

Religious Pluralism in Globalised India: A Constitutional Perspective

Dr. Pawan Kumar

Assistant Professor-in-Law Faculty of Law B.P.S. Women University Sonapat, Haryana, India

Abstract: *Indian has recently emerged as one of the leading developing countries basically on strength its Constitutional protection to religious pluralism among its people. The paper focus how Indian civilization has played host to several migrant groups and communities from time to time and these groups as well as communities has been guaranteed fundamental rights in matters of religion. The religious pluralism has been fostered by various decisions of the Indian higher judiciary.*

Keywords: *Constitutional Law, corporation, globalization, religious pluralism, secularism.*

I. Introduction

This article intends to address religious pluralism as an academic and civil challenge in globalised corporate India from Indian Constitutional law perspective. The global movements of people as economic migrants and political refugees and the global movement of business and technology have created increasingly diverse and complex societies. The United States, Canada, and the nations of Europe are wrestling with new levels of religious diversity and cultural encounter. On the other hand since the middle of the second millennium B.C., Indian civilization has played host to several streams of migrant groups and communities from different part of the world. The advent of the Aryans, the Tibeto-Burman speaking Mongoloid groups, the Kushans, the Sakas, the Greeks, the Huns, the Arabs, the Persians, the Turks and the Mongols at different points of time testifies to the pervasiveness of the migration process during the successive periods of Indian History. It is no exaggeration to say that since ancient times India has represented a melting-pot of races, cultures, *and religions*. Whether this multi-pot of races, cultures and religions developed religious pluralism in India over a period of time and in particular Sovereign Socialist Secular Democratic Republic?

“Religious Pluralism” is a contested concept across national, political, and disciplinary contexts. In theology the term often suggests harmony, convergence, or compatibility across religious traditions-in opposition to religious exclusivism. In Sociology, pluralism can refer to the diversity of different religious traditions within the same social or cultural space. According to Thomas Banchoff, religious pluralism refers to patterns of peaceful interaction among diverse religious actors-individuals and groups who identify with and act out of particular religious traditions. According to Herold Netland, the term “religious Pluralism” itself is, of course, ambiguous and can be used in either a descriptive or a normative sense. Descriptively, it refers to the undeniable fact of religious diversity-people do indeed embrace different religious perspectives. Normative sense is, an egalitarian and democratized perspective holding that there is a rough parity among religions concerning truth and stereological (Salvation) effectiveness. According to S.R. Bhatt religious pluralism leading to secularism stands for a complex interpretative process in which there is transcendence of religion and yet there is a unification of multiple religions. It forms a bridge between religions in a multi-religious society which enables each to cross over the barriers of their diversity.

The term globalization covers a wide variety of elements. It can refer to the global spread of economic markets, to instantaneous communication across the planet, and the relocation and integration of diverse cultures outside their geographical origins. It is beyond doubt that science and technology has globalised the world in terms of communication and transportation including India. Since the 1990s it has been liberalizing and deregulating its economy. State controls have been gradually eliminated.

As a consequence, the Indian economy has posted an annual growth rate of 6 to 8 per cent. In terms of economic markets, if we go by registration of companies in India, during the year 2009-10, 67817 companies were registered under the Companies Act, 1956. These include 61 Government companies with liability limited by shares, 67509 non-Government companies with liability limited by shares, 23 non-Government companies with unlimited liability and 224 Non-Government companies with liability limited by guarantee and associations not for profit. The authorised capital of 67570 companies with liability limited by shares registered during the year aggregated to Rs. 41,796.83 crore. Of the 67570 companies with liability limited by shares registered during the year, 2031 were public limited companies with an authorized capital of Rs.25960.49 crore and 65539 were private limited companies with an aggregate authorised capital of Rs.15836.34 crore.

India has emerged as globalised corporate nation by attracting large scale Foreign Direct Investment in various corporate sectors which are one of the major driving forces of economic development of the country since the liberalization of its economy in 1991. Therefore, no one can deny that India has become one of the favorite destinations for Foreign Direct Investment and corporate houses have grown here in leaps and bound during last two decades. India attracted a total United States \$ 165 million Foreign Direct Investment in 1991-1992 (August-March), which went up to \$3682 million in 1997-1998 and table 1 below indicates Foreign Direct Investment Equity Inflow region wise.

II. Religious Pluralism under Indian Constitutional Law

The preamble to the Indian Constitution clearly demonstrates resolve of the Indian people to constitute India as a secular state although the word 'secular' was inserted in the Constitution by the Constitution (Forty-second) Amendment Act, 1976. The Constitution nowhere defines the word 'secular'. According to H.M. Seervai, "Secular may be opposed to religious in the sense that a secular State can be an anti-religious State. In this sense, the Constitution of India is not secular, because right to freedom of religion is a guaranteed fundamental right". Realizing need to define the word 'secular' the Constitution (Forty-fifth) Amendment Bill, 1978 proposed an amendment in Article 366 (1) stating that the expression 'Republic' as qualified by the expression 'Secular' means a republic in which there is equal respect for all religions. However, this amendment was not accepted by the Council of States.

The Indian Constitution contemplates to establish and strengthen religious pluralism in India by guaranteeing freedom of religion in its Part III. Articles 25 to 30 guarantee freedom of religion for all religions. Article 25 states, "(1) Subject to public order, morality and health and to other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion. (2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice; (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. Explanation-I.-The wearing and carrying of kirpans shall be deemed to be included in the profession in the Sikh religion. Explanation II.- In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly." Article 26 states, "Subject to public order, morality and health, every religious denomination or any section thereof shall have the right-(a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law." Article 27 states, "No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination." Article 28 states, "(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds. (2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution. (3) No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto." Articles 29 and 30 contain provisions for protection of cultural and educational rights of religious and linguistic minorities.

The term religion has not been defined in the Indian Constitution. The Supreme Court of India in the *Swamiar* case observed that (a) Religion means "a system of beliefs or doctrines which is regarded by those who profess that religion as conducive to their spiritual well being." (b) A religion is not merely an opinion, doctrine or belief. It has its outward expression in acts as well. (c) Religion need not be theistic. (d) 'Religious denomination' means a religious sect or body having a common faith and organization and designated by a distinctive name. The ambit of religious freedom in India could be understood by the Supreme Court decision in the *National Anthem Case*. In that case three children hailing from *Jehovah's Witnesses* were expelled from the School for refusing to sing the National Anthem, albeit they stood up respectfully when the National Anthem was being sung. Those children challenged validity of their expulsion before the High Court of Kerala justifying their refusal on the ground of religious belief. The High Court upheld their expulsion on the ground that it was their fundamental duty to sing the National Anthem. The Supreme Court reversing the High Court decision held that no person could be compelled to sing the National Anthem, if one has genuine conscientious objection based on one's religious faith.

Notwithstanding the fact that the words...and 'Secular' were added in the Preamble to the Constitution in 1976 by the 42nd Amendment, the concept of Secularism was very much embedded in our constitutional philosophy. The Supreme Court has unanimously held that secularism is a basic feature of our Constitution. Justice Sawant observed, "one thing which prominently emerges from the ...discussion on secularism under our

Constitution is that whatever the attitude of the State towards the religions, religious sects and denominations, religion cannot be mixed with any secular activity of the State. In fact, the encroachment of religion into secular activities is strictly prohibited. ..The State's tolerance of religion or religions does not make it either a religious or a theocratic State. When the State allows citizens to practice and profess their religions, it does not either explicitly or implicitly allow them to introduce religion into non-religious and secular activities of the State. The freedom and tolerance of religion is only to the extent of permitting pursuit of spiritual life which is different from the secular life. The latter falls in the exclusive domain of the affairs of the State." Justice K. Ramaswamy observed, "India being a plural society with multi-religious faiths, diverse creeds, castes, and cultures, secularism is the bastion to build fraternity and amity with dignity of person as its constitutional democracy. It allows diverse faiths to flourish and make it a norm for tolerance and mutual respect between various sections of the people and to integrate them with dignity and fulfillment of carvings for self-realisation of religious belief with larger national loyalty and progress." He further observed, "The concept of secularism of which religious freedom is the foremost appears to visualize not only of the subject of God but also an understanding between man and man. Secularism in the Constitution is not anti-God and it is sometimes believed to be a stay in a free society. Matters which are purely religious are left personal to the individual and the secular part is taken charge by the State on grounds of public interest, order and general welfare. The State guarantees individual and corporate religious freedom and dealt with an individual as citizen irrespective of his faith and religious belief and does not promote any particular religion nor prefers one against another." Justice Jeevan Reddy observed, "Secularism is ...more than a passive attitude of religious tolerance. It is a positive concept of equal treatment of all religions."

The Court held that the acts of a State Government which are calculated to subvert or sabotage secularism as enshrined in our Constitution, can lawfully be deemed to give rise to a situation in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution *inviting proclamation by the President under Article 356 (1)*.

The Supreme Court in Ms. Aruna Roy case, held that "Secularism" is susceptible to a positive meaning that it developing understanding and respect towards different religions. The essence of secularism is non-discrimination of people by the State on the basis of religious differences. "Secularism", can be practiced by adopting a complete neutral approach towards religions or by a positive approach by making one section of religious people to understand and respect the religion and faith of another section of people. Study of religions, therefore, in school education cannot be held to be an attempt against the secular philosophy of the Constitution.

In the Haj Pilgrimage case, the petitioner challenged the Constitutional validity of the Haj Committee Act, 1959, but thereafter by an amendment application the Haj Committee Act of 2002 which replaced the 1959 Act under Articles 14, 15, 27 and 32 of the Constitution. The petitioner contended that he has to pay direct and indirect taxes, part of whose proceeds go for the purpose of the Haj Pilgrimage, which is only done by Muslims. For the Haj, the Indian Government inter alia grants a subsidy in the air fare of the pilgrims. The Court held that Article 27 would be violated if a substantial part of the entire income tax collected in India, or a substantial part of the entire central excise or the customs duties or sales tax, or a substantial part of any other tax collected in India, were to be utilized for promotion or maintenance of any particular religion or religion denomination. If only a relatively small part of any tax collected is utilized for providing some conveniences or facilities or concessions to any religious denomination that would not be violative of Article 27 of the Constitution. In my opinion the decision erodes the principle of secularism enshrined in the Constitution because to contribute resources of the State for encouraging a particular religion or its sects or denominations directly or indirectly by aiding its followers or founders amounts to subversion of secular philosophy of the Sate and the State may lose its secular character and in case a government fails to maintain secularism it has no legal justification to stay in power as held by the nine judges bench of the Supreme Court in Bommai case. Therefore the decision needs reconsideration by the Court. It would have been better for the bench to refer the case to Constitution bench rather than deciding there and then.

However, these provisions have not been able to stop communal violence by religious extremists against religious minorities particular in 1984 Sikh riots and 2002 Gujarat riots.

III. Globalised Corporate and Religious Pluralism

The corporations engage large number of people to achieve its objective and they are under an obligation to take care of these people particular at workplace including their religious sentiments because by hurting its employee's religious sentiments, a corporation cannot take best out of these employees. The corporations taking care of its employees and customers are likely to be more successful than those corporations which ignore it. There are many examples in India, where managers/owners of corporations have donated wealth for religious purposes e.g. in the pre industrial period up to the 1850s, merchants committed themselves to society for religious reasons, sharing their wealth, for instance, by building temples. Under colonial rule, Western types of industrialization reached India and changed CSR from the 1850s onwards. The pioneers of industrialization in the 19th century in India were a few families such as the Tata, Birla, Bajaj, Lalbhai,

Sarabhai, Godrej, Shriram, Singhanian, Modi, Naidu, Mahindra and Annamali, who were strongly devoted to philanthropically motivated Corporate Social Responsibility. Nevertheless, it has been pointed out that their engagement was not only altruistic and stimulated by religious motives: "It had business considerations in supporting efforts towards industrial and social development of the nation and was influenced by caste groups and political objectives." The underlying pattern of charity and philanthropy means that entrepreneurs sporadically donate money (e.g. to schools or hospitals) without any concrete or long-term engagement. The present Indian understanding of Corporate Social Responsibility seems to be shifting from traditional philanthropy towards sustainable business. Nevertheless, philanthropic patterns remain widespread in many Indian companies.

According to a survey report by the Society for Human Resource Management on Religion and Corporate Culture-Accommodating Religious Diversity in the Workplace, many organizations are supportive of their employees' needs for special accommodation related to their religious and spiritual beliefs. This is despite data that show that nearly 60% of organizations have leadership that creates and supports a work environment/culture that is more secular (with little or no influence of religion on organization culture) than religious. In addition, the findings reveal that employee morale and employee retention are most affected by having a workplace that provides religious accommodation for its employees. The most prevalent types of religious accommodation include the following: taking into account the different religious beliefs of employees when planning holiday-related events; allowing religious decorations of an individual's workspace; providing flexible scheduling to accommodate employees' religious practices at work; and taking into account employees' various religious holidays when planning work-related events. Additional noteworthy findings include the following: (i) Almost six out of 10 HR professionals report that their organizations offer leave (paid or unpaid) for holidays not regularly covered by their organizations. (ii) The most common types of religious holidays observed by employers as official holidays are Christmas Day, Christmas Eve, Good Friday and Easter. (iii) Nearly all HR professionals indicate that employees of different religious groups in their organizations work "very cooperatively" or "cooperatively" with each other.

In Dearborn, MI, officials of the Ford Motor Company became convinced that pluralism is a workplace issue for some 350,000 people at 100 plants around the world. Rather than create dozens of religion-based employee resource group, Ford's management developed the Ford Interfaith Network, an employee resource network launched in 2000 that steers into the religious diversity of the workplace. The mission aimed, "To assist the company in becoming a worldwide corporate leader in promoting religious tolerance, corporate integrity, and human dignity." One company official said, "It's the right thing to do, and it is good for business" (Ronald 2005).

IV. Conclusion

The study shows that religious pluralism is a proven fact of life in India assimilating diversity of different religious traditions and the framers of our Constitution established Secular State by treating all religions equally and having no religion of its own and ensuring freedom of religion to every person subject to public order, morality and health and to part III of the Constitution. The study also shows that corporations encouraging religious pluralism have flourished and emerged as leaders in the world. It is true that in a corporate house, people from different religious faith work together as a unit to undertake a particular task which provide an opportunity to them to understand each other religion and faiths/sentiments which may help the nation to achieve its resolve to establish a religious pluralistic society and if the corporations encourage religious pluralism, tolerance and fraternity, they will not only be discharging their Constitutional obligations but also it is good for business as proved by the above study.

References:

- [1] Dinan L. Eck, "Prospects for Pluralism: Voice and Vision in the Study of Religion, *Journal of the American Academy of Religion*, December 2007, Vol. 75, No. 4, p. 744.
- [2] Ibid.
- [3] Momin A.R., Cultural Pluralism, National Identity Development, www.ignn.org/Is-0316.htm last visited on September 09, 2011.
- [4] Ibid.
- [5] Ibid.
- [6] The words in Italics have been supplied by the author.
- [7] Thomas Banchoff (Ed.), *Religious Pluralism, Globalization, and World Politics*, Oxford University Press, 2008, p.4.
- [8] Ibid.
- [9] Ibid.
- [10] Id at 5.
- [11] *Netland Herald*, *Encountering Religious Pluralism: The Challenge to Christian Faith and Mission*, InterVarsity Press, 2001, p.12.
- [12] Ibid.
- [13] Ibid.
- [14] www.egyankosh.ac.in/bitstream/123456789/25640/1/unit-17.pdf, p. 7 last visited on September 01, 2011.
- [15] Ibid.
- [16] Kim Mary Eunjoo, *Preaching in an Age of Globalization*, Westminster John Knox Press, 2010, p. xi
- [17] Ibid.

- [18] 54th Annual Report on the working and Administration of the Companies Act 1956, Ministry of Corporate Affairs, Government of India, New Delhi, p. 15.
- [19] Ibid.
- [20] Ibid.
- [21] Seervai H.M., Constitutional Law of India, Universal Law Publishing Co. Pvt. Ltd., 4th Edition, Vol. 1, p. 277.
- [22] Article 29 states, “(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same. (2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, language or any of them.” Article 30 states, “(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. (IA) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause. (2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.”
- [23] Commr, H.R.E. v. L.T. Swamiar, AIR 1954 SC 282; Also see, Durgah Committee, Ajmer v. Syed Hussain, AIR 1961 SC 1402; S.P. Mittal v. Union of India, AIR 1983 SC 1; Shiromani Gurudawara Committee Parbandhek Committee v. Somnath Dass, (2004) 4 SCC 146; Mohd. Khalid v. State of West Bengal, (2002) 7 SCC 334.
- [24] Bijoe Emmanuel v. State of Kerala, AIR 1987 SC 748.
- [25] As per Justice A.M. Ahmadi in S.R. Bommai v. Union of India, (1994) 3 SCC 1 at 77.
- [26] S.R. Bommai v. Union of India, (1994) 3 SCC 1.
- [27] Id at 146; The Court also referred to Shri M.C. Setalvad, who explained that our Constitution undoubtedly lacks a complete separation between the church and the State as in the United States and at the same time we have no established church as in Great Britain or some other countries. In our country, all religions are placed on the basis of equality and it would, therefore, seem that it is erroneous to our country as secular State. At the same time, he asserted, that, “...nevertheless, it could not be said that the Indian State did not possess some characteristics of a Secular State.” The court also referred to Justice Chinnappa Reddy, who has observed, “Indian Constitutional secularism is not supportive of religion at all but has adopted what may be termed as permissive attitude towards religion out of respect for individual conscience and dignity....”
- [28] Supra n. 27 at 162
- [29] Id at 163.
- [30] Id at 233; The Court also referred to Professor Upendra Baxi, who says that “Secularism” in the Indian Constitution connotes: (i) The State by itself, shall not espouse or establish or practice any religion; (ii) public revenues will not be used to promote any religion; (iii) the State shall have the power to regulate any ‘economic, financial or other secular activity’ associated with religious practice; (iv) the State shall have the power through the law to provide for ‘social welfare and reform or the throwing open of the Hindu religious institutions of public character to all classes and sections of Hindus; (v) the practice of untouchability outlawed by Article 17; (vi) every individual person will have, in that order, an equal right to freedom of conscience and religion; (vii) these rights are however subject to the power of the State through law to impose restrictions on the ground of ‘public order, morality and health’; (viii) these rights are furthermore subject to other fundamental rights in Part III.”
- [31] Id at 298.
- [32] The words in Italics have been supplied by the author.
- [33] Ms. Aruna Roy v. Union of India, (2002) 7 SCC 368.
- [34] Id at 406.
- [35] Ibid.
- [36] Ibid.
- [37] Prafulla Goradia v. Union of India, Writ Petition (Civil) No. 1 of 2007 decided on January 28, 2011.
- [38] Chahoud Tatjana Et Al., Corporate Social and Environmental Responsibility in India-Assessing the UN Global Compac’s Role, Bon 2007, p.25.
- [39] Id at 26.
- [40] Ibid.
- [41] Ibid.
- [42] Id 29.
- [43] A Survey Report by the Society for Human Resource Management: Religion and Corporate Culture-Accommodating Religious Diversity in the Workplace, April 2008.
- [44] Ibid.
- [45] Ibid.
- [46] Ibid.
- [47] Ibid.
- [48] Supra n 1 at 759.
- [49] Ibid.
- [50] Ibid.

Notes

Table-1. Statement on Reserve Bank of India's Regional Offices (With States Covered) Received Foreign Direct Investment Equity Inflows (from April 2000 to April 2011):

S. No.	RBI's Regional Office ²	State covered	2009-10 (Apr.-Mar.)	2010-11 (Apr.-March)	2011-12 (for April-2011)	Cumulative Inflows (April '00 – April '11)	%age to total Inflows (in terms of US\$)
1	MUMBAI	MAHARASHTRA, DADRA & NAGAR HAVELI, DAMAN & DIU	39,409 (8,249)	27,669 (6,097)	3,381 (762)	204,852 (45,830)	35
2	NEW DELHI	DELHI, PART OF UP AND HARYANA	46,197 (9,695)	12,184 (2,677)	4,495 (1,013)	118,184 (26,101)	20
3	BANGALORE	KARNATAKA	4,852 (1,029)	6,133 (1,332)	576 (130)	37,233 (8,358)	6
4	CHENNAI	TAMIL NADU, PONDICHERRY	3,653 (774)	6,115 (1,352)	2,177 (491)	33,024 (7,341)	6
5	AHMEDABAD	GUJARAT	3,876 (807)	3,294 (724)	559 (130)	32,252 (7,282)	5
6	HYDERABAD	ANDHRA PRADESH	5,710 (1,203)	5,753 (1,262)	575 (130)	27,137 (6,090)	5
7	KOLKATA	WEST BENGAL, SIKKIM, ANDAMAN & NICOBAR ISLANDS	531 (115)	426 (95)	550 (124)	6,918 (1,611)	1
8	CHANDIGARH	CHANDIGARH, PUNJAB, HARYANA, HIMACHAL PRADESH	1,038 (224)	1,892 (416)	24 (5)	4,709 (1,030)	1
9	PANAJI	GOA	808 (169)	1,376 (302)	0.08 (0.02)	3,326 (725)	1
10	BHOPAL	MADHYA PRADESH, CHATTISGARH	255 (54)	2,093 (451)	1 (0.32)	3,011 (654)	0.5
11	JAIPUR	RAJASTHAN	149 (31)	230 (51)	3 (0.7)	2,453 (521)	0.4
12	KOCHI	KERALA, LAKSHADWEEP	606 (128)	167 (37)	268 (60)	1,926 (428)	0.3
13	BHUBANESHWAR	ORISSA	702 (149)	68 (15)	90 (20)	1,297 (281)	0.2
14	KANPUR	UTTAR PRADESH, UTTRANCHAL	227 (48)	514 (112)	247 (56)	1,059 (233)	0.2
15	GUWAHATI	ASSAM, ARUNACHAL PRADESH, MANIPUR, MEGHALAYA, MIZORAM, NAGALAND, TRIPURA	51 (11)	37 (8)	-	316 (72)	0.1
16	PATNA	BIHAR, JHARKHAND	-	25 (5)	-	27 (6)	0
17	REGION NOT INDICATED ³		15,056 (3,148)	20,543 (4,491)	901 (203)	116,844 (26,273)	20
Sub. Total			123,120 (25,834)	88,520 (19,427)	13,846 (3,121)	594,569 (132,837)	100
18	RBI'S-NRI SCHEMES (from 2000 to 2002)		0	0	0	533 (121)	-
GRAND TOTAL			123,120 (25,834)	88,520 (19,427)	13,846 (3,121)	595,102 (132,958)	-