

CHAPTER III

THE PREAMBLE OF THE CONSTITUTION OF INDIA: REFLECTION OF LEGAL PHILOSOPHIES THEREIN

The significance of Preamble of the Constitution of India has been realised and expressed in Kesavananda Bharti case in 1973. In this case the Indian Judiciary has finally decided the issue whether the Preamble is the part of the Constitution of India.

In this case the Apex Court observed that-

- i. the Preamble to the Constitution of India is a part of the Constitution,
- ii. that Preamble is not a source of power nor is it a source of limitations,
- iii. the Preamble has a significant role to play in the interpretation of the Constitution.¹

Therefore, in this backdrop the legal philosophies as reflected in the Preamble of the Constitution of India becomes significant. The Legal philosophies reflected in Preamble would also help in understanding the course of development in the Indian legal system.

A. Debate Preceding the framing of the Preamble

Preamble of the Constitution of India is the manifestation of the visions of the people of India for an independent nation to which the Constituent Assembly gave an expression. The seed of the Preamble of the Constitution of India was sowed in the Objective Resolution moved by Pandit Jawaharlal Nehru on 13th December, 1946 in the Constituent Assembly. Nevertheless, the Preamble has been the most neglected literature by the Indian Judiciary while interpreting the Constitution of India until the pronouncement of Kesavananda Bharti judgment². It is aptly pointed out by Liav Orgad³ that the function of a Preamble is threefold namely-

(a) Ceremonial-Symbolic- where the Preamble consolidates national identity but lacks legal force,

¹ R. C. Lahoti, *PREAMBLE: The Spirit and Backbone of the Constitution of India*, 38 (EBC, Lucknow, 2017)

² *Kesavananda Bharti v. State of Kerala* AIR 1973 SC 1461

³ Liav Orgad, *The Preamble in Constitutional Interpretation*, 8, *I•CON*, 714–738 (2010)

(b) Interpretative role in which the Preamble acts as a guidance to the Judiciary to interpret and constitutionalize other rights that are not being guaranteed in the Constitution directly and

(c) Substantive role where the Preamble acts as an independent source of Constitutional rights⁴.

The debates on the Preamble in Constituent Assembly can throw some light upon the type of role played by the Preamble in the Constitution of India.

Sir B.N. Rau took up the task of preparing the draft of the Constitution of India. However it was not possible to draft the Constitution of India by a single member, therefore, there was a necessity to appoint a committee to assist him. The draft of this Constitution was to be scrutinised by another committee as recommended by the Business Committee. Accordingly on 29th August, 1947 i.e. after Independence a resolution was moved by Satyanarayan Sinha to form a Committee consisting of 7 members. This Committee was known as the Drafting Committee and consisted of the following members-

1. Dr. B. R. Ambedkar also the Chairman of the Drafting Committee
2. Shri AlladiKrishnaswamyAyyar
3. Shri N. GopaldaswamyAyyangar
4. Shri K. M. Munshi
5. Sayid Mohd. Saadulla
6. Sir B. L. Mitter
7. Shri. D. P. Khaitan

The Drafting Committee started functioning from 27th October, 1947 and submitted its first draft of the Constitution on 21st February, 1948. This draft was not introduced in the Constituent Assembly for debate until it was circulated in public domain for further suggestion and incorporation of the same. Though it is often stated that since there was no referendum the Constitution of India can not be included in the Rule of Recognition as propounded by H.L.A. Hart, but the same can not be said to be wholly correct. Instruction of the draft Constitution in the public domain and incorporating the suggestions given there on clearly indicates a kind of referendum and the Constitution, without a doubt, forms the Rule of Recognition of H.L.A. Hart.

⁴ *Id* at 715.

After receiving several suggestions from public at large on the draft of the Constitution the Drafting Committee met on 23rd, 24th, 27th March, 1948 and on 18th October of the same year to consider the suggestions. It was on 4th November, 1948 the Draft Constitution was introduced in the Assembly for the first time. There were several debates and readings of the Draft Constitution and finally on 26th November, 1949 the Draft Constitution was adopted.⁵

In the words of Liva Orgad following are different parts of a Preamble of any Constitution-

- a. Sovereign,
- b. Historical narratives,
- c. Supreme goals,
- d. National identity, &
- e. Mention of God or Religion⁶.

The Preamble of the Indian Constitution prior to the insertion of words i.e. Socialist, Secular and Integrity through 42nd Amendment in 1976 was

“WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN 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 of the Nation; IN OUR CONSTITUENT ASSEMBLY this 26th day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.”

In this Preamble there was a mention of Sovereign. The Supreme goals of the Constitution is reflected through Justice, Liberty, Equality Fraternity and Unity. National identity was reflected through the phrase ‘We the People of India’.

In the Preamble of the Constitution of India there was no mention of God or religion as the framers of the Constitution consciously desisted themselves from inserting any

⁵Samaraditya Pal, *India's Constitution: Origins and Evolution*, Vol 1, lxxxviii- xc (Lexis Nexis, Mumbai, 2015).

⁶Liav Orgad, *The Preamble in Constitutional Interpretation*, 8, *I•CON*, 716–717 (2010)

such word. It was Shri H. V. Kamath⁷ who moved to insert ‘In the Name of God’ before the phrase ‘We the People of India’⁸. Despite the suggestion of the President, Dr. Rajendra Prasad, not to move the resolution regarding inclusion of the name of God and a request from Shrimati Purnima Banerjee⁹ not to drag the name of the God between believer and non-believer in India Shri H.V. Kamath moved this resolution. Following this there was a debate where members like Pandit Hriday Nath Kunzru, Shri Rohini Kumar Chaudhury, Pandit Govind Malviya and the President himself along with some other members objected to the imposition of the phrase ‘In the name of God’ upon the people the India¹⁰. It was on 17th October, 1949 the Constituent Assembly had debate on the Preamble. Maulana Hasrat Mohani moved that the words ‘We the People of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic’ should be substituted with the following words-

‘We the People of India, having solemnly resolved to constitute India into a Sovereign Federal Republic’, or ‘We the People of India, having solemnly resolved to constitute India into a Sovereign Independent Republic’.

However, both the amendments were negative and the phrase ‘We the People of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic’ remained.

Thus, it could be seen that there was no debate regarding declaring Indian Government as Sovereign. Thus India would be Sovereign Country was per se accepted. However, the debate was as to what kind of sovereign India would be.

In clause 4 of the Objective Resolution Pandit Jawaharlal Nehru has expressed his intention of making the people of India as the source from which the Constitution would derive its power and Authorities.¹¹ After this resolution there was a demand from the Princely States in India to change the source of power and authority of the Constitution of India. According to the Princely States of India the whole idea of

⁷ Shri H. V. Kamath was a former ICS and later became the General Secretary of All India Forward Bloc founded by Netaji Subhas Chandra Bose. Later became a distinguished Parliamentarian as a member of Praja Socialist Party

⁸ Constituent Assembly, Vol- X, at 439

⁹ A member of the Drafting Committee of the Constituent Assembly

¹⁰ Constituent Assembly Debate, Vol- X, at 439-442

¹¹ Clause 4 of the Objective Resolution- Wherein all power and authority of the sovereign independent India, its constituent part and organs of Government, are derived from People of India as cited in Constituent Assembly Debate.

deriving power and authority of the Constitution of India from the people of India was against the concept of Sovereignty of Princes. Against such contentions of the Princely States Pandit Jawaharlal Nehru affirmed in the Constituent Assembly meeting dated 22nd January, 1947 that the Sovereignty lies with the people of India¹². He asserted that in that period it was completely absurd for a human being to think of a divine and despotic right no matter wherever he lives within India. The objective resolution was yet to be adopted after it was pronounced on 13th December, 1946 because of the controversial clause 4 of the Resolution. Pandit Nehru expressed an opinion that he was not against the monarchy but the choice of being ruled by the monarch or not lay with the people and not the monarch. Thus the ultimate choice and source of power lay with the people of India.¹³ The Objective Resolution was adopted without any further amendment on 22nd January, 1947.

It is significant to note that the idea of 'Sovereign' that was contemplated by India complimented and conflicted with the idea of 'Sovereign' of Analytical School of thought. Like Austin's Sovereign, Indian Sovereign was politically supreme, obeyed none, was in the habit of being obeyed but the contradiction was that unlike Austinian thought India's Sovereign lay diffused in the people of India and culminated into the three organs of governance through elected representatives and not in an individual. This can be stated that from its inception the Constitution of India intended to curb the despotic and arbitrary power of the Sovereign which is peculiar when the power and authority is vested in limited number of persons or in any institution run by limited number of persons, or in an individual. Thus in consonance with the thought of H.L.A. Hart the recognition and validation lay with the people.

The basic tenet of Historical School is that the power and authority are not emanated from any superior sovereign. Both emanates from the spirit of people of the society¹⁴. Therefore, the intention of the Constituent Assembly and Pandit Jawaharlal Nehru in particular in assigning the source of power and authority to people of the nation was to perpetuate the existence and operation of the Constitution of India. Therefore, it

¹² Constituent Assembly Debates, Vol I, 13th December, 1946.

¹³ Constituent Assembly Debates, Vol I, 13th December, 1946.

¹⁴ Karl Von Savigny while formulating the Historical School of Jurisprudence had witnessed that no law imposed from above could exist for long. He witnessed how several States of Germany reacted to the Napoleonic Code when the influence of Napoleon waned. Therefore, according to Savigny the source of law is the spirit of people of the community.

can safely be stated that though inclined towards positive law the Constitution of India confirms the rule of recognition of H.L.A. Hart and Volkgeist of Fredrick Karl Von Savigny.

The intention of the Constituent Assembly as discussed was to declare India as a sovereign country. However, there was a confusion regarding what should be the order of arrangements of words like sovereign, republic, democratic, independent etc. in the Preamble. The discussions in the Constituent Assembly shows that the framers of the Constitution were well aware of the task they had undertaken and the type of Constitution they wanted for India¹⁵. Jawaharlal Nehru in his Objective Resolution had already iterated that there is no place for monarchy in independent India and the nature of the Indian sovereign can not be but 'Republic'¹⁶. Mr. Shri Krishna seconded Mr. Jawaharlal Nehru's Resolution and demanded for decentralised republic.¹⁷ Finally on 17th October, 1949 the Constituent Assembly constituted India as 'Sovereign, Democratic, Republic'.¹⁸

B. Debate regarding Secularisation of India through 42nd Amendment

The Draft Committee of the Constituent Assembly intentionally did not attach 'divinity' to the Constitution of India. Thus, a resolution moved by Shri H.V. Kamath regarding inclusion of the phrase 'In the name of God' in the Preamble was negated on 17th October, 1949. The framers of the Constitution were well aware of the fact that divinity can no longer be forced upon the activities of people which are secular in nature¹⁹. However, the Constituent Assembly never declined to acknowledge and guarantee natural rights to the citizens of India. While explaining 'Natural Rights' Dias has opined that there are two kinds of natural law thought i.e. 'natural law of method' and 'natural law of content'. Natural law of method looks into the source of

¹⁵ Constituent Assembly Debate, Vol- VII (15th November, 1948)

¹⁶ Republic is where the head of the State is directly/ indirectly elected by the citizens of that country.

¹⁷ Decentralised Republic means where the sovereignty lays with citizens. In decentralised republic system the powers are not only exerted by a few individuals rather it's a system of top level decision making process and involves delegation of power upon other wings of the government.

¹⁸ Samaraditya Pal, *India's Constitution: Origins and Evolution*, Vol 1, 90 (Lexis Nexis, Mumbai, 2015).

¹⁹ Church in Europe during middle ages used to attach divinity to the law in order to claim obedience from the people. The basic feature of Natural Law theory is that it assigns divinity to the source of law. However, the Natural law theory has also been applied differently by different jurists at different periods. Available at R.W.M. Dias, *Jurisprudence*, 470, (LexisNexis, Haryana, 2014)

the law i.e. the method by which just rules have been devised. The 'Natural law of content', according to Dias, is relatively originated during 17th Century. It can therefore be concluded that just rules including 'natural rights' inherent in every human being emerged during that period.²⁰ Thus, the Constituent Assembly was well aware that the source of the authority, powers and laws under the Constitution of India was not divine and tried to give these a definite source.

Pandit Jawaharlal Nehru in his Objective Resolution had guaranteed the people of India the 'Freedom of belief, faith and worship'.²¹ Despite a history of large scale religious violence and riots the Objective Resolution guaranteed 'Freedom of belief, faith and worship' to its citizens and thus attempted to ensure peaceful co-existence of several religions in India. According to Emile Durkheim 'religion' is one of the major factors to unify people which brings about 'Social Solidarity'²². Therefore, even though India was divided on a communal line it was necessary to guarantee the people of India 'freedom of belief, faith and worship' in order to bring social solidarity amongst them.

In this backdrop the question arises does India not become a religious country if it guarantees its people 'freedom of belief, faith and worship'. More notably, at that point of time India had not been declared to be a Secular State in the Objective Resolution.

The first step by the Objective Resolution to bring about the concept of Secularism in the Constitution of India was to include the phrase 'freedom of belief, faith and worship' as fundamental right for the citizens of India. However, India was not expressly declared as a Secular State until the 42nd Constitutional Amendment in 1976. Secularism involves equal treatment of all the religions including religious minorities and nonbelievers. India was secularized only in 1976 through 42nd Constitutional Amendment to the Constitution of India. The term Secular has two meanings. The term secular has two meanings. The prime meaning is not connected with the religion or spiritual matters. The other is not subject to or bound by a religious rule. In India it has taken the meaning of tolerance for all religion. Prior to

²⁰ R.W.M. Dias, Jurisprudence, 471, (LexisNexis, Haryana, 2014)

²¹ Clause 5 of the Objective Resolution- 'WHEREIN shall be guaranteed and secured to all the people of India justice, social subject to law and public morality'

²² Emile Durkheim's theory of Social Solidarity and the role of religion in Society.

the 42nd Amendment the latter meaning of tolerance for all religions were integrated in its essence of the Constitution of India, but post 1976 the 'Secular' character of the Constitution of India was brought to focus.

The 42nd Amendment also included Socialist along with the word Secular in the Preamble of the Constitution. Secularization even though used synonymously with the term Secularism has a different meaning. Secularization²³ connotes increasing State control in spheres which might have been previously controlled by religious institutions. Socialism indicates State's control over the means of production and distribution of produced within the community. Therefore, the inclusion of both the words 'Socialist, Secular' in the Preamble demands a special mention as it was an effort on behalf of the then Government to indicate increasing State's control over personal, social, political and economic spheres of life of an individual²⁴.

It is interesting to note that the Objective Resolution gave paramountcy to people and located the source of power (Constitution) in the people. Yet after the Constitution 42nd Amendment Act, 1976 the State obtained a firmer grip over the life and property of the people.

According to the theory of Social Solidarity of Emile Durkheim (1858-1917) 'religious belief' plays an important role to unify people. However, in an Economic approach to Law by Karl Marx (1818-1883) laid down that the sense of being exploited would unify the Proletariat (oppressed and working class in the theory of Karl Marx). Thus, according to this theory the notion that 'religious belief would unify people' does not stand in the society having class struggle²⁵. In the later part of the theory of Social Solidarity Emile Durkheim has opined that in complex society which is heterogeneous in nature people would depend on each other because of division of labour. Therefore, the religious belief would no longer be a major factor for bringing about social solidarity. The sense of dependence upon each other would unify people in a heterogeneous society.²⁶

²³ Meaning of concepts like Secularization, religious liberty, religious diversity, in Steve Bruce, *Choice & Religion*, (Oxford University Press, Oxford, 1999)

²⁴ The words 'Secular and Socialism' were inserted in the Preamble of the Constitution of India through the 42nd Constitutional Amendment Act of 1976.

²⁵ R. W. M. Dias, *Jurisprudence*, 396-408 (LexisNexis, Nagpur, Fifth Edition, 2014)

²⁶ M.D.A. Freeman, *Lloyd's Introduction to Jurisprudence*, (Sweet & Maxwell, London, 2001).

Max Weber (1864-1920) in his 'The Protestant Ethic and Spirits of Capitalism' observed the rise of capitalism in several areas of Europe. He observed the change in work ethic and the rise of capitalism occurred in places where Protestants were dominant. According to the Critical Theory of Sociology with the passage of time the religious institutions and/or King, the divine representative, were no longer able to justify the accumulation of more wealth in their hands. The concept of 'Hard Work' and 'Accumulation of wealth through personal effort and prudence' paved its way for a new concept of spirituality. The Protestant's version of spirituality was about hard and continuous labour²⁷. The face and the function of 'Religion' in society was changing gradually. Religion was no longer attached to Church or the monarch. Religion became an important factor to bring social change and no longer thought to be as a stigma. Therefore, despite the large scale religious violence in India there was no problem in guaranteeing religious rights to its citizens.

The original text of the Preamble of the Constitution adopted Secularism through the phrase "freedom of belief, faith and worship" and did not secularize India. The proof of it was the guarantee of the right to manage educational institutions by religious minority groups under Article 30 of the Constitution of India.

At the time of independence of India, driven by ideological utopia, there was, perhaps a naïve believe, that each religious community would honour its own boundary. However, in reality, there was encroachment upon each others religious boundaries through conversions. This led to more violent assertions of religious beliefs leading to communal violence. This made State intervention an imperative step. Secularisation of India became a necessity.

Social solidarity is a unifying factor, division of labour lands interdependence and the two together brings about cohesion. State powers fear cohesion, as it challenges the power of the State on the other hand exploitation and deprivation is also a unifying factor that poses challenge to the power of State. It, therefore, can not be ruled out that the insertion of the words 'Secular' and 'Socialist' in the Preamble was to prevent the possibility of such challenge by greater intervention in the lives of the people.

²⁷ Critical Theory of Sociology and Max Weber's explanation to the changing role of religion in society.

Whether it was the need of the hour or fear of the opposition representing the people can not be stated irrefutably. However, such a move brought the legal system closer to the analytical school of thought.

The words 'Socialist, Secular' were inserted only after 42nd Amendment in 1976 even though there was a demand by Shri Brajeshwar Prasad, a member of Draft Committee, to include the same in the original text of the Preamble.²⁸ The then Prime Minister Mrs. Indira Gandhi in her speech in Lok Sabha²⁹ while defending the inclusion of the words 'Socialist Secular' has mentioned several communal violence occurring in several places in India and sacrifice of people because of that. She pointed out that the guarantee of the right of one person can not be the reason for the violation of the right of another. Moreover, it was also mentioned that the Constitution must give order and stability and make the Government responsible to its citizens. The then Prime Minister in her speech defended inclusion of the words 'Socialist, Secular' as suggested the Swaran Singh Committee Report.³⁰ Thus, according to the then ruling party secularization of India by inserting the word 'Secular' was the need of the hour in order to ensure rule of law.³¹

However, the type of secularism followed in India was different from the secularism followed in other countries. In the communist regime of Russian Government the State has been declared secular. Despite this the communist government encourages citizens to practise atheism.³² The French Government has also guaranteed secularism and has made religious activities a complete private affair. France has put a complete ban on any activity or wearing of costumes in public that may disclose the religious belief of an individual.³³ The United States of America has also separated Church

²⁸ Constituent Assembly Debates, Vol- X 17th October, 1949.

²⁹ Excerpts of the speech of Mrs. Indira Gandhi in Lok Sabha in 1976, available at Samaraditya Pal, *India's Constitution: Origins and Evolution*, Vol 1, 94-100, (LexisNexis, Nagpur, 2015)

³⁰ A Committee was appointed headed by Mr. Swaran Singh in 1976 to come up with proposals for amendment of the Constitution. This Committee is known as the Swaran Singh Committee. The Committee suggested to substitute the phrase 'Sovereign Democratic Republic' with the phrase 'Sovereign, Democratic, Secular, Socialist, Republic' in the Preamble. The Committee also proposed that 'and integrity' should be included after the word 'Unity' in the Preamble.

³¹ Samaraditya Pal, *India's Constitution: Origins and Evolution*, 97 (LexisNexis, Nagpur, 2015)

³² A recent study conducted by SOVA, Centre for Information and Analysis, in Russia it was observed that protests against the construction of buildings for religious activities is on the rise. The Russian Government has enacted a number of legislations to confiscate properties belonging to religious institutions.

³³ Separation of Church and State in France.

from the State. The Government has very little influence over the religious activities within its territory.³⁴ In secularism followed in India the Government does not have any religion and has separated the State from religious institutions. Notwithstanding the secular nature of India the Constitution of India unlike the French secularism has guaranteed its citizens the right to preach, profess and practice their respective religions in public. Unlike the Russian Communist Government the Constitution of India does not promote atheism. Unlike the United States of America religion has considerable amount of influence in Indian politics and vice versa.

C. Debate regarding declaring India as Socialist Country through 42nd Amendment Act, 1976

The original text of the Preamble of the Constitution of India did not have the word 'Socialist' in it. However, in the Objective Resolution³⁵ Pandit Jawahar Lal Nehru expressed that he wanted Indian economy to be socialist economy. He also expressed that he believed that India would go towards Socialism. In the Preamble prior to the 42nd Amendment (1976) economic justice was guaranteed to its citizens. The Indian State intended to become a Welfare State by guaranteeing 'JUSTICE, social, economic and political' and 'EQUALITY of status and of opportunity'. It was only after the 42nd Amendment Act, 1976 the word 'Socialist' was added to the Preamble. However, socialist thinking dominated most of the leaders of Indian Congress from the independence. In this backdrop, the question arose as to what was the necessity of mentioning 'Socialist' expressly in the Preamble when the Constituent Assembly intended Indian economy to be a socialist economy.

Socialism denotes State's control over the means and/ or distribution of production. In 1969 the then Government of Mrs. Indira Gandhi enacted a law named Banking Companies (Acquisition and Transfer of Undertaking) Act, 1969. This Act was enacted to acquire the control of Banks in conformity with the national policy³⁶ and distribution of credit to the priority sectors and rural areas in India. Rustom Cavasjee Cooper, one of the shareholders of Central Bank of India and Bank of Baroda, filed a suit³⁷ contending that enacting legislation regarding acquisition and transfer of credit

³⁴ The Constitution of United States of America.

³⁵ Constituent Assembly Debates, Vol I, 13th December 1946.

³⁶ Full text of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1969.

³⁷ *Rustom Cavasjee Cooper v. Union of India* AIR 1970 SC 564

from Banks is out of the purview of List I of the VIIth Schedule. The petitioner, R. C. Cooper, further contended that enactment of such legislation also amounted to violation of petitioner's fundamental right to practice any profession or carry on any occupation.

The State contended that the State has socialist obligation and undertaken the task of making Indian society an egalitarian society by preventing the accumulation of wealth into the hands of a few. The contention of the then Government again proved that the then leaders of India wanted Indian economy to be a socialistic economy. Thus, insertion of the word 'Socialist' in the Preamble through 42nd Amendment in 1976 was a formal expression to this intention of the State to have considerable amount of control over the means of production and distribution of wealth in the society.³⁸

Socialistic economy intended to be followed in India was not in conformity with the socialistic economy of Karl Marx. Karl Marx was of the view that the conflict between exploited and the vested interest group (the one forming the Government) would result in withering away of the State. Thus, the power would shift to the exploited and a new group would elevate to form the Government. The focus of Marx's theory was abolition of exploitation and equal distribution of wealth³⁹. Therefore, the egalitarian society in Marx's economic theory is a result of class struggle. The focal point of Indian Socialism was also to bring about egalitarian society. However, this socialism was a result of India's being Welfare State. Karl Marx assumed in his economic theory that after continuous class-struggle State would wither away and a perfect egalitarian society would emerge. However, Max Weber in his study observed that socialism can not exist for long. According to Weber any socialistic economy would transform into a capitalistic economy when people would start discard any divine concept of accumulation of wealth into the hands of monarch or religious institution. Early period of twentieth century witnessed emergence of a new concept of 'Accumulation of wealth into the hands of an individual for his prudence and hard work'. Max Weber observed that lesser State control over the

³⁸ Bank Nationalization case in India.

³⁹ R. W. M. Dias, *Dias Jurisprudence*, (Butterworth, New Delhi, 1994).

factors of production in Europe was leading towards free market as stated by Adam Smith. Therefore, Weber opined that socialism can not survive for long.⁴⁰

D. Insertion of the word ‘Integrity’ in the Preamble through 42nd Amendment

Another insertion of word in the Preamble through the 42nd Amendment Act, 1976 was ‘Integrity’. The religious violence and encroachment upon each others religion during post-independence era posed a threat to the Indian democracy. The Nation was still suffering from communal violence in post-independence era and the then Government perhaps did not want another division of the Nation on the communal line. It was not enough only to promote unity of people of India. Several factors like Cast, Creed, Religion were able to unify people of India but at the same time these factors were becoming reason for fractions. Mrs. Gandhi, the then Prime Minister, in her Lok Sabha Speech⁴¹ mentioned that the amendments brought in was in the nature of renovation. The Preamble would provide reference to the people, the Government and the Judiciary. She had also mentioned that the Constitution so far evoked many controversies and the insertion of these words were the need of the hour. It was mentioned that the Constitution intended to prescribe restraint upon all. It was to be ensured that the guarantee of somebody’s right did not amount to the violation of right of someone else. Therefore, it can safely be said that insertion of the word ‘Integrity’⁴² was to give a formal expression to the intention of the then Government to unify India as a whole irrespective of Cast, Creed and Religion.

⁴⁰ Max Weber, *The Protestant Ethic and the Spirit of Capitalism* available at R. W. M. Dias, *Dias Jurisprudence*, (Butterworth, New Delhi, 1994).

⁴¹ Samaraditya Pal, *India’s Constitution: Origins and Evolution*, 95 (LexisNexis, Nagpur, 2015)

⁴² Unity means being one while Integrity means being Whole.