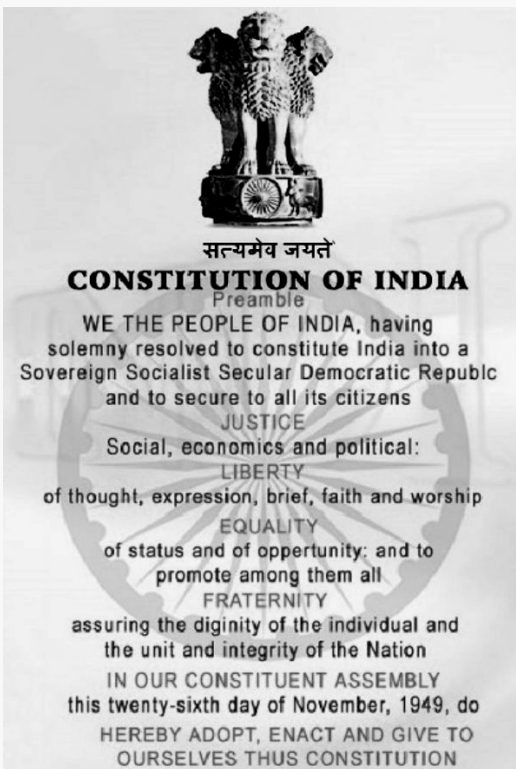
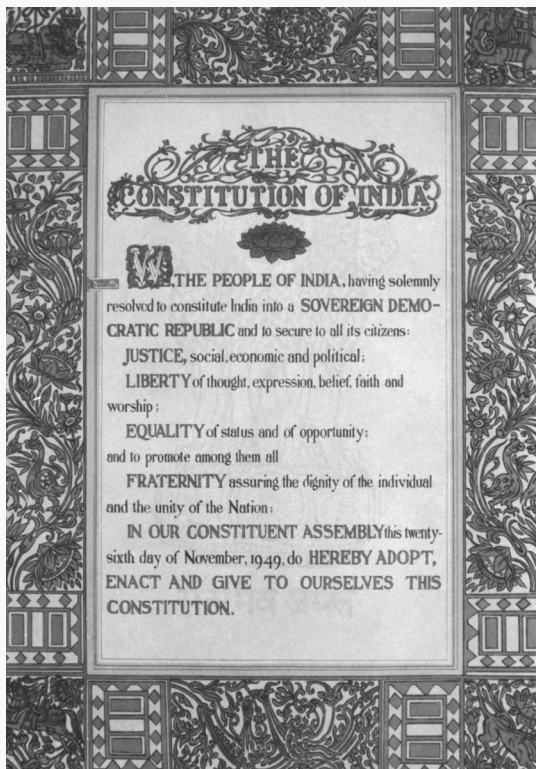


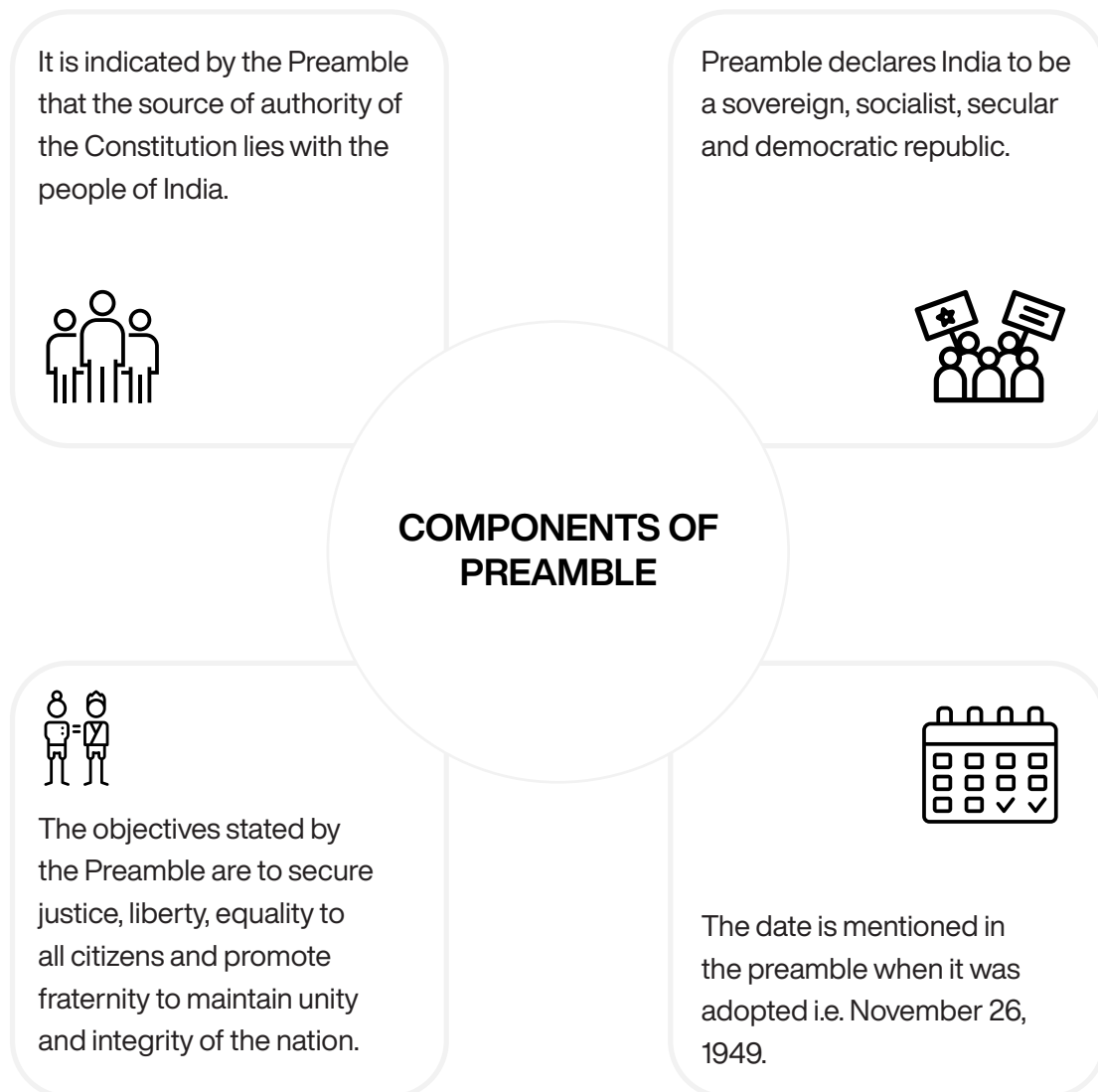
UPSC PATHSHALA

POLITY



The above picture depicts the first Preamble 1950(Left) and the current one(Right).

COMPONENTS OF PREAMBLE

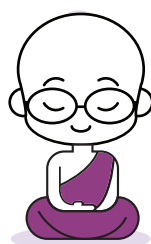


STATUS OF PREAMBLE

Traditional view	Modern View
<ul style="list-style-type: none">Traditional view is that it is not a necessary part of the constitution. It is only an ornamental part .This means that even if we drop it from the constitution it will not impact the provisions contained in the constitution.	<ul style="list-style-type: none">Modern view is that the Preamble is a part of the constitution and is subject to amendment by the parliament.

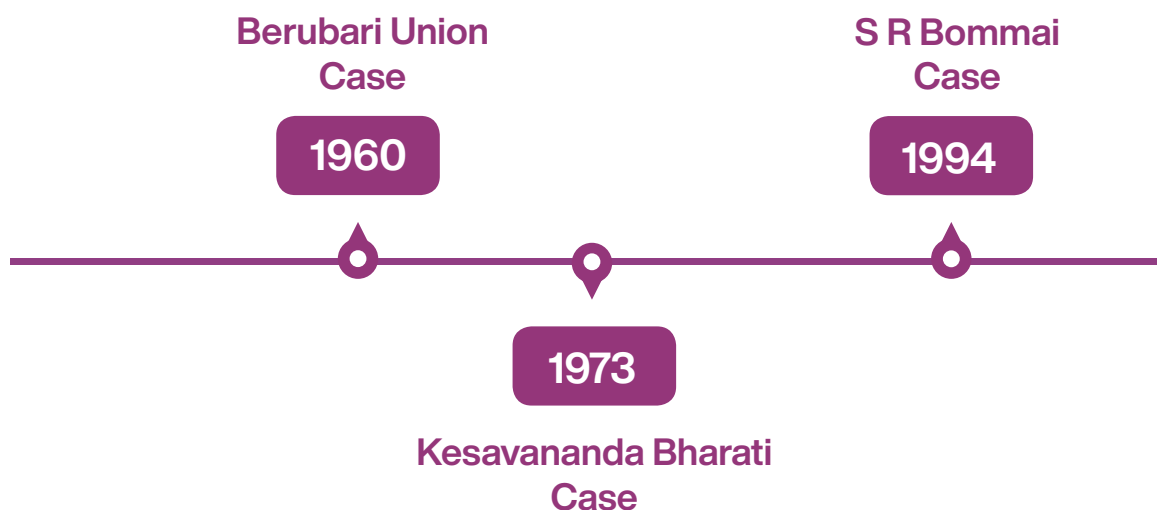
Preamble - I

‘Preamble’ refers to the introduction or preface to the Constitution.
It contains the summary or essence of the Constitution .
Indicates the source from which the Constitution derives its authority.
The Preamble to a written Constitution states the objects, which the Constitution seeks to establish.
Promotes and aids the legal interpretation of the Constitution, where the language is ambiguous.



STATUS OF PREAMBLE

- The Supreme Court said that Preamble shows the general purpose behind the several provisions in the constitution and is a key to the minds of the makers of the constitution.
- Whenever there are any ambiguous articles or more than one interpretation of the articles, the objectives contained in the Preamble should be taken in mind while drawing the correct interpretation.
- However the Supreme Court also said in this case that Preamble is not a part of the constitution.
- It does not confer any power or prohibit any power which is given explicitly in the constitution. Further it is not enforceable in a court of law
- The Supreme Court again held that the Preamble is an integral part of the constitution.



- The supreme court rejected the earlier opinion of the berubari case, and held that Preamble is a part of the constitution.
- It observed that the Preamble is of extreme importance and the constitution should be read and interpreted in the light of Grand and noble vision expressed in the Preamble.

Explanation provided by the Supreme Court

- Preamble may not be an essential part of the ordinary statute but it is an essential part of the constitutional law.
- Few facts regarding the Preamble was not noticed in berubari case such as:
 - It was adopted by the constituent assembly in the same manner as other parts.
 - The motion which adopted the Preamble said question is that "Preamble stands part of the constitution".
 - Preamble was enacted after the rest of the Constitution was already enacted to ensure that there is no inconsistency between Preamble and other parts of the constitution. (in USA the Preamble was enacted first)

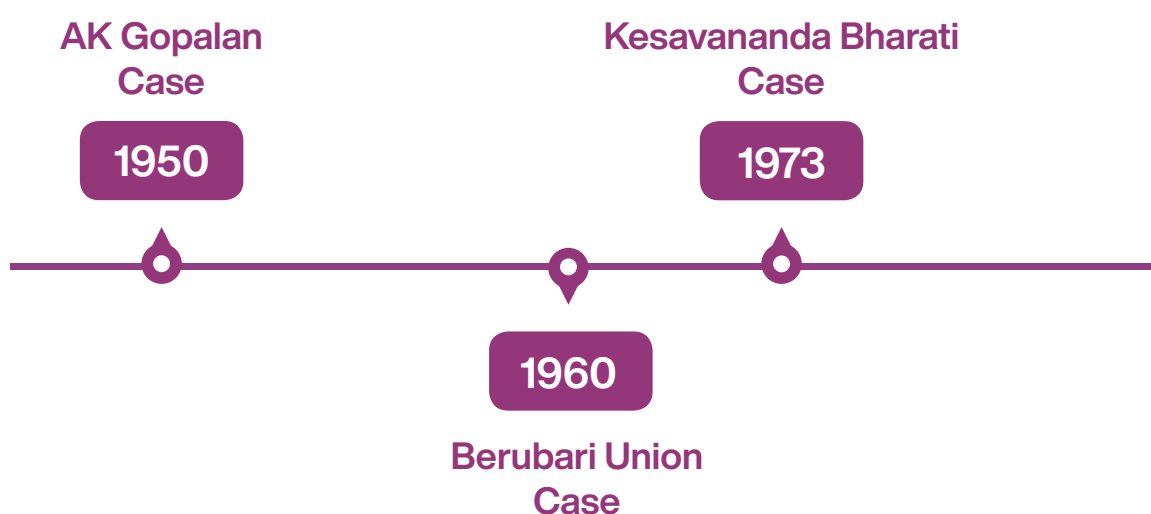
AMENDABILITY OF THE PREAMBLE

- Questions regarding amendability of the Preamble came up in Kesavananda Bharti case where Parliament inserted new words socialist secular and integrity to the Preamble by 42nd amendment act 1976.
- Supreme Court held that Preamble is an essential and integral part of the constitution and hence can be amended otherwise harmony of the Constitution may get disturbed.
- It also held that Preamble could be amended subject to the condition that the basic structure of the Constitution is not disturbed.

PREAMBLE AS AN AID TO THE INTERPRETATION OF THE CONSTITUTION

Following cases shed light on Supreme Court's View and the established principle thereafter.

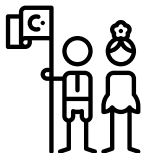
- Preamble cannot be invoked when the provisions of the Constitution are explicit.
- Preamble is of extreme importance, the constitution should be read and interpreted in the light of the grand and noble vision expressed in the Preamble.
- Supreme Court clarified that Preamble can be used in the interpretation of the relationship between fundamental rights and Directive principles.
- Supreme Court utilised the above approach in examining the validity of 25th Amendment Act 1971 which added article 31C.



- The supreme court held that Preamble may be used if there is an ambiguity in the provisions of the constitution. It is a key to unlock the minds of the members of the constituent assembly.

KEYWORDS IN THE PREAMBLE

Sovereign



- Sovereignty refers to the independent authority of a state. It means that the state has the power to legislate on any subject and that it is not subject to the control of any state or external power.
- It implies that India is neither a dependency nor a Dominion of any other Nation but an independent state.
- There is no authority above it and it is free to conduct its own affairs both internal and external.
- India's declaration to continue her full membership of the Commonwealth of nations in 1949 does not affect India's sovereignty in any manner.
- This is a voluntary declaration and indicates a free association and no obligation.
- It accepts the Crown of England only as a symbolic head of the Commonwealth having no claim to the allegiance of citizens of India.

As Pandit Jawaharlal Nehru explained "it is an agreement by free will to be terminated by free will."

EFFECT OF GLOBALISATION & INTERNATIONAL RELATIONS ON SOVEREIGNTY

- India has always been a supporter of international institutions; it is a founding member of the United Nations and has participated in the evolution of international law.
 - It is a member of Financial Institutions such as IMF World Bank Asian Development Bank NDB and others.
 - It is also a member of other Global groups of countries such as G20, Wassenaar Arrangement, MTCR does it mean that such memberships compromise the sovereignty of our nation?
- It should be realised that sovereignty is a legal and a fictitious concept.
 - In practice it is often compromised but globalisation, & international agreements membership of international institutions is not a dilution of sovereignty but a modification of the manner in which sovereignty is exercised.
 - It rather means a more responsible use of sovereignty.
- The government has so far continued to ensure its strategic autonomy in the international sphere.
 - The debates in WTO regarding TRIPS or food subsidies are A case in point.

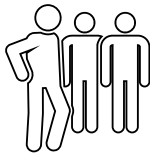
Socialist



The term socialist was added to the Preamble by 42nd Constitutional Amendment Act in 1976.

- However even before the amendment of the Preamble, the constitution had a Socialist content in the form of articles 39b and 39c of the directive principles of the state policy.
- However the socialism as envisaged in the Indian Constitution is not the same as the usual scheme of state socialism which involves nationalization of all means of production and evolution of private property.
- Indian socialism is democratic socialism, where the State plays a major role in the transformation of the society by active involvement of the people and the private sector.
- The Supreme Court has observed that the principal aim of Indian socialism is to eliminate inequality of income and status and provide a decent standard of life standard of life to its citizens.
- Therefore the Constitution does not seek to polish private property altogether but to put it under restraint so that it may be used in the interest of the nation.
- Hence the Indian economy is actually a mixed economy which AIMS at offering equal opportunity to all and the abolition of vested interests.
- Some people argue that adoption of liberal economic policy after 1991 has led to the dilution of this principle of socialism as there has been an increase in privatisation disinvestment in various public sector companies deregulation of industries in favour of private companies.
- The growth has increased interstate and intrastate disparities there has been jobless growth also this has failed to end the mass poverty.
- It is true that the liberal economic policy has its own limitations and hence the idea of inclusive growth has been brought back in the fold of policy making.
- The schemes such as Jan Dhan Yojana, Mudra Yojana, PAHAL Direct Benefit Transfer Scheme, Ujjwala Yojana etc. have focused on inclusive growth and bringing under its ambit the poorest of the people.

Secular



The term secular was added by the 42nd Constitutional Amendment Act 1976.

But even before that various provisions in the constitution Ensure that the Indian Constitution is secular:

- The Indian state has no religion
- Right to Equality contained in articles 14, 15, Right to freedom of religion article 27 establish the secular nature of the Indian Constitution.
- Article 15 is a specific instruction that state shall not discriminate among the citizens only on the grounds of religion race caste sex or place of birth which means affirmative action is allowed but not on the grounds of religion only.
- Fundamental rights mentioned in the articles 25 to 28 guarantee to all individuals the freedom to profess practice and propagate the religion and strict impartiality on the part of state and its Institutions towards all religions.
- Religion being subordinate to state rather than state being subordinate to the religion. This implies that the state can interfere in the religious affairs for the purpose of social reforms.
- Special feature of Indian secularism emerging from historical context is that protection is granted to minorities with respect to the conservation of their culture and traditions.
- The recent Supreme Court judgments related to uniform women empowerment across religions such as Sabarimala case, triple Talaq case are examples of social reforms without being affected by religion.

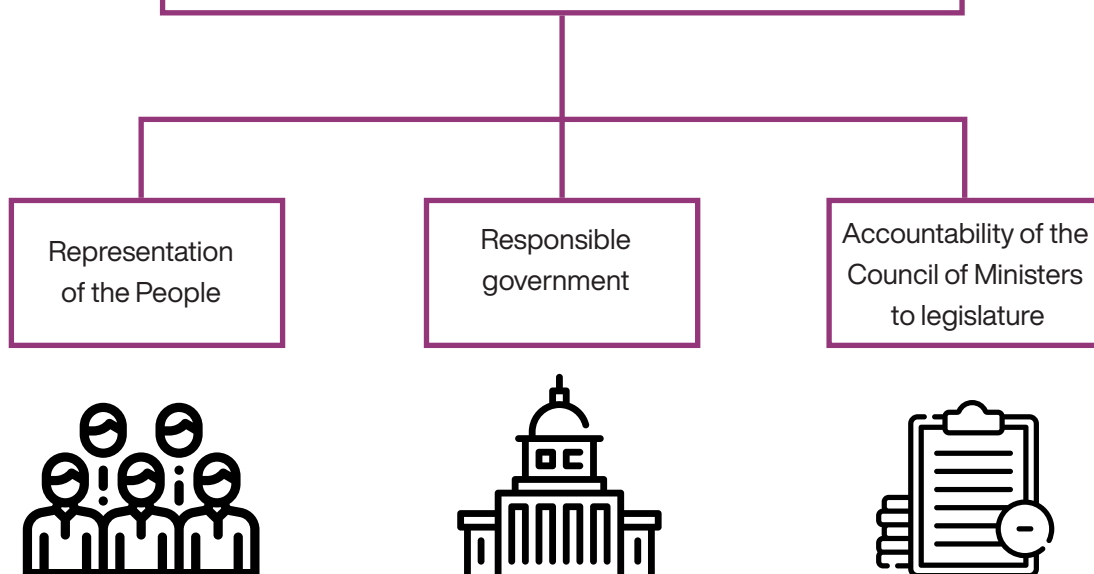
India is a hugely diverse country and therefore secularism has a huge role to play in achieving the ideal of unity and fraternity among its people.

Democratic



- The democratic republic means democracy is not only from a political standpoint but also from a social stand.
- The Preamble envisages a democratic society infused with the spirit of justice equality and fraternity.
- The form of the government in our constitution is parliamentary democracy. The real executive is the Council of Ministers headed by a prime minister which is responsible to the parliament with a similar structure in the states.

The parliamentary democracy envisages the following



Republic



- The Preamble declares that all source of authority in the constitution is the people of India and there is no subordination to any external authority.
- We have an elected president as the head of the state and all offices including that of the President are open to all citizens.
- This is unlike Britain or Japan where there is a prime minister who is the head of the government but head of the state is a king or a queen which is a hereditary position.

Justice



- Justice involves fair moral and impartial treatment of all persons. It means giving people what they actually deserve.
- The term justice mentioned in the Preamble has three distinct forms: Social Justice, economic justice, and political justice. These are secured through various provisions of fundamental rights and Directive principles.

Justice can be categorized as

Social Justice

- Equal treatment of all citizens without any distinction based on caste color race religion sex and so on.
- It means absence of privileges to any sections of the society and at the same time making provisions for the improvement of the backward sections and women.



Economic Justice

- The non discrimination between people on the basis of economic factors that involves elimination of glaring inequalities in wealth income and property.



Political Justice

- That all citizens should have equal political rights equal access to all political offices and equal voice in the government.



The idea of justice social economic and political has been taken from the Russian Revolution.

Liberty

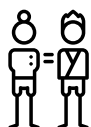


Constitution secures all its citizens Liberty of thought, expression, belief, faith and worship through fundamental rights, which are enforceable in a court of law.

- The term Liberty implies absence of restraints on the activities of individuals at the same time providing opportunities for the development of individual personalities.
- **Liberty of thought** is of significance here: You are free to think in a manner that may or may not resonate with the current ruling government.
 - This is however subject to the reasonable restrictions.
 - However reasonable restrictions are placed on liberty by the constitution itself.

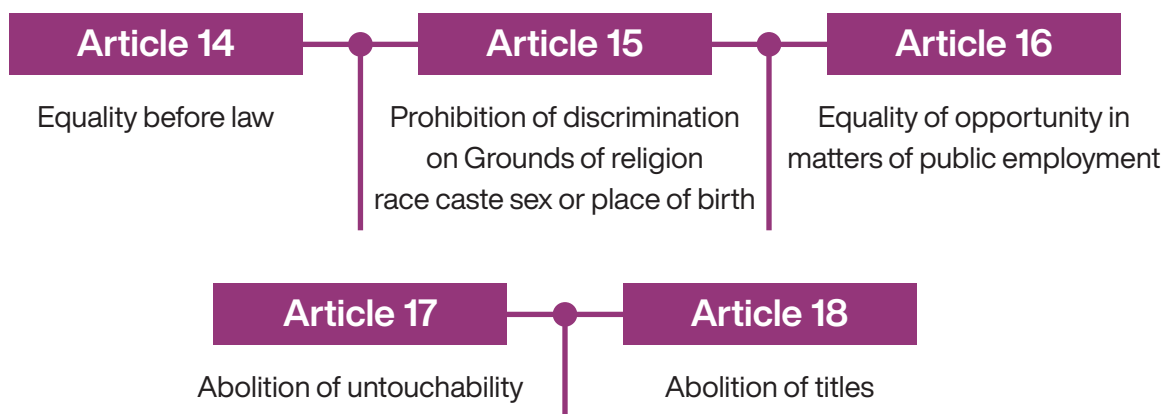
The ideals of Liberty equality and fraternity are taken from the French Revolution.

Equality

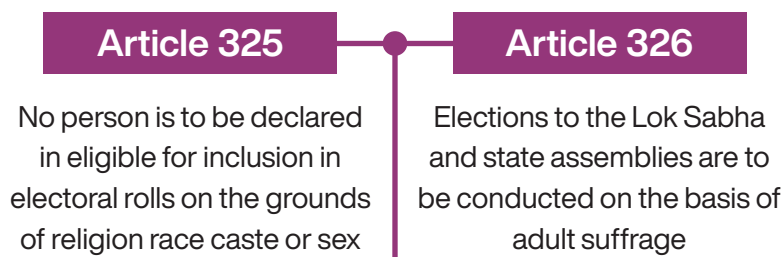


- Equality means absence of special privileges to any sections of the society and the provision of adequate opportunities for all individuals without any discrimination.
- The Preamble assures all the citizens, the equality of status and opportunity. There are three dimensions to it Civic political and economic.

THE FOLLOWING FUNDAMENTAL RIGHTS ENSURE CIVIC EQUALITY



POLITICAL EQUALITY IS SOUGHT BY THE FOLLOWING CONSTITUTIONAL PROVISIONS



Economic equality

- **Directive Principles**
- **Article 39**

Secure men and women equal right to an adequate means of livelihood and equal pay for equal work.

Fraternity

- Fraternity means a sense of brotherhood.
- The idea of single citizenship promotes this feeling of eternity, the fundamental duties article 51 A say that it shall be the duty of every citizen to promote harmony and the spirit of common Brotherhood among the people of India transcending religious linguistic regional and sectoral diversities.
- Further article 19, ideals of secularism, Article 301, 302, GST concept of one nation, one tax, One Market, reinforce the idea of fraternity.

Fraternity assures two things

- **Integrity of the nation**

(added by 42nd constitutional amendment)

- it means both psychological and territorial dimensions of national integration.
 1. Article 1 of the Constitution describes India as Union of state means that States do not have right to secede from the union.
 2. Other factors that contribute to integrity are linguistic reorganisation of States, Independent and uniform judiciary, strong military and Paramilitary forces, centralising tendency, the evolution of national parties such as Congress and Bhartiya Janta Party, with Pan India presence, GST, communication and Technology, role of media, movies and films, etc.
- **Dignity of the Individual**
 - Signifies that the constitution and shields betterment of individual and recognises that everyone is sacred.