

Babri Masjid in India - The Case & Islamic Viewpoint

The Supreme Court of India gave its final verdict on 09 November 2019 on the lawsuit, commonly known as Babri Masjid Issue or Ayodhya Issue. The suit, that ran for decades, was for the ultimate possession of 2.77 acres where once a 450 year old masjid stood. The dispute was the claim by Hindus that Babri Masjid was built on the very place, in Ayodhya (known Oudh in history), where the Hindu deity Ram was born (some 900,000 years ago). The unanimous verdict by the 5 bench Supreme court ruled that Hindus will be given full possession of 2.77 acres to construct a Ram Temple and Muslims will be compensated with a 5 acre vacant land nearby for the construction of a masjid.

The Babri Masjid is known to be built by commander Mir Baqi in 1528 CE under the orders of Sultan Mahmud Babur. Nearly 350 years later, Mahant Raghubir Das moved the Faizabad court in 1885 to construct a temple in the vicinity of Babri Masjid and it was denied. It is the first known legal move in this dispute that would last over a century and that saw a multitude of lawsuits and political moves, that gradually secured the interests in favour of Ram Mandir (Hindus), and communal riots that alienated the interests who stood by Babri Masjid (Muslims).

The Muslims were ousted from the 1500 sq yards of the mosque through acts of damage during communal riots in 1934, desecration of the masjid sanctity in the nights of Dec 22,23, 1949 and finally the demolition of the masjid in Dec 6, 1992 at the hands of 'Kar Sevaks' (Hand Servants) triggering nation-wide communal riots over few years resulting in the death of over 2000 people.

It is known that Muslims did not (or were unable to) object to the Hindu devotee worship of Ram idols in the courtyard of the masjid in a structure called Ram Chabutra sometime prior to 1949. However in the intervening night of Dec 1949, these idols were moved by miscreants inside the inner masjid that triggered conflicts. The UP state government intervened to restrain both parties followed by a court order in 1950 that did not allow the idols to be removed. The status-quo meant that neither parties were allowed to enter the masjid. In 1959, a suit was filed by the Nirmohi Akhara (Ascetic guards of Ram worshippers) claiming title to the disputed structure. This suit changed the nature of issue from one that involved Law & Order and Place of worship to that of title claim. On Dec 1961, the UP Central Sunni Wakf Board filed suit to take possession of the masjid and removal of the idols, in what is known to be counterclaim to the title. In Feb 1986, the Faizabad court ordered the locks of the masjid to be opened and allow Hindus to offer prayers from behind a railing away from the inner masjid. In Jul 1989, another lawsuit filed to claim the disputed place had Ram Lalla Virajman (Deity Baby Ram), Ram Janmasthan (Sacred Place) represented by "next friend" Triloki Nath Pandey (representing Hindus).

Commitment to build Ram Temple at Ayodhya and turning India into a Hindu Rashtra had been the emotional melting pot of Bharatiya Janata Party (BJP) that rules India today with absolute majority of over 270 MP seats since 2014, 2019 elections in comparison to 2 MP seats in the 1980s. On Sep 1990, the Rath Yatra (Chariot Ride) to Ayodhya led by BJP Leader L.K.Advani all over India radicalized the Hindu masses. Even a Places of Worship Special Act passed in 1991 included an exception to Babri Masjid in Ayodhya. BJP's UP state election win in 1991 had set the scene thoroughly with thousands of Kar Sevaks assembling in the areas surrounding the masjid to receive the Rath Yatra. Despite assurances of the State government (ruled by BJP Kalya Singh as Chief Minister) to the Centre (Congress Party led by P V Narasimha Rao) and Courts, the radicalized riot frenzy Kar Sevaks destroyed the 450 year old Masjid. It was deemed a criminal offence and case still pending verdict in the Supreme Court of India as of today. After dismissing the BJP state government, Acquisition of Certain Area at Ayodhya Act, 1993 (ACAA) was passed in Jan 1993 wherein nearly 65 acres of land, surrounding the 2.77 acres were Babri Masjid once stood, was acquired by the Central government. In the years after 1993, these vacated

lands by Muslims and Hindus saw much activity towards the build up of Ram temple with the 2.77 acres dispute alone left to be settled. Although challenged by Dr Ismail Faruqi, the Supreme Court verdict in 1994 vindicated the Central Government's acquisition of 65 acres as a caution measure.

The Nov 2019 Supreme Court Verdict awarded the entire 67.73 acres including the 2.77 acres to the 3rd Hindu party (case filed in 1989) comprising Ram Lalla (Baby Ram) & Ram Janmasthan (Sacred Land) with Government set to form a Trust towards construction of the Ram Temple and Muslims (UP Wakf Board) be given a suitable 5 acre vacant plot nearby. The Supreme Court's verdict hinged on some key points - listed below.

1. The verbal and literary anecdote by Hindus of references to existence of Ram Temple in Ayodhya with some specifying it as exact location of the Babri Masjid

2. The persistent claim of Hindus since 1885 to worship Ram, the idol in the disputed 2.77 acres.

3. The inability of Muslims to demonstrate continued, undisputed and exclusionary possession of the disputed site.

4. The Archaeological Survey of India's (ASI) report that cites that there was a structure beneath the foundations of Babri Masjid though it is not ascertained whether it was a temple.

Now with the facts laid bare, we want to state how Muslims should view these events from an Islamic viewpoint. It is important to note that these observations are fully relevant even if the verdict may have gone in favor of Muslims.

1. The Judiciary is the pronouncement of the rule that becomes binding. It settles the disputes between the people and prevents that which harms the community's rights, or it eliminates the disputes arising between people and members of the ruling system – both rulers and civil servants – from the Head of State downwards. The origin of the judiciary and its legitimacy is the Book and the Sunnah. As for the Book, the words of Allah (swt), **﴿فَاحْكُم بَيْنَهُم بِمَا أَنزَلَ اللَّهُ﴾** **“And judge, [O Muhammad], between them by what Allah has revealed.”** [TMQ 5:48]

2. The Islamic Judicial system has very specific criteria to accept claims and witnesses in a Judicial case. The verdict is deposed in favor of the valid claim supported by evidence. Anecdotal references and emotions do not stand in favor of a case. In the case of Babri Masjid, a thoroughly existing building of Wakf was given away for a character personified in Puranas (Stories). We understand this from the following evidences.

The Messenger of Allah commanded that the two litigants sit in front of the judge (between his hands).” (reported by Ahmad and Abu Dawud with the wording from Abu Dawud).

“The onus of proof is upon the claimant (plaintiff)” (reported by Al-Bayhaqi with an authentic chain as Ibn Hajar said), and this attribute would not be given except in the court session.

3. The Islamic Judicial system applies the judgement by one judge and does not recognize Judgement by a bench nor Jury. This is established by the dhaleel, (evidence).

The Messenger (saw) did not appoint two judges to one case, but rather he would appoint a single judge for the single case, which indicates the impermissibility of having a multiplicity of judges in a single case. One or more persons can accompany the sitting judge to give consultation and opinion however that is not binding on the sitting judge.

4. The Islamic Judicial system does not allow a non-person entity such as Ram Lalla (Deity Baby Ram) as a representation in a case. In the case of Babri Masjid, we see a case of a Deity Baby Ram and Sacred Land being represented by a Human entity as “next friend”. The Akham Shariah stipulates the rules and limits in the actions of people. It does allow

representation by proxy only when delegated by the person, as confirmed by the below dhaleel.

The issue of proxy in disputes is confirmed by the Ijma' of the companions, since Ali (ra) gave a proxy to Uqayl before Abu Bakr (ra) and said, "Whatever is ruled for him is for me, and whatever is ruled upon him is upon me."

5. A masjid that existed for hundreds of years could be torn down and legally upheld by the Supreme Court of the largest democracy in the world. For any with reason it is apparent that the mere delay in the judicial process allowed the political and legal manipulation to eventually home into the desired verdict. As of 2015 data the number of cases pending in all courts including the Supreme Court of India stood at 3.93 million cases! The average time for a decision through the subordinate courts through to Supreme Court is 6 years with exception to this being the rich and powerful. The Islamic Khilafah system (Caliphate) vows on due justice process without delay. Also, there is no layered court system, and this is established by the Ijma (consensus) of the companions (ra).

The people of Najran came to 'Ali (ra) and said, "O leader of the believers, the judgement is in your hands and your pardon is with your own tongue". He said: "Woe to you, Umar was rightly guided, and I will not reverse a judgement pronounced by Umar."

6. The Islamic Judicial system ensures that the rights of people, regardless of Majority or Minority, is upheld within the framework of Shariah. No tinkering to favor either group is allowed. In the case of Babri Masjid, it is apparent that Congress and BJP had indeed tinkered with Laws and Acts for political gains at various times in the last many decades. We do see a reality in the so-called democracies where emotional whip-up and revolutions are engineered to achieve parliamentary majority to achieve their end results and creating tremendous displacement and turmoil on people in the process. The Khilafah ruling system strives to implement justice and fairness within the bounds of Allah's Shariah and does not require a majority to support. The Islamic Khilafah Ruling system does not suffer the expediency sought by various political parties in democracies to favor their vote banks. We can see today from America to Europe to Asia, political leaders playing to the reigning emotions of the people to win their votes. This is the case where we see Ultra Nationalism in many parts of Europe that has led to anti-immigrant stance or in India where it is one of Ultra-Religious Nationalism.

Conclusion

The status of the Masjid is like the land ruled by Islam, i.e. it does not allow its reversal in status. The astounding silence of rulers of the Muslim world cannot be any more outrageous. Muslims must realize that no man-made constitution will up hold the limits of Allah (swt) including matters of Judiciary. It is upon the Muslims to reverse this situation wherein they re-establish the Khilafah ruling system and demonstrate to the world the limits of Allah (swt) by appointing the Khaleefah of the Messenger of Allah (saw) who will apply the Shariah of Allah (swt) on the people – Muslims and others. Bidh'nillah.

**Written for the Central Media Office of Hizb ut Tahrir by
Riadh Ibn Ibrahim**

References:

<https://www.bbc.com/news/world-asia-india-50355775>
<https://www.rt.com/news/473015-ayodhya-dispute-supreme-court/>
https://en.wikipedia.org/wiki/2019_Supreme_Court_verdict_on_Ayodhya_dispute
<https://indiankanoon.org/doc/37494799/>
<https://frontline.thehindu.com/static/html/fl1904/19040180.htm>