



## Elucidation of the Preamble of the Indian Constitution

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### Abstract

The Preamble of a written Constitution functions as a guiding framework, offering a succinct summary of the goals, principles, and ambitions the nation aims to realise. It encapsulates the philosophy and broad purposes of the Constitution, offering citizens an immediate understanding of its essence. This article explores the interpretative significance of the Preamble in Indian constitution, tracing its judicial recognition and evolving authority. Initially perceived as non-justiciable and external to the Constitution, the Preamble was later affirmed by the Supreme Court in landmark cases such as Kesavananda Bharati and Barubari to hold substantial interpretive value. It was acknowledged as a key to understanding the legislative intent and the spirit underlying constitutional provisions. The research highlights that the Preamble proclaims the sovereignty of the populace, affirms the republican and democratic essence of the Indian polity, and underscores the preeminence of the Constitution over all state entities. Through an examination of judicial pronouncements and the language of the Preamble, this article highlights its enduring role as a dynamic instrument of constitutional interpretation and nation-building.

**Keywords:** Indian Constitution, Judicial Interpretation, Basic Structure Doctrine, Constitutional Values, Sovereign, Socialist, Secular, Democratic, Republic, Justice, Liberty, Equality, Fraternity, Kesavananda Bharati Case, Barubari Union Case.

### Introduction

The Preamble of the Indian Constitution serves as a formal proclamation of the essential ideals, guiding principles, and objectives that the Constitution aims to achieve. It embodies the essence of the Indian polity, proclaiming India to be a Sovereign, Socialist, Secular, and Democratic Republic, and guarantees Justice, Liberty, Equality, and Fraternity to its citizens. Although the Preamble is not an operative part of the Constitution, its significance in interpreting constitutional provisions has been emphatically recognized by the judiciary. Indian courts, particularly the Supreme Court, have played a vital role in elucidating the nature, scope, and effect of the Preamble through landmark judgments.

Judicial interpretation has established that although the Preamble does not confer power or impose constraints, it serves as a crucial tool for understanding the intentions of the founders and offers significant assistance in interpreting unclear constitutional clauses. Through historic cases such as Kesavananda Bharati v. State of Kerala (1973) and Barubari Union Case (1960), the judiciary has firmly established the Preamble's role in reinforcing the basic structure of the Constitution and ensuring that the core ideals enshrined therein are preserved. Thus, the judicial interpretation of the Preamble has not only enriched constitutional jurisprudence but also reinforced the dynamic and living character of the Constitution of India.

The architects of a written Constitution usually provide for a recital in the form of Preamble\* to indicate to the people the

various purposes for which the Constitution has been framed and the objectives that are to be achieved during the course of years to come, showing the path of progress and development the country seeks to promote for the welfare of the people. In an age of technological era, people are anxious to know the various aims and objectives without much time being consumed to know them, and the Preamble in a nut-shell provides them to know these issues quickly and rapidly through the words and expressions employed to convey them and the language used broadly indicate the various crucial aspects, and the Preamble is used to interpret in the widest amplitude all that it is intended to provide with the help of various provisions that are detailed in various Chapters of the Constitution.

At one point of time in the constitutional history of India, the judiciary held that the Preamble is not a part of the Constitution <sup>[1]</sup>, which was no longer to be viewed as such, as declared in the Kesavanandas <sup>[2]</sup> in these terms "... the Preamble of the Constitution is of extreme importance" and the Constitution should be interpreted in the light of the noble objective enshrined in the Preamble" <sup>[3]</sup>. This statement of law was reinforced vehemently by Shelat and Grover, JJ in the same case as a concept of guidance to interpret the Constitution <sup>[4]</sup>.

In Barubari case <sup>[5]</sup>, the Supreme Court ruled that Preamble is the 'key' to open the intention of the legislature, enunciating the various purpose and objective for which the Constitution is designed to serve, just as the key of a house when opened

one gets the comprehensive view of the entire house. The intention of the legislature can be known by the words and expression used in the Statute and the language used either redirecting or expansive meaning being given. It all depends upon the words used. Preamble is generally described as the 'introductory part of the Constitution' [6], as stated by Collins. Thus, it is evident that Preamble sets out certain facts for the easy understanding of what it states or conveys.

The opening words of the Preamble, "we the people of India in our constituent assembly do hereby adopt, enact and give to ourselves this Constitution" leads to the exposition of the theory that sovereignty lies with the people and the source of power is "people" and the will of the people is supreme and the Constitution is the work of the people themselves and not imposed upon them by any other authority whatsoever. These expressions used also reveal the republican and democratic character of the Indian polity reflecting the fact that the ultimate sovereignty lies with the people. Thus, supremacy of the people leads to the supremacy of the Constitution and all organs of the government are bound by the Constitution, as no organ is above the Constitution. The supremacy of the Constitution is one of the derivatives from the words used in the opening expressions of the Preamble.

The Preamble declares India as a 'sovereign' socialist, secular Democratic republic. The concept of sovereignty in the Austinian's sense, that the Country is not subject to any external authority. India in the pre-independent area witnessed the British rule and called as 'British India' and became 'independent India' when it was freed from British rules [7] with powers to legislate on any subject conditioned only by the limitations imposed by the constitutional provisions [8]. The expression 'democratic' conveys that the Country has a democratic form of parliamentary system of Government responsible to an elected legislative body, which goes out of office when a no-confidence motion is adopted against the party in power. The expression 'republic' denotes that the head of the state shall be an elected representative and not a hereditary ruler. Even in Countries, where it has a hereditary ruler, it has paved the way by mandatory requirement of the ruler acting in aid and advice of the Council of Ministers headed by the Prime-Minister following in line with the concept of democratic form of Government [9]. Further the socio-economic objectives to be achieved are spelt out in the Preamble followed by specific provisions of the Constitution. Pandit Nehru described the Constitution as a 'living organism' and suggested that it grows and the growth of the constitution indicated the growth of the nation and if anybody prevents the growth of the Constitution, he prevents the nation's growth.

The growth of the Constitution takes place by two recognized methods namely by Judicial interpretative power and the other by constitutional amendments. The scope of development and growth of the Constitution through interpretative power is discussed in this research work and the amendments to develop and growth of the Constitution witnessed in serious constitutional amendments made. The deficiency in the Preamble itself has been cured by the Constitution 42nd Amendment Act which introduced the expressions, "secularism" and "unity of the people" [10]. Secularism promoted the ideals of secularism and the compulsive need to maintain the unity of the people in the midst of multifaceted religious groups wedded to different religion working at cross-roads and eternal conflicts, since some of them were interested in promoting their selfish ends to the detriment of the people, harming the interests of the nation considerably. In short 'secularism' indicated no official religion for the State

unlike in some of the Muslim State 'Islam' is treated as the religion of the State [11],

Socio-economic objective are to be achieved by the recital in the Preamble that to secure to all citizens social and economic justice, liberty of thought, expression, belief, faith and worship, equality in status and opportunity and to promote among them fraternity, so as to secure the dignity and the unity and integrity of the nation. The use of concept like, liberty, equality and fraternity have been elaborated by Dr. Ambedkar thus: "To divorce one from another 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", [12] In Indira Sawhney's case [13], the Supreme Court observed that 'fraternity in the context of individual dignity' has "special relevance in relation to social backwardness" wherein certain sections of the community were neglected or looked down upon [14]. These objectives were sought to be achieved by provisions in the chapter on Fundamental rights guaranteeing freedoms such as freedom of speech and others [15]. Thus, the citizens are ensured social, economic and political justice, which in turn would mean economic and political democracy. Thus, this aspect of the Preamble read with Directive principles of State policy has been interpreted to achieve a social welfare State. Cases such as *Samantha* [16] establish this concept of "social welfare".

The Supreme Court interpreted that the constituent Assembly was a representative body and the facts set out in the Preamble have to be accepted as correct [17]. The framers of the Constitution had performed a sacred duty and exercised full wisdom and political knowledge in securing a good and workable Constitution [18].

It is interesting to study the interpretation of expressions used in the Preamble in the light of judicial decisions.

- a) The expression 'sovereign' means absolute and uncontrolled power within its own sphere [19]. Doubts were raised whether India's membership in UNO and Commonwealth of nations were consistent with India's claim as 'sovereign', it was clarified by the constitutional experts that the membership is voluntary and can be given up at any time at India's will. Thus, membership acquires no significance in terms of its constitutional status [20].
- b) Preamble can be amended depending upon the constitutional necessity to amend to achieve a noble object. The Constitution 42nd Amendment Act, 1976 is an authority to show the power to amend the Preamble, which inserted, "socialist" among others in the Preamble. "Socialist" means the power of State ownership over 'means of production, distribution and exchange' [21] and it is aimed at 'mixed economy' [22].
- c) Mrs. Indira Gandhi explained 'socialist' as the prime objective of the State to secure a 'better life for the people with equality of opportunity' [23]. As explained in *Excel Wear case* [24], the power of court's interpretation leaned more in favour of State ownership, not to be pushed to the total elimination of private enterprise depending upon its interest [25]. Socialism was meant to "eliminate inequality in income and status and standard of life" [26]. It is meant to establish an 'equalitarian social order' through 'Rule of law' which has been held as the basic structure of 'social order' [27]. In *Samantha's case*, [28] 'socialist' has been interpreted in the context of Art 14,

15, 16, 21, 23 of the Constitution of India.

- d) Another interesting insertion in the Preamble relates to 'secular' by the 42nd Amendment, 1976. Secularism has varied aspects namely:-

State treats all religions equally without interpreting with their individual religious right, faith or worship<sup>[29]</sup>. State is neutral in matters of religion and it has no religion but not an anti-religious State. In other words it leaves people to have their relationship with God but merely regulates inter-se relationship of man with others in matters of religion, thus securing equal freedom of all religions Religion has nothing to do with socio-economic welfare of the people such as preventing bigamy and triple talaq and other issues concerning social welfare or protection of human rights, which can be done by law<sup>[30]</sup>.

'Secularism' has been a topic of frequent interpretation by courts such as St Xavier's College,<sup>[31]</sup> where the Supreme Court observed: "... everyone is free to mould or regulate his relations with God in any manner. He is free to go to God or Heaven in his own ways. Worshiping God is left to be dictated by his own conscience"<sup>[32]</sup> Secularism indicates 'neutrality' of the State in religious matters which is implicit in Art 25 to 30 of the Constitution<sup>[33]</sup>. However, in the matters of State, religion is out of place and has no relevance. In S.R.Bommai's case,<sup>[34]</sup> secularism has been held as one of the basic features of the Constitution and so beyond the power of amendability, to mean that concept of secularism cannot be destroyed or altered or amended by any legislative power or constituent power. In Bommai's case, it was also held that 'secularism' which was implicit in the Constitution, was made explicit by the Constitution 42nd Amendment Act, 1976, It is interesting to note that 'secularism' has been left without any definition, as it was viewed as not capable of being defined. Secularism is more than a 'passive attitude to religious tolerance and a positive concept of equal treatment of all religions<sup>[35]</sup> and indicates neutrality towards religion or "benevolent neutrality"<sup>[36]</sup> In other words, State can regulate the secular affairs of places of worship such as temples, mosques etc., and "the power of Parliament to reform the personal laws has been left unimpaired",<sup>[37]</sup> Secularism is a matter that can be determined from various articles of the Constitution contained in the chapter on 'Fundamental rights<sup>[38]</sup>. The Supreme Court held: "The essence of secularism in India is the recognition and presonation of the different types of people with diverse languages and different beliefs and placing them together so as to form a whole united India<sup>[39]</sup>. Further Art 30 of the Constitution can well be an apt illustration which preserves secularism in India.

Religious tolerance and respect for each other religion is vital for society and the schools are the chosen places to impart such as understanding religion, the court held that study of religions in school education can be construed as a step in the right direction and thus, cannot be held as an attempt against the secular philosophy of the Constitution"<sup>[40]</sup>.

In State of Karnataka Vs. Dr. Praveen Bhui,<sup>[41]</sup> the court observed that a person must be assured by the State that he has the protection of law freely to profess, practice and propagate his religion and freedom of conscience'. In the absence of such an assurance, rule of law would get replaced by individual perceptions of one's own presumptions good social order<sup>[42]</sup>.

The concept of 'Democratic Republic' requires study to understand the court's interpretative role in shaping its meaning. Democracy signifies governance by the people,

either directly or through elected representatives. It is based on the 'rule of law,' respecting majority will while safeguarding against majority dictatorship. Indirect participation can be described as "representative democracy which is provided by the Constitution<sup>[43]</sup>. Free and fair elections is an indispensable requisite for the survival of democracy which also needs 'free and fair knowledgeable voters<sup>[44]</sup>.

The expression 'republic' denotes that the Head of State is elected, not hereditary like a monarch. In India, the President is elected under the Constitution, reflecting its republican character. Even in monarchies like the U.K., democratic principles prevail as the monarch acts on the advice of an elected government, ensuring the people's representation in governance. In the republican character, as in India, the real powers are vested in the Council of Ministers headed by the Prime-Minister and the President of India becomes a titular head in almost in many matters<sup>[45]</sup>, Justice assured is of three aspects namely social, economic and political. The conduct of the individual being reconciled with general welfare of the community constitutes the essence of justice which in turn means the attainment of the common good.

The concept of social justice relates to abolition of all inequalities which results in turn inequalities of wealth, opportunity, status, race, religion. caste, title and the like,<sup>[46]</sup> which is sought to be achieved by the provisions of Chapter IV i.e., Directive Principles of State Policy in particular and by the provisions in general "in order to achieve social justice"<sup>[47]</sup>.

In Air India Statutory Corporation's case,<sup>[48]</sup> the Supreme Court ruled as follows:-

- i). The aim of social justice was to attain substantial degree of social. economic and political equality;
- ii). Social justice was dynamic device to mitigate the sufferings of the poor, weak, dalits, tribals and deprived actions of the society and elevate them to the level of equality;
- iii). Social justice is to enable the poor and deprived sections of the society to live a life with dignity of the person;
- iv). Quoting Art 38 of the Directive Principles of State Policy explained that the aim of social justice is to ensure life to be meaningful and livable with human dignity;
- v). Social justice and equality were complementary to each other; and
- vi). Rule of law was a potential instrument of social justice to bring about equality in results; and the contract labour (Regulation and Abolition) Act, 1970 which abolished 'contract labour and made regularization of workman as employees was a "social welfare legislation"<sup>[49]</sup>.

"Economic Justice" has been interpreted in the light of economic force and meant "equal pay for equal work" and every person is entitled to get just wages for his labour, irrespective of caste, sex or social status<sup>[50]</sup>. Through the interpretative power, made equal pay for equal work as a Fundamental right<sup>[51]</sup>.

The term "political justice" referred to in the Preamble provides that in political matters, there should be no unreasonable or arbitrary distinction among people. The concept of 'adult suffrage' can be viewed as an instance of political justice, where any adult person has the right to vote or even stand for election. The concept of 33% reservation to women in legislature is yet to become a reality to fulfill the task of women empowerment and justice to weaker sections of society.



The expression 'liberty, equality of status and opportunity, Fraternity, dignity of the individual and unity and integrity of the Nation' used in the Preamble have become the subject-matter of judicial interpretation which indicated substantial development in many sectors of societal life with expression on the development of people. It is worthwhile to study these aspects.

'Liberty' consists of both positive and negative aspects. Positive aspects includes all rights which are essential to attain potentialities and perfection of one's life including national life and negative aspects consists of absence of all kinds of restraints or arbitrary interference on the part of the State in the action of individual re.. freedom of act <sup>[52]</sup>. In the liberty in the context of Art 21 has been interpreted to mean all rights beside right to life, all that are considered basic to living consistent with human dignity and self-respect and not a mere 'animal existence', <sup>[53]</sup> Liberty is not merely confined to 'right to life or personal liberty' but inclusive of 'liberty of thought, expression, belief, faith and worship which are considered as basic or indispensable requisite for the individual's development and in the larger context of the development of nation <sup>[54]</sup>,

The concept of 'equality of status and opportunity' referred to in the Preamble is made available to all citizens without any discrimination based on 'religion, race, caste, sex or place of birth and making the doors open to all citizens of all 'public places. Art 14 and 15 of the Constitution strengthen the above statement of constitutional law as a result of varied interpretation placed on the above Articles <sup>[55]</sup>. Further Art 17 abolishes untouchability and titles (Art 18) and by providing equality of opportunity in the matter of employment or appointment to an office under the provisions of Indian Constitution (Art 16) such as Attorney-General, Judges of High Court and Supreme Court including the highest position like President of India, as per the provisions of the Constitution and subject to fulfillment of conditions, wherever stipulated or conditioned.

The expression 'fraternity' used in the Preamble signifies, 'spirit of brotherhood' that each individual is a child of the Indian soil and of the same motherland <sup>[56]</sup>. The Drafting Committee of the constituent Assembly felt that the need of the hour was fraternity and goodwill amongst citizens in view of the diversities in India based on 'race, religion, languages and cultures' and this could be done by specifically inserting 'fraternity' in the Preamble <sup>[57]</sup>. This has gone long way in promoting unity among people, which ultimately contributes to the integrity of the nation. The concept of 'single citizenship' and everyone is a citizen of India, inspite belonging to different states with diversities of multi-faceted dimension, equally created the 'spirit of brotherhood'. The spirit of brotherhood is more guaranteed by the provisions such as, 'right to move freely, to settle and reside in any part of India supplemented by the right to practice any trade or business or profession <sup>[58]</sup>. This has been made possible through the interpretative power of the court to read Preamble in the context of fundamental rights.

Another significant expression used in the Preamble is 'Dignity of the individual which is a 'sine qua non' for achieving 'fraternity This is done by making fundamental rights available to all without any discrimination or distinction whatsoever. Treating men and woman equally and conferring right to an adequate means of livelihood <sup>[59]</sup>, decent standard of life <sup>[60]</sup> and just and humane conditions of work <sup>[61]</sup> which has led to number of labour legislations such as Maternity Benefit Act, Industrial Employment Standing Orders Act,

1946 and others. Human rights jurisprudence expanded labour laws to fall in line with humanizing labour enactments and the complexity is reduced by recent efforts by codifying many laws into a few.

The interpretation placed by courts on these labour laws has led to promotion of the development of labour force and promoting their welfare to a large extent.

The expression 'unity and integrity of the Indian Nation' in the Preamble emphasizes securing independence, strengthening democracy, and ensuring citizens enjoy its benefits. It also justifies the State's power to curb disruptive forces through emergency provisions and laws like preventive detention. The Supreme Court emphasized the need for tolerance and respect from all sects and communities, in order to keep the Country united <sup>[62]</sup>. No doubt the interpretative powers of the court is construing the 'unity and integrity' has led considerably to maintain national unity, despite various diverse elements to destroy it. According to a constitutional expert, "the spirit and ideology behind the Constitution is sufficiently crystallized in the Preamble", <sup>[63]</sup>

The concept of 'social welfare state' could be derived easily from the various objects outlined in the Preamble. As observed in Balbir Kaur's case, "... India will be organized as a social welfare state i.e., a State which renders social services to the people and promotes their general welfare <sup>[64]</sup>. The Directive Principles of State policy set out the economic, social and political goals of the Indian Constitution, though in the nature of non-justiciable rights, placing the Government under a severe constitutional obligation to promote social welfare to the maximum extent and also basic social values like health care, educational and employment avenues to citizens of the Country. After all, a social welfare state can be achieved by the Bentham's doctrine of utility that the "law should promote the maximum happiness of the maximum number of the people <sup>[65]</sup>. The seeds of social welfare have been sown in the various Directive principles of State policy on the lines of the principles of utility as professed by Bentham <sup>[66]</sup>. The Indian Constitution undoubtedly set out the goal of economic democracy along with political democracy <sup>[67]</sup>.

In this Research Article, it has been fully discussed that Preamble is an inclusive part of the Constitution and it has been an effective tool to interpret the various provisions of the Constitution. This is only a law declared by the Judiciary <sup>[68]</sup> and the need to give statutory force to this declared law is absolutely necessary to give effect to the fact that Preamble constitutes the basic structure of the Constitution as laid down in Re Keshavananda <sup>[69]</sup>.

In the light of the data collected, analysed and examined, it is appropriate to suggest the following recommendation to the following effect:-

The Constitution be amended to provide for the following-  
After the Preamble, the following be added:-

*"The Preamble shall constitute an intrinsic part of the Constitution and shall be regarded as 'law' within the meaning of Art 13 and any action of the legislature, executive and judiciary which is inconsistent with or repugnant to Preamble be declared void".*

## References

1. In Re Barubari AIR 1960 SC P.845.
2. AIR 1973 SC P.1806 Per Sikri, CJ as he then was.
3. Ibid
4. Ibid
5. Supra Note 51.

6. "New Dictionary" 1965 P.401
7. Union of India Vs. Madangopal AIR 1954 SC P.158. The SC held that it appears from the Preamble that the Constitution derives its authority from the people of India.
8. Detailed Independence Act, 1947.
9. Articles such as Art 13.
10. The Constitution of UK.
11. Details Constitutional 42nd Amendment Act, 1976.
12. Details in Re Gopalakrishnan Nair AIR 2005 SC P.3053.
13. Refer to Preamble for details.
14. Speech in the constituent Assembly made on 25-11-1949.
15. AIR 1993 SC P.477
16. Ibid.
17. Details Chapter III on Fundamental rights.
18. AIR 1997 SC P.3326.
19. In Re-Keshavananda AIR 1973 SC P.461.
20. Dr. Ambedkar's speech. Refer to CAD VIII P.43-44.
21. Salmond "Jurisprudence" 1948 P.143.
22. Details Prof Narendra Kumar, "Constitutional Law of India 2012" P.32.
23. Collins, "New Dictionary" 1965 P.491.
24. Ibid. Also Swarn Singh's Constitutional Reform Committee.
25. The statement published in Statesman dated 2-7-1976.
26. AIR 1976 SC P.25.
27. Ibid.
28. "D.S.Nakara's case, AIR 1983 SC P.130. Samantha's case AIR 1997 SC P.3297.
29. G.B.Pant University's case AIR 2000 SC P.2695.
30. Note 77.
31. H.S.E. Board Vs. Suresh AIR 1999 SC P.1160.
32. Details Art 25 (2) of the Constitution.
33. AIR 1974 SC P.1389.
34. Ibid.
35. Details Art 25 to 30 of the Constitution of India.
36. AIR 1994 SC P.1918. M.Ismail AIR 1995 SC P.605.
37. Ibid.
38. State of Karnataka's case (2004) (1) Scale P.115.
39. Ibid.
40. I.R.Coelho's case AIR 2007 SC P.861.
41. Valsamma Paul's case AIR 1996 SC P.1011
42. P.M.Bhargava's case AIR 2004 SC P.3478.
43. AIR 2004 SC P.2081.
44. Ibid.
45. In Re Lotus Constructions AIR 1997 AP P.200.
46. Sathyanarayana Shukla's case AIR 2006 SC P.2511.
47. Art 53 and 54 of the Constitution of India.
48. Consumer Educational & Research Centre Vs. UOI AIR 1995 SC P.922.
49. Articles such as 39(c), 38(2), 45, 46, 39(b) and others of the Directive Principles of State Policy.
50. AIR 1997 SC P.645
51. Ibid.
52. Details Art 39(d) of the Directive Principles of State Policy.
53. Randhir Singh Vs. Union of India AIR 1982 SC P.879.
54. Valsamma Paul Vs. Cochin University AIR 1996 SC P.1011.
55. Hussainara Khatoon Vs. State of Bihar AIR 1979 SC P.1369.
56. Refer to Art 19 ((1Xa) and Articles 25,26, 27 and 28 of the Constitution of India.
57. Details Art 14 and 15 of the Constitution.
58. Details the Preamble of the Constitution.
59. Shiva Rao, 'The framing of the Constitution' 1967 (III) P.510.
60. Seerval H.M. 'Constitutional Law of India' 1991 P.282.
61. Art 39 (a) of the Constitution.
62. Art 47 of the Constitution.
63. Art 42 of the Constitution.
64. Hisna Virodhak Singh Vs. M.M.K.Jamal AIR 2008 SC P.1892
65. Prof. Narendra Kumar 'Constitutional Law of India 2012 P.40.
66. AIR 2000 SC P.1596.
67. Bentham 'The Theory of Legislation' P.1.
68. Ibid.
69. This will be fully studies in the Chapter, "Interpretation of Directive Principles of State Policy" (Chapter III of this research project).
70. Art 141 of the Constitution.
71. AIR 1973 SC P.1461.