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India - The Babri Masjid demolition“shook the secular fabric of the constitution”. Now That Title Suit Is Resolved, Can We Talk About Babri Masjid Demolition Case? - Battle Between Faith and Rationality

Tuesday 12 November 2019, by [ALAM Mahtab](#), [JHA Dwijendra Narayan](#), [MAHAPRASHASTA Ajoy Ashirwad](#) (Date first published: 10 November 2019).

It has been more than six months since the deadline fixed by the Supreme Court, and the trial into the alleged criminal conspiracy has yet to be concluded.



Rear view of the Babri Masjid in Ayodhya. Photo: Wikimedia Commons

New Delhi: On April 17 2017, in an extraordinary order concerning the Babri Masjid demolition case [[1](#)], the Supreme Court of India directed a sessions court in Lucknow to hold daily hearings and deliver a judgment within two years.

As per the order passed by the apex court, there would be no transfer of the judge conducting the trial until the it was concluded. The case, it stipulated, was not to be adjourned on any grounds except when the sessions court found it impossible to carry on the trial for a particular date. It also ordered the CBI to ensure that prosecution witnesses would always be present for each date fixed for evidence, so that the matter would not be adjourned for want of witnesses.

As many analysts have pointed out, the demolition of the Babri Masjid was not just the destruction of a religious structure but a direct attack on the constitution and the very idea of India. The apex court also acknowledged this fact, albeit differently. While ordering a time-bound trial, it referred to the demolition of Babri Masjid as a crime which “shook the secular fabric of India”.

“In the present case, crimes which shake the secular fabric of the constitution of India have allegedly been committed almost 25 years ago,” read the order passed by a bench of Justices P.C. Ghose and R.F. Nariman.

It can be recalled that in the April 2017 verdict, the Supreme Court held that the charge of criminal conspiracy should be made against Advani and 20 others named as the accused in case no. 198. This

was contrary to the judgment passed by the Allahabad high court which dropped the charges of criminal conspiracy.

In 2010, the Allahabad high court had upheld a special CBI court's decision from 2001 to drop the conspiracy charges against Advani and others in the case. As senior journalists V. Venkatesan and Vidya Subrahmaniam document [2], the court ruling was essentially on technical grounds.

History of criminal proceedings

In the wake of Babri Masjid demolition, two FIRs were lodged – FIR 197 and FIR 198.

FIR 197 was filed in an Ayodhya police station immediately after the demolition. This FIR was against “lakhs of unknown kar sevaks”. The other FIR, 198, contained several names and was registered against Lal Krishna Advani and seven others, including Murli Manohar Joshi, Uma Bharti, Mahant Avidyanath, Vishwa Hindu Parishad's Vishnu Hari Dalmia and Ashok Singhal for making incendiary speeches leading up to the demolition. Unlike the first FIR, notably, the conspiracy charge was missing in the second.

In all, 46 more FIRs pertaining to cognizable offences, and one FIR pertaining to non-cognizable offences, were also lodged.

On October 5, 1993, the CBI filed a joint chargesheet citing 40 persons as the accused. This included prominent leaders of the BJP, VHP, Shiv Sena and Bajrang Dal. However, the conspiracy charge was dropped against some of the Hindutva leaders on technical grounds.

It was only 25 years after the demolition, in April 2017, that the Supreme Court finally reversed the judgments delivered by the subordinate courts.

“It should be evident from the words of the apex court that this was an instance of justice being delayed, not in the usual, lackadaisical manner that justice is delayed in this country, but because the Uttar Pradesh government over the years and its chief prosecution instrument, the CBI, willed for it to be delayed,” noted Venkatesan and Subrahmanyam.

The individuals against whom the Supreme Court directed that additional charges under Section 120B of the Indian Penal Code (conspiracy) be framed included leading lights of the BJP such as L.K. Advani, Vinay Katiyar, Uma Bharati, Sadhvi Rithambhara, Murli Manohar Joshi and Vishnu Hari Dalmia. Kalyan Singh (the chief minister of UP at the time of the demolition) was granted immunity under the provision of Article 361 because he was then governor of Rajasthan.

However, the Supreme Court in its judgment noted, “the court of sessions will frame charges and move against him as soon as he ceases to be governor.”

Finally, in May 2017, charges were framed against those accused in the FIR – except for Kalyan Singh. In response, a discharge application was moved by Advani and others at the sessions court in Lucknow, which was rejected by the court.

However, the court accepted bail pleas against a personal bond of Rs 50,000 each and bail was granted to all 12 accused. In September 2019, the court in Lucknow finally framed charges against Singh and he was granted bail on a personal bond of Rs 2 lakh.



Screen grab of Hindutva activists demolishing the Babri Masjid in Ayodhya on December 6, 1992.

According to Venkatesan and Subrahmaniam, in the Babri demolition case, voluminous material was available to the prosecution via reports of official agencies and enquiry commissions, including the Liberhan Commission.

The Liberhan Commission, in its report, notes:

“Vinay Katiyar, Champat Rai Jain, Acharya Giriraj Kishore, Mahant Avidyanath and D.B. Roy etc had begun plotting for demolishing the disputed structure though secretly right from the beginning. The methodology adopted for the demolition was sudden attack on the disputed structure, sudden simultaneous attack on journalists, proceeding with technical logistics like putting of ropes in the holes and then pulling the wall under the domes.”

Moreover, as per the Commission’s report,

“The state by its conduct, ensured non-use of force, and even eliminated the chances for the same by resisting the deployment of the central forces, and restraining the use of force against kar sevaks and the leaders of the movement. Failure to prepare any contingency plan to meet various eventualities not only sent a signal that the police, executive and state was supporting the mobilisation, but also that they would ignore any plot hatched. Participation of the Government in levelling of the structures around the disputed structure, construction of the Chabutra in violation of the court’s orders, issuance of specific orders not only not to fire, but also not to use force against kar sevaks emerged from the prognosis of evidence.”

According to A.G. Noorani’s book, *Destruction of Babri Masjid: A National Dishonour*, the investigation revealed that on December 5 in 1992 - a day before the demolition - a secret meeting was held at Katiyar’s residence. This meeting was attended by Advani, among several others and it was here that a final decision was taken to demolish the mosque.

During the same period, when Kalyan Singh was contacted, he is reported to have said, “Rok construction par lagi hai, destruction par nahin” - meaning construction is prohibited not the destruction.

It has been more than six months since the deadline fixed by the Supreme Court of India, and the trial has yet to be concluded.

Though there was no urgency for a matter pending since 1949, the title suit was heard on war footing in recent days [3]. But the demolition case, which pertains to what the apex court now calls “an egregious violation of the rule of law” and the killing of more than 2,000 people across the country, is not being treated with the same urgency.

On July 19, 2019, the apex court extended the tenure of the special judge hearing the demolition case [4].

The court said that the extension of tenure of the special judge, who was set to retire on September

30, would only be for the purpose of concluding the trial and delivering a verdict in the case. The apex court also asked the judge to deliver a verdict within nine months.

Is justice likely at the end of the remaining six months or will another extension be granted, as was seen in the case of the Liberhan Commission.

Before giving another extension, the apex court would do well to remember its own order, which rightly noted that the the crimes committed in the demolition case “shook the secular fabric of the constitution of India”.

Mahtab Alam

- THE WIRE. 10/NOV/2019:

<https://thewire.in/law/ayodhya-title-suit-babri-masjid-demolition-case>

Ayodhya Dispute Is a Battle Between Faith and Rationality, Says Historian D.N. Jha

In conversation with the noted historian on the history of the land dispute, how the issue was communalised, why he thinks it cannot be said that there was a temple under the Babri Masjid, and more.

Eminent historian Dwijendra Narayan Jha pioneered studies on material culture in early Indian history. In his academic career spanning more than 35 years, he undertook extensive research on society and the economy in ancient India, and probed different dimensions of feudalism in early medieval India. As a professional historian, he actively intervened in contemporary political debates that derived their relevance from historical studies.

In the process, he was targeted by multiple Hindutva organisations rather frequently. For instance, when his book *The Myth of the Holy Cow* brought out historical references about beef eating in sub-continental dietary habits in ancient India, he became the target of all those who disliked his conclusions. He has always valued historical evidence over myths, and at most times been on the wrong side of the powerful.

He was a part of a team of independent historians who scrutinised historical and archaeological evidence to dismiss the notion in its report that there was a Hindu temple underneath the Babri mosque.

In this detailed interview to *The Wire*, he trashes the theory that the Babri mosque in Ayodhya was built by demolishing a Hindu temple. He also speaks of how Archaeological Survey of India (ASI) shifted its stand on the issue and, thus helped the Sangh parivar foment a Hindu-Muslim conflict around the Ramjanmabhoomi-Babri Masjid issue.

Ajoy Ashirwad Mahaprashasta - The Supreme Court will be giving its verdict on Allahabad high court judgment soon. Thus, the dispute has become topical again. How, as a professional historian, do you look at it?

Dwijendra Narayan Jha - The Ayodhya dispute has been hanging fire for a long time now. Hindus and Muslims have been fighting over the control of the disputed site. As I have said in my earlier interviews to the media, I see it as a battle between faith and rationality. For it is impossible to prove that Ram was born within the limits of 2.77 acre of the disputed land in Ayodhya. I don't see any logic in this faith. And as a professional historian I think history cannot be written on the basis of faith; whatever is written or spoken about on its basis is only fantasy.

You were a part of the team of historians that wrote “Ramjanmabhumi-Baburi Masjid: A Historians’ Report to the Nation”. What were your main findings?

First, I would like to clarify that the four historians – Suraj Bhan, Athar Ali, R.S. Sharma and I – who authored the report were independent of the government and of the two contending parties to the dispute. This effectively meant lack of cooperation from them. But despite this, we were able to produce the report. We examined all the textual and archaeological evidence and came to the conclusion that there was no Hindu temple beneath the mosque.

How do you assess the role of the Archaeological Survey of India (ASI) in fomenting the conflict? The ASI report built its theory that the masjid was built on a Hindu temple on the basis of “pillar bases” that it supposedly found. What is your take?

The ASI and the Hindu party have argued for the existence of the temple on the basis of “pillar bases”. But there are some points to be clarified about them. First the attitude of B.B. Lal, the former director-general of the ASI, who first excavated at Ayodhya, has been shifting his stand about them. In his first report, he does not mention the pillar bases. In 1988, Lal presented a paper at the ICHR (Indian Council of Historical Research) seminar which also is totally silent about the pillar bases; and when he delivered a lecture on the historicity of the Ramayana he made no reference to the pillar bases.

But soon after the shilanyas in November 1989, Lal underwent a metamorphosis and in October 1990, in a paper published in an RSS (Rashtriya Swayamsevak Sangh) publication, he referred to a pillared structure adjacent to the mosque; this was nearly 15 years after he excavated at Ayodhya. Scholars grow all the time and they may modify their opinion from time to time. But Lal grew at a frenetic pace and this makes his finding of pillar bases suspect.

Second, the 14 black stone pillars with non-Islamic motifs, which we found embedded at the arched entrances of the mosque were decorative pieces and not load bearing. The four historians wanted to examine the issue further but the ASI did not give them the site notebook.

Has the ASI made its report available to historians and archaeologists for assessment?

I have not seen the final report on the excavations carried under the court orders but those archaeologists and historians who have read it have trashed it. First, the ASI archaeologists who carried out the excavation did not observe the scientific norms which should have been observed in such an exercise. Second, the excavation was carried out with preconceived ideas about the presence of the temple. Third, the report suppresses evidence. For example, animal bones, glazed ware and glazed tiles, which have been found at the various levels, do not find any mention in the report.

You have been of the view that faith has superseded history/historical fact in the way a majority of Indians, and even the courts, have come to understand the demolition of Babri Masjid. Why do you think so?

In my view, it is only faith of the Hindu parties that was the overriding consideration for the Allahabad high court. The historical evidence was totally relegated to the background; it was trashed.

How did the notion that Babri Masjid was built at the site of Ram Janmabhoomi become popular? What are the textual and other references of Ram temples in Indian history?

The first known Sanskrit text to place Lord Rama's birth place in a locality of Ayodhya is the Skanda Purāṇa. It has several versions, and is full of interpolations. The Ayodhyamahatmya itself (which forms part of Skanda Purana) is probably an interpolation of the late 18th or early 19th century.

Judging by its internal evidence, it is not earlier than 1600 (C.E). Of more than 30 sacred sites it mentions it names one as janmasthan. Interestingly, the compilers of the text devote eight verses to the janmasthan but 100 verses to the place whence he is supposed to have gone to heaven. The place is called the svargadwara. So the text on which the VHP (Vishwa Hindu Parishad) and other groups are relying attaches greater importance to his passing away than to his birth!

The death of Rama was more important for the compilers of the text than the place of his birth. Also, the svargadwara is on the bank of the river Saryu, far away from the mosque site which is claimed to be the birthplace.

The French Jesuit priest Tifenthaller visited Ayodhya perhaps before 1765 and he for the first time referred to the destruction of the temple for the construction of the mosque. But it took time to become popular.

Was Ayodhya always regarded as a pilgrimage centre in historical texts? What does Tulsi Das's *Ramcharitmanas* say about Ayodhya?

There is no evidence to show that Ayodhya was a Hindu pilgrimage centre in ancient times. And it had not emerged as one even as late as the 18th century. Tulsidas, the celebrated author of the Ramcharitmanas does not mention Ayodhya as a pilgrim centre. He suggests that it was not Ayodhya but Prayag that was to him the principal place of pilgrimage.

Is there a possibility that Ayodhya could have been a centre of other religions too, say Buddhism or Jainism?

There is evidence that Ayodhya was an important Buddhist centre in the early medieval period. Huen Tsang, the Chinese pilgrim who came to India in the seventh century, during the time of Harshvardhana, referred to Buddhist presence here. He recorded that there were 100 Buddhist monasteries but only ten abodes of devas [Brahmanical gods] at this place.

Ayodhya is also known as Saket which occurs in Buddhist as well as Jain scriptures. Moreover, Jains claim that it was the place of birth of Rishabhdev, their earliest tirthankar. And Abu Fazl, mentions the tradition that two Jewish prophets lie buried at Ayodhya. So the town was of sacred importance for several religions.

How and when did the whole Ayodhya dispute take a communal turn, in your view? In fact, the Hindutva groups now claim that not just Babur but several other so-called Muslim rulers, including Aurangzeb and Tipu Sultan, destroyed many Hindu temples.

There is no doubt that the Muslim rulers destroyed Hindu temples. But we should remember that Hindus are more notorious in destroying the temples or places of worship. It can be proved that they destroyed innumerable religious establishments of Jains and Buddhists. Certainly it is a matter to be

researched – who destroyed how many temples in the country.

There is not much evidence of communal conflict in medieval India. But at Ayodhya, the Hindu-Muslim clash took place in 1855, though the issue between the Hindus and Muslims was sorted out by the officers of the Nawab of Awadh. His officers settled the issue by allowing the idols being placed outside the mosque on what came to be known as Sita Ki Rasoi; a trust (Waqf) was also created. The property issue was finally settled in 1885 when the sub-judge of Faizabad and the Judicial Commissioner of Awadh decided that the Muslims continue their possession of the mosque and transferred Sita Ki Rasoi to the Hindus.

The matter should have remained settled but the situation changed with the rise of communalism in the 1930s.

A milestone in the communalisation of the dispute is December 1949 when the idol of Rama was surreptitiously put inside the mosque. The communalisation of the dispute received an unprecedented boost in 1984 when the Vishwa Hindu Parishad (VHP) was formed, with the slogan of building a Ram Temple at the site of the Babri Masjid.

In pre-independence India, were there scholars who studied the temple destruction theory? I remember you saying that a Scottish physician, Francis Buchanan, who worked with the Bengal Medical Service, visited Ayodhya in 1810 and rubbished this theory.

Of course, (H.M) Eliot and (John) Dawson wrote about the destruction of temples by Muslim rulers (in 1871) but did not study the problem as such. They, however, referred to the fact of destruction. The prominent historian to have made references to the destruction/desecration of Hindu temples was (historian) Jadunath Sarkar.

Do you think the courts should have involved historians and archaeologists in the whole adjudication process following the demolition?

Certainly. The historians should have been consulted in the adjudication process. I think a panel of international experts should have been entrusted the task of deciding whether there existed a temple under the mosque; judiciary alone is not equipped to pass judgment on a historical fact. But what can one expect from the judiciary which dismisses the report of historians and archaeologists as mere opinion?

Your team submitted your report to the government of India. How was its response?

We submitted our report to the government of India through Mr V.K. Dhall, in-charge of the Ayodhya cell in the PMO. But (we) never heard from him or anybody else from the government.

Finally, how does a lay person form an opinion on the matter amidst contrasting viewpoints of history? The proponents of a Ram temple in Ayodhya claim that only the so-called Marxist historians believe that there was no Hindu temple there.

The lay person has to be educated, and they should be convinced of a rational point of view. How one does it is a big problem. I have no ready answer for this. But make no mistake. The Marxists are not responsible for propagating the absence of the temple. The Hindutva groups are only raising a bogey of Marxism because they are unable to argue their case.

Ajoy Ashirwad Mahaprashasta

• THE WIRE. 09/NOV/2019:

<https://thewire.in/communalism/ayodhya-verdict-babri-masjid-ram-temple-dn-jha>

Footnotes

[1] <https://indiankanoon.org/doc/76812356/>

[2] <https://www.thehinducentre.com/the-arena/current-issues/article9988868.ece>

[3] <https://thewire.in/law/sc-concludes-marathon-ayodhya-hearing-reserves-verdict>

[4] <https://www.news18.com/news/india/up-govt-extends-tenure-of-special-judge-hearing-babri-masjid-demolition-case-on-scs-direction-2307699.html>