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### Abstract

I have tried to focus on the framework of governance that the post-colonial Indian state envisaged for governing its religious minorities, particularly Muslims and in doing so have focused primarily on Constituent Assembly Debates over group differentiated citizenship and to some extent secularism. I have also attempted to understand the myriad factors and processes which remain central in trying to understand why and how Muslims have been reduced to as the most backward and marginalised section of the Indian society.

During the Constitution making, there was a gap between the political-theoretical reasoning of the members in the Constituent Assembly and the forms the governing principles were finally to assume. As a result, the consensus on the meaning of the concepts and their theoretical assumptions itself was hard to achieve. Therefore, while it was almost near inevitable that India was going to be a secular-democratic state, what forms the modes of participation in its democracy would take and what particular form secularism would finally assume, was however not inevitable. The difference of opinion that different theoretical assumptions spurred led to the differing conceptions and alternative forms of governing principles being discussed as the basis for the governance of post-colonial state and society which precluded any inevitability of the processes of engagements. In terms of the nature of the group-differentiated citizenship envisaged by the Constitution makers to accommodate the distinctive identity claims and special rights was largely unprecedented. The plural approach that the Constitution makers took to approach the diversity remained embedded to the group-differentiated citizenship that took a differentiated approach to approach equality among members of different communities. This pluralistic approach provided the institutional basis for the group-differentiated citizenship based on the concept of 'differences' and 'disadvantage' which were primarily responsible for the different processes of engagements for the religious minorities and SCs and STs. It is here, I argue, that the Constitutional makers missed the point for the reason that socio-religious

differences much like other power structures can inflict certain disadvantages upon the minority communities. Despite the plurality of approach and constitutional protection of their cultural identity, Muslims remain one of the most marginalised and backward sections of the society. It needs to be recognised that cultural safeguards cannot and should not be an answer for dispensing with their social, political, and economic problems. I do not intend to suggest that safeguards for their culture and group identity may be abrogated. But it remains beyond doubt that cultural safeguards cannot be a sufficient condition for their integration and providing them with the appropriate share in the socio-economic enterprise of the state. I suggest that it requires a shift in the emphasis from the policy makers by enhancing the notion of 'differences' and intersecting it with the disadvantage that religious differences have brought about for the Muslims. The constitutional underpinning to the political discourse on minority empowerment needs to take cognizance of the fact that by itself, the notion of differences remains inadequate in addressing to the issues of Muslims. It needs to be recognised that the disadvantage which has hitherto been seen attached to SCs and STs only, can emanate from religious differences in the same way it does from socio-cultural differences. In the contemporary political discourse, the reluctance to any political and economic safeguard for Muslims is argued to contradict the secular character of the state. But considering the fact that non preference non discrimination framework has not been effective enough in approaching the backwardness of Muslims, the preference to secularism over social justice, I argue, has to be justified in the public philosophy of the state. Also, the continuous determination of policies within the non preference non discrimination framework be explained and justified. Due recognition must be given to the fact that preferential treatment for Muslims contradicts the secular orientation of the state. But, in a state where the distinctiveness of secularism lies not only in giving recognition to religion but also in engaging in its public presence, the contradiction that emerges with the religion-based preferential treatment cannot be argued to be a character degenerating and can be contained within the secular character of the state. Further, this contradiction can be reconciled by introducing a shift in the foundational basis of minority rights from secularism to social justice. This shift remains important not only in empowering them economically but remains equally significant in restructuring the separate identity of the Muslim. The relational character intrinsic to this shift may very well enhance the importance of this shift.