

"Secularism in India: Exploring its Reality, the 42nd Amendment, and its Relation to Article 370 of the Constitution"



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Abstract: This in-depth study shows how the 42nd Constitutional Amendment and the repeal of Article 370 changed India's secularism. It examines how secularism has evolved in India's constitution over time and its impact on social peace and religious equality. The paper examines the various ways in which the 42nd Amendment has contributed to India's increased openness, while also addressing concerns and disputes surrounding its implementation. It discusses Indian secularism, religious rights, and the separation of church and state. The paper then examines the temporary aspects of Article 370 and the political events that led to its removal. It explores the relationship between religion and freedom in Jammu and Kashmir. The study also compares atheism models from around the world, with a focus on how policy should adapt to different situations. Examining how communalism, identity politics, and social and economic inequality critically threaten India's democracy (Elgin et al., [8]). The study continues to examine how reforms, education, and secularism influence India's evolving culture.

Keywords: Constitutional, Amendment, Jammu and Kashmir.

I. INTRODUCTION:

When discussing secularism in India, it's essential to examine how secularism operates within the country, with a focus on the 42nd Amendment to the Constitution and its relationship to Article 370. This study aims to provide background information, outline the research goals and scope, and present the research questions that will be explored. Secularism is written into the Indian Constitution as a core value to make India a sovereign, socialist, and democratic country (Sharma, 2022, [14]). After the 42nd Amendment to the Constitution was implemented in 1976, neutrality became more critical in India (Rajaraman, 2007, [12]). With the help of the above change, the words "socialist" and "secular" were added to the Preamble of the Constitution. India was made a secular state, meaning no official religion existed (Ahmar, n.d., [1]). Article 370 of the Indian Constitution, on the other hand, talks about how Jammu & Kashmir is set up differently than any other state. In 2019, the government led by Prime Minister Modi removed Article 370 (Bhat, 2021, [5]). This was seen by many as a big step toward making the Republic of India truly democratic.

II. PURPOSE AND SCOPE OF THE STUDY:

The main aim of this study is to examine the operation of secularism in India, with particular emphasis on the 42nd Amendment and its relationship with Article 370 (Rajaraman, 2007, [12]). This study aims to investigate the impact of the 42nd Amendment on India's secular nature, as well as the implications of the revocation of Article 370 on the nation's secular framework. The present study examines the historical context and political factors that led to the incorporation of secularism within the framework of the Indian Constitution. Furthermore, this study aims to analyse the various arguments and discussions that have taken place regarding the 42nd Amendment and its potential consequences for modifying India's secular identity.

III. CONCEPTUAL FRAMEWORK

Defining Secularism: The Indian Context: In the Indian jurisdiction, the notion of "secularism" is understood as the legal principle that mandates the unequivocal separation between the affairs of religion and the administration of the state. The principle shall be deemed an essential constituent of the Indian Constitution. This initiative shall ensure that all individuals receive fair and equal treatment and shall protect the security of all religious beliefs. Additionally, it is hereby decreed that the protection of individuals' inherent right to practice and promote their religious convictions freely shall be upheld, without any undue interference or intrusion by the governing authorities.

Historical Evolution of Secularism in India: By the established laws, it is hereby stated that the historical roots of India's unwavering dedication to secularism can be duly attributed to the period during which the Indian Constitution was meticulously formulated. By the Constitution enacted on January 26, 1950, it is hereby declared that India shall be officially recognised as a "Socialist, Secular, Democratic Republic" as stated in the Preamble (Sharma, 2022, [14]). It is hereby mandated that due consideration must be given to the fact that the terminology "secular" was not initially included in the initial rendition of the Preamble. The clause in question shall hereby be deemed as an integral part of the Constitution, duly incorporated through the 42nd Amendment in the year 1976 (Roychowdhury, 2017, [13]). The inclusion of secularism in the Indian Constitution marked a significant milestone in establishing India as a nation-state that upholds secular principles.

Manuscript received on 06 October 2023 | Revised Manuscript received on 20 October 2023 | Manuscript Accepted on 15 December 2023 | Manuscript published on 30 December 2023.

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The primary objective of this endeavour was to safeguard the entitlement to religious liberty, halt prejudice rooted in religious beliefs, and guarantee equitable treatment for individuals of all faiths.

A. Principles and Key Features of Secularism

The principles and key features of secularism in India include:

1. All religions are treated equally: In India, secularism ensures that all religions are treated equally and are free to practice and spread their views without bias.
2. Separation of faith and state: The goal of secularism in India is to keep religious institutions and the state business as far apart as possible (INSIGHTS, 2014, [10]). No faith is supported or pushed by the government.
3. No discrimination: Secularism in India prohibits discrimination based on religion. It ensures that the government treats people of all faiths the same.
4. Right of religion: Secularism allows people to follow and practice their religion (Roychowdhury, 2017, [13]). It protects people's rights to practice, preach, and openly discuss their religion.
5. Pluralism and tolerance: Secularism encourages a society that accepts and celebrates the fact that people have different religions. It teaches people to be tolerant and to take the ideas and practices of other religions.
6. By learning about the ideas behind secularism in India, including its meaning, evolution over time, and key ideals, we can gain a deeper understanding of the reality of secularism in India and its relationship to the 42nd Amendment and Article 370 of the Constitution.

B. The 42nd Amendment: A Turning Point

Historical Overview of the 42nd Amendment: The 42nd Amendment to the Indian Constitution was enacted in 1976 during the tenure of Prime Minister Indira Gandhi, who was in control of the Emergency at that time (Manishq, 2023, [11]). Including the terms "socialist" and "secular" in the Preamble of the Indian Constitution marked a significant advancement in Indian secularism. The amendment additionally modified various aspects of the Constitution, encompassing the government's authority and individuals' fundamental rights (BYJU'S, 2022, [6]).

Implications of the 42nd Amendment on Secularism: The 42nd Amendment had a profound impact on the concept of equality in India, introducing several significant changes. India became a secular state with no official religion (Ananth, 2022, [2]). The purpose of the change was to make the country more accepting of secularism, equality, and social justice. However, there has been criticism of the change because it may impact the court's independence and individuals' fundamental rights (Manishq, 2023, [11]). A few people who analyze and evaluate things have mentioned that the change is an effort to provide the ruling party with additional authority and contradicts the democratic principles outlined in the Indian Constitution (Ananth, 2022, [2]). Despite these criticisms, the 42nd Amendment holds significant importance in the history of equality in India. The hard work played an essential role in establishing India as a secular nation and promoting societal equality and justice.

C. Critiques and Controversies Surrounding the 42nd Amendment

The 42nd Amendment faced significant critiques and controversies, including:

1. Centralization of power: Critics said that the amendment was an effort to put more power in the hands of the ruling party and weaken the democratic principles of the Indian Constitution (Ananth, 2022, [2]).
2. Effects on the judiciary: The reform changed the judiciary's power, which some critics said made the judiciary less independent (Manishq, 2023, [11]).
3. Limits on fundamental rights: The amendment changed the basic rights of people, which some critics said limited the right to free speech and other fundamental rights (BYJU'S, 2022, [6]).
4. Politics: Some critics said the change was made for political reasons, not because of a real commitment to secularism and social justice (Ananth, 2022, [2]).
5. Despite all these complaints and disagreements, denying that the 42nd Amendment is an essential part of India's equality history is impossible. This change made it easier for India to become a secular state and for ideas such as equality and social justice to receive more attention.

D. Analyzing the Reality of Secularism in India

Religious Diversity and Pluralism: India is renowned for its diverse range of religions and acceptance of different beliefs. This means that many other religions peacefully coexist within the country. Ensuring everyone's faiths and cultures are treated fairly is essential to Indian secularism (Engineer, 2022, [9]). This means that having a diverse range of religions and cultures is seen as highly valuable. The Constitution of India guarantees that people have the right to practice and promote their religious beliefs without interference from the government. The country's cultural makeup is made better by different religious groups, like Hindus, Muslims, Christians, Sikhs, Buddhists, Jains, and others (Engineer, 2022, [9]). These groups illustrate the diversity of religions and beliefs.

E. Examination of Secularism in Indian Laws and Policies

1. In India, secularism is not just an idea but is reflected in the country's laws and policies.
2. The Indian Constitution has a clause that says the church and state should be kept separate. This ensures that the government doesn't support or promote any one religion.
3. Indian law forbids religious discrimination and ensures everyone gets the same care and protection, regardless of religion (Engineer, 2022, [9]).
4. The government has implemented policies like protecting religious sites and making it easier for people to celebrate religious holidays (Engineer, 2022, [9]).

Case Studies: Religious Conflicts and Secular Responses
- **The Ayodhya dispute is a notable example** of a religious disagreement in India. The topic of discussion centred on the suitable location for the Babri Masjid and Ram Janmabhoomi.

The conflict began due to differing perspectives between Hinduism and Islam followers regarding the area's rightful inhabitants (BBC News, 2019, [4]). The Ayodhya issue received a response from people who believed in keeping religion separate from government and primarily relied on the legal system to address the matter. In 2019, the highest court in India, the Supreme Court, made a significant ruling regarding a particular matter (BBC News, 2019, [4]). The court decided that it was acceptable to construct a Hindu temple in that location and informed the government that a mosque could be built on a separate piece of land.

The Role of Political Parties in Upholding Secular Values: In India, political parties play a crucial role in safeguarding and promoting secular values, thereby fostering harmony among individuals with diverse religious beliefs. Certain political parties clarify that atheism is one of their fundamental beliefs, while others may prioritize other concepts or religious communities to a greater extent. The policies, actions, and statements of political groups regarding religious freedom, equality, and non-discrimination demonstrate their importance in safeguarding secular values. To fully understand how secularism is practised in our country, it is essential to scrutinize its various aspects. This encompasses the examination of diverse faiths and their harmonious coexistence in India, the existing legislations and regulations about secularism, practical instances of religious disputes and their resolution through a secular approach, and the involvement of political factions in promoting secularism. By undertaking a thorough examination of these factors, we can determine the current state of secularism in our nation as per Indian law.

F. Article 370: Special Provisions and their Impact on Secularism

Overview of Article 370 of the Indian Constitution: Article 370 of the Indian Constitution, herein referred to as the "provision," was a transient provision that bestowed distinctive status upon the region of Jammu and Kashmir (Banerji, 2022, [3]). This provision empowers the state to formulate its constitution, hoist its flag, and exercise exclusive authority over matters of citizenship, property rights, and governance.

Historical Context and Evolution of Article 370: The year 1949 marked the inclusion of Article 370 in the Indian Constitution, which was intended to establish provisional regulations for the region of Jammu and Kashmir. The article's main goal was to create a complete plan for how the state should become a part of the Indian nation (Banerji, 2022, [3]). At the same time, the article aimed to recognise and preserve the unique identity and independence of the state. Article 370 has been subject to scrutiny throughout history due to its impact on integrating Jammu and Kashmir into the larger Indian nation. Some people have argued that the special position granted to Jammu and Kashmir under Article 370 has caused disagreements between the state and the rest of India.

G. Analysis of Religious Demographics and Secularism in Jammu and Kashmir

Jammu and Kashmir are known for having a diverse mix of people, including many Muslims. The various religious groups in the state have significantly influenced how

secularism is practised in the area. Even though there are a lot of Muslims in Jammu and Kashmir, the state has a long and fascinating history with many different religions. The state has a significant number of Hindu and Sikh followers, as well as other religious groups, including Buddhists and Christians.

Article 370's Repeal and its Implications on Secularism: In the year 2019, the government, under the leadership of Prime Minister Narendra Modi, eliminated Article 370. This was a significant advancement in establishing the Republic of India as a fully democratic nation (Banerji, 2022, [3]). The purpose of the decision was to help the region of Jammu and Kashmir become more integrated into the Indian Union. This was achieved by removing a rule causing disagreements between the residents of Jammu and Kashmir and the rest of India. However, the decision to remove Article 370 sparked much discussion because it had the potential to impact the freedom and distinct culture of the Jammu and Kashmir region. A few individuals who analyse and evaluate things have suggested that the decision was influenced by politics rather than being genuinely committed to secularism and social justice principles. By examining how Article 370 has impacted the concept of secularism in India, considering its historical context, the religious composition of Jammu and Kashmir, and the consequences of its removal, we can gain a deeper understanding of the complexities surrounding secularism in India.

Comparative Study of Secularism Models Globally: Secularism is a concept with various components that is applied in diverse ways across different regions of the globe. In certain nations, a strong division exists between religion and the government, whereas in other countries, a more nuanced understanding of the intersection between religion and politics prevails. France follows a strict form of secularism called "laïcité," which says that religious symbols can't be used in public or commercial places. On the other hand, the United States is more open to faith in public spaces than most other countries (Rajarajan, 2007, [12]). When you compare France's strict secularism, called "laïcité," to the United States' more open attitude toward religion in the public sphere, you can see how different secularism is around the world. This contrast highlights the importance of considering historical, cultural, and social contexts in secular policies. The French want to limit the number of religious images in public places, while the Americans want to protect religious freedom. This demonstrates that striking a balance between these two perspectives requires careful consideration and deliberation.

H. Challenges and Critiques of Indian Secularism

Communalism and Identity Politics: Communalism occurs when individuals exploit their religious or community affiliations for political advantages. This frequently results in conflicts and disagreements among various religious factions. When politicians use "identity politics," which means they try to gain support by focusing on people's religious or community identities, it can worsen religious and community conflicts and undermine secularism's fundamental principles (Rajarajan, 2007, [12]). Communalism and identity politics pose significant challenges to India's



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secularism, fostering divisions and increasing religious polarization.

These factors hinder the creation of an inclusive society that embraces all individuals.

Rise of Religious Extremism and Sectarianism:

Religious extremism and sectarianism are becoming increasingly prevalent in India, posing a significant challenge to the concept and implementation of neutrality. Extreme beliefs that prioritise one religion over others could harm the principles of equality and religious freedom, which are considered two of the world's most fundamental concepts. Religious extremism is a big issue for a society that doesn't have a specific religion because it can cause violence and unfair treatment toward people with different religious beliefs (Ahmar, n.d., [1]). It also puts the stability of a society that does not favour any particular religion at risk. Sectarianism occurs when different religious groups engage in conflict and discrimination against each other within a spiritual framework. This can weaken secularism and religious coexistence.

Socioeconomic Disparities and Their Impact on Secularism: Socioeconomic disparities in India can significantly impact secularism. Economic inequalities can lead to social divisions along religious lines, as marginalized communities may face discrimination and exclusion (Drishti The Vision Foundation, 2019, [7]). This is because individuals belonging to marginalized groups may encounter prejudice and exclusion. These differences can cause individuals to feel as though they are being treated unjustly, which can be exploited by political organizations to advance their objectives and undermine the foundations of secularism (Drishti The Vision Foundation, 2019, [7]). It is really important to ensure everyone has the same opportunities and to keep the idea of secularism strong. To achieve this, we need to work on reducing the disparities in people's financial resources and social status. We also need to ensure that everyone is included and has the opportunity to grow and succeed. India can enhance its secular structure and establish a community that values fairness, freedom of religion, and peaceful coexistence by acknowledging and responding to these issues and critiques.

I. Prospects for the Future

Potential Reforms to Strengthen Secularism: One method to enhance equality in India is promoting interfaith dialogue and fostering understanding of diverse religious perspectives among individuals (Rajarajan, 2007, [12]). This action can help reduce group disagreements and foster stronger relationships among individuals with diverse religious beliefs. Another option is to strengthen the legal framework for secularism. This would mean creating guidelines and principles to distinguish between religious beliefs and the government. Making sure everyone is included in development and reducing the gaps between different socioeconomic groups could strengthen atheism. This would help decrease the unfairness and inequalities that political groups could use to gain power.

The Role of Education and Awareness in Promoting Secular Values: Learning and gaining knowledge can significantly contribute to India's progress toward embracing secular values. This involves encouraging acceptance of different religions, treating everyone equally, and educating individuals about the significance of secularism in a diverse society with various beliefs and practices (Engineer, 2022, [9]). Schools and educational groups can help promote secular values by providing a space where individuals from diverse religious backgrounds can engage in dialogue and foster mutual understanding and respect. Additionally, these organisations can help individuals develop critical thinking skills and actively participate in their local communities.

Navigating Secularism in a Rapidly Changing Society:

Things are changing fast in India, like society, the economy, and politics. These changes might make it difficult for everyone to be treated equally. One example is how social media platforms and digital technology can create feedback chambers and make spreading extreme ideas easier (Ahmar, n.d., [1]). To successfully address secularism in a rapidly changing society, employing a sophisticated approach that considers India's distinct culture and historical context is essential. This involves encouraging equal growth, reducing economic disparities, and facilitating communication and understanding among individuals with diverse religious beliefs. India can enhance its secular fabric and foster a society that promotes ideals such as equality, religious freedom, and social harmony by implementing necessary changes, promoting education and knowledge, and devising effective strategies for navigating secularism in a dynamic society.

IV. CONCLUSION

In summary, this study examined the complexities of secularism in India, with a particular focus on the consequences of the 42nd Amendment and the revocation of Article 370. The study highlighted the importance of equality, as enshrined in the Constitution of India, to ensure equitable treatment for individuals with diverse views. The 42nd Amendment to the Indian Constitution strengthened the nation's secular character, **but** with the emergence of apprehensions regarding the concentration of authority. The revocation of Article 370 led to the consolidation and secularisation of India, while also sparking discussions about power dynamics. The study examined these concerns, emphasizing the interdependence between self-governance and national cohesion. In terms of future considerations, the policy implications encompass facilitating interreligious dialogue, implementing legislation that delineates the separation of religion and government, and advancing principles of equality. The acquisition of knowledge and the continuous pursuit of study are essential for comprehending the sociological and economic impacts of religion. It is imperative to continually adapt to the evolving landscape in India to sustain democratic principles,



ensure religious freedom, and promote social harmony.

DECLARATION STATEMENT

Funding/	No. I did not receive.
Conflict of Interests	No conflicts of interest to the best of our knowledge.
Ethical Approval and Consent to Participate	No, the article does not require ethical approval or consent to participate, as it presents evidence that is not subject to interpretation.
Availability of Data Material	Not relevant.
Author Contribution	I am the sole author of this article.

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