The Supreme Court of India has to be given wide latitude in its effort to address an unwelcome task: to resolve a dispute that has stirred up ancient resentments beyond the powers of a modern republican order to placate. It was a matter involving criminal trespass, that should have been reversed by local administrative action. Once criminality was deterred, the underlying dispute should have been settled at the local civil court.

That the matter finally reached a Constitution Bench is a sign of democratic dysfunction. That five Supreme Court judges achieved unanimity on an issue that has convulsed Indian politics through seven decades, points to a quite heroic effort at salving deep wounds.

Several pages into its long, reflective and often digressive judgment on the Ayodhya title dispute, and after many an excursus into the discipline of archaeology, the top court admits that it has been embarked on an exercise in irrelevance. “A finding of title”, it pronounces, “cannot be based on...archaeological findings”. Rather, the matter “must be decided on settled legal principles...applying evidentiary standards which govern a civil trial”.

Speaking in the Constituent Assembly, G.B. Pant came up with a lofty response, rendered perhaps from his privileged posture as the Indian republic marches ahead, would be to negotiate the complicated routine through which it seeks to reward the worst violations of the rule of law. After acknowledging all these historical wounds, the court recognises a body that has been the most serious offender against rule of law, and awards it virtually undiluted title to the land. It seeks to placate the victims of this cycle of physical and rhetorical violence, through the award of five acres in the near vicinity of Ayodhya, for the 2.77 acres lost. Evidently, the court has decreed that the injuries to an entire religious community’s sense of identity and belonging, can be easily redressed through seeming generosity in the quantitative sense.

But it is an easy metric, but does it do sufficient remedy to all the principles trampled upon? An alternative metric could be used to assess how far the Supreme Court judgment bears true faith to the foundational principles of India’s republican identity. Anybody with the tools to do the search, would find the word “Hindu” occurring 1,062 times through the court’s judgment, while “Muslim” appears 549 times. The word “citizen” occurs a mere 14 times.

Equal citizenship was a promise that India made to itself at the time of its transition to a modern republic. B.R. Ambedkar and other preceptors of the democratic order knew that it was a difficult transition, because of the deep chasm between the assurance of political equality and the reality of social and economic inequality.

Ambedkar of course, had in mind a different dimension of inequality. But as the Constituent Assembly (CA) debated the issue of fundamental rights, and heard representations from the diminishing and disempowered spokespersons of communities who argued for a charter of minority rights, Govind Ballabh Pant came up with a lofty response, rendered perhaps from his privileged posture as an upper caste private. G.B. Pant’s attitude and the CA’s in general has been likened by scholars such as Christophe Jaffrelot, to a “Jacobin” position, after the French revolutionary faction that insisted on the extinction of all intermediary loyalties between the citizen and the State, since in a republican order, none of these distinctions would have any reason to exist.

The Ayodhya dispute was one among many manifestations of this moment of crisis. The Supreme Court’s heroic and yet logistic-defying effort to set right the problem may well be too little and too late.

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