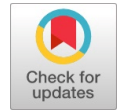


# "Secularism in India: Exploring its Reality, the 42nd Amendment, and its Relation to Article 370 of the Constitution"

Shalu Arora



**Abstract:** This in-depth study shows how the 42nd Constitutional Amendment and the repeal of Article 370 changed India's secularism. It looks at how secularism has changed India's constitution over time and how it has affected social peace and religious equality. The paper looks at the many ways that the 42nd Amendment has helped India become more open-minded, and it talks about worries and disputes about how it is being put into place. It talks about Indian secularism, religious rights, and the split of church and state. The paper then looks at the temporary parts of Article 370 and the political events that led to it being taken away. It looks at how religion and freedom interact with each other in Jammu and Kashmir. The study also compares atheism models from around the world, with a focus on how policy should change depending on the situation. Examining how communalism, identity politics, and social and economic inequality threaten India's democracy in a critical way (Elgin et al., [8][17][18]). The study goes on to look at how India's changing culture is affected by reforms, education, and secularism.

**Keywords:** Constitutional, Amendment, Jammu and Kashmir.

## I. INTRODUCTION:

When discussing secularism in India, it's important to look at how secularism works in the country, focusing on the 42nd Amendment to the Constitution and how it relates to Article 370. This study aims to give background information, look at the goals and scope of the research, and outline the research questions that will be looked into. 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 important in India (Rajarajan, 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.

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## 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 (Rajarajan, 2007, [12]). This study seeks to examine the influence of the 42nd Amendment on the secular nature of India, as well as the implications of the revocation of Article 370 on the nation's secular framework. The present study examines the historical backdrop and political encouragements that resulted in incorporating secularism within the framework of the Indian Constitution. Furthermore, this study aims to analyze the various arguments and discussions that have taken place about the 42nd Amendment and its potential consequences on the modification of India's secular identity.

## III. CONCEPTUAL FRAMEWORK

**Defining Secularism: The Indian Context:** In the jurisdiction of India, the notion of "secularism" shall be understood as the legal principle that mandates the unequivocal separation between 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 freely practice and promote their religious convictions shall be upheld, without any undue interference or intrusion by the governing authorities.

**Historical Evolution of Secularism in India:** In accordance with 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. In accordance with the Constitution enacted on January 26, 1950, it is hereby declared that India shall be officially recognized 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 originally 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]). Including secularism in the Indian Constitution marked a significant milestone in establishing India as a nation-state that upholds secular principles.

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The primary objective of this endeavor 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 the same: In India, secularism ensures that all religions are treated the same 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 accept other religions' ideas and practices.
6. By learning about the ideas behind secularism in India, such as what it means, how it has changed over time, and what its key ideals are, we can learn more about the reality of secularism in India and how it relates 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 significantly impacted the concept of equality in India, bringing about several important 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 a significant 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 basic rights: The amendment changed the basic rights of people, which some critics said limited the right to free speech and other basic 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 a very important part of India's equality history is impossible. This change made it easier for India to become a secular state and for ideas like equality and social justice to get more attention.

## D. Analyzing the Reality of Secularism in India

**Religious Diversity and Pluralism:** India is well-known for having various religions and accepting different beliefs. This means that many different religions peacefully coexist within the country. Ensuring everyone's religions and cultures are treated fairly is important to Indian secularism (Engineer, 2022, [9]). This means that having lots of different religions and cultures is seen as really 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 show how there are many different 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 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][16]).
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 case of a religious disagreement in India. The topic of discussion revolved around the appropriate 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][15]). The issue of Ayodhya 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.

**Role of Political Parties in Upholding Secular Values:** In India, political groups play a significant role in safeguarding and advancing the values of secularism and fostering harmony among individuals belonging to 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. Political groups' policies, actions, and statements regarding religious freedom, equality, and non-discrimination demonstrate their importance in safeguarding secular values. To fully understand how secularism is practiced in our country, we must carefully examine various aspects. This encompasses the examination of diverse faiths and their harmonious cohabitation in India, the extant legislations and regulations pertaining to secularism, practical instances of religious disputes and their resolution through a secular approach, and the participation of political factions in fostering secularism. By undertaking a thorough examination of these factors, we can ascertain the present condition 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 own constitution, hoist its own flag, and exercise exclusive authority over matters pertaining to citizenship, property rights, and governance.

**Historical Context and Evolution of Article 370:** The year 1949 The inclusion of Article 370 in the Indian Constitution 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 wanted to recognize and protect the unique identity and independence of the state. Article 370 has faced examination throughout history because of its effects on integrating Jammu and Kashmir into the larger Indian nation. Some people have argued that the special position given to the state under Article 370 has caused disagreements between Jammu, Kashmir, 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 different religious groups in the state have greatly impacted how secularism is practiced in the area. Even though there are a lot of Muslims

in Jammu and Kashmir, the state has a long and interesting history with many different religions. The state has many Hindu and Sikh followers and other religious groups like 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 assist the region of Jammu and Kashmir in becoming 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 people who analyze and evaluate things have mentioned that the decision was influenced by politics rather than being genuinely dedicated to secularism and social justice principles. By examining how Article 370 impacted the idea of secularism in India, considering its history, the religious composition of Jammu and Kashmir, and the consequences of its removal, we can better understand the complexities surrounding secularism in India.

**Comparative Study of Secularism Models Globally:** Secularism is a concept that has various components and is utilized in diverse manners across different regions of the globe. In certain nations, there is a strong division between religion and the government, whereas, in other countries, there is a more intricate understanding of how religion and politics collaborate. France follows a strict form of secularism called "laïcité," which says that religion 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 shows how important it is for secular policies to consider historical, cultural, and social circumstances. The French want to limit the number of religious images in public places, while the Americans want to protect religious freedom. This shows that finding a balance between these two points of view takes careful thought.

#### 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 secularism, fostering divisions and increasing religious polarization.

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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 prioritizing one religion over others could harm the principles of equality and religious freedom, which are considered two of the world's most significant 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 favor any particular religion at risk. Sectarianism is when different religious groups fight and discriminate against each other within a religious framework. This can make secularism and religious coexistence weaker.

**Socio-economic Disparities and their Impact on Secularism:** Socioeconomic disparities in India can have an impact on 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 keep the idea of secularism strong. To do this, we need to work on making sure that there are fewer differences in people's money and social status. We also need to ensure everyone is included and has a chance to grow and succeed. India can enhance its secular structure and establish a community that appreciates fairness, the freedom to practice 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 decrease group disagreements and foster stronger relationships between individuals with diverse religious beliefs. One more option is to enhance the legal structure 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 political groups could use to gain power.

**Role of Education and Awareness in Promoting Secular Values:** Learning and gaining knowledge can greatly 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 place where individuals from

various religious backgrounds can engage in dialogue and develop mutual understanding. Additionally, these organizations can assist individuals in developing critical thinking skills and actively participating 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 important. This involves encouraging equal growth, lessening economic disparities, and facilitating communication and comprehension among individuals of diverse religious beliefs. India can improve its secular fabric and create a society that supports ideas like equality, religious freedom, and social peace by making possible changes, encouraging education and knowledge, and finding ways to handle secularism in a changing society.

## IV. CONCLUSION

In summary, this study explored the intricacies of secularism in India, specifically emphasizing the consequences of the 42nd Amendment and the revocation of Article 370. The study underscored the significance of equality, as enshrined in the Constitution of India, to ensure equitable treatment for individuals of varying 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 resulted in the consolidation and secularization of India while also giving rise to discussions around 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 the facilitation of interreligious dialogue, the implementation of legislation that delineates the separation of religion and government, and the advancement of principles of equality. The acquisition of knowledge and the continuous pursuit of study are essential in comprehending religion's sociological and economic impacts. It is imperative to continuously adjust to the evolving terrain in India to sustain democratic principles, ensure religious freedom, and foster social peace.

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