



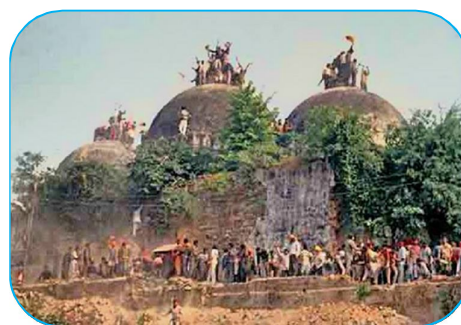
RELIGIOUS FREEDOM AND SECULARISM IN INDIA AFTER THE BABRI MASJID DEMOLITION: CONSTITUTIONAL CHALLENGES, JUDICIAL RESPONSES, AND THE RECONFIGURATION OF INDIAN SECULARISM

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ABSTRACT

The demolition of the Babri Masjid on 6 December 1992 marked a watershed moment in India's constitutional and political history. It profoundly altered the discourse surrounding religious freedom, secularism, minority rights, and state neutrality. This article critically examines the legal, constitutional, and socio-political transformations in India's secular framework following the Babri Masjid demolition. It analyses how the destruction of a disputed religious structure challenged the constitutional promise under Articles 25–28, tested the resilience of secular governance, and led to significant judicial interventions, including *S.R. Bommai v. Union of India*, *Ismail Faruqui v. Union of India*, and the 2019 Ayodhya verdict. The article further explores legislative responses, communal violence, political mobilization, and the evolving interpretation of secularism from principled distance to majoritarian accommodation. Through doctrinal and analytical methods, this paper argues that post-Babri India witnessed a reconfiguration rather than an abandonment of secularism, in which constitutional ideals increasingly confronted populist religious nationalism.



KEYWORDS: Religious Freedom; Secularism; Babri Masjid; Ayodhya Dispute; Indian Constitution; Minority Rights; Communalism; Judicial Review; Fundamental Rights; Constitutional Morality.

INTRODUCTION

Religious freedom and secularism are foundational pillars of India's constitutional democracy. The framers of the Constitution envisioned a pluralistic republic where individuals of all faiths could coexist under a neutral state framework. Unlike Western secularism premised on strict church-state separation,

Indian secularism developed as a model of equal respect for all religions, often termed "sarva dharma sambhava."¹ However, the demolition of the Babri Masjid in Ayodhya by kar sevaks on 6 December 1992 fundamentally disrupted this constitutional equilibrium. The event was not merely the destruction of a mosque but represented a severe constitutional crisis, exposing

vulnerabilities in India's secular framework and state machinery.² It intensified communal polarization, transformed electoral politics, and raised urgent questions regarding state complicity, minority rights, and constitutional governance.

¹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 54 (Oxford University Press, 1966).

² A.G. Noorani, *The Babri Masjid Question, 1528–2003* Vol. II, 112 (Tulika Books, 2003).

This article investigates the impact of the Babri demolition on India's legal and secular structures by addressing:

- * The constitutional meaning of religious freedom and secularism prior to 1992;
- * Legal and political consequences of the demolition;
- * Judicial responses and doctrinal developments;
- * The evolution of secularism in post-Babri jurisprudence;
- * Continuing implications for Indian democracy.

Constitutional Foundations of Religious Freedom and Secularism Before Babri Demolition

A. Religious Freedom under Articles 25–28

The Constitution guarantees freedom of conscience and free profession, practice, and propagation of religion under Article 25.³ Article 26 grants religious denominations autonomy in managing religious affairs, while Articles 27 and 28 ensure protection against religious taxation and state-sponsored religious instruction.⁴

The Supreme Court interpreted these rights through the “essential practices doctrine,” distinguishing constitutionally protected religious practices from secular activities.⁵

B. Secularism as a Basic Structure

Although the word “secular” was explicitly inserted into the Preamble by the 42nd Amendment in 1976, secularism was always implicit in constitutional design.⁶ The state was expected to maintain principled neutrality while ensuring reform and equality.

In *Kesavananda Bharati v. State of Kerala*, the Supreme Court recognized secularism as part of the Constitution's basic structure.⁷ This doctrine became central post-Babri.

C. Indian Model of Secularism

Indian secularism differs from Western secularism by allowing state engagement with religion for reformatory purposes, such as temple administration and abolition of untouchability.⁸ This flexible model, while inclusive, also rendered secularism vulnerable to political manipulation.

HISTORICAL CONTEXT OF THE BABRI MASJID DISPUTE

The Babri Masjid, constructed in 1528 during Mughal Emperor Babur's reign, became contested in the nineteenth century due to claims that it stood on the birthplace of Lord Ram.⁹

Key developments included:

- * 1859 colonial partition of worship areas;
- * 1949 placement of Hindu idols inside the mosque;
- * 1986 unlocking of gates for Hindu worship;
- * Rise of Ram Janmabhoomi movement led by Hindu nationalist organizations.

The mobilization culminated in mass political campaigns and Rath Yatras, transforming a property dispute into a national religious movement.¹⁰

³ INDIA CONST. art. 25.

⁴ INDIA CONST. arts. 26–28.

⁵ *Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar*, AIR 1954 SC 282.

⁶ Constitution (Forty-Second Amendment) Act, 1976.

⁷ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁸ Rajeev Bhargava, Political Secularism, 45 *Econ. & Pol. Wkly.* 34 (2010).

⁹ A.G. Noorani, *supra* note 2, at 85.

¹⁰ Christophe Jaffrelot, *The Hindu Nationalist Movement and Indian Politics* 412 (Penguin, 1996).

DEMOLITION OF BABRI MASJID: CONSTITUTIONAL BREAKDOWN

On 6 December 1992, despite assurances to the Supreme Court and central government, the mosque was demolished by organized mobs.¹¹

A. Failure of the Rule of Law

The demolition revealed:

- * Failure of the state government under Article 356 obligations;
 - * Breakdown of constitutional machinery;
 - * Inability of judiciary's interim protections to prevent violence.
- The event directly challenged constitutional supremacy.

B. Immediate Consequences

Following demolition:

- * Nationwide communal riots caused over 2,000 deaths;
- * Mumbai riots (1992-93);
- * International condemnation;
- * Erosion of minority trust in secular institutions.

The Liberhan Commission later described the demolition as "neither spontaneous nor unplanned."¹²

JUDICIAL RESPONSES AND LEGAL DEVELOPMENTS

A. *S.R. Bommai v. Union of India (1994)*

This landmark case arose in part from the dismissal of the BJP-led state governments following the demolition.

The Supreme Court held that secularism is a basic feature of the Constitution.¹³

Significance:

- * State governments pursuing anti-secular policies may be dismissed;
- * Religious mobilization for political power violates constitutional values;
- * Secularism became enforceable constitutional doctrine.

Justice Sawant emphasized:

"Religion cannot be mixed with secular activities of the State."¹⁴

B. Acquisition of Certain Area at Ayodhya Act, 1993

The central government acquired disputed land and adjacent areas to maintain public order.¹⁵

C. *Ismail Faruqui v. Union of India (1994)*

The Supreme Court upheld most provisions of the Act but controversially observed that a mosque is not essential to Islamic worship if namaz can be offered elsewhere.¹⁶

Criticism:

- * Undermined minority religious protections;
- * Introduced unequal essentiality standards;
- * Reflected judicial accommodation of political pressures.

¹¹ Liberhan Ayodhya Commission Report, 2009.

¹² Id.

¹³ S.R. Bommai v. Union of India, (1994) 3 SCC 1.

¹⁴ Id.

¹⁵ Acquisition of Certain Area at Ayodhya Act, No. 33 of 1993.

¹⁶ M. Ismail Faruqui v. Union of India, (1994) 6 SCC 360.

BABRI DEMOLITION AND TRANSFORMATION OF SECULAR POLITICS

A. Rise of Majoritarian Nationalism

Post-Babri India saw:

- * Expansion of Hindutva politics;
- * Electoral rise of BJP;
- * Religious symbolism in governance.

The demolition normalized religious mobilization as a political strategy.¹⁷

B. Minority Rights and Constitutional Anxiety

Muslim communities increasingly perceived:

- * Institutional bias;
- * Weak legal remedies;
- * Reduced confidence in state neutrality.

This altered the practical exercise of religious freedom.

C. Secular Parties and Strategic Compromises

Traditional secular parties often adopted “soft Hindutva,” diluting principled secularism.

The Ayodhya Verdict, 2019: Secularism Revisited

In *M. Siddiq (D) Thr. Lrs. v. Mahant Suresh Das* (2019), the Supreme Court awarded disputed land for Ram Temple construction while granting alternate land for mosque construction.¹⁸

A. Key Findings:

- * Demolition was illegal;
- * Muslim dispossession was unlawful;
- * Yet, the title was awarded based on possessory and faith claims.

B. Critical Evaluation

While legally framed as property adjudication, critics argue:

- * Rewarded consequences of unlawful majoritarian mobilization;
- * Prioritized historical belief over strict constitutional restoration;
- * Recast secularism as conflict management rather than rights protection.

RELIGIOUS FREEDOM IN POST-BABRI INDIA

A. Increasing Regulation of Religious Practices

Subsequent decades witnessed:

- * Anti-conversion laws;
- * Cow slaughter bans;
- * Restrictions on minority educational autonomy.

B. Judicial Trends

Courts increasingly balance religious freedom against:

- * Public order;
- * Constitutional morality;
- * Majoritarian legislative agendas.

¹⁷ Thomas Blom Hansen, *The Saffron Wave* 213 (Princeton University Press, 1999).

¹⁸ *M. Siddiq (D) Thr. Lrs. v. Mahant Suresh Das*.

C. Shift from Protective to Conditional Religious Liberty

Religious freedom is increasingly subject to political context rather than purely constitutional guarantees.

Comparative Constitutional Perspective

Comparatively:

- * United States emphasizes strict separation;
- * France practices laïcité;
- * India follows accommodative secularism.

Post-Babri developments indicate India's model risks sliding toward symbolic neutrality but substantive majoritarianism.

Challenges to Indian Secularism

1. Politicization of Religion
2. Weak Enforcement of Minority Protections
3. Judicial Inconsistencies
4. Communal Violence
5. Constitutional versus Popular Sovereignty Tensions

Reaffirming Constitutional Secularism

To preserve secularism:

- * Strengthen institutional neutrality;
- * Reform hate speech and communal violence laws;
- * Protect minority rights robustly;
- * Ensure judicial consistency;
- * Promote constitutional morality over electoral populism.

CONCLUSION

The Babri Masjid demolition fundamentally altered India's secular and constitutional trajectory. While secularism remains formally entrenched as part of the Constitution's basic structure, its operational meaning has evolved under pressure from majoritarian politics, judicial compromise, and shifting state practices.

Post-Babri India demonstrates that constitutional secularism is not self-executing; it requires active institutional defence. Religious freedom, once conceived as equal pluralism, increasingly faces challenges from identity politics and uneven state action. The future of Indian democracy depends on whether secularism can be revitalized as a substantive constitutional commitment rather than reduced to symbolic rhetoric.

The Babri demolition thus remains not merely a historical event but an enduring constitutional test for India's pluralist republic.