



# The need for constitutional courage

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## **The Ram Janmabhoomi-Babri Masjid dispute is a title dispute, not a religious one**

- The Supreme Court's decision to appoint a panel of mediators to resolve the long-standing Ram Janmabhoomi-Babri Masjid (Ayodhya) dispute is deeply problematic.
- By taking this route, the court has given the impression that the dispute is best solved outside the legal domain.
- In a very short span of time, the court has moved from its position of treating this as a title dispute to a matter involving religious sentiments.
- It has not explained what led it to change its stance, especially since mediations that have taken place in the past have failed.

### **Ambiguity in the court**

- The idea of mediation was mooted in 2017 by a Bench headed by the then Chief Justice of India, J.S. Khehar.
- The Bench had suggested that the issue was much larger than ownership of land, and that mediation might help in "healing relations".
- Sentiment is a problematic word, especially when there are two political sentiments competing with each other.
- This is not a question of the majority community feeling deprived of a temple at the birth place of Lord Ram.
- On the other hand, it is a majoritarian political ploy masquerading as religious sentiment.
- This is a ploy to subjugate the minority Muslim community further, by playing a symbolic game.
- Moreover, even if we accept the notion of contending sensitivities, one must not ignore the sentiments of those Hindus who do not consider this issue as one that defines their identity.
- The Ram Janmabhoomi-Babri Masjid issue was never religious.
- The BJP has always included the promise of constructing a Ram temple in its election manifestos over the years.

- Since the court has itself digressed from the brief before it, one can ask why it did not think it necessary to first address the criminality of an act in 1949, when the idol of Lord Ram was placed in the Babri mosque on the night of December 22, which happened much before the demolition of the mosque itself.
- Also, the bloodletting accompanying the demolition of the mosque cannot be dissociated from the act.

### **Selection of mediators**

- Further, the eight-week time limit for the mediators coincides with the election campaign period and ends just before voting ends.
- If the mediation committee fails to come to a consensus, this could be used to fuel anger in Ayodhya once again, against both Muslims as well as the court.
- It is not just the idea of mediation but the selection of mediators that casts a doubt on the process.
- At times like this, we expect the apex court to uphold constitutional morality.
- It does not help in a political dispute to replace the constitutional route with a “humanitarian” one.
- The sentiment of the court to “heal relationships” is laudable.
- But it is only constitutional courage that can steer us through these troubled times.

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