

# ISA S Brief

No. 172 – 05 October 2010

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## Untangling the Ayodhya Verdict

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### Abstract

*The relative calm which greeted the Allahabad High Court ruling on the Ayodhya dispute was one of the positive fallouts of the verdict. However, the judgement was a highly unusual one ordering a three-way split of the disputed land in Ayodhya, the site of a mosque, which was pulled down by Hindu fundamentalists in 1992, who believe it was built on a spot sacred to the Hindus. One of the most troublesome aspects of the ruling was its reliance on the faith or belief of Hindus to decide the division of the land. As things stand, the verdict is likely to be challenged in the Supreme Court.*

The Indian government must have heaved a sigh of relief when the much anticipated Ayodhya judgement on 30 September 2010 was received calmly in most parts of the country. Deciding on rival claims on the disputed site in Ayodhya – which saw the demolition of a mosque in 1992 by Hindu fundamentalist groups who believe it was built on the spot where Hindu god, Lord Ram, was born – a three-judge bench of the Allahabad High Court in a split verdict decreed a three-way division of the land between the Hindus (representing the deity of Ram), another Hindu denomination (the Nirmohi akhara) and the Sunni Central Waqf Board.

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If the relative calm which greeted the judgement was one of the positive fallouts of the ruling, the court order, which ran into several thousand pages, was a highly unusual one. This was reflected in the immediate reactions from the media. While one newspaper led with the headline, 'Ayodhya verdict: a win-win-win solution', another magazine was much more critical preferring to go with 'Law Makes A Leap Of Faith'.<sup>2</sup> It is possible that the judges might have consciously aimed at maintaining communal harmony, but the ruling itself was on somewhat shaky legal ground.

Without going into the nitty-gritty of the ruling, certain broad observations can be made about the verdict on a case that goes back to 1949. One, the majority verdict given by Justice Sudhir Agarwal and Justice S.U. Khan ruled that all three parties are joint holders of the disputed 2.77 acres of land. In his minority judgement, Justice Dharam Veer Sharma handed over the entire site to the Hindus. Two, regarding the question whether the mosque was built by destroying a temple, two of the judges averred; Justice Khan, however, disagreed saying that there was no evidence that a temple was demolished. Three, all three judges were unanimous that the Hindu idols in the disputed area were placed only in 1949. Four, the majority judgement ruled that the structure in the disputed area was a mosque while the minority judgement said it could not be regarded as one since it was built against the tenets of Islam.

The most contentious bit of the majority judgement was the way the disputed land was divided among the litigants. The area under the central dome of the three-domed Babri Masjid was given to the Hindus. The court did so on the grounds that the area under the central dome was believed by Hindus to be the birthplace of Lord Ram. In doing so, the court seems to have relied on the belief or faith of a community, something that is best not entered into by any secular court of law. The other troubling aspect of the judgement was that it gave a legal stamp to the appearance of idols in 1949, which by all accounts had been placed in the mosque by Hindu activists.<sup>3</sup>

There are two ways of looking at the Ayodhya judgement. One view, articulated by several commentators, is that instead of getting bogged down in the legal details, the focus should be more on the possible road to conciliation that has been worked out by the court. The most sophisticated version of this argument is presented by constitutional scholar and commentator Pratap Bhanu Mehta. He writes, 'The Lucknow bench of the Allahabad High Court has perhaps delivered a judgement befitting India. On God: there should be no compromise. On property: compromise. On history: move on.'<sup>4</sup> He goes on to say, 'The question to ask is not whether it is

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<sup>2</sup> 'Ayodhya verdict: a win-win-win solution', [www.livemint.com/2010/09/30163336/Ayodhya-verdict-a-winwinwin.html](http://www.livemint.com/2010/09/30163336/Ayodhya-verdict-a-winwinwin.html) and 'Law Makes A Leap Of Faith', [www.outlookindia.com/article.aspx?267313](http://www.outlookindia.com/article.aspx?267313). Accessed on 3 October 2010.

<sup>3</sup> A.G. Noorani, 'Legal Aspects to the Issue', in Sarvepalli Gopal ed. *Anatomy of a Confrontation: The Rise of Communal Politics in India* (London: Zed Books, 1993).

<sup>4</sup> Pratap Bhanu Mehta, 'The Leap and the faith', *The Indian Express* (1 October 2010).

a compromise. The question to ask is whether the compromise takes us forward in the direction of the constitutional values we cherish.’

A contrasting view is presented by journalist Siddharth Varadarajan: ‘The Lucknow Bench of the Allahabad High Court has made judicial history by deciding a long pending legal dispute over a piece of property in Ayodhya on the basis of an unverified and unsubstantiated reference to the “faith and belief of Hindus”.’<sup>5</sup>

While both views have an element of truth, the important thing perhaps, as Mehta points out, is the fallout of the verdict. Since 1992, Ayodhya has become a byword, along with the 2002 Gujarat riots, for a deep crisis in Indian secularism. A day before the judgement, Indian home minister P. Chidambaram had said, ‘I think, India has moved on, young people have moved on. I think, young people have recognised that India story is much more than a dispute over a place where one religious group claims they are entitled to than another religious group.’<sup>6</sup> A survey by a national daily, albeit with a limited sample size, done immediately after the Ayodhya judgement would seem to back up Chidambaram.<sup>7</sup> When people aged between 18-35 years across 12 Indian cities were asked, ‘How important is the Ayodhya verdict to you?’, 41 per cent said “Not so important” and 36 per cent said “Irrelevant”. That means that three-fourths of those surveyed did not believe the judgement was some sort of a watershed.

The political reaction, of course, has been much more mixed. The judgement has come as a shot in the arm for the Bharatiya Janata Party (BJP) and the *Sangh Parivar* (the saffron brotherhood). A meeting of the core group of the *Parivar* interpreted the court order as an ‘outright ideological victory and a defeat for pseudo secularists, an emphatic win for the temple and 75-80 per cent win in the fight for the site.’<sup>8</sup> But how much this will further the BJP’s electoral prospects are debatable.

Needless to say the governing Congress Party would have been quite surprised by the verdict. It has publicly maintained that the status quo will prevail. Prime Minister Manmohan Singh said after the verdict, ‘The correct conclusion at this stage is that the status quo will be maintained until the cases are taken up by the Supreme Court.’ But predictably parties such as the Samajwadi Party, which banks heavily on Muslim support, are trying to make political capital by invoking hurt sentiments. Samajwadi Party chief Mulayam Singh Yadav was quoted in one newspaper as saying, ‘This does not augur well for the country, the constitution and the judiciary

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<sup>5</sup> Siddharth Varadarajan, ‘Force of faith trumps law and reason in Ayodhya case’, *The Hindu* (1 October 2010).

<sup>6</sup> ‘Don’t Derail India Story with Ayodhya, appeals Chidambaram’, *The Indian Express* (29 September 2010).

<sup>7</sup> ‘Mandir, Masjid: Young Don’t Care’, *Hindustan Times* (1 October 2010).

<sup>8</sup> ‘Verdict surprises govt, surpasses saffron hopes’, *The Times of India* (1 October 2010).

itself. Muslims in the country are feeling cheated. There is a sense of despair in the entire community.”<sup>9</sup>

Much of this discussion though is probably academic since there is every chance of the verdict being challenged in the Indian Supreme Court. The Sunni Central Wakf Board has already indicated that it is mulling an appeal.<sup>10</sup> If that happens – and that is the most likely outcome – the Ayodhya issue would be pushed further down the road, with a final verdict unlikely in the near future.

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<sup>9</sup> ‘Mulayam first to stir Ayodhya pot, says Muslims hurt’, *Hindustan Times* (2 October 2010).

<sup>10</sup> ‘Finding grounds for appeal., Board takes hard look at all 3 rulings on Ayodhya suits’, *The Indian Express* (3 October 2010).