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# **PREAMBLE PANORAMA: - A GLOBAL EXPEDITION INTO CONSTITUTIONAL IDEALS**

AUTHORED BY: - ADV. ANUPRITA KULKARNI.

The preamble of any statute serves as the gateway to comprehending the true intentions of legislative bodies<sup>1</sup>. Its purpose is to aid in the seamless interpretation of the statute. For law students, it's crucial to study, internalize, and apply the provisions currently in effect to address emerging issues. This necessitates delving into extensive statutes with intricate sentencing and numerous provisions. The preamble serves as a concise guide to comprehend the contents of a statute, outlining its objectives and the purposes for which it can be employed.

In today's era, it is increasingly important to have a grasp of various international laws. It's widely acknowledged that the Constitution is the Supreme law of the land, making it logical to thoroughly understand it. A comparative analysis of the Constitutions of India, the United States, and the United Kingdom offers an opportunity to understand the fundamental principles underlying these diverse nations collectively. The preamble serves as a succinct overview of the objectives and aspirations of each constitution, making it a focal point for this comparative study of the preambles of India, the United States, and the United Kingdom.

Understanding the Preamble of the Indian Constitution holds immense importance in a global context, as it not only encapsulates the foundational principles of the Indian Republic but also resonates with universal values essential for a just and inclusive society. The commitment to justice, liberty, equality, and fraternity mirrors the core tenets of democracy that are relevant and resonant on a global scale. In a world characterized by diversity, the principles of socialism and secularism embedded in the Preamble serve as a model for fostering social and economic justice and promoting religious harmony, offering valuable lessons to other nations navigating similar challenges. Moreover, the emphasis on unity and integrity of the nation addresses the universal imperative of maintaining territorial cohesion and fostering a sense of national identity in a world where multiculturalism and pluralism are increasingly significant. As nations grapple with issues of justice, equality, and societal harmony, the Indian Preamble stands as a testament to the

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<sup>1</sup> R. v. Berubari, AIR 1960 SC 845

enduring values that transcend borders, providing a source of inspiration for constitutional frameworks worldwide and reinforcing the shared commitment to a democratic and egalitarian global order.

## COMPARISON WITH OTHER CONSTITUTIONAL

### PREAMBLE: -

The Preambles of the Indian Constitution, the United States, the United Kingdom, serve as introductory statements to their respective constitutional documents, reflecting the foundational values and guiding principles of each nation. While each preamble is unique, there are both similarities and differences among them

While there are common themes rooted in democratic values and the authority of the people, the specific emphases and inclusions in each preamble reflect the unique historical, social, and political contexts of their respective nations.

In each case, these preambles underscore the central importance of the people in establishing and maintaining the constitutional order. India's Preamble begins with the empowering phrase "We, the people of India<sup>2</sup>," emphasizing the ultimate authority residing in its citizens making them source of the constitution. Similarly, the United States opens with "We the People of the United States<sup>3</sup>," highlighting a shared commitment to democracy and popular sovereignty. While the United Kingdom lacks a codified preamble, the principles of parliamentary sovereignty underscore the centrality of the people in governance.

One of the shared democratic values across these preambles is the emphasis on justice, liberty, and equality. India explicitly mentions justice, liberty, equality, and fraternity, while the United States articulates goals such establishing justice, ensuring domestic tranquility, and securing the blessings of liberty<sup>4</sup>. In the UK, principles of justice and democratic governance are implicit in its constitutional conventions. The commitment to democratic principles is a common thread binding these nations together, providing a framework for governance rooted in the well-being and rights of the people.

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<sup>2</sup> Preamble, Constitution of India

<sup>3</sup> U.S. Constitution, Preamble

<sup>4</sup> U.S. Constitution, Preamble

National unity is another theme that resonates in these preambles. India's Preamble explicitly mentions the "unity and integrity of the nation," emphasizing the importance of maintaining territorial integrity. In the United States, the pursuit of forming a more perfect union underscores the commitment to national unity. The United Kingdom, with its rich history, implies unity through constitutional conventions.

Secularism is a distinctive feature of India's Preamble, which explicitly declares India as a secular state. This commitment to secularism is absent in the United States, although its Constitution emphasizes the separation of church and state<sup>5</sup>. The United Kingdom, with its established Church of England, maintains a connection between the state and the Church. These varying approaches to religion and state highlight the diverse ways in which nations navigate the relationship between governance and faith.

The explicit commitment to socialism is a unique characteristic of India's Preamble, reflecting a dedication to social and economic justice. In contrast, the preambles of the United States, the United Kingdom, lack explicit references to socialism, focusing more on democratic governance and individual liberties. India's socialist commitment underscores the nation's pursuit of equitable economic development and social justice as integral components of its constitutional vision<sup>6</sup>.

The structure of the preambles also varies. India's Preamble is detailed and comprehensive, covering a wide range of ideals and principles. In contrast, the United States has a brief and succinct preamble, outlining broad goals without delving into specific details. The United Kingdom lacks a codified preamble but relies on constitutional conventions to articulate principles.

While the preambles of India, the United States, the United Kingdom share common themes rooted in democratic values and the authority of the people, the specific emphases and inclusions reflect the unique historical, social, and political contexts of each nation. The diversity in these preambles highlights the richness of constitutional traditions across the globe.

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<sup>5</sup> U.S. Constitution, First Amendment

<sup>6</sup> 42<sup>nd</sup> Amendment Act, the Constitution of India

## INFLUENCE OF HISTORICAL CONTEXT: -

The historical context of each country has profoundly influenced the formulation of its Preamble, shaping the foundational principles and aspirations embedded in these constitutional introductions. India's Preamble, crafted in the aftermath of British colonial rule and inspired by the struggles for independence, reflects a commitment to justice, liberty, equality, and fraternity. The scars of colonial oppression and the quest for self-determination are evident in the emphasis on social and economic justice, as well as the explicit declaration of India as a secular state, highlighting the nation's dedication to overcoming religious divisions that had been exacerbated during colonial rule.<sup>7</sup>

The United States, in contrast, formulated its Preamble against the backdrop of the late 18th century, characterized by the American Revolutionary War and the desire for independence. The U.S. Preamble reflects the framers' aspirations for a more perfect union, seeking to address the challenges faced under the Articles of Confederation. It emphasizes justice, tranquility, defense, welfare, and liberty, mirroring the newfound American commitment to self-governance and individual freedoms after breaking free from British colonial rule.

The United Kingdom lacks a codified constitution with a Preamble, relying instead on historical documents and constitutional conventions. Its unique historical context, shaped by centuries of constitutional evolution, includes the Magna Carta, the Glorious Revolution, and the establishment of constitutional monarchy. The unwritten nature of the UK constitution and the absence of a formal Preamble signify a reliance on historical traditions and legal precedents, highlighting a commitment to gradual and pragmatic constitutional development.

The historical context of each country has left an indelible mark on the formulation of its Preamble, influencing the choice of language, values, and principles enshrined in these foundational constitutional documents. Whether grappling with the legacies of colonialism, asserting independence, or overcoming internal conflicts, the historical experiences of each nation have played a crucial role in shaping the constitutional ethos expressed in their respective Preambles.

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<sup>7</sup> Walter Bagehot's *The English Constitution*, 201 (2<sup>nd</sup> ed., 1872)

## **SECULARISM IN COMPARATIVE PERSPECTIVE: -**

The inclusion of "secularism" in the Preamble of the Indian Constitution holds significant historical and philosophical importance. The term was added during the 42nd Amendment in 1976, reflecting a commitment to a state that is equidistant from all religions and maintains a neutral stance. Secularism in the Indian context emphasizes religious tolerance, respect for diverse faiths, and the separation of religious institutions from state affairs<sup>8</sup>. This addition to the Preamble reaffirms India's dedication to fostering a society that respects all religions and ensures that the state does not endorse any particular faith.

One landmark case demonstrating the principle of secularism in the Indian Constitution is *S.R. Bommai v. Union of India*<sup>9</sup>. In this case, the Supreme Court emphasized that secularism is one of the basic features of the Constitution and held that any attempt to undermine secularism is unconstitutional.

In contrast, the constitutions of many Western nations, such as the United States and the United Kingdom, do not explicitly mention secularism in their preambles. While the U.S. Constitution's First Amendment ensures the separation of church and state, the absence of the term "secularism" reflects a different approach to the relationship between religion and the state. The United Kingdom, with its established Church of England, does not have a codified constitution or a formal preamble, but its constitutional conventions uphold the principle of religious freedom within a constitutional monarchy.

## **JUDICIAL INTERPRETATION IN COMPARATIVE JURISDICTIONS: -**

Instances where the Preamble has played a significant role in judicial decisions vary across countries, with the interpretation of the Preamble influencing legal outcomes and shaping constitutional principles. Here are examples from different jurisdictions:

### **India:**

The Indian Preamble has played a crucial role in various judicial decisions. In the landmark

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<sup>8</sup> D.S.Nakara v. Union Of India, AIR 1983 SC 130

<sup>9</sup> S.R. Bommai v. Union of India, 1994 AIR 1918

Kesavananda Bharati<sup>10</sup> case (1973), the Supreme Court of India ruled that the Preamble is an integral part of the Constitution and can be used to interpret its provisions. The court emphasized that the Preamble reflects the basic structure and principles of the Constitution, acting as a guide for constitutional interpretation. Subsequently, in the *Minerva Mills*<sup>11</sup> case (1980), the court reinforced the significance of the Preamble in shaping constitutional values and limiting the amending power of the Parliament.

### **United States:**

While the Preamble itself is not typically a direct source of legal authority in the U.S., the principles expressed in it have been referenced in judicial decisions. In cases like *Everson v. Board of Education*<sup>12</sup> (1947), the Supreme Court invoked the Preamble's emphasis on the general welfare to justify decisions on church-state relations. Additionally, in cases related to voting rights and equal protection, the Supreme Court has considered the Preamble's commitment to establishing justice and ensuring domestic tranquility as relevant factors in its decisions.

### **United Kingdom:**

The United Kingdom, with its unwritten constitution, lacks a formal Preamble. However, constitutional principles are derived from various sources, including statutes, conventions, and legal precedents. The UK judiciary interprets and applies these constitutional principles in a more decentralized manner without a single guiding document like a Preamble. The constitutional conventions and legal traditions, including the principle of parliamentary sovereignty, play a crucial role in shaping judicial decisions. The absence of a codified Preamble distinguishes the UK's constitutional interpretation from countries with written constitutions.

## **DIVERSITY IN LANGUAGE AND STRUCTURE: -**

The language and structural composition of different preambles vary significantly, reflecting the unique historical, cultural, and political contexts of each nation. In terms of language, some preambles are concise and straightforward, while others are more detailed and elaborate. For example, the United States preamble is brief and to the point, with a focus on establishing broad goals such as justice, domestic tranquility, and the general welfare. In contrast, the Indian preamble is more detailed and comprehensive, covering a wide range of ideals such as justice,

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<sup>10</sup> Kesavanand Bharti v. State of Kerala, AIR 1973 SC 1461, 1480

<sup>11</sup> *Minerva Mills Ltd v. Union of India*, AIR1980 SC 1789

<sup>12</sup> *Everson v. Board of Education*, 330 U.S. 1( 1947,Supreme Court of United States)

liberty, equality, fraternity, socialism, and secularism. This variation in language reflects the different approaches to expressing foundational principles and values within each constitutional framework.

Structurally, preambles also differ in terms of their organization and presentation of ideas. Some preambles follow a linear structure, presenting a list of principles or goals in a sequential manner. For example, the United States preamble lists its objectives one after another, without extensive elaboration. Other preambles adopt a more thematic or narrative structure, weaving together various ideals and principles into a cohesive narrative. The Indian preamble, for instance, presents its principles in a more interconnected manner, emphasizing the interdependence of justice, liberty, equality, and fraternity.

Furthermore, the inclusion or exclusion of specific principles or values also varies across preambles. While some preambles explicitly mention certain ideals, others may imply them through broader language or constitutional conventions. For example, the United Kingdom's lack of a codified preamble does not diminish its commitment to democratic governance, which is implicit in its constitutional conventions. Similarly, while the United States preamble does not explicitly mention equality, the principle is implied through the broader goals of establishing justice and promoting the general welfare.

Additionally, the level of detail and specificity in preambles can vary significantly. Some preambles provide a broad overview of foundational principles, leaving room for interpretation and adaptation over time. Others may include specific references to historical events, cultural values, or political ideologies, reflecting a more detailed and context-specific approach. For example, the Canadian preamble mentions the "supremacy of God," reflecting a theistic perspective that is unique to its cultural and historical context.

Moreover, the tone and style of preambles can also vary, ranging from formal and solemn to aspirational and inspirational. Some preambles adopt a formal tone, using legalistic language to articulate constitutional principles and objectives. Others may adopt a more aspirational tone, invoking lofty ideals and values to inspire citizens and future generations. The language and tone of preambles often reflect the cultural and historical ethos of each nation, as well as the intended audience and purpose of the document.

The language and structural composition of different preambles vary significantly, reflecting the diverse historical, cultural, and political contexts of each nation. These variations contribute to the richness and diversity of constitutional traditions worldwide, highlighting the different approaches to expressing foundational principles and values within constitutional frameworks.

The variations in language and structural composition among different Preambles reflect the diverse historical, cultural, and political contexts of each nation. India's Preamble, for instance, employs a detailed and comprehensive language to outline its foundational ideals, explicitly stating the commitment to justice, liberty, equality, and fraternity. The inclusion of explicit references to socialism and secularism sets it apart, reflecting India's unique socio-political circumstances and the framers' vision for a socially just and inclusive society. The detailed nature of India's Preamble allows for a comprehensive expression of the nation's values and goals.

## **CHALLENGES AND CRITICISM: -**

### **India:**

Critics of the Indian Preamble argue that its broad and aspirational language can lead to challenges in its precise interpretation. The inclusion of terms like "socialism" and "secularism" has been subject to debate, with differing opinions on the extent to which these principles should be implemented. Additionally, the Preamble has faced challenges when tensions arise between individual rights and collective goals, requiring the judiciary to strike a balance. Some critics argue that the Preamble's commitment to socialism may hinder economic liberalization efforts, raising concerns about the practical implications of these ideals in a rapidly changing society.

### **United States;**

Criticism of the U.S. Preamble often centers on the interpretative challenges arising from its broad language. The phrase "provide for the common defense and promote the general welfare" has been subject to differing interpretations, especially in debates over the scope of federal powers. Critics argue that the Preamble's general principles may not offer clear guidance in specific policy disputes, leaving room for varied interpretations. Additionally, challenges arise when interpreting concepts like "justice" and "blessings of liberty" in the context of evolving societal norms and values.

**United Kingdom:**

In the United Kingdom, where there is no codified Preamble, challenges emerge due to the absence of a single, formal document articulating constitutional principles. Critics argue that the unwritten nature of the UK constitution, relying on conventions and legal traditions, can lead to uncertainty and ambiguity in constitutional interpretation. The lack of a clear Preamble may make it more challenging to discern foundational principles, especially in situations where constitutional conventions are not explicitly codified.

**CONCLUSION: -**

In conclusion, the Preambles of India, the United States, the United Kingdom, serve as foundational documents that encapsulate the guiding principles and aspirations of their respective constitutional frameworks. These Preambles, shaped by historical contexts, cultural nuances, and evolving societal values, play a crucial role in interpreting and applying constitutional provisions. While each preamble reflects the unique journey and challenges faced by its nation, common themes such as justice, liberty, equality, and fraternity resonate across these diverse constitutional documents.

The Indian Preamble, with its explicit commitment to socialism and secularism, reflects the nation's struggle against colonialism and its vision for a just and inclusive society. In the United States, the succinct and timeless language of the Preamble highlights the framers' aspiration for a more perfect union, establishing justice, ensuring domestic tranquility, providing for the common defense, promoting the general welfare, and securing the blessings of liberty. The United Kingdom, with its unwritten constitution, relies on constitutional conventions and legal traditions, leading to a nuanced approach to governance without a formal Preamble.

Despite the differences in language, structure, and historical context, these Preambles share common themes that underscore the universality of democratic values. The commitment to justice, liberty, equality, and fraternity resonates not only within national borders but contributes to a global understanding of constitutional governance. The judicial interpretations and challenges faced by these Preambles highlight the ongoing dialogue between constitutional ideals and the ever-changing landscape of societal norms and expectations.

As these nations navigate contemporary challenges and strive for a more just and inclusive future,

the Preambles continue to serve as beacons, guiding both citizens and the judiciary in the interpretation and application of constitutional principles. Whether explicitly stated or inferred from constitutional conventions, the values enshrined in these Preambles remain vital in shaping the identity and trajectory of each nation's constitutional journey.

