

PEACE AND JUSTICE: ON AYODHYA VERDICT

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There comes a time when the need for peace and closure is greater than the need for undoing an injustice. In [allowing a temple to come up](#) through a government-appointed trust at the disputed site in Ayodhya, the Supreme Court has apparently chosen a path most conducive to social harmony. To compensate the Muslim litigants, [who were deprived of the centuries-old Babri Masjid](#) through an illegal act of demolition, the court has asked for the allotment of a five-acre plot of land elsewhere in Ayodhya that may be used for building a new mosque. That this is more of moral consolation by way of a political compromise and less of adjudication in recognition of their religious rights is obvious. The final award will always be a source of discomfiture for those to whom closure goes beyond ensuring peace in a communally polarised environment. But what is most welcome about [the 1,045-page verdict](#) of a Bench of five judges is its unanimity. For, it sends out a message that the judiciary has, with a single mind, ventured to give legal burial to a prolonged dispute that began as a minor litigation, [expanded into a divisive political cause](#), and became a festering wound on the body-politic for years. The fact that the case is over at last must come as great relief to all peace-loving people.

This sense of relief masks the bitter truth that the fear of a Hindu backlash if there was an adverse verdict was genuine. After nearly three decades of unrelenting pursuit of communal polarisation, the majoritarian, revanchist forces in the country have fatigued their secular adversaries into passive acquiescence. The Bench indeed has done well [to record its revulsion at two incidents](#) that represented an onslaught on the psyche of secular India: the desecration of the masjid in 1949 when Hindu idols were planted surreptitiously under its central dome, and the planned destruction of the whole structure by the foot soldiers of Hindutva on December 6, 1992. But what is most disappointing about it is that the relief spelt out by the Bench may amount to legitimising the very demolition it unequivocally condemns. Having declared that the suits are representative of the two communities, organised violence by one party ought not to have been ignored. It is common knowledge that the Vishwa Hindu Parishad, which spearheaded the temple movement with the active backing of the Bharatiya Janata Party and organised the demolition of the mosque, got a foothold in the litigation through an individual who represented the deity, Ram Lalla, as “a next friend” in a fresh suit filed in 1989.

A reading of the judgment reveals that the outcome is not wholly in line with the evidentiary conclusions the court itself reaches. It notes that archaeological evidence — procured only because excavation was made possible by the demolition and as such not available to the parties at the time of institution of the suits — only shows the existence of a 12th century Hindu religious structure underneath, but [does not prove any demolition or explain what happened in the intervening centuries](#). It acknowledges that namaz was offered at the mosque between 1857 and 1949, and declares that Muslims did not abandon it, but offers no relief even though their religious rights stand proved. The entire [disputed area covering both the inner and outer courtyards](#) are awarded to one side contrary to its own conclusion that Muslims had a right, albeit a contested one, in the inner courtyard. While it holds that Hindus had possessory right over the entire outer courtyard to the exclusion of Muslims, it does not decide whether they had exclusive title; on the other hand, it rejects the Muslim claim solely on the ground that they failed to prove “exclusive title”. Also, the court says evidence of Hindu worship was available for a period prior to 1857, while there was proof of namaz only after 1857, without accounting for the fact that it was in that year that a massive riot took place that led to the British administration putting up a railing to divide the mosque from the Hindu shrines in the outer courtyard. The case has been decided on the balance of probabilities that Hindus have proved a better title than Muslims. While it is true that “preponderance of probabilities” is the standard of proof in civil law,

it is doubtful whether this can be invoked to the exclusion of an acknowledged right belonging to the other side.

It will be disappointing to the country as a whole if the judgment in favour of Hindu litigants does not end the belligerence of Hindu organisations that ran the movement to build a temple at the very spot on which the Babri Masjid stood until that fateful day in 1992. For none can deny that the politicisation and communalisation of the [Ram Janmabhoomi-Babri Masjid title dispute](#) left in its wake a trail of violence and led to terrible loss of lives and property across the country. To the toxic effect of the sectarian strife set off by the temple movement through processions and the infamous 'rath yatra' of [BJP leader L.K. Advani](#), one can attribute many deadly riots and a wave of retaliatory bombings by Islamists since the late 1980s. There would be a real sense of justice only if those who plotted and executed the demolition are convicted in [the ongoing trial in Lucknow](#). The rulers of the day owe this much to the nation. And in the [spirit of the 'new India' put forward by Prime Minister Narendra Modi](#), it would be in the fitness of things if the VHP and other organisations which participated in the demolition are expressly excluded from the proposed trust to build the temple. In paving the way for the building of a temple for Ram on the spot believed to be his janmasthan, the Supreme Court held up the faith of millions of Hindus. But it cannot allow the judgment to be perceived as an endorsement of any challenge to the rule of law in the name of faith.

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