UNIT 2: PHILOSOPHY AND IDEALS OF THE INDIAN CONSTITUTION

UNIT STRUCTURE

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2.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- discuss the Philosophy and ideals of the Indian Constitution
- discuss the sources of the Indian Constitution.

2.2 INTRODUCTION

In the previous unit, we have discussed the formation of the Constituent Assembly andd learnt about the Objective Resolution moved by Jawaharlal Nehru in the Constituent Assembly on 13th December 1946. After a full discussion and debate, the Constituent Assembly passed the Objective Resolution on January 22, 1947. The resolution clearly laid down the ideological foundations and values of the Indian Constitution. The Preamble to the Indian Constitution embodies all the ideals which were listed in the Objective Resolution. In this unit, we shall discuss the philosophy and ideals of the Indian Constitution as incorporated in the Preamble to the Constitution of India. At the same time, a brief background regarding the sources of the Indian Constitution shall also be put forward.

2.3 PHILOSOPHY AND IDEALS OF THE INDIAN CONSTITUTION

The philosophy and ideals of the Indian Constitution are reflected in the Preamble to the Constitution of India. Our Constitution may be said to be an expansion and explanation of the Preamble. Supreme Court Chief Justice, Justice Subba Rao opined, "Preamble contains, in a nutshell, its ideals and its aspirations." To understand the philosophy and ideals of the Indian Constitution, we must know the Preamble in the first place. Let us define and analyze the Preamble to the Indian Constitution.

2.3.1 The Preamble

The Oxford Advanced Learner's Dictionary defines the word "Preamble" as an introduction to a book or a written document. The Constitution of India starts with a Preamble. It is the most precious part of the Constitution. It is the soul of the Constitution. The Preamble of the Indian Constitution says:

"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 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."

From the Preamble we can understand the philosophy and ideals of the Indian Constitution. The philosophy and ideals of the Indian Constitution are discussed as follows:

- **Popular Sovereignty:** The Preamble begins with the words "We the people of India……" and ends with the words "……adopt,

enact and give to ourselves this Constitution". It indicates that ultimate sovereignty lies with the people of India who collectively constitute the supreme source of authority in the country. The Constitution is regarded as the supreme law of the state, but the supreme power of the state is vested upon the people of India.

- **India as a Sovereign State:** The Preamble declares India as a sovereign state. It is free from any external control. No foreign power can interfere in the internal affairs of India. India can determine her foreign affairs according to her free will.
- **India as a Socialist State:** The word 'Socialist' has been added in the Preamble by the 42nd Amendment in 1976. It means the Constitution of India has a great objective to secure social and economic equality and fair distribution of wealth among all sections of people in the country. By inserting the term 'socialist', it has not only brought a feeling of equal status among the people but also strengthened the philosophical foundation of the Indian Constitution. Some socialistic principles are also distinctly reflected in the Articles 39, 41, 42 and 43 which are incorporated in the Directive Principles of State Policy.
- **India as a Secular State:** The word 'Secular' has been included in the Preamble by the 42nd Amendment in 1976. The characteristic of Indian secularism is that India does not recognize any religion as the official or state religion and treats all religions equally. Moreover, different communities in India have the right to practise their own faiths. Thus, secularism is one of the ideals of the Indian Constitution.
- **India as a Democratic State:** The Preamble describes India as a democratic state. The prime philosophy and ideal of the Indian Constitution is to make India a democratic state. India is regarded as the largest democratic state in the world. According to Abraham Lincoln, "Democracy is by the people, for the people and of the people." The Constitution of India has established a parliamentary democracy in India marked by universal adult franchise, periodic

election to choose the government, majority rule, rule of law, decentralization of power, rule of law, independence of the judiciary, etc.

- **India as a Republic:** The Preamble declares India to be a *republic*. What it means is that the Head of the State in India, that is the President of India, is an elected head. He is not a hereditary ruler. The President of India who is the Chief Executive and nominal head of our country is indirectly elected by the people.
- **To ensure Justice:** Justice implies that the Government will try to promote the welfare of all the sections of the people. The Preamble provides for three types of Justice- social, economic and political. To ensure social justice the Constitution has made special arrangements for the weaker sections of the society, abolished untouchability, provided free education up to a certain standard, etc. With a view to providing political justice, the Constitution has introduced the principle of universal adult franchise and has given an equal right to all adult citizens to be elected or appointed to public services. Economic justice implies that the Constitution seeks to ensure economic security for the common people and to do way with unequal distribution of income and wealth.
- **To ensure Liberty:** The other important philosophy and ideal of the Indian Constitution is to ensure liberty to its citizens for the all round development of their personality. Accordingly, the Preamble provides for liberty of thought, expression, belief, faith and worship. The Constitution of India provides a number of Fundamental Rights to the citizens and also protects theses rights.
- **To ensure Equality:** Equality is the basis of a democratic state. Equality is necessary for the development of a society. Hence, the term 'equality' has been inserted in the Preamble to our Constitution. Equality has been guaranteed by the 'Rule of Law'. To establish equality, our Constitution has provided for the Right to Equality as a Fundamental Right. The Indian Constitution

ensures equality before the eyes of law to all persons, citizens and non-citizens. The Constitution also prohibits discrimination on grounds of religion, race, caste, sex, place of birth or any of them.

- **To promote Fraternity among the people:** The term fraternity has been incorporated in the Preamble as a means of assuring the dignity of the individual and the unity and integrity of the nation. The term 'dignity of the individual' means that the personality of the individual should be recognized, because, the recognition of the personality and the dignity of the individual is an essential condition to promote fraternity among the people. To promote fraternity and a feeling of brotherhood among the people, certain attempts have been made for the removal of social distinctions and inequalities based on caste, class, creed, language, religion, region, etc. Without unity among its citizens, a state could not be successful. The framers of the Indian Constitution were fully aware of the diversities prevailing in the country. Accordingly, the word integrity was added in the Preamble by the 42nd Amendment to emphasize the fundamental unity of the country against the divisive forces of regionalism, communalism and the like.
- **India as a Welfare state:** India is committed to the ideal of a welfare state and must establish socio- economic justice. The Preamble lays the foundation of a welfare state in India. Acharya Kripalini, who was the President of the Indian National Congress, said, "The Preamble contains the mystic principle of a welfare state." India is committed to democracy and respects individual liberty, providing to all her citizens, the equality of status and opportunity. The Directive Principles of State Policy involving social, economic, political and cultural goals are like instructions to the state. They, aim at establishing a welfare state in India.

The Preamble to the Indian Constitution has a great significance. It is important to mention here that, in the 'Biruberi Case'

(AIR1960 SC 845) the Supreme Court held that the Preamble is not a part of the Constitution. But the famous 'Keshavananda Bharti - vs. - State of Kerala' (AIR 1973 SC 1461) has held that the Preamble is a part of the Constitution. It was also held in this case that, the Preamble could be amended by the Parliament under Article 368 but the 'Basic Structure' of the Constitution could not be changed. Thus, the Preamble can be amended but our Parliament cannot amend the Constitution in a way that it damages or destroys the objectives specified in the Preamble.



LET US KNOW

According to A. V. Dicey, the British jurist and constitutional theorist, Rule of Law has three meanings–

- No man can be punished except for a breach of law
- No man is above the law
- The general principles of the Constitution are the result of judicial decisions.



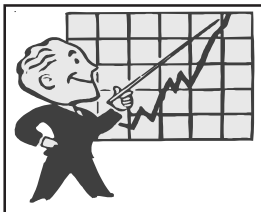
ACTIVITY 2.1

Try to find out the names of a few republics in the world.

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CHECK YOUR PROGRESS

Q.1: By which amendment have the words 'Secular', 'Socialist' and 'integrity' been included in the Preamble?

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Q.2: The supreme source of authority as enshrined in the Preamble to the Constitution of India is the people of India. (True/False)

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Q.3: Why is India called a Republic?

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Q.4: The 'Keshavananda Bharti - vs. - State of Kerala' (AIR 1973 SC 1461) case has held that the Preamble is not a part of the Constitution. (True/False)

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Q.5: Discuss the concept of justice as incorporated in the Preamble to the Constitution of India.

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2.4 SOURCES OF THE INDIAN CONSTITUTION

The Indian Constitution is drawn from many sources. Keeping in mind the needs and conditions of India the framers of the Indian Constitution borrowed different features freely from the different constitutions of the world. Therefore, some critics have described the Indian Constitution as a "bag of borrowings" and a "hotch potch Constitution".

The sources of the Indian Constitution are:

- **The British Constitution:** The British Constitution influenced a lot on framers of the Constitution of India. The Parliamentary form of Government, the Cabinet System of Government, the superior position of the lower House as compared to the Upper House and the rule of law etc. were adopted by the framers of the Indian Constitution from the British constitution. In India, like the King of Britain, the head of the State, i.e. the President is only a nominal head and actually the real executive power is exercised by the Prime Minister with the help of the Council of Ministers who are accountable

to the Parliament.

- **The Constitution of the United States of America:** The Fundamental Rights which are incorporated in the Part III of the Indian Constitution are based on the "Bill of Rights" of the United States of America. The concept of independent, impartial and unitary form of Judiciary and the functions of the Vice President of India are borrowed from the Constitution of the United States of America.
- **The Constitution of Canada:** The term 'Union of India' which is in Article 1 of the Indian Constitution is taken from the Canadian Constitution. The framers of the Indian Constitution have borrowed our federal system from Canada though some of its features have been taken from the Australian and South African constitutions. Like the Canadian Constitution, in India, the Residuary powers have been vested in the hands of the Central Government.
- **The Irish Constitution:** Our Constitution provides for the Directive Principles of State Policy under Part IV of the Constitution. These are derived from the Irish Constitution. The provision of nomination of certain members to the Rajya Sabha (Upper House) from different fields like, art, culture, science, social services etc. are taken from the Irish Constitution.
- **The Constitution of South Africa:** The framers of the Indian Constitution were also greatly influenced by the Constitution of South Africa. The procedure of amendment and the provisions relating to the election of Rajya Sabha members reflect the influence of the Constitution of South Africa.
- **The Constitution of Germany:** The power of the President to suspend the Fundamental Rights during emergency was adopted from the Weimer Constitution of Germany.
- **The Government of India Act, 1935:** The Government of India Act, 1935 is the biggest source of our Constitution. The framers of the Indian Constitution have adopted many provisions from this Act. The relations between the Union and the States and the three lists (Union, State and Concurrent) dividing governmental powers

between them were taken from that Act. According to Prof. Jennings, "The Constitution derives directly from the Government of India Act, 1935, from which in fact many of its provisions are copied almost textually."



CHECK YOUR PROGRESS

Q.6: The Parliamentary form of Government is borrowed from the Constitution of ..... (Fill in the Blanks).

Q.7: Mention the important provisions taken from the Constitution of the United States.

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Q.8: Write the name of the Act which greatly influenced the framing of the Constitution of India.

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Q.9: Why the Indian Constitution is called a "bag of borrowings"? (within 50 words)

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2.5 LET US SUM UP

- The Indian Constitution is drawn from many sources. Keeping in mind the needs and conditions of India the framers of the Indian Constitution borrowed different features freely from the different constitutions of the world.

- The main sources which have influenced the framing of the Indian Constitution include the British Constitution, the US Constitution, the Constitution of Canada, the Irish Constitution, the Constitution of South Africa, the Constitution of Germany and the Government of India Act, 1935.
- The British Constitution influenced a lot on framers of the Constitution of India. The Parliamentary form of Government, the Cabinet System of Government, etc., were adopted by the framers of the Indian Constitution from the British Constitution. Similarly, the Fundamental Rights which are incorporated in the Part III of the Indian Constitution are based on the "Bill of Rights" of the United States of America.
- The term 'Union of India' which is in Article 1 of the Indian Constitution is taken from the Canadian Constitution. The framers of the Indian Constitution have borrowed our federal system from Canada though some of its features have been taken from the Australian and South African constitutions.
- Our Constitution provides for the Directive Principles of State Policy under Part IV of the Constitution. These are derived from the Irish Constitution.
- The framers of the Indian Constitution were also greatly influenced by the Constitution of South Africa. Again, the power of the President to suspend the Fundamental Rights during emergency was adopted from the Weimer Constitution of Germany.
- The Government of India Act, 1935 is the biggest source of our Constitution. The framers of the Indian Constitution have adopted many provisions from this Act. The relations between the Union and the States and the three lists (Union, State and Concurrent) dividing governmental powers between them were taken from that Act.
- The Preamble begins with the words "We the people of India……" and ends with the words "……adopt, enact and give to ourselves this Constitution". It indicates that ultimate sovereignty lies with the people of India who collectively constitute the supreme source of authority in the country. The Preamble declares India as a sovereign

state. It is free from any external control.

- The word 'Socialist' has been added in the Preamble by the 42nd Amendment in 1976. It means the Constitution of India has a great objective to secure social and economic equality and fair distribution of wealth among all sections of people in the country.
- The word 'Secular' has been included in the Preamble by the 42nd Amendment in 1976. The characteristic of Indian secularism is that India does not recognize any religion as the official or state religion and treats all religions equally.
- The Preamble describes India as a democratic state. The prime philosophy and ideal of the Indian Constitution is to make India a democratic state.
- The Preamble declares India to be a *republic*. What it means is that the Head of the State in India, that is the President of India, is an elected head. He is not a hereditary ruler.
- Justice implies that the Government will try to promote social, economic and political justice for the welfare of all sections of the society.
- The other important philosophy and ideal of the Indian Constitution is to ensure liberty to its citizens for the all round development of their personality.
- The term 'equality' has been inserted in the Preamble to our Constitution. The Indian Constitution ensures equality before the eyes of law to all persons, citizens and non- citizens.
- The term fraternity has been incorporated in the Preamble as a means of assuring the dignity of the individual and the unity and integrity of the nation.

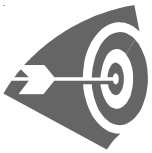


2.6 FURTHER READING

1) Chander, Prakash (2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.
2) Ghai, K. K. (2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.

3) Kapur, Anup Chand and Misra, K. K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.

4) Pylee, M. V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.



2.7 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: By the 42nd Amendment in 1976.

Ans. to Q. No. 2: True

Ans. to Q. No. 3: The Head of the State in India, i.e., the President of India, is an elected head. He is not a hereditary ruler. Therefore India is called a Republic.

Ans. to Q. No. 4: False

Ans. to Q. No. 5: Justice implies that the Government will try to promote social, economic and political justice.To ensure social justice the Constitution has made special arrangements for the weaker sections of the society, abolished untouchability,etc. With a view to providing political justice, the Constitution gives the right to vote and be elected to all adult citizens. On the economic front, justice implies that the Constitution seeks to ensure economic security for the common people.

Ans. to Q. No. 6: The British Constitution

Ans. to Q. No. 7: 1) The Fundamental Rights which are incorporated in the Part III of the Indian Constitution is based on the United States “Bill of Rights”.

2) The concept of independent, impartial and unitary form of Judiciary

Ans. to Q. No. 8: The Government of India Act, 1935

Ans. to Q. No. 9: The framers of the Indian Constitution borrowed different features freely from the different constitutions of the world because of the needs and conditions of India. The important provisions are taken from the British Constitution, the Constitution of U.S.A., and constitution of Canada, South Africa etc. and the Government of

India Act, 1935. Therefore, the Indian Constitution is called a “bag of borrowings”.



2.8 POSSIBLE QUESTIONS

Q.1: Write two important sources of the Indian Constitution.

Q.2: Discuss justice and liberty as ideals of the Indian Constitution.

Q.3: Discuss the Government of India Act, 1935 as a source of the Indian Constitution.

Q.4: Describe the philosophy and ideals enshrined in the Preamble to the Constitution of India.

Q.5: Write a note on the sources of the Indian Constitution.

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