

# Muslims, Affirmative Action and Secularism

## Attempting a Possible Reconciliation

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Religion-based preferential treatment in the services of the state is generally argued to be in contradiction with secularism. As a result, the Indian state has relied on a non-preference, non-discrimination framework to address the issues of backwardness and under-representation of Muslims. This article attempts to partially reconcile the contradiction between religion-based preferential treatment and secularism, and it is argued that the determination of welfare policies for religious minorities, particularly Muslims within the non-preference, non-determination framework, either has to be justified in the public philosophy of the state or social justice has to be given a relative preference to secularism, especially when the policies formulated within the non-preference, non-discrimination framework have not proven to be effective in targeting the relative backwardness of Muslims.

The Indian state for the most part has used a non-discrimination, non-preferential framework for the religious minorities to address the issues of identity, deprivation, backwardness, and insecurity. The constitutional framework at the inauguration of the republic focused specifically on addressing the issues of equity and representation of religious minorities through the general public policies and provisions, which were intended to be applicable equally to all the citizens without privileging any particular marker of identity over others. In this context, it becomes necessary to recognise that this framework instituted during the constitution-making process relied on a foundational basis of sociocultural differences that was completely indifferent to the disadvantages these differences could inflict on the religious minorities.

The notion of differences in the Constituent Assembly was understood in sociocultural terms and did not indicate any inequality in wealth, status, and power. Such an understanding did not recognise the hierarchical relationship and the logic of socio-economic superiority and inferiority within the religious minorities, as the internal differentiation of the religious communities was supposed to be horizontal in nature, with no real socio-economic disparities between internal caste categories. On the other hand, groups like Scheduled Castes (SCs) and Scheduled Tribes (STs) were not only considered to be culturally different, but also at a disadvantage with respect to other communities. The differences, in reference to SCs and STs, were understood mainly in terms of inequality, which was associated with caste, as it stratifies the society in a hierarchical order with the respective diminution in wealth, status, and power as we move down. Therefore, the socio-economic inequality that was seen attached to groups like SCs and STs was referred to as historical disadvantage. The notion of differences was, thus, set apart from the notion of disadvantage as historical injustice and the source of socio-economic inequalities. The perceived basis thus became responsible for different social and political arrangements for addressing the notions of differences and disadvantage.

The notion of citizenship that was eventually envisaged was a differentiated conception informed by the group differences and disadvantage, whereby disadvantage rather than differences remained an indispensable principle of this framework (Bader 2015). The notion of disadvantage not only demanded the recognition of their differences, but also a deliberate redistribution of economic resources. Hence, a notion of differences can be assumed to be already contained in the notion of disadvantage (Bader 2015).

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