Period 1 time 09.30 am constitution

Test

Q. What is Preamble? How is it significant? Is Preamble part of the Constitution?

1. Definition of the Preamble

The Preamble is an introductory statement of the Constitution that sets out its philosophy, objectives, and guiding principles. It reflects the **source of authority** (the people of India), the **nature of the state**, and the **ultimate aims** of the Constitution. It is rightly called the "identity card of the Constitution."

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2. Explanation of Words in the Preamble

The Preamble of the Indian Constitution reads:
"We, the people of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens: Justice, Liberty, Equality, and to promote Fraternity…"

- **Sovereign:** India is independent, not subject to any external authority.

- **Socialist:** Commitment to social and economic justice, reducing inequalities.

- **Secular:** No state religion; equal respect for all faiths.

- **Democratic:** Government elected by the people, accountable to them.

- **Republic:** Head of the state is elected, not hereditary.

- **Justice (Social, Economic, Political):** Ensures fairness in all spheres of life.

- **Liberty (Thought, Expression, Belief, Faith, Worship):** Freedom to individuals within legal limits.

- **Equality:** Equal status and opportunity before the law.

- **Fraternity:** Promotes brotherhood and unity, ensuring dignity of the individual and unity of the nation.

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3. Is Preamble part of the Constitution? – Case Laws

- **Re Berubari Union Case (1960):** The Supreme Court held that the Preamble is not an enforceable part of the Constitution but only a key to interpretation.

- **Kesavananda Bharati v. State of Kerala (1973):** This landmark judgment overruled Berubari and held that the Preamble **is part of the Constitution.** It embodies the basic structure, which cannot be amended to alter its fundamental features.

- **S.R. Bommai v. Union of India (1994):** The Supreme Court held that the Preamble is the guiding spirit of the Constitution and a yardstick to judge constitutional validity of laws.

Thus, the Preamble is a **part of the Constitution** and has **legal significance** in constitutional interpretation, though it is **not justiciable** (i.e., it cannot be enforced in a court of law independently).

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4. Significance of the Preamble

1. **Philosophical Key:** It embodies the ideals of justice, liberty, equality, and fraternity.

2. **Source of Authority:** Declares that power rests with "We, the people of India."

3. **Guiding Spirit:** Assists in interpretation of ambiguous provisions of the Constitution.

4. **Basic Structure Doctrine:** Ensures that core features like secularism, democracy, and republic cannot be destroyed.

Conclusion

The Preamble is not merely ornamental; it is the **soul of the Constitution.** While it does not confer enforceable rights, it provides the **guiding principles** and serves as the **touchstone** for judicial interpretation. The Supreme Court has clearly established that the Preamble is **a part of the Constitution** and represents its **basic structure** which cannot be altered.

Q. What is Preamble? How is it significant? Is Preamble part of the Constitution?

1. Definition

The Preamble is the **introductory part of the Constitution**, stating its ideals, objectives, and guiding principles. It declares that the **sovereignty lies with the people of India** and sets out the aims of justice, liberty, equality, and fraternity. Dr. B.R. Ambedkar called it the **"horoscope of the Constitution."**

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2. Explanation of Words in the Preamble

- **Sovereign:** India is fully independent.

- **Socialist:** Commitment to socio-economic justice.

- **Secular:** Equal respect for all religions.

- **Democratic:** Government by the people.

- **Republic:** Elected head of state, not hereditary.

- **Justice:** Social, economic, and political justice to all.

- **Liberty:** Freedom of thought, expression, faith, and worship.

- **Equality:** Equal status and opportunity for all.

- **Fraternity:** Promotes unity and dignity of the individual.

3. Is Preamble Part of the Constitution? – Case Laws

- **Berubari Union Case (1960):** Preamble not part of the Constitution.

- **Kesavananda Bharati v. State of Kerala (1973):** Overruled Berubari; held that Preamble **is part of the Constitution** and expresses its basic structure.

- **S.R. Bommai v. Union of India (1994):** Preamble is the **guiding spirit** in constitutional interpretation.

4. Significance of the Preamble

1. Declares **source of authority**: "We, the people of India."

2. Provides **philosophy**: Justice, Liberty, Equality, Fraternity.

3. Serves as a **guide for courts** in interpretation.

4. Reflects the **basic structure** which cannot be destroyed.

Conclusion

The Preamble is both **philosophical and legal**. It is now firmly settled that the Preamble **is part of the Constitution** and embodies its **basic structure.** Though it is not directly enforceable in courts, it is the **soul and guiding light** of the Constitution.

Q. Article 14 talks about equality. Are there any exceptions to this rule? Support your answer with case references.

1. Introduction

Article 14 of the Constitution of India provides:
"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."
It embodies the general principle of equality and prohibits discrimination. However, it does **not mean absolute equality**; reasonable classifications and certain exceptions are allowed.

2. Two Concepts in Article 14

1. **Equality before Law:** No one is above the law; all are equal before ordinary law (Rule of Law).

2. **Equal Protection of Laws:** Equal treatment under equal circumstances; likes should be treated alike.

3. Exceptions to Article 14

1. **Reasonable Classification**

   o The State can classify persons, objects, or transactions for the purpose of legislation, provided:
   (i) The classification is based on *intelligible differentia.*
   (ii) It has a *rational nexus* with the object of the law.

   o **Case Law:** *State of West Bengal v. Anwar Ali Sarkar (1952)* – classification must not be arbitrary.

   o **Case Law:** *Ram Krishna Dalmia v. Justice Tendolkar (1958)* – laid down tests of reasonable classification.

State of West Bengal v. Anwar Ali Sarkar	1952	यह मामला अनुच्छेद 14 (समानता के अधिकार) से जुड़ा था। अदालत ने कहा कि **वर्गीकरण (Classification) मनमाना नहीं होना चाहिए**, बल्कि समान परिस्थितियों वाले लोगों के साथ समान व्यवहार होना चाहिए।
Ram Krishna Dalmia v. Justice Tendolkar	1958	इस केस में सर्वोच्च न्यायालय ने **"वाजिब वर्गीकरण" (Reasonable Classification)** के **परीक्षण के नियम (Tests)** तय किए — अर्थात् वर्गीकरण तार्किक और उद्देश्यपूर्ण होना चाहिए, न कि पक्षपातपूर्ण या मनमाना।

3. **Special Privileges and Protective Discrimination**

   o Reservation for socially and educationally backward classes, SCs, STs, women, and children.

   o **Case Law:** *Indra Sawhney v. Union of India (1992)* – upheld 27% OBC reservation, subject to the "creamy layer" principle.

4. **Legislative Privileges**

   o Members of Parliament and State Legislatures enjoy certain immunities (Articles 105 & 194).

5. **Immunities to the President and Governors**

   o Under **Article 361**, President and Governors are not answerable to any court for acts done in exercise of their official powers.

6. **Foreign Sovereigns and Ambassadors**

   o Enjoy diplomatic immunity under international law (codified in Indian law).

7. **Special Laws for Certain Classes**

   o e.g., Preventive detention laws, service laws for armed forces, etc., are treated as valid exceptions.

   o **Case Law:** *A.K. Gopalan v. State of Madras (1950)* – preventive detention upheld though subject to Article 21 later.

A.K. Gopalan v. State of Madras	1950	यह पहला महत्वपूर्ण मामला था जिसमें **अनुच्छेद 21 (जीवन और व्यक्तिगत स्वतंत्रता)** की व्याख्या की गई। सुप्रीम कोर्ट ने कहा कि – *"कानून द्वारा स्थापित प्रक्रिया" (Procedure established by law)* के अनुसार

अगर किसी को बंद किया गया है, तो वह **संवैधानिक रूप से वैध है**, भले ही वह अन्यायपूर्ण क्यों न लगे।
➡️ इस निर्णय में न्यायालय ने **अनुच्छेद 19, 21, और 22** को एक-दूसरे से स्वतंत्र माना।

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4. Judicial Innovations under Article 14

- **E.P. Royappa v. State of Tamil Nadu (1974):** Equality is antithesis of arbitrariness; arbitrariness violates Article 14.

- **Maneka Gandhi v. Union of India (1978):** Article 14, 19, and 21 are interconnected; any law violating fairness is unconstitutional.

E.P. Royappa v. State of Tamil Nadu	1974	सुप्रीम कोर्ट ने कहा कि **"समानता का अर्थ मनमानी का अभाव है"** — अर्थात **असमंजस या मनमानी (Arbitrariness)** स्वयं **अनुच्छेद 14 का उल्लंघन** है। ➡️ इस केस ने समानता को स्थिर परिभाषा से हटाकर **गतिशील (Dynamic)** बना दिया।
Maneka Gandhi v. Union of India	1978	अदालत ने कहा कि **अनुच्छेद 14, 19, और 21 एक-दूसरे से जुड़े हुए हैं।** ➡️ कोई भी कानून यदि **न्यायसंगत, उचित और तर्कसंगत प्रक्रिया** का पालन नहीं करता तो वह **संविधान के विपरीत (Unconstitutional)** माना जाएगा। ➡️ इस केस ने "A.K. Gopalan" निर्णय को पलट दिया।

E.P. Royappa v. State of Tamil Nadu	1974	सुप्रीम कोर्ट ने कहा कि **"समानता (Equality) और मनमानी (Arbitrariness) एक-दूसरे के विपरीत हैं"।** जहाँ मनमानी है, वहाँ समानता नहीं हो सकती। इसलिए **मनमाना कार्य अनुच्छेद 14 का उल्लंघन** है। 👉 *"Equality is the antithesis of arbitrariness."*
Maneka Gandhi v. Union of India	1978	इस ऐतिहासिक केस में कोर्ट ने कहा कि **अनुच्छेद 14, 19, और 21 एक-दूसरे से जुड़े हुए हैं।** किसी व्यक्ति की स्वतंत्रता को छीनने वाला कानून तभी वैध होगा जब वह **न्यायसंगत, उचित और तर्कसंगत (Fair, Just & Reasonable)** हो। 👉 *"Due process of law"* को भारतीय संविधान में अपनाया गया।

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5. Conclusion

Article 14 does not guarantee absolute equality; it guarantees **equality among equals.** Reasonable classification and protective discrimination are permitted to achieve real and substantive equality. The judiciary has consistently held that **arbitrariness is the enemy of equality** and only just, fair, and reasonable classifications are valid exceptions.

Q. Article 14 talks about equality. Are there any exceptions to this rule? Support your answer with case references.

1. Introduction

Article 14 of the Indian Constitution provides that **"the State shall not deny to any person equality before the law or the equal protection of the laws."**
It ensures the **Rule of Law** and prohibits discrimination, but it does **not mean absolute equality.**
Certain exceptions are permitted to achieve substantive justice.

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2. Exceptions to Article 14

1. **Reasonable Classification**

   o The State can classify persons or objects if:
   (i) It is based on **intelligible differentia**, and
   (ii) It has a **rational nexus** with the law's objective.

   o *Ram Krishna Dalmia v. Justice Tendolkar (1958):* Laid down tests of reasonable classification.

   o *State of West Bengal v. Anwar Ali Sarkar (1952):* Classification must not be arbitrary.

2. **Protective Discrimination (Reservations)**

   o SCs, STs, OBCs, women, and children can be given special provisions.

   o *Indra Sawhney v. Union of India (1992):* Upheld OBC reservations with "creamy layer" principle.

3. **Constitutional Immunities**

   o **President & Governors** enjoy immunity under Article 361.

   o **MPs and MLAs** enjoy privileges under Articles 105 & 194.

   o **Foreign ambassadors and sovereigns** enjoy diplomatic immunity.

4. **Special Laws for Certain Classes**

   o Preventive detention, service laws for armed forces, etc.

   o *A.K. Gopalan v. State of Madras (1950):* Preventive detention law upheld.

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3. Judicial Expansion

- *E.P. Royappa v. State of Tamil Nadu (1974):* Arbitrariness violates Article 14.

- *Maneka Gandhi v. Union of India (1978):* Article 14, 19, and 21 are interconnected; fairness is essential.

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4. Conclusion

Article 14 guarantees **equality among equals, not absolute equality.**
Exceptions like reasonable classification, reservations, and immunities are allowed to promote justice and effective governance. Courts have made it clear that **arbitrariness is the enemy of equality**, and only fair, just, and reasonable laws fall within its scope.

Constitution 16.09.25 to 30.09.25 by anjana

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