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POLITICS OF MANDIR - MASJID CONFLICT: UNDOING OF A SECULAR AND PLURALISTIC SOCIETY

The implication of the Mandir – Masjid conflict to the new India that has been emerging slowly but steadily for over four decades is ominous to say the least. India, even in its present truncated form, resulting from the partition, is a multi-religious, multi-cultural, pluralistic society. All major religions of the world are strongly present in this country, though the vast majority of the population is Hindu. After the traumatic experience following the partition and independence, the country was able to frame a democratic constitution dedicated to pluralism and secularism. The country and its constitution are unhesitatingly committed to the principles of freedom, equality and rule of law. Considering the enormity of the problems to be resolved one should not have much difficulty in saying that it has been a successful experiment so far, though India has to go a long way to be a healthy and vibrant democracy. There are still major problems to be resolved on various fronts.

Though the country adopted a secular constitution envisaging a pluralistic society which is tolerant to different religious persuasions, conflicts based on religion have been a regular feature, immediately undermining the peace and security of citizens but gradually questioning the very concept of and understanding about secularism. In a pluralistic, secular society, based on the rule of law defined by a written constitution, or unwritten principles and traditions, issues of conflict have to be resolved according to law. Nobody – individual or group – is above the law. All are equals before the law and the law must be obeyed. It is in this context that we have to look at the Babri Masjid – Ramjanmabhumi issue.

The issue in nutshell is this: A militant section of Hindu opinion spearheaded by the Vishwa Hindu Parishad (VHP) demands that a temple of Rama be built on the site where Babri Masjid stands since 1528.

VHP and its supporters claim that the actual birth place of Rama is where Mosque now stands and in fact, the mosque was built by Mir Baqi, a noble man of Babur's court, after demolishing the temple that stood there since the time of Maharaja Vikramaditya. Rashtriya Swayamsevak Sangh (RSS), the militant wing of the Hindu orthodoxy and Bharatiya Janatha Party (BJP), its political wing, provide the communal and political backing for the VHP move.

In the first three centuries after the construction of the mosque there was no recorded move against it from the Hindus. The major conflict between the Hindus and the Muslims in Ayodhya occurred in 1855, known as the Hanumangarhi episode. It was not related to the Babri masjid. "An important dimension of the Hanumangarhi episode is that it indicated the absence at that time of any linkage between the Babri Masjid and the Janmasthan in Hindu consciousness".¹ However, it contributed to the construction and dissemination of such a tradition which eventually would gain much ground. In 1855 Muslims under the leadership of Shah Gulam Hussain attempted to oust the Hindu Bairagis from the Hanumangarhi on the ground that the temple supplanted the mosque. The Muslims were badly defeated.

In 1857, soon after the Revolt, the Mahant of the Hanumangarhi took over a part of the Masjid compound and constructed a *chabutra*. The issue was taken to the court by the Muslims complaining that the Bairagis have built a *chabutra* close to the mosque. Two years later the British Government erected a fence to separate the places of worship of the Hindus from the Muslims. In 1885 the Mahant filed a suit to gain legal title to the land in the mosque compound and for permission to construct a temple on the *chabutra*. The judicial commissioner dismissed the Mahant's suit and appeals claiming proprietorship to land in the masjid compound. His further appeal to the highest court of the province too was dismissed by the judicial commissioner in 1886. Though there was not much of any development on the issue for a long time, previous conflicts and litigations established in the minds of many a Rama devotee that the masjid was constructed at a holy place of the Hindus. The latest argument advanced

1. Panickar. K.N. "A Historical Overview" in *Anatomy of a Confrontation The Babri Masjid - Ram Janmabhumi Issue*, ed. S. Gopal. New Delhi: Penguin Books India (P) Ltd., 1991. P. 32.

by the ardent protagonists among the Hindus is that it is a matter of faith rather than scientific proof. "In religion, it is a matter of faith and not of proof . . . So by faith alone Christians embrace Jesus Christ to be the Son of God, by faith and faith alone Muslims believe Muhamed to be the Prophet of Allah, and by faith and faith alone Hindus believe Ramjanmabhumi in Ayodhya to be the birth place of Lord Rama".²

After the independence the issue was further complicated by devious means. During the night between December 22-23, 1949 an idol of Rama was surreptitiously installed inside the masjid by the Hindus. Subsequently the government of U.P. proclaimed the premises as disputed area and locked the gates.³ This removed the issue to the courts. There were petitions in the courts from both sides. In April 1950 the then District Collector of Faizabad, J.N. Ugra filed a statement in the court that the property in suit has been in use as a mosque and not as a temple. Yet in 1951 the Civil Judge ordered that the idols should remain in the masjid and the High Court confirmed this order in 1955. In reaching its conclusion the court seems to have conveniently ignored the fact that the idols in question were installed surreptitiously inside the masjid. It apparently did not take proper note of the deposition of the District Collector of Faizabad. For the court had stated that it was an undisputed fact that on the date of the suit the idols did exist on the site and worship was being performed by the Hindus. The court failed to take note of the fact the idols were placed there by force and the property belonged to somebody else. A classical example of judicial decision based on a "pathetically tortured reasoning".⁴

In 1961 the Sunni Central Waqf Board filed the first civil suit praying first for a declaration that the property indicated by ABCD is a mosque known as Babri Masjid and the land shown in the sketch map by letters EFGH is a public Muslim graveyard. Secondly it sought for the delivery of possession of the mosque and the graveyard by the

2. K.S.Lal, Ramjanmabhumi - Some Issues", Organizer, October 1989.

3. For the detailed discussion of the ongoing litigation on Mandir - Masjid issue see A.G. Noorani, 'Legal Aspects of the Issue' in 'Anatomy of a Confrontation' *op. cit.*, Pp. 58-98.

4. A.G. Noorani, *op.cit.* P. 76.

removal of the idols and other articles the Hindus placed in the mosque as objects of their worship. This became the leading suit in the Babri Masjid-Ram Janmabhumi dispute. Though the case was filed in 1961 no decision has been arrived at by the court. Later the case has been shifted to the High Court. Meanwhile a new organization called Vishwa Hindu Parishad (VHP) was formed. VHP at its Delhi session in 1984 called for the removal of the three mosque like structures raised by Muslim marauders after destroying the ancient Hindu temples at Ayodhya, Mathura and Varanasi. An action committee was formed for the purpose of aggressively pursuing the liberation of Ramjanmabhumi. VHP organized a Rath Yatra from Sitamarhi in Bihar to Ayodhya to create greater awareness about the issue among the Hindus. However, the tragic assassination of Mrs. Gandhi led to the suspension of the Rath-Yatra for some time and it was resumed only towards the end of 1985.⁵ By this time the demand for construction of a temple at Ram Janmasthan became more strident and BJP had already adopted it as part of its action programme. It was the only political party in the country to openly side with the demands of VHP and to adopt it as part of its election promises.

Though two early inconclusive orders of the lower court in 1950 and 1951 had gone in favour of the Hindus, access to the idols inside the masjid was limited and controlled. At the same time Muslims were not permitted to enter the masjid. On January 25, 1986 Umesh Chandra Pandey, an young local lawyer filed an application in the court of the *Munsif* seeking removal of the restrictions on the puja before the idols inside the masjid. This was an application in the civil cases to which he was not a party and he did not implead the Muslims either. The *Munsif* judiciously declined to pass orders on a case, the files of which were before the High Court. However, an appeal was filed on January 31 and the case was heard on February 1, 1986. An application for being impleaded by a Muslim was rejected. This time the District Judge of Faizabad recorded the statements of the District Magistrate and the Superintendent of Police on the law and order issue and ordered the opening of the locks. This is yet another order palpably bad in law. It could not be appealed. Umesh Chandrah Pandey was not a party to suit no.2 of 1950 in which he made the application and had not applied to be impleaded. The plaintiff in the suit in question, Gopal Singh

5. A.G. Noorani, op.cit. P. 77-78.

Visharad, had died years earlier and his suit had abated as no one else had been substituted as plaintiff in his place. Meanwhile, all the four existing suits had been consolidated and suit no.2 of 1961 filed by the Sunni Central Waqf Board was made the leading suit. Yet the Muslim side of the story was not heard by the judge and passed an order highly detrimental to their interests. Such steps have naturally vitiated the atmosphere and created a highly charged atmosphere which is detrimental to finding out an amicable solution to the problem.

A strange feature of the whole story is that the main contender in this dispute, the VHP has never gone to the court to get a verdict. It has been approaching the court through individuals, at the same time contending that the issue was non-justiciable. It is this intransigence that makes a peaceful settlement of the dispute almost impossible. It steadfastly holds the position that Ram Janmasthan is a matter of faith and courts cannot settle such a matter. At the same time it is the sole beneficiary to the strange orders of the court in 1950, '51 and '86. Petitions against the 1986 order have not been fruitful. These cases have been withdrawn from the court of Munsif Sadar, Faizabad and transferred to the State High Court. To this day there has not been any definitive decision of the court on the issues of dispute. There are various hurdles to be surmounted to arrive at a decision. The framing of issues itself is one of the many hurdles. Commenting on this process, Manoj Mittal, a correspondent of the *Times of India* reported in the issue of June 25, 1990: "Several of the 3 issues framed by the court on May 25 pertain neither to law nor any verifiable fact. Rather, those issues fall in the grey areas of history, mythology and religion.

"Here is a sample: Is the property in suit the site of Janma Bhumi of Sri Ram Chandraji?"

"Whether the building and the graveyard stand dedicated to the almighty God, as alleged by the plaintiffs."⁶ Issues of these sorts are not going to be resolved in a court of law and this again clearly indicates the intransigence of VHP and its allies who want to have the temple built at the spot where the Babri Masjid stands today no matter what is the legal status of the issue.

The opening of the doors of the Masjid through court order in 1986 was quite surprising to independent observers. Such a long disputed

6. *Times of India*, June 25, 1990.

issue was summarily resolved without even giving a hearing to the aggrieved party. Subsequent efforts to nullify this order have not been successful. Meanwhile, the demand for the construction of the temple became more strident. The issue was being projected and viewed as potentially divisive one. Every effort was being made by BJP and VHP to tie up the issue with the coming elections and to create a feeling of wounded pride among the majority community. The ruling party, the Congress did not want to be caught by surprise. It was constantly being accused of pampering the minorities at the expense of the legitimate interests of the majority community. Efforts were made to bring about an amicable settlement of the issue again without any success. Meanwhile, there were accusations that certain leaders in the ruling party itself were behind the move to unlock the doors of the masjid through the court order. This had created a big hue and cry in the Muslim community and they had formed an action committee called Babri Masjid Action Committee (BMAC). On August 14, 1989 the U.P. Government filed an application with Allahabad High Court requesting to restrain all parties, groups and persons represented by them from interfering in any manner with the site in dispute, to disturb the status quo, and further to organize or extend threats of interference by organizing any activity which may bring about confrontation between two major rival communities, which is bound to threaten public peace and public order".⁷ The court accepted the application and passed orders accordingly.

Strangely enough a month after this order VHP reached some kind of an understanding with the then Union Home Minister and began the Shila Puja all over the country. From this point the developments were rapid. On November 9, 1989 the Allahabad High Court issued a clarification order, at the request of the State of U.P., stating that the order of injunction of August 14, 1989 was in respect of the entire property mentioned in the related suit. On November 7th Union Home Minister told the Lok Sabha that the proposed site of the *Shilanyas* (foundation laying) was clearly outside the limits of the injunction order. This statement was apparently based on the explanation of the U.P. Advocate General in Lucknow earlier in the day. And finally *Shilanyas* was conducted in Ayodhya on November 9, 1989 for the proposed massive Ram Temple. If the Government hoped that it could

7. A.G. Noorani, op. cit. P. 84.

persuade VHP and their associates to spare the masjid and construct the temple adjacent to it, they were mistaken. VHP wanted the Garbha Graha (Sanctum Sanctorium) of this temple exactly where the idols were placed. And construction was scheduled to start in early 1990, a date to suite the election schedule already announced. Because of the elections the Rajiv Gandhi Government wanted to buy some more time and possibly the support of both the majority and the minority communities in the elections. The end result was disastrous for it. The Congress (I) lost its traditional support among the minority community and failed miserably in gaining the support of the majority community which to a great extent stood behind the BJP. The Congress (I) was a heavy loser. It was almost wiped out in the northern states. BJP was the main beneficiary. It increased its tally from two to eighty eight seats in the Lok Sabha and Congress (I) was thrown out of power at the center. Eventually they lost control of the northern states too. Ayodhya turned out to be a disaster for the Congress (I).

The new Government that came to power had the backing of the BJP without participation in it. Though there were persistent demands for the construction of the temple, BJP support to the Government had a sobering influence on VHP and its allies. All that was thrown over board with V.P. Singh Government's acceptance of the Mandal Report and the resultant reservation policy. BJP was put in a tight corner. It had been trying to unify the Hindu society behind it through Rama Bhakti which in various forms runs deep into the Hindu society crossing the barrier of caste. BJP was trying to shed its upper caste image and roping in the backwards through its support to the Rama temple in Ayodhya. V.P. Singh seemed to undercut this new support base of the BJP through his own mandalization of the society. It was a situation that BJP could not tolerate. It struck back through L.K. Advani's Rath Yatra from Somanath Temple in Gujrat to Ayodhya, cutting across the sub-continent. V.P. Singh could not ignore the resultant confusion and chaos. He had to act at the risk of losing BJP support to the Government. The Rath Yatra was stopped and Advani was arrested in Bihar. An angry BJP withdrew its support to the V.P. Singh Government. But the temple in the so called Ram Janmabhumi was not yet a reality.

Though in the ensuing elections BJP enlarged its representation in the Lok Sabha and gained power in four northern states, including UP,

where Ayodhya is, Rama Temple in the place of Babri Masjid remains elusive. It is still a point of division and communal hostility. V.H.P. is still adamant about putting up a temple in Ayodhya replacing Babri Masjid. At the same time BJP with its own Government in U.P. is caught in a bind. It has to balance its demand for the temple with its responsibility for running State Governments in U.P., M.P., Rajasthan and Himachal Pradesh. It has to abide by the law of the land and at the same time satisfy the demands of its supporters for the construction of Ram Temple in Ayodhya. It has tried in a limited way to bypass legal restrictions by taking over a portion of the property around Babri Masjid. But the courts then prohibited the construction of any permanent structure. Any outright violation of this restriction of the court may invite action from the Union Government. The actual casualty in the Mandir-Masjid dispute is not only communal amity but also the rule of law. And yet this situation has a lot to do with the divide and rule policy of the British and the unprincipled garnering of political support through the exploitation of the communal divide in the post-independence period by major political parties.

In the pre-independence period the British played the communal card to their maximum advantage.⁸ Looking impartially at the Indian society during the colonial period one can identify various factors that contributed to the communal divide. When colonial period began in Bengal where Muslims belonged largely to the weaker sections, educational and developmental opportunities that came up were not proportionately shared by the Hindus and the Muslims. The largely poor Muslims could not compete with the well to do middle class Hindus. Besides, Muslim community was not influenced by western ideas and thought as the Hindus were. Hindu society in the nineteenth century had undergone a renaissance of its own. There was a core of forward-looking, reformist, modern intelligentsia among the Hindus. Whereas the Muslim masses continued to be led by conservative and reactionary leaders of the upper class which was hostile to modern education and the resultant social change. Added to these was the British perception about the Muslims, especially after the Revolt of 1857, that they were

8. For a brief analysis of the British approach see Aditya Mukherji, 'Colonialism and Communalism' in *Anatomy of a Confrontation op.cit.*, Pp. 164-178.

more seditious. This made the British to adopt a policy of suppressing the Muslims through political and administrative discrimination.

The colonial structuring of the Indian economy during the second half of the nineteenth century created economic stagnation and even decline. Already the middle class Hindus were doing much better compared to their counterpart among the Muslims. When economy is in a decline, job opportunities will decline, scarcity will become common. This is an ideal situation for the growth of aggressive competitiveness among groups formed around narrow identities such as communal identification. One group's gain may be considered to be the loss of the other. Later when nationalism and freedom movement became popular the British authorities in India started to play the communal card for their own benefit. The paramount interest of the colonial power in promoting communalism was to sustain its hold on the country. By promoting communalism it tried to weaken the rising anti-imperialistic movement. The communal forces in India at that time played a socially reactionary and politically loyalist role. At this stage it was not only the Muslim communalists that mattered. Majority communalists like the Hindu Mahasabha and R.S.S. also played the loyalist role. Both these communal groupings concentrated their attack on the nationalist forces represented by the Indian National Congress. Through these communalist forces colonialism could expand its influence even among those segments of the population who had to lose most from colonialism like the lower middle class, even working class, and the peasantry. The communal card was played by the colonialists for the furtherance of their own interests and they were not genuinely interested in the minority community. But they succeeded in sowing the seeds of suspicion and mistrust between communities.

With the intensification of the anti-colonialist movement, the British played very effectively the possible communal conflict between the Hindus and the Muslims. They emphasized their role as protectors of the minorities. This line of argument provided a convenient coverage to the continuance of colonial rule. It was necessary, they argued, for the maintenance of peace in the country. The whole idea behind the 'communal award' and policies of the kind were meant actually to be a justification for the British control over India. But once they decided to quit they had no qualm in ditching the same minorities except in terms of the formation of Pakistan. Even on partition they were not

that intent. They would have preferred a unified India to suit their purpose. But it was too late by then as they had previously supported that demand to the hilt to stifle the independence movement led by the Congress. It is a legacy that is still haunting the country. What kept the communal forces behind the colonial powers was share in the spoils of power. Whatever came their way in this process was considered a bonus and there wasn't any room for open rivalry. Ironically it is the rush to get the spoils of a democratic system that actually takes both the majority and minority communities into open conflict. As long as the economic pie is not large enough there will be mutual bickering and recrimination, occasionally resulting in violent conflict.

The expectation that the communal rivalry would subside after the partition and independence was belied by the later developments. The extremely slow rate of economic growth causing disaffection among the people turned out to be an ideal breeding ground for communalism. Due to the slow and uneven pace of industrialization and modernization traditional order and social stratification continue to prevail. Merit and performance have not fully replaced traditional loyalties of kinship, caste and community in upward mobility. Education and literacy still are at an unacceptably low level, providing a pliable following for those who control the affairs of the society. This situation, sufficiently muddled as it is, is further exploited by political parties and unscrupulous politicians. Appeal to communal pride and loyalty is one easy means to garner support during elections. To a greater or lesser degree all major political parties are guilty of such exploitation. The evolution of the Ram Janmabhumi - Babri Masjid conflict in independent India is an illustration of this point.

Shortly after the independence - in December 1949 - the issue became lively when idols were surreptitiously installed inside the Masjid. Apparently the forthcoming general elections were the primary concern before the Government and political authorities in U.P. Instead of looking at the issue from the legal and law and order points of view political considerations got the upper hand. The end result was that trespasses became the main beneficiaries of various decisions on the issue. True it enabled the Congress to win a prestigious seat, but as it turned out later, at a terrible cost. If the UP Government at that time headed to the sound instructions of Prime Minister Jawaharlal Nehru, in spite of certain possible temporary political set

back, the issue could perhaps have been resolved long ago. Unfortunately the *vacillation* and the consequent inability to let the rule of law reign have gradually created a situation where communal forces are in a position to undermine the very concept of the rule of law.

In 1980s again the Union Government's handling of the issue was vitiated by extraneous considerations necessitated by certain other developments. In May 1986 Rajiv Gandhi Government capitulated to the strident demand of the conservative and obscurantist Muslim leadership by introducing Muslim Women (Protection of Rights on Divorce) Bill. It was a piece of legislation meant to undo the Supreme Court decision in a Muslim divorcee case granting alimony to the wife which did not toe the line of Muslim personal law. The hue and cry created by the vested interests in the Muslim community.

Threatened to destroy the support base of the Congress among the Muslims. Electoral consideration again compelled the Congress and the Government to ignore the principle of the rule of law and bring in the infamous piece of legislation. Unfortunately for the Congress the whipped up passion over the Ayodhya Mandir – Masjid issue would undo the benefit expected to gain through the Muslim Women Bill. If to assuage the feelings of Muslims a new legislation could be enacted why not do something to placate the Hindus over the Ayodhya issue ? Apparently this was the reasoning that prompted to open the closed doors of the masjid for worship for the Hindus. Later VHP was permitted, as seen earlier, to lay the foundation stone for the Rama Temple in the vicinity of the masjid. However, permission was withheld for the construction of the temple. The end result of this jugglery was that it failed to satisfy anybody. Whatever goodwill gained among the Muslims and of more was lost by the opening of the door of the masjid to Hindu worshippers. Hindus were not happy as they were not permitted to construct the new temple.

The election that followed the shilanyas at Ayodhya exhibited strange political alignments. The ardent supporters of the temple construction (BJP & Shiva Sena) had electoral adjustments in most places with the vocal opponents of that project (National Front-Left Front combine). Election results were such that the Congress (I) had no chance to form a government though it managed to be the largest single party. National Front – Left Front combine could not form a

government without the BJP backing. As a result, India had a minority Government headed by V.P. Singh and supported by BJP and Left Front from outside without direct participation in the Government. Ultimately this Government fell because of caste and communal politics as explained earlier. Ayodhya issue still remained a highly divisive political issue which suited the interests of the BJP which without any inhibition takes a highly communal line under the guise of its own version of nationalism as against what it calls 'pseudo - secularism'. BJP has found, at least it seems to believe, a short cut to power in the Ayodhya issue. In the 1991 elections again it scrupulously used the Ayodhya issue to its political advantage, increasing its representation in Lok Sabha. Besides, it gained absolute majority in U.P., Madhya Pradesh and Himachal Pradesh. It formed a coalition government in Rajasthan, while doing extremely well in Gujrat. By any yardstick it was a highly successful approach in terms of election results. As far as the future of secular India is concerned the seeds of disintegration are already there.

The distressing factors in the development of Mandir-Masjid issue are several. First of all the ruthless exploitation of the pious sentiments of people have fomented communal ill-will to a dangerous level. Secondly, the long cherished ideal of secular, democratic state has been seriously damaged and with it the legacy of Gandhi and Nehru. Thirdly, by refusing to submit to the impartial scrutiny and judgement of an impartial judiciary the constitutionally defined rule of law has been undermined. An issue of the nature of the Mandir - Masjid dispute could be normally resolved only by the disputants through mutual exchange of ideas and arguments in an atmosphere of give and take. The role of the political authority should have been to prepare the ground for such discussion and resolution of the issue. Failing this the disputants should have been ready to submit to the findings of a court of law. Unfortunately the protagonists of the temple are not prepared to submit their demands to the court's decision saying that issues of faith cannot be adjudicated by a court of law. Ram's birth place may be sacred to the devotees. But the exact location of that birth place is not a question of faith but of fact. In case of a dispute about such a place ultimate solution is to let the matter be adjudicated by court of law. Again a group's or person's belief cannot be the basis for resolving a contentious issue like the present one in a secular state like India. No state in which the rule of law prevails can accept the VHP's argument in this regard.

Ram Janmabhumi - Babri Masjid issue should not have exploded into the Indian political scene. Political expediency and speculation on electoral gains allowed the issue to develop thus far and escape from the catastrophe it may create will depend on the dawn of real political wisdom on all concerned. The present Government in New Delhi is moving very cautiously. At the moment it is trying to engage both sides of the conflict in a meaningful dialogue.⁹ Again the problem is that VHP has not committed itself to any possibility other than the construction of the temple where Babri Masjid stands.¹⁰ But VHP itself is only a front for BJP and RSS who seem to be bent on using it as a political tool in their search for a Hindu Rashtra. Therefore, unless the Government and saner elements in all political parties wake up to the real danger inherent in the VHP demand and rise up to uphold the laws of the land India may not have to look too far to see Yugoslavia repeated here. Pluralism and secularism are not luxuries for India. They are absolute necessities for a forward looking, civilized India.

9. For a meaningful analysis of the dialogue and possible approaches to a solution see Neena Vyas, "The Way Out in Ayodhya". *The Hindu*, October 11, 1992, P. 7.

10. The basis for the VHP demand is the belief that the Babri Masjid was constructed at a site where was a Rama temple which was destroyed by Babur's generals and the Masjid was built at the site. For a more detailed analysis of the VHP Claim See Neeladri Bhattacharya, 'Myth, History and Politics of Ram Janmbhumi' 'And for an exposition of Rama story see: Ronila Thapar,' *A Historical Perspective on the story of Rama*. Both in *Anatomy of a Confrontation, op.cit.*, Pp. 122-163.