



AUGUST 2020

AYODHYA CASE- A VICTORY OF FAITH OVER FACTS?



Edited By:

1) Puja Dawar

Editor-in-chief | Department of Management

200090602009.Puja@gdgu.org

+91-9044382618

2) Debargha Mukherjee

(Student Editor)

Debargha.judicateme@gmail.com

Published by:

Saumya Tripathi

(Publisher)

Saumya.judicateme@gmail.com

+91 9044382618

Address: 14/251, vikas
nagar, lucknow.

AYODHYA CASE- A VICTORY OF FAITH OVER FACTS?

By, *Varun Srivastava*
From, *Presidency University, Bangalore*

Ayodhya city, identified with the legendary city of Ayodhya, is in Uttar Pradesh, India.¹ As per the tales about the legendary city of Ayodhya, it is identified as the birthplace of Rama, a major deity of Hinduism.² Hinduism is the major tradition of the subcontinent of South Asia who believe a temple which was erected in Rama's birthplace was demolished by Mughal emperor known as Babur (a ruler from the Muslim minority) and a mosque which was disputed erected at the place. This dispute brought into loggerheads both the Hindus and the Muslim of Ayodhya city.

Archaeological evidence suggests the existence of the temple before the construction of the mosque.³ The dispute for the site persisted through the British colonial rule with the Muslim allowed to continue with their prayers inside the Mosque while the Hindu perform their religious puja outside the mosque. After independence these wrangles between the two groups persisted until eventual attack and destruction of the Mosque by the Hindus on 6th Dec 1992.⁴ A title dispute lodged by the Hindu in the Allahabad High Court in 2002 was determined in 2010 recommending the subdivision of the land in to three equal parts for the Hindus (who were to retain the disputed spot), the Muslim and the *Nirmohi* Akhara sect who were also part Hindus. This was suspended by the supreme court after both Hindus and Muslim appealed.⁵ The supreme court eventually pronounced itself unanimously on the dispute on 9th November 2019. The

¹ Roderick Hindery, *Comparative ethics in Hindu and Buddhist traditions*, Motilal Barnasidass Publishers Private Limited, 1978, p.98

² AL Basham, *The origin and development of classical Hinduism*, Oxford University Press, 1991, p. IX

³ Ayodhya: The conversation, the history of a 500-year-old land dispute between Hindus and Muslims in India (April 16, 2020) [https://theconversation.com/ayodhya-the-history-of-a-500-year-old-land-dispute-between-hindus-](https://theconversation.com/ayodhya-the-history-of-a-500-year-old-land-dispute-between-hindus-and-muslims-in-india-114471)

[and-muslims-in-india-114471](https://theconversation.com/ayodhya-the-history-of-a-500-year-old-land-dispute-between-hindus-and-muslims-in-india-114471) accessed April 22, 2020 14:00hrs

⁴ BBC, Ayodhya dispute: The complex legal history of India's holy site (November 9, 2019) <<https://www.bbc.com/news/world-asia-india-50065277>> accessed April 22, 2020 15:00hrs

⁵ India times, Supreme Court's verdict on Ayodhya land dispute: 10 key take (November 9th 2019) <<https://timesofindia.indiatimes.com/india/scs-verdict-on-ayodhya-land-dispute-key-takeaways/articleshow/71980491.cms>> accessed April 22, 2020 15:10hrs

decision delivered recommended a trust to be set up to build up the temple at the disputed site while allotting alternative five acres of land for the construction of a mosque for the Muslim.

According to the 2010 verdict by the Allahabad High court, the facts presented on the history of the site were based on both believes and faiths of the Hindus and facts through an archaeological survey report. The verdict delivered was both based on the facts but with respect to the faiths therefore the initial occupants of the disputed site, who were the Hindus, had to share the land with the Muslim. By ensuring that the part where the mosque had been built on was awarded to Hindus showed respect for their faith and believe that they were allowed to retain the birth spot of their deity Rama.

For the case of the supreme court verdict, the ruling took the same path giving faith the upper hand over the several facts on hand. It was clear that the Hindus had breached government orders not to place idols in the mosques and further were involved in the destruction of public property, the *Babri Masjid*, in 1992. On the other hand, the supreme court noted that despite the archaeological survey showing a pre-existence of a temple on the site where the mosque was built it didn't necessarily

mean that the Muslim destroyed the temple. This meant based on that the Muslim would have had a consideration put that their eviction from the piece of land was purely based of Hindus faith and believes about the disputed because factually it couldn't be proven that they destroyed the temple.

In order to understand the basis of the court's decision, the most ideal option would be to analyse what the constitution of India says about religion.⁶ Despite constitutionally India being a secular nation, there exists no wall of separation between the religion and the state. Therefore, the two interact and intervene often in the affairs of each other. This happens within the parameters that are judicially settled and legally prescribed. The Indian secularism respects the involvement of religion in both the societal and state affairs demanding that the state treats all religions and their adherents absolutely equally and discrimination free in all matters whether directly or indirectly involved. The chapter of fundamental rights of the constitution of India which protects against discrimination against any citizen based on religion allows for considerations like for this case where two religions were having a dispute. The constitution, which is the supreme law of land, gives every

⁶Tahir Mahmoud, Religion, Law, and Judiciary in Modern India, 2006 BYU L. Rev. 755, 2006, p.757

religious denomination a right to establish and maintain religious institutions by managing its own affairs which guided the judges in delivering the verdict. This meant that the supreme court made the considerations to ensure that none of the two religions entwined in the case felt discriminated against or left out by the decision. This, in consequence gave faith an upper hand for consideration in some instances instead of looking into the facts so as to ensure the society lives harmoniously as envisioned in the Indian constitution. The coexistence between the laws of the land and the religion informs the decisions on the dispute which gave a blind eye on the wrong doings done by the Hindus but more leaned towards a conciliatory approach which would ensure peaceful co-existence.

However, the decision based on respecting the faiths or both religions may seem to have promoted a peaceful coexistence of the two religions but could possibly lead to the feeling of favoritism to one faith over the other leaving a negative impact which is clear in the Ayodhya case verdict. For instance, the failure to take into considerations factually that the Hindus persecuted the Muslim by destroying their mosque definitely gave the Hindus an upper hand in the judgement delivered. This is

because the Hindus eventually got the decision, they had yearned for throughout the course of the dispute while the Muslims in as much as they were allocated land elsewhere, they surrendered completely their worship place. Furthermore, since the events which led to the beginning of the disputes happened several years ago approximately 500 years, the lack of consideration of the more recent facts like the destruction of the mosque never served justice to the present generation. The verdict depicted an intergenerational justice system which shielded the present generation Hindus and persecuted the present generation Muslims.

Another scenario whereby the decision to allow faith have victory over the facts had a negative impact on the peaceful coexistence of the society was the recommendation to set a trust fund to allow construction of the temple but on the other hand the Muslim were allocated land to construct a Mosque on their own. This depicted a scenario where the persecuted are left on their own while the persecutors are protected by the judgement.⁷

In everyday activities, victimized groups get memories of historical injustice through commemorative ceremonies and religious activities. This brought in to this context,

⁷ John Wiley and Sons, The Encyclopaedia of peace and psychology, 2011 p.45

the verdict didn't take in to consideration that choosing faith over facts would eventually prolong the concept of historical injustices on one group by the other. The memories of persecution through destruction of property and loss lives which were not addressed will always be part of the Muslim society of Ayodhya and may be even passed from one generation to another through commemorative ceremonies. This could possibly lead to revenge acts in future to get the feeling of justice. In pronouncing itself on the case, the court swept several one contentious issue under the carpet and by so doing delaying justice. The fact that the 1949 discretion of a sacred place, the mosque, wasn't dealt and the perpetrators punished can be a source of religious apathy. One religion to feel superior than the other.

The sense of reward versus the sense of persecution, as explained and analysed above was depicted in the post judgement reaction both the Hindus and the Muslims.

⁸The Hindus hailed the judgement as the one that respected both parties while for the Muslims there was a feeling a resignation and rejection. This clearly captures the false feeling of coming in to terms and trying to achieve a peaceful co-existence though in reality no real factual justice was served.

Furthermore, despite the evidence of crimes committed by certain individuals, the

verdict on the case was based on the groups. Those who committed the discretion of the mosque in 1949 and those who destroyed the mosque in 1992 including the skirmishes which followed leading to loss of life did so as individual but the case verdict was delivered for the collective individual groups. This led to the court contradicting the Indian constitution, which protects its citizens against discrimination based on one's religion or religious beliefs.

In conclusion, from the analysis of the proceedings of the case between the Hindus and the Muslim for the site, there is a clear inclination towards making a decision which doesn't punish one religion and promote the other despite facts being clear of several incidences where the hardliners of the religions broke the law which would have been punishable in a court of law.

The decision however doesn't guarantee a peaceful coexistence as proper healing from injustice can only happen when justice based on facts is served. The victory of faith over facts as they chronologically happened ensured those who perpetuated the acts of violence never paid for their crimes while those who were persecuted never got justice. The lack of resolving the issues factually doesn't allow mutual respect for religious integrity for both groups which is a key element for a peaceful coexistence

between religious groups sharing same geographical location.

[asia-india-50065277](https://www.asia-india-50065277)> accessed April 22, 2020 15:00hrs

References

Roderick Hindery, Comparative ethics in Hindu and Buddhist traditions, Motilal Barnasidass Publishers Private Limited, 1978

AL Basham, The origin and development of classical Hinduism, Oxford University Press, 1991

Tahir Mahmoud, Religion, Law, and Judiciary in Modern India, 2006 BYU L. Rev. 755, 2006

John Wiley and Sons, The Encyclopaedia of peace and psychology, 2011

Ayodhya: The conversation, the history of a 500-year-old land dispute between Hindus and Muslims in India (April 16,2020)

<https://theconversation.com/ayodhya-the-history-of-a-500-year-old-land-dispute-between-hindus-and-muslims-in-india-114471> accessed April 22, 2020 14:00hrs

BBC, Ayodhya dispute: The complex legal history of India's holy site (November 9th 2019) <<https://www.bbc.com/news/world->

India times, Supreme Court's verdict on Ayodhya land dispute: 10 key take (November 9th 2019) <<https://timesofindia.indiatimes.com/india/scs-verdict-on-ayodhya-land-dispute-key-takeaways/articleshow/71980491.cms>> accessed April 22, 2020 15:10hrs