

CHAPTER 3

THE PHILOSOPHY OF THE CONSTITUTION

EVERY Constitution has a philosophy of its own.

For the philosophy underlying *our* Constitution we must look back into the historic Objectives Resolution of Pandit Nehru which was adopted by the Constituent Assembly on January 22, 1947,¹ and which inspired the shaping of the Constitution through all its subsequent stages. It reads thus—

The Objectives Resolution.

"This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution:

(2) WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and

(3) WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the law of the constitution, shall possess and retain the status of autonomous units, together with residuary powers, and exercise all powers and functions of Government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom; and

(4) WHEREIN all power and authority of the Sovereign Independent India, its constituent parts and organs of Governments are derived from the people; and

(5) WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and

(6) WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and

(7) WHEREIN shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea, and air according to justice and the law of civilised nations; and

(8) The ancient land attain its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind."

In the words of Pandit Nehru, the aforesaid Resolution was "something more than a resolution. It is a declaration, a firm resolve, a pledge, an undertaking and for all of us a dedication".

It will be seen that the ideal embodied in the above Resolution is faithfully reflected in the Preamble to the Constitution, which, as amended in 1976,² summarises the aims and objects of the Constitution :

The Preamble.

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR² 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 integrity² of the Nation:

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."

The importance and utility of the Preamble has been pointed out in several decisions of our Supreme Court. Though, by itself, it is not enforceable in a Court of law,³ the Preamble to a written Constitution states the *objects* which the Constitution seeks to establish and promote and also aids the legal interpretation of the Constitution where the language is found to be *ambiguous*.⁴ For a proper appreciation of the aims and aspirations embodied in our Constitution, therefore, we must turn to the various expressions contained in the Preamble, as reproduced above.

The Preamble to our Constitution serves, two purposes:

(a) it indicates the *source* from which the Constitution derives its authority;

(b) it also states the *objects* which the Constitution seeks to establish and promote.

As has been already explained, the Constitution of India, unlike the preceding Government of India Acts, is not a gift of the British Parliament. It is ordained by the people of India through their representatives assembled in a sovereign Constituent Assembly which was competent to determine the political future of the country in any manner it liked. The words—'We, the people of India.... adopt, enact and give to ourselves this Constitution', thus, declare the ultimate sovereignty of the people of India and that the Constitution rests on their authority.³

Sovereignty means the independent authority of a State. It means that it has the power to legislate on any subject; and that it is not subject to the control of any other State or external power.

The Preamble declares, therefore, in unequivocal terms that the source of all authority under the Constitution is the people of India and that there is no subordination to any external authority. While Pakistan remained a British Dominion until 1956, India ceased to be a Dominion and declared herself a 'Republic' since the making of the Constitution in 1949. It means a government by the people and for the people.

We have an elected President at the head of our State, and all office including that of the President will be open to all citizens.

On and from the 26th Jan., 1950, when the Constitution came into force, the Crown of England ceased to have any legal or constitutional authority over India and no citizen of India was to have any allegiance to the British Crown. But though India declared herself a Republic, she did not sever all ties with the British Commonwealth as

Sovereignty not inconsistent with membership of the Commonwealth.

did *Eire*, by enacting the Republic of Ireland Act, 1948. In fact, the conception of the Commonwealth itself has undergone a change owing to India's decision to adhere to the Commonwealth, *without acknowledging allegiance to the Crown* which was the symbol of unity of the Old British Empire and also of its successor, the 'British Commonwealth of Nations'.⁵ It is this decision of India which has converted the 'British Commonwealth',—a relic of imperialism,—into a free association of independent nations under the honourable name of the 'Commonwealth of Nations'. This historic decision took place at the Prime Ministers' Conference at London on April 27, 1949, where, our Prime Minister, Pandit Nehru, declared that notwithstanding her becoming a sovereign independent Republic, India will continue—"her full membership of the Commonwealth of Nations and her acceptance of the King as the symbol of the *free* association of the independent nations and as such the Head of the Commonwealth."

It is to be noted that this declaration is *extra-legal* and there is no mention of it in the Constitution of India. It is a voluntary declaration and indicates a free association and no obligation. It only expresses the desire of India not to sever her friendly relations with the English people even though the tie of political subjugation was severed. The new association was an honourable association between independent States. It accepts the Crown of England only as a *symbolic* head of the Commonwealth (having no functions to discharge in relation to India as belonged to him prior to the Constitution), and having no claim to the allegiance of the citizens of India. Even if the King or Queen of England visits India, he or she will *not* be entitled to any precedence over the President of India. Again though as a member of the Commonwealth, India has a right to be represented on Commonwealth conferences, decisions at Commonwealth conferences will not be binding on her and no treaty with a foreign power or declaration of war by any member of the Commonwealth will be binding on her, without her express consent. Hence, this voluntary association of India with the Commonwealth does not affect her sovereignty to any extent and it would be open to India to cut off that association at any time she finds it not to be honourable or useful. As Pandit Nehru explained—

"It is an agreement by free will, to be terminated by free will."⁶

The great magnanimity with which India took this decision in the face of a powerful opposition at home which was the natural reaction of the manifold grievances under the imperialistic rule, and the great fortitude with which

Promotion of International Peace.

the association has still been maintained, under the pressure of repeated disappointments, the strain of baffling international alignments and the 1976 upsurge of racialism in England, speak volumes about the sincerity of India's

pledge to contribute 'to the promotion of world peace' which is reiterated in Art. 51 of the Constitution:

"The State shall endeavour to—

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised people with one another; and
- (d) encourage settlement of international disputes by arbitration."

The fraternity which is professed in the Preamble is thus not confined within the bounds of the national territory; it is ready to overflow them to reach the loftier ideal of universal brotherhood; which can hardly be better expressed than in the memorable words of Pandit Nehru:

"The only possible, real object that we, in common with other nations, can have is the object of co-operating in building up some kind of a world structure, call it one world, call it what you like."⁷

Thus, though India declares her sovereignty to manage her own affairs, in no unmistakable terms, the Constitution does not support isolationism or 'Jingoism'. Indian sovereignty is consistent with the concept of 'one world' international peace and amity.

The picture of a 'democratic republic' which the Preamble envisages is democratic not only from the *political* but also from the *social* standpoint; in other words, it envisages not only a democratic form of government but also a democratic society, infused with the spirit of 'justice, liberty, equality and fraternity'.

(a) As a form of government, the democracy which is envisaged is, of course, a representative democracy and there are in *our* Constitution no agencies of direct control by the people, such as 'referendum, or 'initiative'. The people of India are to exercise their sovereignty through a Parliament at the Centre and a Legislature in each State, which is to be elected on adult franchise⁸ and to which the real Executive, namely, the Council of Ministers, shall be responsible. Though there shall be an elected President at the head of the Union and a Governor nominated by the President at the head of each State, neither of them can exercise any political function without the advice of the Council of Ministers⁹ which is collectively responsible to the people's representatives in the respective Legislatures (excepting functions which the Governor is authorised by the Constitution itself to discharge in his discretion or on his individual responsibility). The Constitution holds out equality to all the citizens in the matters of choice of their representatives, who are to run the governmental machinery.

Also known as parliamentary democracy, it envisages (i) representation of the people, (ii) responsible government, and (iii) accountability of the Council of Ministers to the legislature. The essence of this is to draw a direct line of authority from the people through the legislature. The character and content of parliamentary democracy in the ultimate analysis depends upon the quality of persons who man the legislature as representatives of the people. The members of the legislature, thus, must owe their power directly or indirectly to the people.¹⁰

The ideal of a democratic republic enshrined in the Preamble of the Constitution can be best explained with reference to the adoption of universal suffrage (which has already been explained) and the complete equality between the sexes not only before the law but also in the political sphere. Political Justice means the absence of any arbitrary distinction between man and man in the political sphere. In order to ensure the 'political' justice held out by the Preamble, it was essential that every person in the territory of India, irrespective of his proprietary or educational qualifications, should be allowed to participate in the political system like any other person. Universal adult suffrage was adopted with this object in view. This means that every five years, the members of the Legislatures of the Union and of each State shall be elected by the vote of the entire adult population, according to the principle—'one man, one vote'.

(b) The offering of equal opportunity to men and women, irrespective of their caste and creed, in the matter of public employment also implements this democratic ideal. The treatment of the minority, even apart from the constitutional safeguards, clearly brings out that the philosophy underlying the Constitution has not been overlooked by those in power. The fact that members of the Muslim and Christian communities are as a rule being included in the Council of Ministers of the Union as well as the States, in the Supreme Court, and even in Diplomatic Missions, without any constitutional reservation in that behalf, amply demonstrates that those who are working the Constitution have not missed its true spirit, namely, that every citizen must feel that this country is his own.

That this democratic Republic stands for the good of *all* the people is embodied in the concept of a 'Welfare State' which inspires the Directive Principles of State Policy. The 'economic justice' assured by the Preamble can hardly be achieved if the democracy envisaged by the Constitution were confined to a 'political democracy'. In the words of Pandit Nehru:¹¹

"Democracy has been spoken of chiefly in the past, as political democracy, roughly represented by every person having a vote. But a vote by itself does not represent very much to a person who is down and out, to a person, let us say, who is starving or hungry. Political democracy, by itself, is not enough except that it may be used to obtain a gradually increasing measure of economic democracy, equality and the spread of good things of life to others and removal of gross inequalities."¹¹

Or, as Dr. Radhakrishnan has put it—

"Poor people who wander about, find no work, no wages and starve, whose lives are a continual round of sore affliction and pinching poverty, cannot be proud of the Constitution or its law."¹²

In short, the Indian Constitution promises not only *political* but also *social* democracy, as explained by Dr. Ambedkar in his concluding speech in the Constituent Assembly:

"Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognises liberty, equality and fraternity which are not to be treated as separate items in a trinity.

They form a union of trinity in the sense that to divorce one from the other 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.*"

The State in a democratic society derives its strength from the cooperative and dispassionate will of all its free and equal citizens.¹³ Social and economic democracy is the foundation on which political democracy would be a way of life in the Indian polity¹⁴.

(c) The banishment of poverty, not by expropriation of those who *have*,
Economic Justice. but by the multiplication of the national wealth and resources and an equitable distribution thereof amongst all who contribute towards its production, is the aim of the State envisaged by the Directive Principles. Economic democracy will be installed in our sub-continent to the extent that this goal is reached. In short, economic justice aims at establishing economic democracy and a 'Welfare State'.

The ideal of economic justice is to make equality of status meaningful and life worth living at its best removing inequality of opportunity and of status—social, economic and political.¹⁵

Social justice is a fundamental right.¹⁶ Social justice is the
Social justice. comprehensive form to remove social imbalance by law harmonising the rival claims or the interests of different groups and/or sections in the social structure or individuals by means of which alone it would be possible to build up a welfare State.¹⁷

The three have to be secured and protected with
Liberty, equality and fraternity. social justice and economic empowerment and political justice to all the citizens under the rule of law.¹⁸

Democracy, in any sense, cannot be established unless certain minimal
Liberty. rights, which are essential for a free and civilised existence, are assured to every member of the community. The Preamble mentions these essential individual rights as 'freedom of thought, expression, belief, faith and worship' and these are guaranteed against all the authorities of the State by Part III of the Constitution [*vide Arts. 19, 25-28*], subject, of course, to the implementation of the Directive Principles, for the common good [*Art. 31C*] and the 'fundamental duties', introduced [*Art. 51A*], by the 42nd Amendment, 1976.

'Liberty' should be coupled with social restraint and subordinated to the liberty of the greatest number for common happiness.¹⁹

Guaranteeing of certain rights to each individual would be meaningless unless all inequality is banished from the social structure and each individual is assured of equality of status and opportunity for the development of the best in him and the means for the enforcement of the rights guaranteed to him. This object is secured in the body of the Constitution, by making illegal
Equality. all discriminations by the State between citizen and citizen, simply on the ground of religion, race, caste, sex or place of birth [*Art. 15*]; by throwing open 'public places' to all citizens

[Art. 15(2)]; by abolishing untouchability [Art. 17]; by abolishing titles of honour [Art. 18]; by offering equality of opportunity in matters relating to employment under the State [Art. 16]; by guaranteeing equality before the law and equal protection of the laws, as justiciable rights [Art. 14].

In addition to the above provisions to ensure *civic* equality the Constitution seeks to achieve *political* equality by providing for universal adult franchise [Art. 326] and by reiterating that no person shall be either excluded from the general electoral roll or allowed to be included in any general or special electoral roll, only on the ground of his religion, race, caste or sex [Art. 325].

Apart from these general provisions, there are special provisions in the Directive Principles [Part IV] which enjoin the State to place the two sexes on an equal footing in the economic sphere, by securing to men and women equal right to work and equal pay for equal work [Art. 39, Cls. (a), (d)].

The realisation of so many objectives would certainly mean an expansion of the functions of the State. The goal envisaged by the Constitution, therefore, is that of a 'Welfare State'²⁰ and the establishment of a 'socialist state'²¹. At the Avadi session in 1955, Congress explained this objective as establishing a 'socialistic pattern of society' by a resolution—

From a Socialistic Pattern of Society to Socialism.

"In order to realise the object of Congress. . . and to further the objectives stated in the Preamble and Directive Principles of State Policy of the Constitution of India, planning should take place with a view to the establishment of a *socialistic pattern of society*, where the principal means of production are under social ownership or control, production is progressively speeded up and there is equitable distribution of the national wealth."

How far this end has been already achieved will be explained in Chap. 9, where it will also be pointed out how, till 1992, the trend had been from a 'socialistic pattern' towards a 'socialistic state', bringing industries and private enterprises under State ownership and management and carrying on trade and business as a State function.

That the goal of the Indian polity is *socialism* was ensured by inserting the word 'socialist' in the Preamble, by the Constitution (42nd Amendment) Act, 1976. It has been inserted "to spell out expressly the high ideals of socialism". It is to be noted, however, that the 'socialism' envisaged by the Indian Constitution is not the usual scheme of State socialism which involves 'nationalisation' of *all* means of production, and the abolition of private property. As the then Prime Minister Indira Gandhi explained²¹—

"We have always said that we have our *own brand* of socialism. We will nationalise the sectors where we feel the necessity. Just nationalisation is not our type of socialism."²¹

Though the word 'Socialism' is vague, our Supreme Court has observed that its principal aim is to eliminate inequality of income and status and standards of life, and to provide a decent standard of life to the working people. The Indian Constitution, therefore, does not seek to abolish private property altogether but seeks to put it under restraints so that it may be used in the interests of the nation, which includes the upliftment of the poor.

Instead of a total nationalisation of all property and industry, it envisages a 'mixed economy', but aims at offering 'equal opportunity' to all, and the abolition of 'vested interests'.²²⁻²³ From 1992 onwards the trend is now away from socialism to privatisation. Investment in many public enterprises has been divested in favour of private persons and many industries and services which were reserved for the government sector have been thrown open for private enterprise. This is in keeping with the worldwide trend after the collapse of socialism in the U.S.S.R., and East European countries. But the constitutional obligation to pay compensation to the private owner for State acquisition has been taken away by repealing Art. 31, by the Constitution (44th Amendment) Act, 1978, as will be further explained under Chap. 8, *post*.

Unity amongst the inhabitants of this vast sub-continent, torn asunder by a multitude of problems and fissiparous forces, was the first requisite for maintaining the independence of the country as well as to make the experiment of democracy successful. **Need for Unity and Integrity of the Nation.** The ideal of unity has been buttressed by adding the words 'and integrity' of the Nation, in the Preamble, by the Constitution (42nd Amendment) Act, 1976. But neither the integration of the people nor a democratic political system could be ensured without infusing a spirit of brotherhood amongst the heterogeneous population, belonging to different races, religions and cultures.²⁴

The 'Fraternity' cherished by the framers of the Constitution will be achieved not only by abolishing untouchability amongst the different sects of the same community, but by abolishing all communal or sectional or even local or provincial anti-social feelings which stand in the way of the unity of India.

Democracy would indeed be hollow if it fails to generate this spirit of brotherhood amongst all sections of the people,—a feeling that they are all children of the same soil, the same Motherland. It becomes all the more essential in a country like India, composed of so many races, religions, languages and cultures. **Fraternity.**

Article 1 of the Declaration of, Human Rights (1948), adopted by the United Nations, says:

"All human beings are born free and equal in *dignity* and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brother-hood."

It is this spirit of brotherhood that the Preamble of *our* Constitution reflects.²⁵

The unity and fraternity of the people of India, professing numerous **A Secular State, guaranteeing Freedom of Religion to all.** Faiths, has been sought to be achieved by enshrining the ideal of a 'secular State', which means that the State protects all religions equally and does not itself uphold any religion as the State religion. The question of Secularism is not one of sentiments, but one of law. The secular objective of the State has been specifically expressed by inserting the word 'secular' in the Preamble by the **42nd Amendment, 1976.** Constitution (42nd Amendment) Act, 1976. Secula-

rism is a part of the basic structure of the Constitution.²⁵ There is no provision in the Constitution making any religion the 'established Church' as some other Constitutions do. On the other hand, the liberty of 'belief, faith and worship' promised in the Preamble is implemented by incorporating the fundamental rights of all citizens relating to 'freedom of religion' in Arts. 25-28, which guarantee to each individual freedom to profess, practise and propagate religion, assure strict impartiality on the part of the State and its institutions towards all religions (see Chap. 8, *post*).

This itself is one of the glowing achievements of Indian democracy when her neighbours, such as Pakistan,²⁶ Bangladesh, Sri Lanka (Ceylon) and Burma, uphold particular religions as State religions.

[For further discussion on 'Secularism', see under Chap. 8, *Art. 25, post*.]

A fraternity cannot, however, be installed unless the dignity of each of its members is maintained. The Preamble, therefore, says that the State, in India, will assure the dignity of the Individual. The Constitution seeks to achieve this object by guaranteeing equal fundamental rights to each individual, so that he can enforce his minimal rights, if invaded by anybody, in a court of law. Seeing that these justiciable rights may not be enough to maintain the dignity of an individual if he is not free from wants and misery, a number of Directives have been included in Part IV of the Constitution, exhorting the State so to shape its social and economic policies that, *inter alia*, "all citizens, men and women equally, have the right to an adequate means of livelihood" [*Art. 39(a)*], "just and humane conditions of work" [*Art. 42*], and "a decent standard of life and full enjoyment of leisure and social and cultural opportunities" [*Art. 43*]. Our Supreme Court has come to hold that the right to dignity is a fundamental right.²⁷

In order to remove poverty and to bring about a socio-economic revolution, the list of Directives was widened by the Constitution (42nd Amendment) Act, 1976, and it was provided that,—in order that such welfare measures for the benefit of the masses may not be defeated,—any measure for the implementation of *any* of the Directives shall be immune from any attack in the Courts on the ground that such measure contravenes any person's fundamental rights under Art. 14 or 19.²⁸

The philosophy contained in the Preamble, as explained in the foregoing pages, has been further highlighted by emphasising that each individual shall not only have the fundamental rights in Part III of the Constitution to ensure his liberty of expression, faith and worship, equality of opportunity and the like, but also a corresponding fundamental duty, such as to uphold the sovereignty, unity and integrity of the nation, to maintain secularism and the common brotherhood amongst all the people of India. This has been done by inserting Art. 51A, laying down ten 'Fundamental Duties', by the Constitution (42nd Amendment) Act, 1976 (see, further, under Chap. 8, *post*).

A fitting commentary on the foregoing contents of the Preamble to our Constitution can be best offered by quoting a few lines from Prof. Ernest Barker, one of the modern thinkers on democratic government.²⁹

"... there must be a *capacity* and a *passion* for the enjoyment of liberty—there must be a sense of personality in each, and of respect for personality in all, generally spread through the whole community—before the democratic State can be *truly achieved*... Perhaps it can be fairly demanded only in a community which has achieved a *sufficient standard of material existence*, and a *sufficient degree of national homogeneity* to devote itself to an ideal of liberty which has to be *worked out in each by the common effort of all*. If the problems of material existence are still absorbing... the ideal of living a common life of freedom—in other words, of attaining a particular quality of life—will seem an ideal dream. If, again, the problems of national homogeneity are still insistent, and there is *no common feeling of fellowship*—if some sections of the community are regarded by others, whether on the ground of their inferior education, or on the ground of their inferior stock or any other ground, as essentially alien and heterogeneous—the ideal of the common life of freedom will seem equally illusory...."²⁹

Combining the ideals of political, social and economic democracy with that of equality and fraternity, the Preamble seeks to establish what Mahatma Gandhi described as "the India of My Dreams", namely,—

"... an India, in which the poorest shall feel that it is their country in whose making they have an effective voice;... an India in which all communities shall live in perfect harmony. There can be no room in such an India for the curse of untouchability or the curse of intoxicating drinks and drugs. Women will enjoy the same rights as men."³⁰

No wonder such a successful combination in the text of our Preamble would receive unstinted approbation from Ernest Barker, who has reproduced this Preamble at the opening of his book on Social and Political Theory, observing that the Preamble to the Constitution of India states,

"in a brief and pithy form the argument of much of the book, and it may accordingly serve as a *key-note*."³¹

REFERENCES

1. (1947) C.A.D. 304 (moved by Pandit Jawaharlal Nehru on December 13, 1946).
2. The words in italics were inserted by the Constitution (42nd Amendment) Act, 1976. See Author's *Constitutional Law of India*, Preamble.
3. *A.K. Gopalan v. State of Madras*, (1950) S.C.R. 88 (198); *Union of India v. Madan Gopal*, (1954) S.C.R. 541 (555).
4. *Re Berubari Union*, AIR 1960 S.C. 845 (846).
5. So called since the Imperial Conference 1926. Later it has come to be mentioned simply as "The Commonwealth" [Cf. BARKER, *Essays on Government* (1956), pp. 16-18].
6. C.A.D., 16-5-1949.
7. C.A.D., 22-1-1947.
8. The survival of this representative democracy and Parliamentary Government in India for about six decades since Independence should silence her critics, since military regime prevailed in her neighbouring countries until recently. In 1981, the Constitution of Pakistan of 1972 was supplanted by the Provisional Constitution Order, 1981, under which Martial Law was imposed under Gen. Zia-ul-Haq as the Chief Martial Law Administrator, who assumed power in 1977. It is only after Zia's death that in December,

1988, elections were held. But the future is not so certain. Similarly, in Bangladesh, Martial Law was imposed since the assassination of Mujibur Rahman and the assumption of military rule by Ziaur Rahman, in 1975 and later on by Lt. General Ershad, until 1986 when an election was held and General Ershad elected President amidst a tumultuous situation. President Ershad handed over his power to a neutral Vice-President for conducting fresh elections. At the election Begum Khaleda Zia became the Prime Minister in March, 1991. In November, 1994, Parliament was dissolved, and, at the fresh election, Mrs. Hasina Wazed was elected the new Prime Minister.

9. This is now expressly ensured by amending Art. 74(1) by the Constitution (42nd Amendment) Act, 1976, and the 44th Amendment Act, 1978.
10. *S.R. Chaudhari v. State of Punjab*, (2001) 7 S.C.C. 126.
11. Inaugural address of Pandit Nehru at the Seminar on Parliamentary Democracy on 25-2-1956.
12. Speech of the Vice-President, *ibid*.
13. *State of Punjab v. G.S. Gill*, A.I.R. 1997 S.C. 2324.
14. *Samantha v. State of A.P.*, A.I.R. 1997 S.C. 3297.
15. *Dalmia Cement (Bharat) Ltd. v. Union of India*, (1996) 10 S.C.C. 104.
16. *Ashok Kumar Gupta v. State of U.P.*, (1997) 5 S.C.C. 201.
17. *Dalmia Cement (Bharat) Ltd. v. Union of India*, (1996) 10 S.C.C. 104.
18. *S.S. Bola v. B.D. Sardana*, (1997) 8 S.C.C. 522.
19. *S.S. Bola v. B.D. Sardana*, (1997) 8 S.C.C. 522.
20. *Cf. Crown Aluminum Works v. Workmen*, (1958) S.C.R. 651.
21. *Statesman*, 25-10-1976, p. 1; 28-10-1976, p. 1.
22. See, further, Author's *Constitutional Law of India*, Preamble.
23. It must be pointed out, in this context, that both 'socialism' and 'secularism' are vague words and, in the absence of any explanation of these words in the Constitution, such vagueness is liable to be capitalised by interested political groups and to create confusion in the minds of the masses of the Republic to instruct whom is one of the objects of the Preamble. The Janata Party sought to offer such explanation, by amending Art. 366 of the Constitution by the 45th Amendment Bill, 1976, which, however, was thwarted by the Congress opposition in the Rajya Sabha.

In the absence of such explanation, it would remain a matter of controversy whether the object of 'socialism' under the Indian Constitution simply means 'freedom from exploitation' or State Socialism or even Marxism. Similarly, 'secularism' might be used as an instrument of unrestrained communalism or bigotry or even anti-religionism, as distinguished from 'equal respect for all religions'. Instead of these words serving to elucidate the articles of the Constitution, the meaning of these words shall have to be gathered from the operative provisions, which, in legal interpretation, cannot be controlled by the Preamble. Thus, from Art. 43A, which has been introduced by the same 42nd Amendment Act, 1976, it is clear that 'socialism', as envisaged by the Preamble, will include 'participation of workers' in the management' of an industry, and consequently, profit-sharing. This is, obviously, a step forward from Capitalism to collectivism.

The Supreme Court is also facilitating the advent of socialism by interpreting other provisions of the Constitution in the light of the word 'socialism' in the Preamble [*Excel Wear v. Union of India*, AIR 1979 S.C. 25 (para 24); *Randhir v. Union of India*, AIR 1982 S.C. 879 (para 8); *Nakara v. Union of India*, AIR 1983 S.C. 130 (paras 33-34); *Minerva Mills v. Union of India*, AIR 1980 S.C. 1789].

According to the Supreme Court, the goal of Indian Socialism is "a blend of Marxism and Gandhism, leaning heavily towards Gandhian socialism" [*Nakara v. Union of India*, *ibid*.].

The budget for 1992-93 showed and subsequent budgets confirm that the trend of the Government is now away from collective ownership of means of production. Power, steel, airways and many other fields have been opened for free enterprise. The demise of U.S.S.R. has hastened this change of approach. Public sector undertakings are being privatised, the Industrial Finance Corporation Act has been repealed and the corporation has been converted into a company. Same has been the fate of many government corporations. It will not be far away from the truth to assert that the pendulum has now

swung from Socialism to the other direction of *laissez faire*, under which Indian industry will not have to face open competition from formidable foreign rivals.

24. The Supreme Court has pointed out that in promoting the unity of India, the *common* culture and heritage of India, of which the foundation is the Sanskrit language, must play a leading part [*Santosh v. Secretary, Ministry of H.R.D.*, AIR 1995 S.C. 293 (para 18)].
25. *Bommai v. Union of India*, A.I.R. 1994 S.C. 1918. Also see *Sri Adi Visheshwar of Kashi Vishwanath Temple, Varanasi v. State of U.P.*, (1997) 4 S.C.C. 606 (para 26).
26. Islam is the State religion of Pakistan under the Constitution of 1972. This position had been maintained by the Provisional Constitution Order, 1981, issued by General Zia-ul-Haq, who assumed power in 1977 as the Chief Martial Law Administrator. In Bangladesh, Lieut. General Ershad, the President and Chief Martial Law Administrator declared that Islam would be the State religion [*Statesman*, 30-12-1982].
27. *L.I.C. v. Consumer Centre*, A.I.R. 1995 S.C. 1811.
28. This amendment of Art. 31C, by the 42nd Amendment, has not been touched by the 44th Amendment Act, 1978, because the Congress Opposition in the Rajya Sabha thwarted the Janata attempt, through the 45th Amendment Bill, to revert to the pre-1976 position.
29. BARKER, *Reflections on Government* (Paperback), pp. 192-93.
30. M.K. GANDHI, *India of My Dreams*, pp. 9-10.
31. BARKER, *Principles of Social and Political Theory* (1951, Paperback), Preface, pp. vi, ix.

In recent cases (*vide* author's *Shorter Constitution of India*, Preamble), the Supreme Court is relying more and more on the Preamble in interpreting the enacting provisions and implementing the Directive Principles (Part IV) of the Constitution.