

Foundation Course
Semester 1
UNIT 4
The Indian Constitution

7: Structure and Philosophy of the Indian Constitution

Though the Indian society is pluralistic but it is united at the time of any foreign threat. In India the person from any religion can become Prime Minister and President. At the time of any natural calamity the people of India help each other. The people enjoys their human right freely. This is only possible because of our Great Constitution. Otherwise in our neighbouring countries we see that Prime-Ministers, Presidents are imprisoned, governments are over thrown by militaries and political powers are captured by anti-social elements. In India, due to Constitution we as Indians remain united, follow patriotism and maintain national unity and integration Hence, Indian constitution as a Unifying factor in Indian Society must be studied properly.

We have the history available about the Constitutional developments in India, e.g. Morley Minto Reforms, 1909, Montague Chelmsford reforms 1919 Indian independence Act, 1935, etc. In 1946, then came the Cabinet Mission Plan which provided for the formation of Constituent Assembly to prepare a Constitution for India. The member for the Constituent Assembly were elected from the Provincial Legislative Assemblies. These members were selected from three groups i.e. i) General ii) Muslims and iii) Sikhs. They were selected by the proportionate representation. There was also the representation given to the Minority and Depressed Classes communities like SCs (Scheduled Castes), Parsees, Indian Christians, Anglo-Indians tribals and even women too. The members were the persons with talent and ability.

On 11th December 1946 Dr. Rajendra Prasad was elected as the permanent President of Constitutional Committee or Constitutional Assembly. Constituent Assembly passed certain rules about the formation of the Drafting of the Constitution. Therefore, to prepare the draft Constitution 'Drafting Committee' was formulated and on August 29, 1947 Dr. B. R. Ambedkar, a legal luminary and a Constitutional Expert was appointed as its Chairman. Dr. B. R. Ambedkar put all his energy and efforts to prepare the constitution. The draft was completed on 26th January 1949. This draft was kept for discussion and suggestions. From 26th January 1950 the Constitution came into force.

PHILOSOPHY OF THE CONSTITUTION

The Objective Resolution:

The Preamble of Indian Constitution is the most important part which incorporates together the Fundamental Rights and Directive Principles as well as the aims and ideals of the constitution. The philosophy of the constitution is nothing but the values, ideals, aims, objectives etc as the foundation on which it stands up. Dr.Rajendra Prasad was unanimously elected as the President of Constituent Assembly. On 9th December 1946, Pt.Jawaharlal Nehru moved the “Objective Resolution” which was unanimously acclaimed and adopted on 22nd January 1947 by the Constituent Assembly. The Objective Resolution reflected high ideals and philosophy which inspired the shaping of the constitution of India through all its subsequent stages. These ideals and philosophy embodied in the Objective Resolution are truly reflected in the Preamble to the constitution of India. This objective Resolution was based on the concept of an India emerging as a sovereign Republic with its power and authority derived from the people wherein social, economic and political justice was to be guaranteed and secured to every individual as also equality of status and opportunity to everyone. It was a firm resolve and a pledge to build a Sovereign Democratic Republic in India.

Content of Preamble:

The Preamble means Preface, Preliminary statement or an introduction to any literary work or scholarly work. It is the beginning remarks which takes the readers and the executors of the instructions towards guidance to performance. The Preamble to the Indian Constitution reveals the minds of the Indian Society though a divergent in nature. It reflects the sustaining goals of the Indian polity and the ideals are sought to be achieved through the medium of the Constitution.

The Preamble begins as follows:

“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”. Now we have to elaborate the Preamble word to word as values, ideals, objectives and philosophy.

WE THE PEOPLE OF INDIA means it is the people of this country adopt and enact the constitution, a legal body for themselves. On behalf of the people,the founding fathers and chief architect of the Constitution Dr.B.R.Ambedkar prepared this document of Constitution. They are not themselves adopting and enacting but the people are the major body to frame the constitution. They are the representatives of the people and its people who are resolving to constitute India.

SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC:

The people of India constitute India into sovereign nation. The term 'SOVEREIGN' means free from any internal or outside control. It suggests that the constitution is not the gift of the British Parliament and the people of India are capable of framing the legal body of their own for them. For this purpose they have sent their representatives to the parliament i.e the Constituent Assembly. There is no any limit or any restrictions on the people of India to frame the constitution for themselves.

The term 'SOCIALIST' was not the part of the Preamble in 1950 but was inserted in it by 42nd Constitutional Amendment Act, 1976. Socialist means that the Indian masses aim to build an egalitarian society in India, prevent concentration of wealth, bring about social control over means of production and ensure equitable and fair distribution of necessities in life. This term is related to the Socialism of Marx but in partial ways. Every citizen will have the right to earn his livelihood and also improve his standard of living. The term 'SECULAR' also was not the part of the Preamble in 1950. By the Constitutional Amendment Act, it was inserted in the preamble. The term secular emphasizes the fact that the Indian State does not have any State religion and grants complete freedom of worship and faith to all its citizens. It does not encourage or discourage or discriminate against any particular religion. It indicates the fact that the state is neutral in all religions matters and the rights of citizens are independent of the faith they profess. The spirit of secularism is fully reflected in Article 25 of the constitution which ensures freedom of conscience and right to freely profess, practice and propagate one's own religion. According to former President of India R. Venkanta Raman, Secular India means "India is not pro-religious, non-religious and anti-religious".

The term 'DEMOCRATIC' in the narrow sense refers to the form of Government which is elected by the people on the basis of Universal Adult Franchise. In a broader sense, it refers to a way of life of the people and numerous social organizations. Indian Government is based on a representative Parliamentary democracy in which the Government is responsible to the Sovereign Legislative Body. There are various forms of democratic government such as Presidential (USA), Kingship (England, Australia, New Zealand) and Parliamentary democracy of which India has adopted parliamentary form of government. The term 'REPUBLIC' stands for that the Head of the Indian State will be elected head and not the hereditary ruler by Kingship. It also means that the Supreme Powers of the State are vested in people and in the authority of the elected representatives of the people. The term 'Republic' also implies that all public offices are open to all citizens without any discrimination.

JUSTICE, LIBERTY, EQUALITY AND FRATERNITY:

Further, the preamble lays emphasis that the Indian citizens should get justice in three forms such as Social Justice, Economic Justice and Political Justice. The architects of the

Constitution has made this arrangement of justice very intelligently. There cannot be economic justice and political justice without social justice. Indian Society composed of castes, classes religion, race. There happened the discrimination among Indians themselves on these basis. Therefore, the constitution is bound to cultivate healthy, social attitude among people and the state must be welfare state accordingly. The social justice can be realized only when 'equals to be treated equally and unequals unequally' according to Aristotle. The next step of justice which preamble secure for the Indian people is Economic Justice. Every citizen of India has right to live and earn his livelihood. They must be made available, employment opportunities taking in view social justice. The Directive Principles of State Policy make it clear that no discrimination would be made between persons on the basis of their economic status. The state is expected to enact laws and translate the concept of social and economic justice into reality. Political Justice is only possible when there is realization of social and economic justice. Previously in India and many countries of the world were giving voting rights to only those who are rich by wealth and the high in social status. But the Indian constitution has conferred on all the Indian adult citizens the Universal Adult Suffrage without any discrimination of caste, race, religion, sex, wealth, status, etc. The Indian citizens have got one vote and one vote one value which is very significant for political justice. Thus the concept of social, economic and political justice contained in the preamble aim at furthering the goal of social revolution and attempting to foster this revolution by establishing the conditions necessary for its achievement. The preamble contains that liberty is secured for the Indians, which is of thought, expression, belief, faith and worship. The constitution of India secure for its citizens the liberty that everyone without any bias will have the right to think and express his own views which will not harm other's liberty. They can convert to any religion, can worship any god and goddess or believe in any kind of philosophy they want. That is how the six kinds of freedoms are provided in the Constitution. The preamble contains that liberty is secured for the Indians, which is of thought, expression, belief, faith and worship, Make laws and make provision for reservation of jobs or posts in favour of any backward class of citizens. This provision also promotes the cause of justice by providing protective discrimination to those class of peoples who have suffered due to historical circumstances of casteism. This is what unequals to be treated unequally that is justice.

The preamble also provides that the Constitution is bound to promote among the Indians the fraternity which assures the dignity of the individual and the unity and integrity of the nation. In the words of Chief architect of Constitution Dr. B. R. Ambedkar, "Fraternity is a sense of common brotherhood and the principle which gives unity and solidarity to social life. He further says "Without fraternity, equality and liberty will be no deeper than coats of paints". Therefore, one has to take liberty, equality and fraternity not as separate objectives but as forming 'a union of trinity' in the sense that to diverse one from the other was to defeat the very purpose of Democracy. The founding fathers of our constitution studied the various constitutions available in the various countries of the World and picked up the selected principles which would be suitable to Indian social-political, economic, cultural, religious conditions. The Constitution of India have provided the Indian citizen the best of the things for leading a happy and peaceful life.