedkar. The task of this Committee was to write the Constitution.

The procedure followed in the Assembly was similar to that followed in the legislature. You will study about the legislative procedure in detail in Lesson No.12 on Parliament. The leaders in the Assembly were conscious of the need for agreement. Therefore, as far as possible decisions were taken on the basis of maximum agreement. This also resulted into compromises on various issues.

The Assembly, however, started its work with a vision for further India. It had before it certain objectives, which reflected the aspirations of the people.

INTEXT QUESTIONS 4.1

Tick out (✓) whichever is correct :

1. **The Constitution of a country provides the basis for**
 - a) punishment of criminals.
 - b) governance of the country.
 - c) relationship between citizens.
 - d) trade relations with other countries.

2. **Constituent Assembly of India was composed of**
 - a) Members nominated by British Government.
 - b) Members nominated by Political Parties.
 - c) Members elected by Provincial Assemblies of Provinces.
 - d) Members elected by people.

3. **The Constitution of India was prepared by**
 - a) The Advisory Committee.

- b) Secretariat of the Assembly.
- c) The President of the Assembly
- d) The Drafting Committee.

4.5 OBJECTIVES OF THE CONSTITUTION

The Constituent Assembly of India was framing the Constitution for Independent India in the background of about 200 years of colonial rule, a mass-based freedom struggle, partition of the country and spread of communal violence.

Therefore, the framers of the Constitution were concerned with fulfillment of aspirations of the people, integrity and unity of the country and establishment of a democratic society. Within the Assembly, there were also some ideological differences. Some members were inclined towards socialist principles. Some were influenced by Gandhian thought. But most of the members were of liberal thinking. Efforts were made to have a consensus and avoid conflicts. This consensus came out in the form of the objectives resolution moved by Jawaharlal Nehru in the Assembly on 17 December 1946. This resolution was adopted almost unanimously on 22 January 1947.

Liberal Thinking : The liberals emphasised on the right & freedom of individuals, where there is less interference of the state.

4.5.1 The Objectives Resolution

The Objectives Resolution expressed the aspirations and expectations of the people that they had from independence. The Resolution said that the Assembly would declare India an independent, sovereign republic. The Constitution would guarantee freedoms of thought, expression, belief, faith and vocation. It would provide equality and justice to all the citizens. There would be provisions for welfare of various sections of the



Fig. 4.1: The Hon'ble Dr. Rajendra Prasad, President of the Constituent Assembly, signs the new Constitution of the Indian Republic.

people. The Resolution also made it clear that in India, ultimate power would reside in people.

The objectives laid down in the resolution were, of course, of general nature. The purpose was to have before its members a guideline and a framework. As already explained, in spite of some ideological differences, almost all the members of the Constituent Assembly agreed with the Objectives Resolution. In the light of these objectives the Assembly worked for about two years and completed its task by 26 November 1949 when it adopted the final version of the Constitution. The Constitution was enforced with effect from 26 January 1950. From that day, India was declared a republic.

4.6 THE PREAMBLE

The Constitution of India commences with a Preamble. The Preamble is like an introduction or preface to a book. As an introduction, it is not part of the contents of the book that is the Constitution. But it explains the purposes and objectives with which the Constitution has been framed. The Preamble reads as:

WE THE PEOPLE OF INDIA,

having solemnly resolved to constitute India into a
SOVEREIGN SOCIALISTIC 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 individuals 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!**

The Preamble in brief explains the objectives of the Constitution in two ways: One about the structure of the governance and second about the ideals to be achieved in Independent India. It is because of this, that the Preamble is considered to be the key to the understanding of the Constitution. The objectives which are laid down in the Preamble are:

- i) Description of Indian State as Sovereign, Socialist Secular, Democratic Republic.
- ii) Provision for all the citizens of India of
 - a) Justice - social, economic and political.

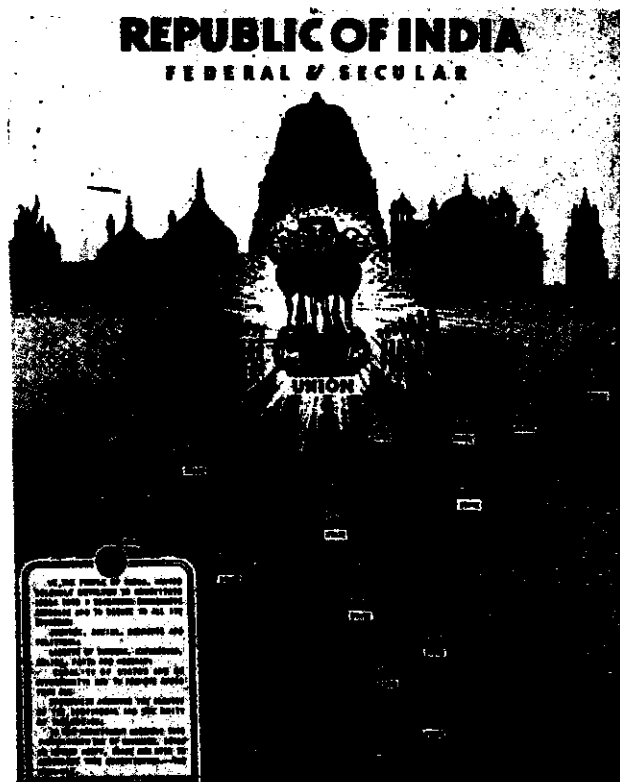


Fig.4.2: Illustration shows the basic character and the principles underlying the organization of the Republic of India.

- b) Liberty - of thought, expression, belief, faith and worship.
- c) Equality - of status and opportunity.
- d) Fraternity, Dignity of the individual and Unity and Integrity of the nation.

Let us see what do these objectives mean and how are they reflected in our constitution.

4.7 SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC

4.7.1 Sovereignty

Sovereignty is one of the most essential elements of any independent State. In simple terms, it means a State's powers to take decisions without any influence, control or interference from any other power both external and internal. It does not mean that the State's decisions are not affected by events in international politics, demands made by people or groups, suggestions or advice by people, leaders, or organisations.

In the beginning the Constitution makes it clear that the ultimate sovereign in India are people.

4.7.2 Socialist

The word Socialist was not there in the Preamble of the Constitution originally. This along with the word Secular was added in 1976 through the 42nd Amendment to the Constitution. Inclusion of the word Socialist in the Preamble is somewhat controversial. It is so for two reasons. One, there are a number of definitions and meanings of the term Socialism. It is not clear which meaning or definition of Socialism is intended here. Second, while the term has been mentioned in the Preamble its manifestation in the provisions of the Constitution remains disputable.

The word Socialism in India had been used before its inclusion in the Preamble in the context of economic planning. In this sense, it can be said that use of the term Socialism implied acceptance of the State's major role in economy. It also means commitment to attain the ideals like removal of inequalities, provision of minimum basic necessities to all, equal pay for equal work, avoidance of concentration of wealth and means of production, etc. in a few hands. These objectives have been mentioned in the chapter on Directive Principles. This you will read in Lesson No.7.

4.7.3 Secularism

The word Secular in the Preamble implies that in India there will be no State religion. It means that the State would not support any particular religion out of public fund. There are two aspects of this; one every individual is free to believe in, and practice, any religion and every religious group has freedom to manage its own affairs. Second, the State will not discriminate against any individual or group on the basis of religion, creed or caste, etc. Guarantees both for freedom of religion and provisions for equality for all have been provided in the Constitution from the beginning. However, the word

Secularism was introduced in the Preamble only in 1976 by the 42nd Amendment to reiterate that Secularism was a part of the basic ideology of Indian State.

4.7.4 Democratic Republic

Democracy is generally known as government of the people, by the people and for the people. In effect, it means that the government is elected by the people and it is responsible to the people, its powers are restricted and it cannot act arbitrarily.

The ideas of democracy are enshrined in the Constitution through provisions of universal adult franchise, elections, guarantee of fundamental rights and responsible government. You will read about these in the subsequent lessons. Here it may be mentioned that in India, the Constitution provides for Parliamentary form of Democracy.

Republic means that no office in public life is hereditary. In other words, all the offices are open to public. In some of the countries governments are democratic but head of the states are not elected. Such non-elected heads of the state does not exercise any actual powers. Nevertheless, he/she being hereditary, those states are not described as Republics. Britain, Japan, etc. are examples of such democracies. The Indian Constitution provides for an elected head of the state (President) and does not provide for any office by birth. Thus, India the like U.S.A. is both Democratic and Republic.

From the above discussion it becomes clear that, the framers of the Indian Constitution as representatives of the people declared in the Preamble for constituting India as a Sovereign, Socialist, Secular, Democratic Republic and made provisions for the same in various articles of the Constitution.

INTEXT QUESTIONS 4.2

Fill in the blanks with the correct statements given in the brackets.

1. Secularism in India means (rejection of religion / respect for all religions / respect for ones own religion).
2. Socialism in India means(state ownership of all industries / state's major role in economy / equal distribution of wealth).
3. India became a Republic on (15th August, 1947 / 26th November, 1949 / 26 January, 1950).

4.8 JUSTICE, LIBERTY AND EQUALITY

During the struggle for freedom the people of India were told that their struggle was not only to oust the British rulers, but also to usher in to an era of restoring the dignity of men and women, removal of poverty, an end to exploitation. Therefore, both in the Objectives Resolution and in the Preamble, the framers of the Constitution declared provisions of Justice, Liberty and Equality to all the citizens of India as cherished ideals.

4.8.1 Justice

In its general form, justice means fairness of a society in its division of rewards and burdens. In political sense, it is a matter of giving people what they are entitled to in

terms of basic rights to food, clothing, housing, participation in decision making and living with dignity as human beings. Therefore, the Preamble of the Constitution mentions of justice — social, economic and political.

To achieve these ideals, there are provisions in the Constitution for abolition of untouchability, discrimination and forced labour, promotion of welfare of the people, particularly the weaker and deprived sections and right to participate in politics. You will read in Lesson 7 on Directive Principles of State Policy particularly in the context of socio-economic justice.

4.8.2 Liberty

By liberty we generally understand freedom that is freedom to choose, decide and act. In political terms, it has two meanings — Negative and Positive. Negative liberty refers essentially to absence of external constraints. In Positive sense, it means actual internal freedom of choice. This is possible only when man gets freedom from want and fear. The Preamble to the Constitution mentions of liberty of thought and expression. These freedoms have been guaranteed in the Constitution through fundamental rights

Freedom from want has not been guaranteed through fundamental rights. However, in this regard, there are certain directives to the State in Directive Principles. In the Constituent Assembly, some members suggested inclusion of right to work and right to minimum material needs for life as fundamental rights. But in view of the limitation of resources with the state, this right was not included. In the absence of economic freedom, the real possibilities of exercise of political and civil liberties by masses remains an issue of debate even today.

4.8.3 Equality

Equality is considered to be essence of the modern democratic ideology. It has many dimensions like social, economic and political equality. In India, for centuries, persons had been considered unequal in social status on the basis of caste and gender. Political inequality prevailed on the basis of rulers and ruled. Because of these, they had been denied equality of opportunity. By placing the ideal of equality in the Preamble, the makers of the Constitution expressed the aspirations of the Indian people to end such inequalities as also the exploitation based on these. There is specific mention of equality of status and opportunity.

Equality of status means that the State should treat and protect all citizens as equals without an discrimination based on caste, creed, birth, religion, sex, etc. It means that all rights should be the same for all citizens. The Constitution of India guarantees such equality by including in fundamental rights provisions for equality before law and equal protection of laws. It also prohibits discrimination in social processes. Practice of untouchability, the most heinous type of discrimination, has been abolished and its practice has been made punishable.

Equality of opportunity implies that regardless of the socio-economic situation into which someone is born, he/she will have the same chance as everybody else to develop his/her talents and choose means for livelihood. It means that any job, post, occupation or whatever should be open to every member of the society on the same terms. The Indian Constitution guarantees such as equality of opportunity to all citizens

1 matters relating to employment or appointment to any office under the state. It prevents discrimination on grounds of religion, race, caste, sex, decent, place of birth or residence.

INTEXT QUESTIONS 4.3

Fill in the blanks with appropriate words from those given in the brackets.

1. Justice means giving people what they(are entitled to / want).
2. Constitution of India guaranteesfreedoms (Negative / Positive).

4.9 FRATERNITY, DIGNITY AND UNITY AND INTEGRITY

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

This unity and integrity was required for harmonious co-existence among various religious, linguistic, cultural and economic groups. It is this requirement that has been desired in the Preamble by use of such words as dignity of individual, fraternity among people and unity and integrity of the nation.

Dignity here means that each citizen reels himself or herself as an equal and important citizen of the country irrespective of his or her faith, belief or social or economic status.

Fraternity means that all Indians consider and treat each other as equal co-citizens. There is tolerance in various fields of differences and a sense of belonging to one country.

In general, it means that a citizen of India feels secure and respected both as an individual and as a member of his/her social, linguistic or religious group. He or she also is committed to Indian society and nation as a whole.

It is expected that through these guarantees and provisions there would emerge among people a feeling of patriotism nationalism and Indianness. The idea was to achieve integration through accommodation and not by forced assimilation. In other words, our Constitution is based on the ideal of unity in diversity.

4.10 PHILOSOPHY OF THE CONSTITUTION

From the above analysis of the Preamble to the Constitution, it becomes clear that the framers of the Constitution were concerned not merely with framing a Constitution for the governance of the country but they also had a vision for a new society and polity. They were aware that it was not enough only to substitute for their erstwhile rulers.

You might have read earlier that with regard to definite goals of socio-economic development and strategies to achieve them, there were ideological differences among the leaders and members of the Constituent Assembly. However, they were able to make compromises and arrive at consensus. It is this consensus which is reflected in

the Preamble to the Constitution. You have seen that the Preamble mentions of Democratic Republic based on equality and freedom. There is desire for pluralism, tolerance and co-existence. It talks of attainment of justice. All these are elements of liberal democratic traditions.

Pluralism : It means that People having more than one belief stay together in a society. This may be in terms of religion, language, faith opinion, etc. All groups are respected equally and co-exist freely.

Egalitarian : A society which feels concerned for the needs of all its members is known as an egalitarian society. An egalitarian state is expected to reduce inequalities among citizens and fulfill minimum requirements of all.

Looking at the Preamble to the Constitution, it seems that it has attempted to set a goal, provide a vision and direction in building a new social order which is not only democratic but equal and just. It is a vision which is humane, democratic, secular and, therefore, egalitarian. It envisages a very positive role for the Indian state in reconstruction of a new social order. At the same time, it protects individuals's freedoms and civil rights. Thus, it can be said, that the Indian Constitution is based on the philosophy of liberal welfare democratic society. Preamble to the Constitution in these sense is important as it provides a framework of ideals and values for the Indian State. Therefore, inspite of not being a part of the Constitution, the Preamble is given due regard by the courts while interpreting the Constitution. This also provides an important instrument to the citizens to question government's policies.

INTEXT QUESTIONS 4.4

Which of the following statement is true/false:

- (a) Unity and integrity is not required for harmonious co-existence of people.
- (b) Pluralism means people have only one believe.
- (c) Egalitarian Society feels concerned for the needs of all its members.
- (d) The Indian Constitution is based on the philosophy of liberal welfare democratic society.

WHAT YOU HAVE LEARNT

Framework and structures for the governance of a country are provided by the Constitution. India is governed by a Constitution which was framed by a Constituent Assembly at the time of Independence. The Constituent Assembly came into existence in 1946 before the formal declaration of Independence. The Assembly consisted of members elected by the provincial assemblies and those nominated by the rulers of Princely States.

The Constituent Assembly started working with the adoption of Objectives Resolution. This resolution represented the aspirations and expectations of the people. The

Constituent Assembly completed its task of framing the Constitution on 26 November 1949 when it formally adopted the new Constitution of India. This Constitution came into force with effect from 26 January 1950. The Constitution of India begins with its Preamble. In legal terms, the Preamble is not a part of the Constitution. However, in terms of understanding, the Preamble is key to the Constitution. It tells us about the objectives, goals and ideas enshrined in the Constitution. The Preamble, therefore, reflects the spirit or philosophy of the Constitution.

Preamble tells us that India has been constituted into a Sovereign, Socialist, Secular, Democratic, Republic. That means India is a free country not under the influence or control of any other power. Its government is elected by the people and is responsible to the people. As Secular state, India has no state religion and government is required to respect all religions equally.

The Preamble mentions the goals contained in the Constitution for Indian society namely, securing justice, liberty and equality for all its citizens and promotion of Nation's unity and integrity through fraternity among people and assuring dignity of the individual.

The objectives and ideals mentioned in the Preamble tell us that the Indian Constitution is based on the philosophy of liberal, democratic, welfare state.

TERMINAL EXERCISES

1. What is the importance of the Preamble to the Constitution?
2. Explain the meaning and relevance of Secularism in the Indian context.
3. What do you understand by social and economic justice?
4. Describe the meaning and importance of equality of opportunity and its limitations.
5. What is the philosophy of the Indian Constitution as enshrined in its preamble?

ANSWERS TO INTEXT QUESTIONS

4.1 1. (b); 2 (c); 3 (d).

4.2 (1) respect for all religions.

(2) state's major role in economy.

(3) 26th January 1950.

4.3. (1) are entitled to

(2) positive

HINTS FOR TERMINAL EXERCISES

1. Please see section 4.6
2. Please see section 4.7.2
3. Please see section 4.8.1
4. Please see section 4.8.3
5. Please see section 4.10