

AYODHYA VERDICT: HAS FAITH PREVAILED OVER JUSTICE?

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(English Version)**

The 9th of November was, indeed, a very interesting Saturday. The world celebrated the 30th anniversary of the fall of the Berlin Wall; Sikhs rejoiced their visa-free darshan of holy Kartarpur Sahib Gurudwara within Pakistan; many Muslims prepared for the imminent birthday of Prophet Muhammad; while Kolkata and Mumbai braced for deadly cyclones, even as it rained incessantly. But all eyes were on the Supreme Court in Delhi as it finally delivered its verdict in the epoch-making dispute at Ayodhya, over which thousands had already lost their lives. Interestingly, even those who had orchestrated the orgy of riot, arson and murder, both before and after razing the masjid in 1992, were not prepared to take chances. Armed police and paramilitary forces had been positioned in all sensitive areas. Every sentence that the Chief Justice uttered on behalf of the Bench of five judges was relayed instantly over the mass and social media, as never before.

The primary concern of millions was peace — peace at any cost — and one must compliment the Bench for its Herculean task of giving hearings and examining mountains of evidence. Its mammoth order of 1045 pages balances conflicting interests quite dextrously. Many heaved a sigh of relief when it awarded the disputed 2.77 acres to Hindus. Majoritarian violence was avoided and many shudder to think of scenes had if it been otherwise. Maintaining law and order is, however, the responsibility of the executive, however unpleasant, dangerous and onerous be it. Delivering justice can often be more difficult and painful, but if the judiciary also considers the law and order aspect, the executive stands to benefit. Only time will tell whether we shall see difficult decisions that cause public uproar like the Sabarimala temple matter, in future.

But justice has also to be seen to be ensured. It is for legal experts to commend or question the highest court's ultimate decision that "the evidence.....in respect of the possessory claim of the Hindus to.....the disputed property stands on a better footing than the evidence adduced by the Muslims.".

What tilted the balance was the court's view that "evidence indicates that despite the existence of a mosque at the site, Hindu worship at the place believed to be the birth-place of Lord Ram was not restricted." The Sunni Wakf Board's plea that a mosque had physically occupied the plot from 1526 to 1992 was insufficient to prove continuous occupation and uninterrupted worship. Some Muslims are, therefore, aggrieved that amorphous claims of continued worship finally won. Though the Bench reminded us that "the court does not decide title on the basis of faith or belief but on the basis of evidence", murmurs are already being heard that faith and its continued expression may actually have loomed quite large.

At the same time, the Supreme Court also overruled the earlier decision of Justice DV Sharma of the Allahabad High Court in September 2010, as it had opened the floods-gates of bringing Ayodhya type disputes regarding possession of religious sites to courts for orders. In 2010, it had gladdened sadhus and the Hindu right, but left liberals had severely condemned it. The present verdict negates it and clearly mandates that 'status quo' be maintained and "The Places of Worship Act" of 1991 be respected. This may help hold the peace at other volatile religious sites like Kashi and Mathura, but one can no more be certain. At the same time, we may face ticklish problems when archeology proves that some Hindu temples may have been built on existing or ruined Buddhist structures.

Justice Ashok Ganguly, who retired from the Supreme Court, has recently raised some uncomfortable doubts on the archaeological evidence, as "the structure under the mosque" is not conclusively "that of a temple" which was demolished to build Babri Masjid. As Culture Secretary, I had worked with the Archeological Survey of India (ASI) and was thus exposed to the sensitive and speculative nature of their findings, like those at Ayodhya. Some pillars and figurines were definitely found below the Masjid's land, any some opine that these are Hindu in style, but without further excavation, the, ASI was not certain that that they were surely part of a Hindu temple. In fact, Dr AK Narain of Benaras who led an early excavation at Ayodhya in 1969-70 was convinced that there was a strong Buddhist presence there. Dr BB Lal who led excavations in 1975-76, as the "Archaeology of Ramayana", never submitted a full report to

ASI. But he wrote in the RSS magazine, Manthan in October 1990 about a Hindu structure. In 2003, the Allahabad High Court ordered ASI to undertake yet another excavation which it did and even used “ground-penetrating radar”. Since this ASI report of August 2003 is with the court, we need to examine it when it becomes public. Newspaper and internet reports, however, indicate that both Arabic and Devanagari inscriptions were found and also that the evidence is yet to prove the existence of any Ram temple there.

Indian jurisprudence has numerous judgements on how the state should keep its distance from religion, as we are a secular polity. One wonders, thus, whether it was essential for the court to mention that a temple is to be built at the spot. After all, from the Vedic period till the Guptas, I.e, for about 1600 years, we have no proper evidence of Hindus worshipping in temples. It is only in the 5th century that we come across the first Hindu temple at Sanchi, and the other magnificent temples we know were all built later, between the 7th and 11th centuries. Besides, will one mandir at Ayodhya satisfy restless souls?

The Bench has done a lot of soul searching while examining its evidence and has issued several statements condemning the destruction of the masjid and its desecration in 1949. The Honourable court has set quite a few deadlines for the government to comply. Many Indians also hoped that a firm deadline be set finally, for a decision on the 30 year old cases to punish those who destroyed the masjid. They have wrecked not just a religious structure, but also our pride and faith in India’s secularism.