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## UNIT 2 PHILOSOPHICAL PREMISES\*

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### 2.0 OBJECTIVES

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Constitution of India is vision document for overall welfare of people. It has provisions for achieving this goal. The vision is based on certain philosophical promises. As you will read in units 3, 4 and 5, the constitution of India is a resolution of people of India to establish India a democratic republic, where all rights of the people irrespective of differences of class, race, sex, caste or place of birth are protected. These principles provide autonomy and dignity to each individual. Individuals are supreme authority to take decisions about themselves through democratic process. This unit discusses the philosophical premises of Indian constitution. After going through this unit, you should be able to:

- Trace philosophical orientation of Indian constitution;
- Describe ideological composition of the Constituent Assembly; and
- Explain the factors that shaped the ideological orientation of the Constituent Assembly.

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### 2.1 INTRODUCTION

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As you have read in unit 1, the Constitution of India was result of serious debates within the Constituent Assembly. It was adopted on 26 November 1949, and it commenced on 26 January 1950. The basic philosophical premises of the constitution provide a vision for a social transformation in which basic rights of the citizens are protected and sovereignty and integrity of the nation are assured. As you will read in units 3 and 4, evolution of these premises can be traced backed to the efforts of the leaders of Indian national movement. During the national movement, the Commonwealth Bill of India, 1925, the Nehru Report, 1928 and Sapru Report, 1945 pleaded for democratic rights of people: individual liberty, freedom of conscience, free expression of opinion, free assembly, equality before law, protection of minority rights, making the Fundamental Rights as justiciable rights. These were further recommended the Committee on Fundamental Rights, Minority rights and Tribal and Excluded Areas. The Aims and Objectives Resolution prepared by Jawaharlal Nehru became the source of

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the Preamble of the Constitution. These became philosophical premises of the Constitution identified with the main objectives of the future constitution of the country. Even the evolution of institutions of executive, judiciary and legislature which ensure that the philosophical premises of the constitution followed can also be traced back to the colonial period. The basic philosophical premises of the constitution are reflected not only in relations to the relationships between individuals, communities and the state but also in relation to different administrative units of governance and branches of government. Separation of powers among executive, legislature and judiciary, and division of power between the Union, the states and institutions of local self-governance are examples of this. Special Provisions in the Constitution for the protection of interests of some backward regions and backward classes are also shaped by the philosophical premises. Leaders of the Constituent Assembly believed that philosophical premises of the Indian Constitution blended with Indian traditions. Because of these premises, the Indian Constitution has been the guide to the functioning of India's democracy.

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## 2.2 IDEOLOGICAL AND PHILOSOPHICAL BACKGROUND

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The members of the Constituent Assembly were drawn from all walks of life and represented almost every section of the Indian people. The representative character of the Assembly was proved by the fact that it included all the prominent leaders of major political parties. Philosophical premises of Indian Constitution are reflection of ideological and philosophical background of the members of the Constituent Assembly. The Constituent Assembly consisted of members with diverse ideological and social backgrounds. Granville Austin, in the appendices to the book *The Indian Constitution: Cornerstone of a Nation*, provides biographical sketch, their party affiliations, their caste and community affiliations and the regions they belonged to. Although there were differences among them, the provisions of constitutions are a synthesis of their ideas. These emerged from serious debate with the Constituent Assembly. Madhav Khosla in the book *The Indian Constitution* (2012) observes that the Constituent Assembly represented “a remarkable intellectual diversity”. Despite their disagreements over the premises, the members of the Constituent Assembly reached certain consensus after discussions. Indeed, the Constituent Assembly did not exclude any significant group. In Granville Austin's words four members, Maulana Azad, Jawaharlal Nehru, Vallabhbhai Patel and Rajendra Prasad, In Granville Austin's words formed “an oligarchy within the Assembly”. They played key role in the Constituent Assembly. B.N. Rau was not the member of the Constituent Assembly but he played an important role as an advisor to the Constituent Assembly. He had experience of engaging with western constitutional traditions. Assembly rejected the Gandhian Constitutional Vision. Gandhi had sought to remodel the Congress and make Panchayats nucleus of Indian political life. Gandhian and Hindu nationalist wanted the Constitution to embody Hindu spiritual values (which were rejected). The constitution is responsive to the change. But the except the basic structure of the Constitution. On the whole, the ideological premises of the Constitution mirror core democratic values – republicanism (which would give more power to the people), individual and group rights, constitutional enumeration

of rights, universal suffrage, parliamentary democracy, sharing power between different arms of government (separation of power), sharing of power between Union and states (division of power), guaranteeing constitutional rights like equality.

As you will read in unit 3, the Constituent Assembly had a total of more than fifteen committees with a membership of greater than eighty individuals. These committees submitted their reports between April-August 1947 which were considered by the Constituent Assembly. On the basis of these decisions, the final shape and form were given to the Constitution by Dr. B.R. Ambedkar and his colleagues in the Drafting Committee. The draft Constitution was presented to the Constituent Assembly and was taken up for discussion on 4 November 1948. The Constituent Assembly completed the second reading of the draft Constitution on 17 October 1949. As many as 7635 amendments were tabled of which 2473 were moved and discussed. The Constituent Assembly finally approved the Constitution on 26 November 1949 as the President of the Assembly signed on that day and it was declared as passed. On 24 January 1950, the Constituent Assembly held its final session and elected Dr. Rajendra Prasad as the first President of India. The Constitution came into force on 26 January 1950. The Indian Constitution which was finally passed by the Constituent Assembly had 395 Articles and 8 Schedules.

The makers of Indian Constitution conceived of a Constituent Assembly as a visionary body, not merely a body of the contemporary representatives but of the people who kept the future situations in mind. It was not only to produce a constitution for the country but to throw away the spell of its past political and possibly social structure and fashioning for itself a new government of its own making. Jawaharlal Nehru spoke of the 'psychological revolution' that the idea of Constituent Assembly created in the mind of the Indian people. It was both a slogan and a creed to concretise the fundamental issue in a struggle for freedom, and a method and a procedure for the framing of a constitution.

**Check Your Progress Exercise 1**

- Note:** 1) Use the space below for your answers  
2) Check your answers with the model answers given at the end of this unit.

- 1) What was the background to Philosophical premises of Indian Constitution?  
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## 2.3 THE PHILOSOPHY OF CONSTITUENT ASSEMBLY OF INDIA

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Philosophy means essentially the outlook that is reflected in the functioning. The making of Indian Constitution was entrusted with the Constituent Assembly of India. The Constituent Assembly was an ensemble of some of the best political and legal minds at that time in India. All these important members had their own individual philosophy and tried to accommodate them in the framing of Constitution of India. Therefore, the principled position of democracy, secularism, socialism, equality, justice and freedom were woven into the fabric of Indian Constitution as formulated in the Constituent Assembly of India. As you will notice, in units 3 to 5 the salient principles of Indian constitutions are given in the preamble, fundamental rights, directive principle of state policy. In forming the philosophical base of the constitution along with other members of the constituent Assembly, Jawaharlal Nehru, Dr. B.R. Ambedkars, Vallabh bhai Patel played important roles.

Both Nehru and Patel are credited with sketching the fundamentals of the Constitution. Granville Austin in the book *The Indian Constitution: Cornerstone of a Nation*(1976) commented that “Patel was more interested in the Princely States, the public services and the working of the Home Ministry, and Nehru in Fundamental Rights, protection of minority rights, and social reform aspect of the Constitution.” The following are the philosophical underpinnings of the Constituent Assembly of India:

- a) Sovereignty: When the framers of the Constitution visualized the future polity for India, they attached highest importance and primacy to India being fully sovereign with the supreme power of the State vesting in the people and all the organs and functionaries of the Union and the States draw their power only from the people of India.
- b) Democratic Value: The philosophy that attracted most to the framers of Indian Constitution in the Constituent Assembly was that of democracy and democratic value which inter alia meant giving equal importance to the voice of all.
- c) Decision-making by Consensus: According to Granville Austin, the principle of consensus had a general appeal in the Assembly; to the leadership an ethical and effective way of reaching a lasting agreement and to the rank and file an indigenous institution that suited the framing of an Indian Constitution. The primary examples of decision making by consensus were perhaps the federal and language provisions.
- d) Principle of Accommodation: India’s original contribution to constitution making, according to Austin, was the principle of Accommodation – the ability to reconcile apparently incompatible concepts. It has reconciled the federal and unitary system, membership of Commonwealth and republic status of the Government, provisions for Panchayat Raj with the need for a strong Central Government.
- e) Art of Selection and Modification: The Constituent Assembly was not merely imitative, the borrowing from different political systems did not relieve the

Assembly of choice and that the borrowed provisions had to be adapted to suit Indian conditions. One example of selection and modification, according to Austin, is the method of a constitutional amendment which made the Constitution flexible while at the same time protecting the rights of the States. They have worked better than the amending process in any other country where federalism and the British Parliamentary System jointly form the bases of the Constitution.

- f) **Fundamental Rights:** Particularly because of Vallabhbhai Patel, the fundamental rights were made justiciable in Indian Constitution and became the modicum of the modern democratic system of rights of citizens to express themselves freely.
- g) **Secular State:** The principle of secularism seconded the principle of creating conditions for the fullest exercise of rights by the citizens of India. This principle of a secular state was mainly architected by the predominantly Congress section of the Constituent Assembly which firmly believed that India should be a secular state.
- h) **Socialism:** It was principally Vallabhbhai Patel’s conservative influence that kept the Constitution from having a greater socialist content than it has. (i) **Reservation for the Minorities:** Related to the principle of accommodation, the Constituent Assembly also had a philosophical orientation to have a reservation for the minorities of the society. Two women members of the Constituent Assembly played a key role in formulating this principle. Amrit Kaur and Begum Aizaz Rasul promoted the view that all minorities are an integral part of India and needed safeguards in the form of reservation.
- j) **Adult Franchise:** The Constituent Assembly plumbed for the adult franchise as a matter of faith. Rajendra Prasad and Jawaharlal Nehru were the key members guaranteeing adult franchise for every citizen giving voting rights to elect their representatives.

**Check Your Progress Exercise 2**

**Note:** 1) Use the space below for your answers

2) Check your answers with the model answers given at the end of this unit.

- 1) What are the philosophical underpinnings of the Constitution?

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## 2.4 CONSTITUENT ASSEMBLY OF INDIA AND ACADEMIC DEBATES

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The Constituent Assembly of India consisted of people who were not elected by the universal adult franchise. They were elected by restricted adult franchise on the basis of educational qualification and property. The critics of the Constituent Assembly said that it was an elite body and did not represent the general people. Jaya Prakash Narayan referred to it as “a restricted and curbed Constituent Assembly”, a creation of the British imperialism and so unable to bring freedom to the country. Churchill said that the Assembly represented “only one major community in India” and for Vincent Simon, it was a “body of Hindus”.

The working procedure, composition and status of the Constituent Assembly have been criticised on the grounds of it being dominated by the Congress party as the Congress had a built-in majority in the Assembly after partition. Prof. Shibban Lal Saxena observed that “the Congress Party meetings became meetings of the real Constituent Assembly and this real Assembly became the mock Assembly where discussions arrived at by the Congress party meetings were registered.”

Although the Constituent Assembly enjoyed the confidence of a vast majority of people of India, yet some uncharitable critics pointed out that it was an Assembly dominated by only politicians and lawyers. The net result was that this domination gave the country a very bulky document. Hence the Constitution of India is often criticized as being a lawyers’ paradise. Amid its criticism, S.K. Chaube categorically asserted that the Constituent Assembly of India was a unique assembly which was the first sovereign body of the Dominion of India doing a balancing act between the claims of stability and adaptability. Austin commented that the value of a well-written constitution for a society establishing fresh norms for itself had been proven by the experience of Constitution of India as framed by the Constituent Assembly. Kashyap argued that “Constitution of India is not merely a political or legal document, it is a charter of citizenship values.” Highlighting the importance of the historic Objectives Resolution moved in the Constituent Assembly, by Nehru on 13 December 1946, Subhash C. Kashyap remarked that “the Objectives Resolution sought to lay down the fundamentals and delineate the basic values and direction of the Constitution.” It was something much more than a resolution. It was a declaration, a firm resolve, an understanding and a dedication. The resolution gave the Constituent Assembly its guiding principles and the philosophy that was to permeate its task of Constitution making.

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## 2.5 LET US SUM UP

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The Constitution of India is a vision document about welfare of all irrespective of class, race, caste or place of birth. This vision is present in the Preamble and several other parts of the Constitution. This reflects certain premises about democracy, sovereignty, accommodation, consensus, socialism and safeguarding the minorities and backward sections of the society. These premises are combination of Indian and western philosophical tradition. The philosophy of the Constituent Assembly was initially enshrined in the Objectives Resolution propagated by Jawaharlal Nehru in 1946, which became basis for discussion in the Constituent Assembly. The philosophical premises guided the moral and political commitment of the Constitution makers. They represented diverse social

and political backgrounds. Despite the divergences in their views and backgrounds they had agreed on common goal for the Constitution – to make India a sovereign, socialist and secular republic in which welfare of everybody and unity and integrity of the nation would be protected. This vision could be possible because it is based on philosophical premises on which the Constitution is based.

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## 2.6 REFERENCES

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## 2.7 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

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### Check Your Progress Exercise 1

- 1) The philosophical background to Indian Constitution was shaped by the nature of Composition of the Constituent Assembly. Though it was dominated by the Congress, it had diverse representation of castes, communities and political parties. They were advocated of democratic premises – republicanism, separation of power, division of power, universal adult franchise, respect for the disadvantaged groups, minorities.

### Check Your Progress Exercise 2

- 1) The philosophical underpinnings of the Constitution are: sovereignty, democratic values, decision-making by consensus, principles of accommodation, fundamental rights, secularism, socialism and adult franchise.