

**Constitutionalism and Nation-Making: A Historical Study of India's Constituent Assembly****Research scholar:- Bharti Patel****Research supervisor:- Dr. Anshu Arpan Bharadwaj**

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**Abstract:-**

The Indian Constitution, adopted in 1950, was more than just a legal document. It was a plan to build a new nation after years of colonial rule, communal tensions, and political divisions. This paper looks at the Constituent Assembly of India not just as a body that created laws, but also as a place where the idea of a united nation was shaped. It studies how constitutionalism—meaning a belief in rule of law, democracy, and rights—was understood and built into the Constitution by its makers. Using the Constituent Assembly Debates and the writings of scholars like Granville Austin and B. Shiva Rao, this paper argues that the Assembly helped make a common national identity. It also looks at key topics such as citizenship, federalism, minority rights, and social justice, and reviews how the Assembly tried to balance ideals with the real challenges of a diverse society.

**Keywords:** Constituent Assembly, Constitutionalism, Nation-building, Indian Constitution, Federalism, Democracy, Representation.

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**➤ Introduction**

In post-colonial countries like India, writing a constitution is not just about making laws—it's also about building a nation. Between 1946 and 1950, the Indian Constituent Assembly worked to change a country that had just gained independence. This Assembly not only discussed legal matters but also helped shape India's identity, during a time when the country was facing Partition, communal violence, and the joining of many princely states.

The idea of constitutionalism such as rule of law, fundamental rights, and democracy was tested in India's unique situation of social divisions and inequality. Unlike many new countries, India chose a written Constitution that promised both freedom and social justice. This made Indian constitutionalism a mix of liberal values and the hopes of a newly independent country.

Granville Austin (1999) called the Constitution the "cornerstone of a nation," showing that it was more than just a legal guide it was a symbol of unity. B. Shiva Rao (1968) pointed out that even though the Assembly was made up of elites, its open discussions made it more representative of the people. This paper studies the dual purpose of the Constituent Assembly as a legal body and as a nation-building forum. It uses historical methods and sources like the Constituent Assembly Debates, reports, and scholarly works by Austin, Baxi, Rao, and others. The main question this paper

answers is: How did the Assembly balance the high ideals of the Constitution with the practical needs of a divided society?

## ➤ **Review of Literature**

Many scholars have studied the making of the Indian Constitution. One of the most important works is by Granville Austin (1999), who said the Constitution combined democracy, secularism, and social change. According to him, the Assembly helped bring together different ideas to create a strong national structure.

Upendra Baxi (2013) took a more critical view. He pointed out that while the Constitution promised great things, in practice, problems like inequality and strong executive power often weakened those promises.

B. Shiva Rao (1968) wrote a detailed account of how the Constitution was framed, using official documents and committee reports.

Ornit Shani (2018) looked at how early efforts to prepare for elections influenced the Assembly's decision to allow universal adult voting. Her work shows how the Constitution was connected to popular participation.

Sudipta Kaviraj (1997) and Rajeev Bhargava (2008) focused on the ideas behind the Constitution. Kaviraj said the Constitution helped manage India's diversity, and Bhargava talked about its ethical vision of justice and fraternity.

Together, these scholars agree that the Constituent Assembly was more than just a group of lawmakers, it was a place where Indian nationhood was shaped.

## ➤ **Understanding the idea of constitutionalism:**

Constitutionalism means that government power must follow rules and laws. It supports ideas like rule of law, separation of powers, accountability, and protection of rights. In India, however, constitutionalism had to go further. It had to not only control government power but also help unite a country that was divided by caste, religion, and region.

India's Constitution followed the idea of transformative constitutionalism. This means that the law is not just about limits, it should help bring the social change. As Upendra Baxi (2013) wrote, India had to find a balance between order and justice, tradition and modern ideas, and unity and diversity. Nehru's Objectives Resolution of 1946 reflected this vision by calling for justice, equality, and freedom for all.

The Objectives Resolution also marked a shift in power from the British Crown to the people of India. This made constitutionalism a part of building a new nation. India's Constitution included civil rights as well as goals for the government to create a better society through the Directive Principles of State Policy. The Constitution also protected minorities while allowing majoritarian democracy. The Assembly debated reservations, language rights, and personal laws to find ways to protect diversity.

➤ **Building the Nation and the role of the Constituent Assembly:**

The Assembly was more than a law-making body it was a place where the new Indian nation was imagined. As Granville Austin (1999) said, its biggest success was bringing together different groups and ideas into one constitutional system, even though India had just gone through Partition, violence, and had hundreds of princely states to integrate.

One of the big tasks was to define who could be a citizen of the country. The Assembly debated whether citizenship should be based on place of birth or ancestry. Ambedkar supported a broad and secular idea of citizenship that did not depend on religion (CAD, Vol. IX, p. 34).

The Assembly also had to deal with the concerns of minorities like Adivasis, Dalits, Sikhs, and Muslims. While rejecting separate electorates, it created safeguards to protect their rights, supporting the idea of citizenship. Leaders like Sardar Patel and Maulana Azad supported this inclusive approach.

Language was another sensitive issue. There was a major debate over making Hindi or English the official language. The compromise allowed English to remain in use for fifteen years to respect the concerns of non-Hindi regions (CAD, Vol. XII, pp. 298–301).

Secularism was promoted but not to remove the religion from the country, but as equal respect for all religions. Religious freedom was protected under fundamental rights, and the state remained neutral in matters of faith.

In short, the Assembly used the Constitution to manage India's differences and bring unity in diversity within a common national identity.

➤ **Formation and working of the constitution assembly:**

The Constituent Assembly was set up under the Cabinet Mission Plan in 1946. Though its members were elected indirectly by provincial legislatures, it was seen as the body representing India's move toward freedom. The Assembly met for the first time on 9 December 1946 and finished its work on 26 November 1949, after 165 days of discussion across eleven sessions.

It began with 389 members, but after Partition, the number dropped to 299. Members came from different fields and areas—lawyers, freedom fighters, reformers, and community leaders. Though it was not elected by all adults, its open debates helped give it wider acceptance.

The Assembly had a well-organized committee system. Dr. Rajendra Prasad was its President, and Dr. Bhim Rao Ambedkar led the Drafting Committee. Other important committees included:

- Union Constitution Committee
- Provincial Constitution Committee
- Advisory Committee on Fundamental Rights and Minorities
- Language Committee, Steering Committee, etc.

These committees submitted the reports that were discussed and amended in full sessions. The drafting happened in three stages:

1. General discussion on principles (1946–47)
2. Clause-by-clause debate and amendments (1948–49)
3. Final adoption (late 1949)

More than 7,600 amendments were proposed, and around 2,500 were accepted, it shows how serious and detailed the discussions were. Until 1952, the Assembly also acted as India's Parliament. The process was democratic and transparent. Members spoke in various languages, and records of debates were made public. The Assembly's success came from its blend of legal knowledge, political discussion, and openness.

### ➤ **Debates and Key Themes in the Constituent Assembly**

The Assembly discussed many big issues that shaped India's future. These debates reflected both practical concerns and deeper values.

#### **(A) Fundamental Rights and Directive Principles:**

There were strong debates on civil rights. Dr. Bhim Rao Ambedkar and K.M. Munshi pushed for individual freedoms. Others like Somnath Lahiri wanted more radical change. In the end, the Assembly balanced enforceable rights (Fundamental Rights) with broader goals (Directive Principles) that guided policy.

## (B) Minority Rights and Secularism:

Leaders like Mookherjee, Pant, and Azad debated religious freedom, cultural rights, and separate electorates. Separate electorates were rejected, but Articles 29 and 30 gave minorities cultural and educational rights.

## (B) Federalism and Centre-State Relations:

The Assembly gave more power to the central government to keep India united after Partition. Nehru and Patel supported a strong center. The Union List and Emergency powers show this central focus.

## (C) Language and National Identity:

The debate over Hindi versus English was heated. The final decision was to use Hindi officially but allow English for fifteen more years.

## (D) Role of the Judiciary:

Dr. Bhim Rao Ambedkar called Article 32, the right to constitutional remedies, the “heart and soul” of the Constitution. The Assembly supported an independent judiciary with the power to review laws. These debates showed how the Assembly tried to find middle ground between ideals and social realities.

## ➤ Conclusion

The Constituent Assembly was not just a place for writing laws—it was a place where the identity of modern India was built. Through thoughtful debates, the Assembly defined the values that would shape the new nation in terms of democracy, equality, secularism, federalism, and justice.

Even though the Assembly was elite and not directly elected by all people, it worked sincerely to balance tradition and modern ideas, rights and duties. It created a Constitution that was both visionary and practical.

Today, the Assembly’s work continues to guide Indian democracy. Its debates help judges, lawmakers, and citizens understand the Constitution. Looking back, we see that constitutionalism in India is more than law, it is the foundation of building a strong and diverse nation.

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