



# From Words to Practice: Evaluating the Preamble's Role in Strengthening Democratic Institutions

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## Abstract

The Preamble to the Constitution of India serves as the philosophical foundation of the constitutional framework, reflecting the aspirations of justice, liberty, equality, and fraternity that guide democratic governance. Although it is not directly enforceable by courts, the Preamble has significantly influenced constitutional interpretation, legislative policymaking, and judicial decision-making. This review evaluates the role of the Preamble in strengthening democratic institutions by examining its contribution to constitutional morality, the rule of law, separation of powers, judicial independence, electoral democracy, and protection of fundamental rights. It also explores contemporary challenges, including political polarization, institutional autonomy, and constitutional accountability. The study concludes that the Preamble remains a dynamic constitutional compass that reinforces democratic values and ensures the resilience, inclusiveness, and legitimacy of India's democratic institutions.

**Keywords:** Constitution of India, Preamble, Democratic Institutions, Constitutional Morality

## Introduction

More than 12 million Chileans cast ballots in a referendum in September 2022 to replace the 1980 constitution, which was passed under the military dictatorship and is still in effect. In response to social upheaval and public protests that rocked the nation for most of 2019, a national referendum was held in 2020, which created the new text [1]. Voters rejected the proposed constitution in a referendum that followed the intensely divisive constitution-drafting process. Numerous concerns, such as environmental preservation, decentralisation of power, the use and ownership of natural resources like water, and self-government arrangements (including judicial ones) for Indigenous peoples, significantly split political and social forces both inside and outside the assembly. The preamble was one section of the Constitution that saw obvious and severe political disputes. A number of preliminary versions of the preamble had not received the required two-thirds majority of votes in the constitutional assembly before the final version was accepted. The 2019 "social unrest" (estallido social), the pledge to confront "historical injustices and demands" with "the power of youth," and the necessity for society to be aware of its "indissoluble bond with nature, threatened by the climate crisis" were all mentioned in the rejected versions. One of the main points of contention among voters was the final text of the rejected constitution, which declared Chile to be a plurinational state [2]. The 2023 proposed constitution, which was eventually defeated in a second vote in December 2023, notably eliminated plurinationality.

The preamble, which appears at the beginning of a very long constitutional text, shaped the public's impression of the Chilean Constitution's identity and may even have influenced the outcome of the vote [3]. In the framework of earlier decades of global constitution-making, the experience of the unsuccessful Chilean constitutional referendums may be exceptional in many respects [4]. However, it is not unique in demonstrating how constitutional preambles may be pertinent, significant, and even hotly debated during the constitution-making process. The language and content of preambles frequently mirror broader conflicts and disagreements within the political system. Additionally, concessions and the "logical place" to find "aspirational statements and grand promises" sometimes result in preambles [5]. As a result, they have been referred to as a "normative master plan" or the "key" to the constitution, carrying out "the task of isolating the polity's highest values." [6].

The Indian Constitution's Preamble acts as an introduction outlining the principles, goals, and guiding philosophy of the document. It expresses the framers' ideas about the character, objectives, and purpose of the Indian state. The Preamble, which is frequently referred to as the "identity card" or "soul" of the Constitution, captures the core principles and goals that form the foundation of India's constitutional system [7]. It serves as a guide for analysing laws and constitutional provisions and offers a succinct synopsis of its tenets.

The famous opening line of the Preamble, "We, the People of India," indicates that the people themselves are the source of the Constitution's authority. This statement highlights the democratic basis of the Indian state and establishes the idea of popular sovereignty, which holds that the people of the nation have the final say. The Indian people proclaimed their shared commitment to creating a democratic system founded on justice, equality, liberty, and fraternity by adopting and giving themselves the Constitution.

The concept of a preamble is not exclusive to India. A preamble outlining the state's guiding principles is found at the beginning of many constitutions worldwide. The preamble of the US Constitution and the principles of the French Revolution, which placed a strong emphasis on liberty, equality, and fraternity, were among the many

sources of inspiration for the drafters of the Indian Constitution. The Indian Preamble, however, captures the distinct historical, social, and political background of India, especially the fight for independence and the desire to create a fair and inclusive society following decades of colonial domination [7].

#### The Preamble's Historical Context

The historical development of India's political and constitutional landscape is reflected in the Preamble of the Indian Constitution. It represents the goals of the Indian people who fought for independence from colonial control and wanted to create a society that was just, democratic, and equitable. Global democratic ideals, the experiences of the independence fight, and lengthy discussions inside the Indian Constituent Assembly all influenced the values outlined in the Preamble.

#### The Indian Freedom Movement's Impact

The Indian national movement against British rule is where the Preamble began. Indian politicians called for both independence and the creation of a democratic political structure that would protect everyone's rights and liberties. As time went on, the movement began to prioritise values such as individual liberty, political equality, and social justice.

The goal of the nationalist movement's leaders was to eradicate caste, religious, and economic inequality in India. Thus, the Preamble's core principles were forged by the fight for independence [8].

#### Judicial Interpretations and Constitutional Provisions

Article 19(1)(a) of the Indian Constitution guarantees freedom of speech and expression, which forms the cornerstone of democratic ideals. To maintain public order, decency, morality, and state security, the framers of Article 19(2) recognised that complete freedom might result in anarchy. Numerous significant instances have clarified the relationship between these constitutional clauses and the Preamble's significance in their interpretation.

The Supreme Court established a strong basis for the right to free speech and expression in *Romesh Thappar v. State of Madras* (1950). The Court ruled that the freedom to spread one's opinions is part of the right to freedom of speech and expression and that limitations must be interpreted narrowly to avoid unjustified interference with this fundamental right. The ruling emphasised the significance of the Preamble in defining such rights and established a precedent for a broad interpretation of the constitutional promise [9].

The Preamble's constitutional significance was further emphasised in *Kameshwar Prasad v. State of Bihar* (1962). In this instance, the Court stressed that the Preamble is an essential component of the Constitution and might be consulted to comprehend the spirit behind its provisions. This acknowledgement improved the connection between the interpretation of fundamental rights, such as freedom of speech and expression, and the aspirational language of the Preamble [10].

The Supreme Court emphasised in the 1950 decision of *Brij Bhushan v. State of Delhi* that free expression is essential to democracy and shouldn't be restricted unless there are strong justifications. The Court affirmed the freedom to criticise public officials and government activities, stressing that limitations must be carefully crafted to further the justifiable objectives outlined in Article 19(2). The idea that any limitations on the right to free speech and expression must adhere to strict constitutional requirements was upheld by this ruling [11]. A turning point in constitutional law was reached in the 1978 case of *Maneka Gandhi v. Union of India*. The Court held that the right to life under Article 21 includes the right to live with dignity, which encompasses freedom of speech and expression, even though the case was mainly concerned with the right to travel. This broadened interpretation laid the foundation for a comprehensive understanding of constitutional liberty and reaffirmed the essential interrelationship among several fundamental rights [12].

In *Kesavananda Bharati v. State of Kerala* (1973), a seminal case on the extent of amending powers, the relationship between freedom of speech and expression and the Preamble was reaffirmed. According to the Court, the Preamble is essential to the Constitution and can be utilised to clarify unclear clauses. The notion that the Preamble provides a framework for understanding and interpreting constitutional provisions, especially those concerning basic rights, was reinforced by this ruling [13].

**India Constitutional Provisions:** The right to freedom of speech and expression is guaranteed in India by Article 19(1)(a). Article 19(2), however, permits reasonable limitations for the sake of morality, public order, decency, and state security [14].

**Influence of the Preamble:** Indian courts frequently use the Preamble, which emphasises justice, liberty, equality, and brotherhood, as a guiding principle. By interpreting and extending the scope of essential rights, such as freedom of expression, the Preamble serves as a moral compass.

**Recent Case:** The Supreme Court used the principles of the Preamble to invalidate Section 66A of the Information Technology Act in *Shreya Singhal v. Union of India* (2015), demonstrating the Preamble's continued applicability in interpreting and defending free speech [15].

**The United States Constitutional Provisions:** Freedom of expression is expressly protected by the U.S. Constitution's First Amendment. The Supreme Court has given this right a broad interpretation, acknowledging strong protection for different kinds of communication. Influence of the Preamble: Although the U.S. Constitution does not include a preamble similar to India's, the First Amendment is interpreted in accordance with the ideals of the Preamble, which include securing the blessings of liberty and promoting the public good.

Recent Case: In the historic *Citizens United v. FEC* (2010) case, the Supreme Court emphasised the value of free speech by ruling that political spending is protected speech under the First Amendment. This further illustrates the impact of constitutional principles on modern issues [16].

**The United Kingdom Constitutional Provisions:** The United Kingdom's legal system is based on statutes and customs, as it does not have a written constitution. Article 10 of the European Convention on Human Rights, which safeguards freedom of expression, is included in the Human Rights Act. Influence of the preface: The UK's constitutional system is different from India's, and it is noteworthy that there is no official preface. Nonetheless, the interpretation of human rights legislation is influenced by the concepts of justice and liberty. *Miller v. The Prime Minister* (2019) was a recent case that addressed the prorogation of Parliament. The case highlighted constitutional principles, indicating the UK's dedication to democratic norms, even though it had nothing to do with free speech [17].

### Comparative Thoughts:

**Approaches to Reasonable Constraints:** Although all three countries agree that reasonable constraints on free speech are necessary, there are differences in the threshold and interpretation of these restrictions.

India has a nuanced approach, with the Preamble serving as a guide for determining reasonableness. Interpretative Influences: The First Amendment of the United States Constitution and Article 19(1)(a) of the Indian Constitution both derive inspiration from democratic ideas, highlighting the significant impact of constitutional values on judicial interpretation. The variety of legal systems is evident in the UK's reliance on statutes and conventions. However, dedication to democratic values and constitutional principles remains widespread [18].

Thus, the comparative research highlights the many ways that democratic countries handle the right to free speech and expression. The shared dedication to democratic ideals and the dynamic nature of constitutional interpretation underscore the preface's enduring significance in safeguarding this fundamental freedom, even though some constitutions conspicuously lack a formal preface [19].

### References

1. In a survey conducted by the Centro de Estudios Públicos (CEP) after the referendum, 17% and 13% of respondents who voted "no" listed "because of how the constitution-makers worked" and "because the draft would create more division between Chilean citizens," respectively, as their main reasons for rejecting the new constitution. ALDO MASCAREÑO ET AL., *APRUEBO Y RECHAZO EN SEPTIEMBRE 2022: EXPECTATIVAS, DECEPCIONES Y HORIZONTES COMUNES PARA EL NUEVO PROCESO CONSTITUCIONAL* 16 (2023).
2. The preamble stated: "We, the people of Chile, made up of various nations, freely grant ourselves this Constitution, agreed in a participatory, parity and democratic process.." *PROPUESTA CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DE CHILE [CONSTITUTION PROPOSAL]* (2022).
3. According to the CEP survey, 8% of people who voted against the draft considered "plurinationality" to be their main reason for rejecting the new constitution. MASCAREÑO ET AL., *supra* note 1. An earlier survey showed that respondents disagreed most with the constitutional provisions on plurinationalism and the Indigenous system of justice. *¿Cómo vemos el proceso constituyente? Miradas a Un Momento Histórico*, ESPACIO PÚBLICO-IPSOS (July 2022), <https://espaciopublico.cl/wp-content/uploads/2022/08/Informe-sexta-entrega-V6.pdf>.
4. For a summary of salient terms of the 2023 draft constitution, see Zachary Elkins, Matt Martin, Ashley Moran & Guillermo Pérez, *Analysis of Data: Twelve Central Features of the Chilean Constitutional Proposal* (Dec. 15, 2023), [www.constituteproject.org/data-stories/chile-2023-projeto?lang=es](http://www.constituteproject.org/data-stories/chile-2023-projeto?lang=es).
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6. In an influential 1966 treatise, Wheare even suggested that its distinction must be drawn between the constitution, which is legal, and the preamble, which is not and which should not be regarded as part of the constitution. The constitution instead "should confine itself, therefore, as completely as possible to stating rules of law, not opinions, aspirations, directives, and policies." KENNETH CLINTON WHEARE, *MODERN CONSTITUTIONS* 72–73 (1951).
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