

Article 371 As an Instrument of Asymmetrical Federalism: Its Philosophical Intent and Contemporary Relevance

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ABSTRACT

Article 371 and its sub-clauses constitute one of the Constitution's most consequential, yet insufficiently theorized devices for institutionalizing asymmetrical federalism in India. Although the constitutional scheme is often described as quasi-federal with a pronounced unitary tilt, Article 371 indicates a parallel design logic: the deliberate use of differentiated arrangements to secure integration without erasure in a society marked by deep regional, cultural, and developmental heterogeneity. This article examines Article 371 as a constitutional architecture of accommodation, tracing its historical emergence, mapping the distinct purposes served by clauses 371A to 371J, and analysis the legal form through which autonomy, recognition, and distributive concerns are translated into governance. Drawing on debates in cooperative and polycentric federalism, multicultural citizenship, constitutional patriotism, and constitutional pluralism, it argues that Article 371 is best understood not as episodic political bargaining but as an enduring commitment to protect vulnerable communities, preserve culturally embedded institutions, especially customary law and land regimes in parts of the Northeast and address structural regional inequalities. The article further situates Article 371 in contemporary constitutional politics shaped by post-2019 centralizing impulses, renewed contests over uniformity, resource governance disputes, and persistent demands for autonomy. It concludes that Article 371 remains a stabilizing constitutional mechanism: it operationalize a substantive conception of equality by recognizing that, in a diverse federation, equal citizenship may require differentiated constitutional safeguards.

INTRODUCTION

India's constitutional federalism is often described through its centripetal features: a strong Union, expansive emergency powers, and a constitutional vocabulary that repeatedly prioritizes integration. Yet the same constitutional order also contains an under-analyses set of provisions that complicate any straightforward account of centralization. Article 371 and its sub-clauses, ranging from 371A to 371J, form a differentiated architecture through which the Constitution authorizes variation within the Union. These provisions do not merely "add exceptions" to a uniform federal scheme; they encode a distinct constitutional response to the country's uneven histories of state formation, culturally embedded institutions, and regionally specific developmental deficits. In this respect, Article 371 functions as a key instrument of asymmetrical federalism: it legitimizes

differentiated governance arrangements not as departures from equality, but as mechanisms through which equal citizenship is made viable in a deeply heterogeneous polity (Adeney, 2015).

The relative invisibility of Article 371 in mainstream constitutional debates is striking, particularly when contrasted with the volume of scholarship and public controversy that has surrounded Article 370. The post-2019 constitutional moment has further sharpened the stakes. The abrogation of Article 370 intensified arguments about whether constitutional asymmetry is a transitional compromise to be outgrown, or a continuing democratic necessity in a plural federation (Austin, 1999). Against this backdrop, the persistence of Article 371 is not incidental: it signals that the Indian constitutional project has long relied on a second register of federal reasoning, one that treats accommodation, recognition, and distributive redress as conditions of integration rather than threats to it.

This article analyses Article 371 as a conscious constitutional design for managing diversity through differentiation. It traces the historical contexts and political negotiations through which specific sub-clauses emerged; it examines the legal form of the protections they establish, particularly in relation to customary law, land and resource regimes, administrative discretion, and regional development; and it situates these clauses within theoretical debates on asymmetrical federalism, multicultural constitutionalism, constitutional morality, and negotiated citizenship. The central claim advanced here is that Article 371 is best understood not as an ad hoc patchwork appended to an otherwise uniform federation, but as an integral part of India's federal architecture, one that translates a substantive conception of equality into institutional form by recognizing that uniform governance may reproduce, rather than remedy, historical and regional asymmetries.

THEORETICAL FRAMEWORK

A rigorous account of Article 371 cannot proceed as a purely descriptive catalogue of clauses. These provisions sit at the intersection of constitutional design and political settlement: they institutionalize differentiation within a Union that otherwise carries a strong centripetal grammar. The framework adopted here, therefore, treats Article 371 as a site where competing constitutional goods, unity, equality, autonomy, and recognition, are mediated through deliberately non-uniform arrangements. In comparative federal scholarship, such arrangements are typically discussed under the rubric of asymmetrical federalism, where subnational units are accorded differentiated powers, protections, or procedures because their historical trajectories, institutional ecologists, or distributive positions cannot be captured by a single template (Watts, 1998). India's constitutional order has long

relied on this broader repertoire through provisions relating to Scheduled Areas, the Sixth Schedule, and other forms of territorial and institutional accommodation, of which Article 371 is a distinctive state-specific architecture.

Asymmetrical Federalism

The first lens is the literature on asymmetrical federalism, which treats constitutional asymmetry not as a defect to be “corrected” but as a stabilizing device in multi-ethnic and regionally uneven federations. Scholars argue that differentiation can reduce the incentives for exit by lowering the perceived costs of belonging, especially where groups fear institutional absorption or distributive marginalization (Griffiths, 2007; Adeney, 2015). On this account, stability is produced less by uniformity than by credible guarantees, legal forms that signal that distinct institutional practices and material interests will not be overridden by majoritarian political cycles. Article 371 maps closely onto this logic. Several clauses institutionalize protections that are not symbolic but jurisdictional: they mediate the reach of parliamentary law, structure intra-state representation, and channel developmental redress. The theoretical point is not that asymmetry is inherently benign; it is that, in certain settings, it functions as a constitutional instrument for managing the risks generated by uniform governance in a heterogeneous federation.

Multicultural Citizenship

A second lens is the theory of multicultural citizenship, which provides a normative vocabulary for differentiated constitutional rights. Kymlicka (1995) distinguishes between individual rights that attach uniformly to citizens and group-differentiated rights that protect the conditions under which minority cultures can reproduce themselves in a wider political community. This framework is relevant to Article 371 insofar as key clauses protect culturally embedded institutions, particularly customary law and social practices, from being displaced by an undifferentiated “one law” approach. In provisions such as 371A and 371G, the constitutional form is not merely protective; it is jurisdictional and procedural, conditioning the application of certain categories of law on consent or institutional acceptance. Read through multicultural citizenship, these clauses can be analyses as mechanisms that secure recognition without secession: they seek to make membership in the Union compatible with the continued authority of locally meaningful norms and institutions.

Constitutional Morality and Accommodation

A third strand concerns constitutional morality and accommodation. Ambedkar’s discussions of constitutional morality are often invoked to emphasize that democratic constitutionalism requires

restraint, institutional discipline, and an ethic of coexistence in a diverse polity (Austin, 1999). Within this horizon, accommodation is not a concession extracted by political pressure but a constitutional method for maintaining legitimacy where rule through uniformity would be experienced as domination. Article 371 can be situated here as an attempt to translate that method into institutional form: it builds governance arrangements that are responsive to local histories and identities while remaining within the constitutional order. This framework also helps foreground a recurring tension that runs through Article 371 debates: how to reconcile the constitutional promise of equality with differentiated rights and special procedures. The lens of constitutional morality is useful precisely because it refuses an easy equation between equality and sameness, and directs attention to the institutional conditions under which equality can be made substantive rather than formal.

Conflict Management Theory

A fourth lens is conflict management theory. Horowitz (1985) argues that in divided societies, constitutional stability depends on institutional mechanisms that reduce conflict incentives and create arenas for bargaining, representation, and credible commitment. This is especially relevant to the subset of Article 371 clauses that emerged from, or were shaped by, histories of insurgency, contested incorporation, or sustained centre–periphery mistrust. Under this lens, Article 371 is not simply a statement of cultural difference; it is an instrument of negotiated autonomy, designed to reduce the likelihood that unresolved identity claims will translate into perpetual constitutional contestations. The value of the framework is analytic rather than celebratory: it clarifies how constitutional form can function as a peace-making technology, through safeguards, consent requirements, and institutionalized representation, while also inviting scrutiny of whether such mechanisms entrench new exclusions or freeze historical compromises beyond their democratic shelf-life.

Polycentric Governance

Finally, polycentric governance helps explain how Article 371 sustains multiple, partially overlapping centre of decision-making within the same constitutional space. Ostrom (2010) emphasizes that complex societies often govern more effectively when authority is dispersed across several centre that can coordinate, contest, and adapt rather than being monopolized by a single hierarchical actor. This lens is particularly useful for analysis the operational reality of Article 371 in contexts where customary institutions, state agencies, and the Union each claim some authority over land, resources, social regulation, and development. Article 371 does not eliminate these overlaps; it structures them. It authorizes certain domains of local decision-making, creates procedural gateways for legal applicability, and in some cases empowers state-level or gubernatorial responsibilities that

complicate a purely majoritarian model of state governance. Read through a polycentric lens, the significance of Article 371 lies in how it constitutional governance in settings where law is not simply enforced downward but negotiated across institutional worlds.

How these frameworks are used in this article

Taken together, these perspectives serve a limited but precise purpose in the analysis that follows. They provide the conceptual tools to read Article 371 as more than a miscellany of state-specific exceptions: as a constitutional repertoire through which India has managed diversity via differentiated autonomy, recognition, and distributive redress. They also keep the analysis attentive to tension rather than resolution between unity and autonomy, equality and differentiation, cultural authority and individual rights, and security governance and democratic accountability. Those tensions are not external to Article 371; they are constitutive of the work it is designed to perform.

HISTORICAL BACKGROUND OF ARTICLE 371

Article 371 is best read not as a single constitutional “provision” but as a historical sequence of insertions through which the Indian Union experimented with differentiated arrangements of membership. Its emergence is inseparable from the uneven political geography inherited at Independence: a federation assembled through the integration of British provinces, princely states, and diverse frontier and tribal regions, each carrying distinct institutional histories and claims to autonomy. From the outset, constitution-makers were alert to the problem that a uniform constitutional template could sit uneasily atop a society organized through layered identities, linguistic, regional, tribal, and religious (Austin, 1999). The constitutional response to this condition was not limited to general federal provisions; it also relied on targeted mechanisms that could temper the costs of integration for communities and regions with distinctive legal orders or acute developmental disadvantage. Article 371 belongs to this repertoire of negotiated constitutional integration.

The earliest impulse behind Article 371 is traceable to the reorganization era, when the question of state formation was never only about drawing linguistic boundaries. The debates of the 1950s turned equally on fears of intra-state marginalization and the distributive consequences of reorganization. Regions such as Vidarbha and Marathwada (within the later state of Maharashtra), and Kutch and Saurashtra (within Gujarat), expressed anxiety that linguistic majorities would consolidate political power and command public resources in ways that could deepen existing backwardness (Austin, 1999). It was in this setting that the “original” Article 371 was framed as an

instrument of regional balancing, linked to the idea of development boards and more equitable allocation within newly constituted states. If later sub-clauses came to be associated with cultural autonomy and customary law, this initial moment underlines a broader point: Article 371 was also conceived as a constitutional response to internal regional inequality within states, not solely as a mechanism for identity protection.

The most far-reaching expansion of Article 371, however, took place in the Northeast, where the terms of incorporation into the Union were shaped by frontier histories, contested sovereignty, and sustained political mobilisation. The Naga case is paradigmatic. Naga political claims to self-determination preceded Independence and persisted as a central challenge to the legitimacy of postcolonial integration (Baruah, 2005). After years of insurgency and negotiation, the 1960 settlement between the Naga People's Convention and the Government of India laid the groundwork for statehood under conditions that would constitutionally insulate key domains of Naga social life. Article 371A was crafted to protect religious and social practices, customary law and procedure, customary institutions of justice, and land and resource regimes from automatic parliamentary override, unless the state legislature accepted such laws (Baruah, 2005; Horam, 2012). What matters analytically is the form of this bargain: autonomy here is not expressed as political rhetoric but as a constitutional constraint on legal applicability. The clause translated a negotiated settlement into a durable jurisdictional safeguard.

A similar constitutional logic is visible in Mizoram, though it emerged through a different sequence of crisis and settlement. The Mizo movement escalated after the 1959 famine and the perceived failures of administrative response, eventually consolidating into an insurgency led by the Mizo National Front (Bhaumik, 2009). The Mizo Peace Accord of 1986 reconfigured the relationship between the region and the Union, and Article 371G formed part of the constitutional scaffolding that followed. Like 371A, it sought to protect customary law, social practices, and land and resource arrangements by limiting the automatic reach of parliamentary legislation. In this sense, 371G did not merely "recognize" difference; it legally encoded a mode of integration premised on cultural security and institutional continuity.

The insertion of Article 371C for Manipur reflects a related, though distinct problem: the management of deep internal political asymmetry within a state marked by a fraught valley–hill divide. Manipur's merger with India in 1949 has remained politically contested in parts of the state's public memory, and post-merger governance was repeatedly shaped by grievances over unequal

power between the valley-majority and hill tribal communities (Phanjoubam, 2016). Article 371C responded by institutionalizing the Hill Areas Committee, mandating a procedural mechanism through which legislative measures affecting hill areas would require attention and scrutiny from representatives of those areas. Here, differentiation takes the form of intra-state representation and procedural protection, rather than the direct insulation of customary law from parliamentary reach.

Article 371F, introduced in 1975 following Sikkim's incorporation into India, extends the logic of differentiated integration to a different historical register, one shaped by the absorption of a former monarchy with distinctive political arrangements. Sikkim's transition into the Indian Union was mediated through a referendum, but integration raised its own constitutional questions, given existing legal frameworks and the need to protect specific political and demographic concerns. Article 371F was designed to preserve pre-existing laws until altered through appropriate constitutional channels, and to secure representational safeguards that reflected Sikkim's particular composition. The clause illustrates how Article 371 also served as a constitutional technique for incorporating a polity with a prior legal and political order, without requiring immediate uniformization.

In southern India, the impetus for differentiation emerged less from frontier incorporation than from distributive disputes over employment and education. Articles 371D and 371E followed regional agitations in Andhra Pradesh and Telangana that demanded fair access to public employment and educational opportunity. Much later, Article 371J (introduced for the Hyderabad-Karnataka region) similarly addressed persistent developmental disparities through special provisions oriented toward regional redress (Dreze & Sen, 2013). These clauses reinforce a central historical point: Article 371 has never been reducible to a single rationale. Across its variants, it has performed two recurring functions: protecting culturally embedded institutions in certain frontier contexts and addressing entrenched regional inequality in others.

Seen in sequence, Article 371 is therefore a record of constitutional pragmatism anchored in political history. It shows how the Indian federation has repeatedly relied on differentiation as a mode of stabilizing membership, whether by insulating customary law and land regimes in parts of the Northeast, by building procedural safeguards for marginalized regions within states, or by institutionalizing targeted development and opportunity measures for lagging areas. The historical pattern suggests that asymmetry in India has not been merely episodic crisis-management; it has been an enduring constitutional technique for holding together a polity whose diversity is not only cultural but also institutional and distributive.

REVIEW OF LITERATURE

Scholarship on Indian federalism is vast, but Article 371 has rarely been treated as a coherent object of constitutional analysis. Compared to the extensive debates on Article 370, the Sixth Schedule, or Centre–State relations in general, Article 371 tends to appear only in passing, often as a list of special provisions rather than as a conceptual architecture through which constitutional differentiation is operationalized. As a result, the most useful insights for understanding Article 371 are frequently found not in a dedicated body of “Article 371 literature,” but in adjoining fields: constitutional design, federal accommodation, minority rights, Northeast studies, and the political economy of regional disparity.

Foundational accounts of the Constitution’s formation and federal structure provide an essential backdrop. Austin’s work situates the constitutional project within a political context in which unity had to be secured without assuming social homogeneity, and in which flexibility was built into the constitutional form as a response to India’s plural composition (Austin, 1999). Comparative treatments of Indian federalism similarly underscore that the constitutional arrangement cannot be understood through a purely symmetrical model. Arora and Verney (1995) locate Indian federalism within a landscape of multiple identities and contested nation-building, while Adeney (2015) develops the argument that differentiated federal accommodations are often necessary where minority regions experience uniform governance as domination or dispossession. Together, this scholarship frames asymmetry not as an aberration, but as part of the constitutional repertoire through which belonging is stabilized in diverse polities.

For the Northeast in particular, the most influential scholarship approaches constitutional safeguards through the region’s distinctive political history and institutional ecology. Baruah (2005) offers a sustained analysis of the Northeast as a space shaped by frontier governance, contested citizenship, and persistent struggles over land and identity. Although not focused exclusively on Article 371, this work is analytically central for understanding why clauses such as 371A, 371G, and 371C acquired their specific constitutional form, especially in relation to customary law, land regimes, and governance authority. Bhaumik (2009) likewise highlights the role of constitutional and political settlements in conflict-affected states, showing how safeguards and negotiated autonomy have been positioned as conditions for peace-building and durable integration in the region.

A complementary body of scholarship on comparative constitutionalism strengthens the conceptual footing for analyzing Article 371 as a design choice rather than a collection of local

exceptions. Choudhry's (2016) work on constitutional design in divided societies demonstrates that asymmetrical arrangements are neither unusual nor inherently unstable; they are widely used in multi-ethnic settings as mechanisms for managing pluralism through differentiated institutional forms. This perspective is particularly useful for interpreting Article 371 as a constitutional technique that holds together legal plurality, regional autonomy, and national integration within a single juridical order.

Finally, work on distributive justice and regional development clarifies the strands of Article 371 that are oriented less toward cultural autonomy than toward redressing intra-state inequality. Dreze and Sen (2013) provide a broader political economy lens on structural disparities and state capacity, within which provisions such as Article 371J can be read as a constitutional acknowledgement of entrenched regional backwardness and unequal access to opportunity. Region-specific studies and political analyses further reinforce the need to examine how differentiated governance structures mediate contestations over representation and autonomy in the Northeast (Phanjoubam, 2016; Shimray, 2007).

Despite these contributions, an identifiable gap remains. Existing scholarship often treats Article 371 either as background detail within wider discussions of federalism and autonomy, or as a set of state-specific provisions without sustained comparative interpretation across clauses. Less attention has been given to the internal logic that links the clauses together as a constitutional architecture of differentiation, one that operates through distinct modalities (jurisdictional insulation, procedural safeguards, gubernatorial discretion, and distributive redress). This article addresses that gap by reading Article 371 as a unified field of constitutional design, reconstructing its historical emergence, clarifying its philosophical premises, and evaluating its contemporary relevance in a political landscape increasingly shaped by debates over uniformity, autonomy, and centralization.

CONSTITUTIONAL ANALYSIS OF ARTICLE 371 AND ITS SUB-CLAUSES

Article 371 is not a single rule with a single rationale. It is a constitutional field composed of state-specific clauses—371 and 371A through 371J, that operationalize differentiation through distinct legal techniques. Read as a whole, these clauses do not merely “grant special status”; they distribute constitutional protection across at least four modalities: (i) distributive and developmental redress, (ii) jurisdictional insulation for culturally embedded institutions, (iii) procedural representation and intestate safeguards, and (iv) enhanced executive responsibility in sensitive borderland contexts. A clause-by-clause reading is therefore necessary, but it becomes analytically

meaningful only when each clause is located within the kind of constitutional work it performs and the federal consequence it produces.

Article 371 (Maharashtra and Gujarat): Developmental Boards and Intra- State Balancing

The original Article 371 emerged in the context of state formation and distributive anxiety following the reorganization of territories into Maharashtra and Gujarat in 1960. The constitutional intent was not primarily cultural protection but intra- state balancing: addressing fears that historically disadvantaged regions such as Vidarbha and Marathwada, and Kutch and Saurashtra would remain peripheral within newly consolidated linguistic states (Austin, 1999). The mechanism was institutional rather than symbolic. By enabling development boards and related arrangements, Article 371 articulated a constitutional principle that becomes visible across the wider scheme: asymmetry may be justified not only by identity or distinct legal orders, but also by unequal development and unequal access to state resources.

Article 371A (Nagaland's): Jurisdictional Insulation and Legal Pluralism

Article 371A exemplifies the strongest form of constitutional insulation within the Article 371 family. It conditions the applicability of parliamentary law in key domains, religious or social practices, customary law and procedure, customary administration of justice, and the ownership and transfer of land and resources on acceptance by the Nagaland Legislative Assembly. The legal architecture here is not mere “protection”; it is a limitation on automatic legal extension, producing a constitutional space in which customary institutions retain formal authority (Baruah, 2005; Shimray, 2007). In practical terms, this clause preserves a land regime in which control is largely embedded in tribal and clan systems rather than in a purely statist conception of property. The resulting form of pluralism is structurally significant: it is a constitutional recognition that the legitimacy of governance in certain contexts depends on continuity with indigenous institutional orders, even as the region remains within the Union.

Article 371B (Assam): Representation Within a Composite State

Article 371B introduces a different technique: procedural representation rather than jurisdictional insulation. It provides for a committee of the Assam Legislative Assembly comprising members from specified tribal areas, including Sixth Schedule regions. The clause responds to a familiar problem in composite states: that numerically or territorial marginal communities may be structurally outvoted even when their interests are distinct and constitutionally salient. By requiring

a formal legislative forum through which such interests are articulated, 371B functions as a mechanism of political inclusion and oversight. In theoretical terms, it can be read as a polycentric arrangement, creating an additional site within the state legislature where tribal-region concerns are institutionally foregrounded rather than left to contingent majorities (Ostrom, 2010).

Article 371C (Manipur): Intra- State Asymmetry and the Hill Areas Committee

Article 371C is designed around a particularly sharp internal asymmetry: the political and administrative divide between the valley and hill areas of Manipur. The clause mandates the establishment of the Hill Areas Committee (HAC), composed of legislators from the hill districts, and requires that legislative measures affecting hill areas be referred to the Committee. It also assigns a special role to the Governor in relation to the administration of hill areas. The constitutional mechanism here is dual: it combines procedural safeguards (the HAC as a structured site of review) with executive responsibility (gubernatorial duties) intended to prevent the routine marginalization of hill interests (Phanjoubam, 2016). The distinctive feature of 371C is that it recognises that meaningful equality within a state may require differentiated institutional pathways, especially where representative politics is shaped by demographic imbalance and historically entrenched mistrust.

Articles 371D and 371E (Telangana and Andhra Pradesh): Opportunity, Local Cadres, and Educational Access

Articles 371D and 371E, introduced through the 32nd Constitutional Amendment, respond to distributive disputes over public employment and education. Article 371D authorizes the President to structure local cadres in public services and to regulate admissions to educational institutions with the stated aim of ensuring equitable opportunities across regions (Reddy, 2014). Article 371E empowers Parliament to establish a Central University. Although Andhra Pradesh's political geography changed after bifurcation in 2014, the conceptual significance of 371D remains: it constitutional a mode of equality tied to place-sensitive opportunity, recognizing that formal uniformity in recruitment or admissions may consolidate advantage rather than disperse it.

Article 371F (Sikkim): Incorporation, Continuity of Laws, and Representational Safeguards

Article 371F was crafted for a different historical register, the constitutional integration of Sikkim as the 22nd state of India in 1975. The clause secures continuity by protecting preexisting laws until altered through appropriate legislative processes and provides representational and institutional safeguards shaped by Sikkim's particular demographic and political context (Mangat,

2008). Here, constitutional asymmetry functions as a technique of incorporation without immediate uniformization. It shows how the Constitution has, at times, treated legal continuity as a condition of legitimacy when a political community with a prior institutional order enters the Union.

Article 371G (Mizoram): Customary Institutions as Constitutional Guarantees

Article 371G extends protections similar to 371A, insulating Mizo customary law, land arrangements, and social and religious practices from automatic parliamentary override. It is closely associated with the constitutional settlement that followed the Mizo Peace Accord, which recast the relationship between Mizoram and the Union after a long insurgency (Bhaumik, 2009). The clause's legal significance lies in its method: it recognizes that the stability of membership may depend on constitutional assurances that culturally embedded institutions will not be displaced by a generalizing legislative impulse.

Article 371H (Arunachal Pradesh): Gubernatorial Responsibility and Borderland Governance

Article 371H assigns the Governor a special responsibility for law and order in Arunachal Pradesh, justified by the state's strategic location and internal diversity. The clause represents a security-oriented modality of asymmetry: differentiation here is expressed through executive discretion rather than cultural insulation or developmental boards. This has generated normative controversy. Critics argue that enhanced gubernatorial authority can dilute democratic accountability, while defenders justify it as an institutional response to a sensitive borderland environment (Adeney, 2015). Analytically, the clause invites a broader question central to the Article 371 family: when does asymmetry enable constitutional stability, and when does it reconfigure power upward through exceptional executive authority?

Article 371J (Karnataka): Regional Backwardness and Distributive Redress

Inserted in 2012, Article 371J addresses persistent developmental disparities in the Hyderabad-Karnataka region. It enables provisions oriented toward reservations in public employment and education, and other measures aimed at improving access to resources and opportunity in historically lagging districts. In contrast to clauses centred on customary law, 371J exemplifies a distributive rationale for differentiation, aligned with broader arguments that unequal starting positions justify targeted constitutional interventions (Rawls, 1971; Dreze & Sen, 2013). The clause underscores that Article 371's architecture is not reducible to cultural autonomy; it also functions as a constitutional recognition of structural economic unevenness within states.

Reading Article 371 as a Constitutional Repertoire

Taken together, these clauses constitute a repertoire of differentiated arrangements through which India has repeatedly managed diversity in institutional form. They show that constitutional asymmetry operates through multiple legal techniques, jurisdictional insulation, procedural safeguards, developmental boards, opportunity structures, and executive responsibility, each carrying distinct implications for federal balance, democratic accountability, and the meaning of equality in a heterogeneous polity. Article 371, in this sense, is not peripheral to Indian federalism. It is one of the clearest places where the Constitution's commitment to unity is pursued through differentiation rather than uniformity.

PHILOSOPHY THAT LAYS BEHIND ARTICLE 371

The clauses collected under Article 371 are often discussed as pragmatic concessions to regional demands. That description captures part of their political genealogy but misses their deeper constitutional significance. Article 371 is better understood as an attempt to translate a set of normative commitments into institutional form, commitments that arise whenever a constitutional order seeks to hold together a society marked by durable plurality. In the Indian case, plurality is not merely cultural; it is also institutional and distributive. Distinctive social practices, customary legal regimes, historically sedimented patterns of land control, and uneven development mean that a uniform rule of governance may not be experienced as neutral. The philosophical impulse behind Article 371, therefore, lies in the recognition that unity in such a polity cannot be produced through sameness alone and that constitutional legitimacy sometimes requires differentiated arrangements of membership rather than a single template of rule.

One strand of this philosophy is substantive equality. The presumption that equality demands uniform treatment sits uneasily with a federation whose regions enter constitutional life from unequal starting points, whether those inequalities are material (backwardness, unequal access to opportunity) or institutional (the coexistence of customary authority with state law). Article 371 expresses a different intuition: that equal citizenship may require constitutional measures that address historically unequal conditions rather than simply applying identical rules across dissimilar settings. Clauses oriented toward regional development and opportunity structures embody this distributive logic, while clauses protecting customary law and land regimes reflect a related claim that legal uniformity can function as a vehicle of dispossession when it is imposed on communities whose social order rests on different institutional foundations.

A second strand is recognition and cultural autonomy. Several sub-clauses operate on the premise that citizenship in a national polity need not demand the abandonment of locally meaningful institutions. Where customary law governs social life and land relations, and where community authority structures carry legitimacy that state law cannot easily replace, constitutional accommodation becomes a method of securing belonging without cultural erasure. In this sense, Article 371 encodes a form of constitutional pluralism: it acknowledges that the authority of law may be layered, and that democratic integration may depend on protecting institutional worlds that do not map neatly onto the state's standard administrative grammar.

A third strand concerns peace, trust, and negotiated membership. In regions shaped by histories of insurgency, contested incorporation, or chronic centre–periphery mistrust, constitutional design often functions as a credibility mechanism. Article 371 provisions that constrain the automatic reach of parliamentary legislation, create procedural safeguards, or structure representation can be read as attempts to produce durable assurances, signals that the constitutional order is capable of restraint. The philosophical point here is not that autonomy guarantees peace, but that peace-building requires institutions that reduce the stakes of domination and create predictable limits on coercive integration.

Finally, Article 371 reflects a philosophy of pragmatic statecraft within constitutional limits. The Indian Constitution has repeatedly combined a strong integrative centre with selective differentiation at the margins and within states. Article 371 is one articulation of that method: it does not displace the Union's authority, but it qualifies how that authority is exercised in specific domains and contexts. The underlying premise is that a stable constitutional union in a plural society is sustained not only by powers of command, but also by techniques of accommodation by the capacity to recognize difference as a constitutional fact and to govern it through institutionally bounded variation.

Read together, these strands suggest that the philosophical foundations of Article 371 lie in a distinctive conception of constitutional unity: unity as an achievement of restraint, recognition, and distributive repair, rather than as an outcome of uniform rule.

UNITY IN DIVERSITY AS CONSTITUTIONAL PHILOSOPHY

“Unity in diversity” is often repeated as civic rhetoric. Read constitutionally, however, it names a more demanding proposition: that the Indian Union is sustained not by the erasure of difference but by the capacity of constitutional form to accommodate it. Article 371 gives institutional

expression to this idea. Across its sub-clauses, unity is pursued through differentiated arrangements that protect culturally embedded institutions, structure representative safeguards, and, in some cases, authorize targeted developmental redress. The point is not to romanticize diversity as an end in itself. It is to recognize that in a plural polity, uniform governance can operate as a vehicle of domination, and that constitutional legitimacy may require bounded variation in the terms through which different regions inhabit the Union.

One way to conceptualize this is through multicultural constitutionalism. The theory of multicultural citizenship argues that minorities may require differentiated protections to sustain the conditions of cultural reproduction within a majoritarian political order (Kymlicka, 1995). Article 371's protections for customary practice, social institutions, and land regimes in parts of the Northeast can be read within this frame: these clauses do not merely "permit" local difference, they constrain the automatic reach of uniform law in domains where cultural life is inseparable from institutional authority. In this sense, Article 371 is less a privilege than a constitutional device for making membership non-assimilation, securing belonging without insisting that political integration must be purchased at the price of cultural surrender.

Closely related is the principle of legal pluralism, which is central to clauses such as 371A and 371G. These provisions acknowledge that law in certain regions is not exhausted by statute and precedent, but also flows through customary rules, community authority, and historically sedimented land relations. Legal pluralism here does not imply that anything locally authorized is normative beyond critique; rather, it describes a constitutional choice to recognize that multiple legal orders may coexist within a single polity, and that governance can be stabilized by structuring that coexistence rather than denying it (Bento, 2016). Article 371 does this by transforming customary domains from informal residue into constitutionally legible spheres of authority.

The philosophical foundation of Article 371 is not limited to recognition. It also includes a distributive conception of fairness. Where asymmetry is oriented toward regional development, most explicitly in provisions such as Article 371J, the underlying premise resembles a Rawlsian intuition: inequality in constitutional treatment may be justified where it functions to improve the position of historically disadvantaged regions (Rawls, 1971). In this register, differentiation is not cultural insulation but structural repair. The constitutional logic is that equal citizenship cannot be reduced to identical access on paper when the infrastructure of opportunity is unevenly distributed across regions.

A further layer is constitutional morality, understood as the ethic of restraint and accommodation that democratic constitutionalism demands in a plural society. Ambedkar's discussions of constitutional morality are frequently invoked to stress that constitutional democracy requires more than formal compliance; it requires an orientation that respects the institutional conditions of coexistence (Austin, 1999). Article 371 can be read as one institutional translation of that ethic: it embeds the idea that, in certain contexts, legitimacy is sustained through negotiated consent and procedural safeguards rather than through the automatic extension of uniform rule.

The relationship between accommodation and stability also explains why Article 371 frequently appears in regions shaped by contested incorporation or long histories of political violence. Conflict management theory highlights the value of institutions that lower the stakes of domination and create credible commitments in divided settings (Horowitz, 1985). When clauses constrain the reach of parliamentary law in specific domains, or establish procedural gateways for decisions affecting marginal regions, they function as instruments of trust: not because they eliminate conflict, but because they reduce the constitutional incentives for perpetual rupture. This is especially visible in cases where autonomy provisions form part of wider political settlements.

Finally, Article 371 reflects the Constitution's capacity for adaptive design. India's constitutional architecture has not remained static; it has evolved through amendments and negotiated insertions responding to shifting political and social conditions. Article 371 exemplifies this adaptive quality: new clauses were added over time to respond to demands that could not be addressed through a uniform federal template, including claims for cultural protection, institutional continuity, and regional development (Choudhry, 2016). In this sense, the Article 371 family is also a record of how the Constitution has repeatedly calibrated unity and differentiation as circumstances changed.

Taken together, these strands suggest that the philosophical significance of Article 371 lies in how it redefines what it means to hold a union together. It treats diversity not as a temporary deviation from a presumed norm of uniformity, but as a constitutional fact that must be governed through recognition, restraint, and distributive repair.

CONTEMPORARY RELEVANCE OF ARTICLE 371

The contemporary salience of Article 371 is best understood against a political landscape in which centralizing impulses, renewed debates over uniformity, and intensified contestations over land and resources have placed questions of autonomy back at the centre of constitutional politics. Article 371 remains relevant because it continues to structure the everyday relationship between

constitutional authority and local institutional life, particularly in regions where customary law, land tenure, and community governance remain central to social order. Significance of Article 371

First, Article 371 continues to matter as a shield for indigenous and tribal institutional worlds. In states such as Nagaland and Mizoram, through different mechanisms, in Manipur and Arunachal Pradesh, customary norms and institutions regulate core domains of social life, including marriage, inheritance, land relations, and dispute resolution. In such contexts, constitutional uniformity is not merely administrative; it can become a form of cultural displacement. Ongoing debates around legal uniformity, including discussions linked to a Uniform Civil Code, have renewed attention to why differentiated safeguards exist in the first place: to prevent the flattening of legal and cultural plurality into a single normative template.

Second, Article 371 retains importance in an era of intensified contestations over land and resource governance. Clauses such as 371A and 371G operate as barriers against the easy alienation of community-controlled land and resources, and therefore shape how extractive projects, infrastructure expansion, and state-led development can proceed (Baruah, 2005). The protection at stake is not only property in a narrow sense, but institutional authority over territory, who decides, through what procedures, and with what consent.

Third, Article 371 continues to function as a partial conflict-mitigation mechanism in regions facing persistent political volatility. Several northeastern states remain marked by ethnic competition and histories of insurgency. Article 371's safeguards do not resolve these conflicts, but they structure political contestations by providing institutional avenues for representation, oversight, and jurisdictional restraint. The Hill Areas Committee in Manipur, for instance, exemplifies how constitutional design can attempt to prevent systematic marginalization within a state's legislative process by ensuring that hill interests are procedural recognized.

Integration and Autonomy after the Post-2019 Constitutional Moment

The abrogation of Article 370 in August 2019 reopened a larger constitutional question: whether differentiated arrangements in the Indian Union are understood as durable features of federal design or as dispensable political compromises. In the public discourse that followed, repeated assurances that Article 371 would not be disturbed carried a significance beyond immediate reassurance. They suggested that even within an increasingly centralized political climate, certain forms of asymmetry continue to be treated as structurally necessary to the federal settlement—particularly where autonomy provisions are tied to historically grounded claims over land, customary

authority, and institutional continuity. The continued salience of Article 371, in other words, complicates any linear narrative of federal evolution toward uniformity; it indicates that Indian federalism remains governed by a dual logic in which integration and differentiation coexist as constitutional strategies rather than as mutually exclusive choices.

Addressing Regional Inequality and Opportunity Deficits

The contemporary relevance of Article 371 is also evident in the clauses oriented toward distributive redress. Articles such as 371D and 371J are designed to respond to entrenched regional disparities in education, public employment, and access to state investment. Their persistence matters because regional inequality is not a transitional distortion that naturally dissolves with economic growth; it often hardens under uneven globalisation and concentrated development. In this context, constitutional mechanisms that structure opportunity by region, through local cadres, targeted admissions frameworks, or special development allocations function as instruments that translate an egalitarian commitment into administrative form (Dreze & Sen, 2013). These clauses are therefore best read not as exceptional privileges, but as constitutional responses to the empirical reality that formally equal rules can reproduce unequal outcomes when the geography of opportunity is structurally uneven.

A flexible Federalism of Negotiation and Bounded Variation

Article 371 further illuminates a distinctive trait of India's federal practice: an orientation toward negotiated inclusion rather than purely coercive integration. The provisions do not dilute sovereignty in the abstract; they reconfigure its exercise by placing constitutional conditions on how authority is extended, applied, and justified in particular contexts. This is often what gives a "soft" federalism its democratic plausibility: the sense that regional aspirations can be accommodated within the constitutional order without converting every demand for difference into a threat of dismemberment. The deeper significance here is institutional: Article 371 shows how the Constitution can host bounded variation differentiation that is legally structured and politically legible rather than forcing all diversity into the register of informal bargaining or extra-constitutional contestations.

Governance and Stability in International Borderlands

Finally, several Article 371 clauses are embedded in frontier governance. States such as Arunachal Pradesh, Nagaland, and Sikkim occupy sensitive borderland positions, geopolitically exposed and administratively complex, where internal diversity intersects with external security

concerns. In these contexts, differentiated constitutional arrangements have been used to stabilise governance by clarifying institutional responsibility, protecting locally legitimate authority structures, and signaling a measure of constitutional trust between the Union and borderland societies. The significance of these provisions is not only strategic; it is also political: borderlands are often where the legitimacy of the Union is tested most intensely, and where constitutional accommodation can function as a mechanism of integration that does not rely exclusively on surveillance and coercion. Taken together, these considerations reinforce a central claim: Article 371 remains a contemporary constitutional technology of governance in a plural federation, one that mediates integration through autonomy, distributive repair, and institutionally bounded differentiation.

VITAL DISCUSSIONS AND CHALLENGES

Article 371's durability does not mean it is conceptually settled. It remains a live site of constitutional disagreement because it forces Indian federalism to confront questions it often postpones: what equality demands in a plural polity, how far constitutional pluralism can accommodate customary authority, and where the boundary lies between accommodation and exception. The debates below are not peripheral controversies; they map the fault-lines that structure the everyday operation and the legitimacy of asymmetrical federal arrangements.

Equality and Differentiated Rights

A recurring critique is that asymmetrical provisions sit uneasily with Article 14's promise of equality, and that differentiated rights can harden regionalism or legitimise unequal citizenship. This position, often associated with a more integrationist reading of the Constitution, treats uniformity as a proxy for national cohesion (Kohli, 2004). The counter-argument rests on a substantive conception of equality: where histories of incorporation, institutional difference, and developmental disparity are structural, formally identical rules can reproduce domination rather than correct it. On this view, Article 371 is not a departure from equality but a method for preventing equality from collapsing into sameness, a constitutional recognition that equal citizenship in a heterogeneous federation may require differentiated safeguards.

Customary Law and Constitutional Rights

The sharpest normative tension arises where customary authority intersects with individual rights, particularly gender equality. In parts of the Northeast, critics have argued that certain customary arrangements restrict women's inheritance rights and limit participation in traditional decision-

making bodies, raising the concern that constitutional insulation can entrench patriarchal structures (Shimray, 2007). Defenders respond that reform cannot be effectively engineered through external legal imposition without risking a legitimacy crisis; transformation, they argue, must be negotiated from within communities and through internal institutional change. This dispute is not simply ideological. It exposes an unresolved constitutional problem: how to treat customary law as a source of authority without immunizing it from constitutional scrutiny, and how to pursue rights-based reform without collapsing autonomy into administrative override.

Development, Extraction, and the Politics of Land and Resources

A third set of controversies concerns land and resource governance. Where customary land regimes are constitutionally protected, state-led development, particularly extraction and large infrastructure, often triggers disputes over authority: who can consent, who negotiates benefits, and who bears ecological and social costs. Nagaland's debates around oil exploration have repeatedly surfaced this question, because resource governance is not only an economic matter but a constitutional one when land and resources are embedded in customary institutions (Baruah, 2005). Article 371's protections can therefore generate institutional complexity: they may prevent dispossession, but they can also produce contested jurisdictions and bargaining deadlocks when state and customary authorities make rival claims to decision-making power.

Governor's Discretionary responsibilities and Democratic Accountability

Some clauses rely on enhanced gubernatorial responsibility (notably 371C and 371H), raising concerns about democratic accountability. Critics argue that such arrangements create an opening for discretionary intervention that can undercut elected governments, particularly in politically volatile contexts; defenders justify them as stability mechanisms in sensitive regions (Adeney, 2015). The constitutional challenge here is not simply whether such powers exist, but how they are operationalized: whether they are deployed as narrowly bounded responsibilities with transparent criteria, or whether they become elastic instruments of political management.

Public Misinterpretation and Post-2019 Anxieties

The post-2019 constitutional moment also revealed a different kind of vulnerability: the ease with which asymmetrical provisions become targets of misinformation. After the abrogation of Article 370, senior ministers publicly stated that Article 371 would not be touched and explicitly referenced misinformation suggesting otherwise. This episode matters for constitutional politics

because public misunderstanding can convert technical provisions into symbols of existential threat, accelerating mistrust in regions where constitutional assurance is itself part of the integrative bargain.

The Demand for New “Special Provisions”

Finally, the continued existence of Article 371 generates a forward-looking question: should asymmetry be expanded, and on what principle? In recent years, political actors in Meghalaya have demanded coverage under Article 371 (often framed around greater control over land and resources, including debates linked to mining governance), indicating that the perceived value of asymmetry is not confined to states already included in Part XXI. Parallel demands for constitutional protection in Ladakh, often discussed in terms of special status, safeguards for land and jobs, and Sixth Schedule debates, reflect a broader pattern: groups located at the margins of the nation-state increasingly seek constitutional insulation as a way of securing governance authority over territory and demography. These demands force a constitutional design choice: whether asymmetry should remain an episodic response to particular historical settlements, or be treated as a generalisable tool for managing pluralism and regional inequality.

Taken together, these debates clarify what is at stake in Article 371. The clauses operate as instruments of accommodation, but they also concentrate unresolved tensions between uniform equality and substantive equality, between plural legal orders and rights claims, between development imperatives and territorial authority, and between stability-oriented discretion and democratic control. The significance of Article 371 in contemporary India lies precisely in this: it is where the Constitution most visibly negotiates the terms on which difference can persist within the Union.

CONCLUSION

Article 371 is best understood as a constitutional method rather than a miscellaneous set of “special provisions.” Across its sub-clauses, it shows how the Indian Union has repeatedly governed diversity through differentiated institutional arrangements, sometimes to protect culturally embedded legal orders and land regimes, sometimes to secure procedural representation within uneven states, and sometimes to address persistent regional disadvantage. Read in this light, Article 371 does not sit at the margins of Indian federalism. It is one of the clearest sites where the Constitution acknowledges a hard political truth: in a polity marked by deep heterogeneity, uniform rules can generate unequal effects, and integration can be destabilized when it is pursued without credible safeguards for difference.

The constitutional work performed by Article 371 is therefore practical and structural. It translates accommodation into legal form, through jurisdictional insulation (as with protections for customary law and land), through procedural gateways (as with committee-based oversight and special responsibilities), and through distributive instruments aimed at opportunity and development in historically lagging regions. In doing so, it has functioned as part of the scaffolding through which difficult political settlements were stabilised: in the Northeast, where questions of identity, legitimacy, and autonomy have shaped the terms of belonging; in Sikkim, where incorporation required the management of legal continuity and representation; and in regions where developmental asymmetry demanded constitutional recognition rather than administrative rhetoric.

At the same time, Article 371's significance lies not in the claim that it resolves the tensions of plural constitutionalism, but in the fact that it makes those tensions governable. The debates canvassed in this article, over equality and differentiated rights, customary authority and constitutional rights, development and resource control, stability and democratic accountability, are not external objections to Article 371. They are the very pressures that Article 371 is designed to mediate. The measure of its continuing relevance, especially in a post-2019 environment of renewed contestations around uniformity, is that it remains a working constitutional language for negotiating autonomy without converting every demand for recognition into a rupture in the Union.

The future significance of Article 371 will depend on how this method is defended and refined. That task is less about treating asymmetry as a permanent virtue than about sustaining its democratic rationale: ensuring that differentiation is bounded, transparent, and responsive to claims of dignity, equality, and accountability. If Indian federalism is to remain stable and legitimate across its borderlands, minorities, and uneven regions, it will require more, not less, of the constitutional capacity that Article 371 represents: the capacity to pursue unity through restraint, recognition, and distributive repair, rather than through the comfort of a single governing template.

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