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1. Places of Worship Act, and the legal issues in the Sambhal mosque case

Overview

Nearly a week after a district court in Sambhal ordered a survey of the Shahi Jama Masjid, the town in western Uttar Pradesh has been rocked with violence that has left at least four dead and several others injured.

The court's order came in a plea which claimed that Sambhal's Jama Masjid was built on the site of a Hindu temple. This is similar to claims made in the cases of Gyanvapi mosque in Varanasi, the Shahi Idgah in Mathura, and the Kamal-Maula mosque in Madhya Pradesh's Dhar.

The claims in all of these disputes essentially seek to change the religious character of a place of worship, something that is prohibited by the Place of Worship Act, 1991.

What did the court order say? Why did it spark protests in Sambhal?

On November 19, Aditya Singh, civil judge (senior division), of the District And Sessions Court of Sambhal at Chandausi allowed an application filed by advocate Hari Shankar Jain and others, including a local mahant, claiming the right to access the mosque. The petitioners allege that the mosque was built in 1526 by Mughal emperor Babur after demolishing a Hindu temple that stood there.

Within hours of the plea being filed, the court issued an order appointing an advocate commissioner to carry out an initial survey at the mosque. The first survey was carried out on the very same day. The court also ordered that a report of the survey be filed before it by November 29.

A second leg of the survey took place on November 24. This led to protests breaking out in Sambhal, and the police subsequently opening fire.

While the mosque's managing committee was consulted for the survey, the court's order seeking a survey report by November 29 was passed ex-parte, that is, without hearing both parties.

Sambhal's Jama Masjid is a "protected monument", having been notified on December 22, 1920 under the Ancient Monuments Preservation Act, 1904. It has also been declared as a Monument of National importance, and figures on the website of the Archaeological Survey of India in the list of centrally protected monuments.

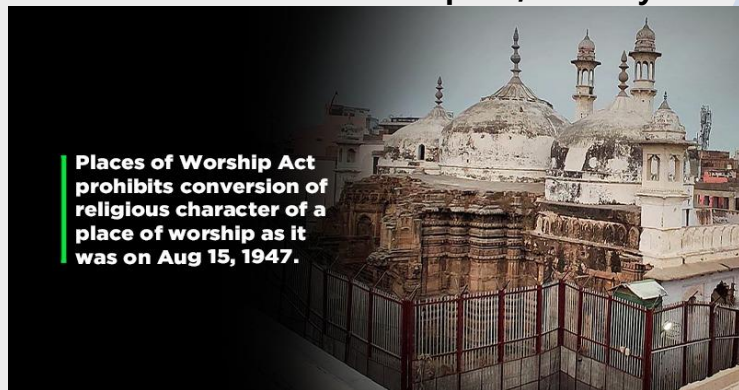
What does the law say about the petitioners' claim?

A civil suit filed by the petitioners is essentially a case for the court to determine the title of the property in question. In a civil suit, averments made by the petitioners are to be prima facie accepted. The Code of Civil Procedure bars a strict scrutiny of the claims made in a civil suit at the initial stage. Petitioners are called upon to bring evidence to the table only once the plea is accepted.

However, when it comes to a place of worship, such a suit would be barred under the Places of Worship Act, 1991.

That said, in both the Gyanvapi and Mathura cases, district courts have accepted the civil suits filed by Hindu petitioners as "maintainable", meaning that they are valid cases for determination, despite the 1991 Act. The courts have essentially ruled that these cases fall beyond the purview of the 1991 Act.

What does the Places of Worship Act, 1991 say?



The Places of Worship Act states that the religious character of any place of worship as it existed on August 15, 1947, must be maintained.

The long title describes it as "An Act to prohibit conversion of any place of worship and to provide for the maintenance of the

religious character of any place of worship as it existed on the 15th day of August, 1947, and for matters connected therewith or incidental thereto."

Section 3 of the Act bars the conversion, in full or part, of a place of worship of any religious denomination into a place of worship of a different religious denomination — or even a different segment of the same religious denomination.

The law, which had been a part of the Congress' 1991 election manifesto, was meant to put to bed all controversies arising out of the alleged historical "conversion" of a place of worship. While introducing it in Parliament, then Home Minister S B Chavan had said that the "enactment of this Bill will go a long way in helping restore communal amity and goodwill".

While the Act came in the light of the Babri Masjid-Ram Janmabhoomi dispute, this was specifically kept outside its purview as since the dispute was already sub-judice when the law was passed.

How have courts then allowed these title suits?

The title suits, or suits claiming access or the right to worship in Varanasi and Mathura, have essentially been allowed even as a constitutional challenge to the 1991 Act is pending before the Supreme Court.

The apex court currently has before it four separate petitions challenging the Places of Worship Act. In September 2022, a Bench headed by then Chief Justice of India UU Lalit had directed the government to file a response on its stand within two weeks. However, two years on, the Centre is yet to file its affidavit.

But a separate observation by the Supreme Court in the Gyanvapi case has allowed more room for district courts to allow such pleas.

In May 2022, Justice DY Chandrachud had said that although changing the nature of the religious place is barred under the 1991 law, the "ascertainment of a religious character of a place, as a processual instrument, may not necessarily fall foul of the provisions of Sections 3 and 4 (of the Act)..."

This essentially means that an inquiry into what the nature of the place of worship was on August 15, 1947 can be allowed, even if that nature cannot be subsequently changed.

Both in the Mathura and Gyanvapi cases, the Masjid side has challenged this interpretation of the Places of Worship Act. The Supreme Court is yet to hear final arguments to decide this preliminary issue of whether the 1991 Act bars even the filing of such a plea, or just the final change of the nature of worship.

In the Sambhal case, things have moved very fast. The district court is yet to even pass an order on the maintainability of the civil suit. The survey order came at the first instance, before a preliminary finding was reached that the Hindu side had a maintainable claim. The order was implemented before the parties had an opportunity to challenge it before the High Court.

Relevance: GS Prelims & Mains Paper II; Governance

Source: Indian Express

2. Israel-Hezbollah ceasefire deal and UNSC Resolution 1701

Introduction

In these early days at least, the fresh ceasefire between Israel and Hezbollah is holding.

Principally, the (unpublished) ceasefire mimics UNSC Resolution 1701, which was adopted in the wake of the 2006 conflict. Hezbollah is supposed to withdraw to the north of the Litani river, Israel to the south of the Blue Line, with the Lebanese Army remaining as the only armed force allowed between the two in South Lebanon. It gives both forces 60 days to withdraw to their respective positions.

A crucial novelty in the agreement is the addition of the United States and France to the tripartite mechanism of Lebanon, Israel, and the UNIFIL that oversees the implementation of UNSCR 1701. Notably, it does not call for a complete disarmament of Hezbollah in Lebanon, north of the Litani, while Israel proclaimed that it retains the right to strike again if Hezbollah violates the agreement (something that the Lebanese government rejects).



Why did Israel agree to this deal?

Israel Prime Minister Benjamin Netanyahu has outlined three reasons for the ceasefire — to focus on Iran, to give Israeli forces “a breather and replenish stocks”, and to “separate” the Hamas and Hezbollah fronts by taking one of them out of the war. Indeed, Hezbollah had opened a parallel front to support Hamas just days after the latter’s terror attack, and the beginning of Israel’s bombardment of Gaza.

Three further factors might have influenced Israel’s decision.

FIRST, there has evidently been at least a mild fracture in Israel’s civil-military framework. Former Defense Minister Yoav Gallant (along with the IDF Chief of Staff) had been pressing for a ceasefire in Gaza and Lebanon. He had repeatedly questioned Netanyahu’s political and military objectives, as well as vociferously called for clarity on a day-after plan from the government.

While Gallant was fired less than a week publicly expressing his disagreement with the prime minister, it is evident that the IDF thinking that he represented, has prevailed to some degree.

SECOND, Israel’s experience of fighting in Lebanon has always been tactically effective but strategically bitter.

A long-term military presence in Lebanon would severely wear down the IDF. This is perhaps why it kept its initial objectives, outlined on October 1, vague in military terms to allow for a withdrawal whenever Hezbollah was deemed to be weakened enough for Israelis living in the North to return to their homes.

Continued Israeli presence in South Lebanon would also enable a stronger re-consolidation of support for Hezbollah within Lebanon (which had been facing significant popular domestic resistance by mid-2023).

THIRD, despite the loss of its entire senior leadership and significant loss of infrastructure, Hezbollah evidently maintained the ability to strike Israel until the end. Its most extensive bombardment of Israel — with 250 rockets — occurred less than two days before the ceasefire, and after Israel's strike on central Beirut killed at least 29 people, including health workers.

Even with the IDF being militarily superior, Hezbollah's fighting capacity would ensure a protracted war. The IDF pressed for a ceasefire almost hours after it reached the Litani river, achieving what might be seen at least as a symbolic victory.

What does the ceasefire mean for the Israel-Lebanon frontier?

The most important underpinning to every development around Israel across the past year, has been the fact that October 7 decimated Israeli perceptions of security. This is what drove Israel to unleash a literal firestorm first in Gaza, and then in Lebanon.

International pressure on Israel has been concerted, with the United Nations' experts characterising Israel's acts as a "genocide", the International Court of Justice calling for Israel to withdraw from occupied territories, and the International Criminal Court issuing an arrest warrant against Netanyahu. This has evidently not stopped Israel from pushing on in Gaza, as Israel now views this as its ultimate quest for complete security against all threats; a new "never again".

That said, the strong dent in Netanyahu's image as "Mr Security" still lingers, and Israel's threat perception has usually not differentiated between any of the Iran-sponsored groups. It is curious then that the post-ceasefire status quo post-bellum uncannily resembles the state of affairs at the end of the 34-day Israeli invasion of Lebanon in 2006. (The current invasion spanned 57 days.)

Then too the Lebanese Army was mandated to be the only armed force between the Litani and Blue lines post the ceasefire; its heavy armament and troop trucks rolled into the effective buffer zone by August of 2006. The American addition to the new "tripartite+" arrangement in 2024, that is supposed to differentiate it from the 2006 predicament, has come with explicit non-commitment of any combat troops, which is arguably also more palatable for the incoming Donald Trump administration in Washington DC.

However, Hezbollah still remains entrenched in Lebanon's society and government, with 15 members in Parliament and an ally in the Speaker's office. Notwithstanding the fillip of Western presence in ceasefire oversight, Hezbollah can now shift to regaining its socio-political base, having forced Israel again to withdraw as it did in 2006.

Hezbollah MP Hassan Fadlallah on Tuesday vowed to “carry on resistance”, adding that the force that was “fighting in the battlefield will itself help to rebuild”.

What does it mean for the region at large?

Two things.

FIRST, the acceptance on the part of Lebanon and Hezbollah of even a cursory US presence in South Lebanon, could not have occurred without Hezbollah Chief Naim Qassem (who televised his acceptance to the US-proposed ceasefire draft at least a week ago) consulting Tehran.

As Iran engages the IAEA, keeps up a steady stream of signals to engage the United States for sanctions relief, and deepens its (well-reciprocated) rapprochement with its Arab neighbours, the country no longer has to worry about what seemed to be an existential threat to its largest proxy in the region, at least momentarily in early October. It is useful to remember that Iran’s principal objective in raising and sustaining Hezbollah is to ensure a military buffer between itself and Israel, despite the Palestine-linked framing of Iranian support to the resistance.

SECOND, Israel can now ensure complete military focus on not just Hamas in Gaza, but also Iranian proxies in Syria (which includes Hezbollah and allied troops), Iraq, and Yemen for the first time since the beginning of its campaign in Gaza. Netanyahu’s address specifically warned that Syrian President Bashar al-Assad is “playing with fire”. With Iran indicating some measure of restraint and preparing for a Trump administration, Israel retains the option to both continue striking Iranian proxies, or to meet restraint with restraint, as it focuses on Gaza where the death toll is now touching 45,000.

In the Lebanon theatre specifically, however, all elements of conflict that sparked this latest war remain. Much more water has to flow down the Litani before complete stability is guaranteed in Lebanon and North Israel.

Relevance: GS Prelims & Mains Paper II; International Relations

Source: Indian Express

3. Trump to impose ‘additional’ tariff on China: Why fentanyl is a major problem for the US — and China’s role in it

Introduction

President-elect Donald Trump recently said that he would impose tariffs on the United States’ three largest trading partners — Canada, Mexico, and China — after he takes office on January 20.

In a post on Truth Social, Trump said he would impose 25% tariffs on imported goods from the three countries. Moreover, he also mentioned “an additional 10% tariff” on imports from China in response to the Asian country’s failure to curb the flow of fentanyl into the US. Here is why fentanyl is a major problem for the US — and China’s role in it.

What is the scale of the United States' opioid epidemic?



Opioids are a class of drugs that “derive from, or mimic, natural substances found in the opium poppy plant”. They produce a variety of effects, including pain relief and euphoria, and are highly addictive. Some common opioids include oxycodone, morphine, codeine, heroin, and fentanyl.

According to the US Drug Enforcement Administration (DEA), “Fentanyl is a potent synthetic opioid drug approved by the Food and Drug Administration for use as an analgesic [for

pain relief] and anesthetic. It is approximately 100 times more potent than morphine and 50 times more potent than heroin as an analgesic.” But overdoses can cause “stupor, changes in pupil size, clammy skin, cyanosis [blue skin], coma, and respiratory failure leading to death”.

Users feel opioids' impact immediately, and it wears off as quickly — making users need it regularly. Often, people who initially start using prescription opioid-based painkillers get addicted.

The US has been witnessing what many have called an “opioid epidemic”. According to the US Centers for Disease Control and Prevention, “the number of people who died from a drug overdose in 2021 was over six times the number in 1999... Over 75% of the nearly 107,000 drug overdose deaths in 2021 involved an opioid”.

What is China's role in the opioid epidemic?

The US saw a spike in synthetic opioid-related deaths after 2013, largely due to the rapid proliferation of illicitly manufactured fentanyl, and fentanyl analogues such as acetyl fentanyl and carfentanil. A recent US House Committee report found that inexpensive fentanyl is increasingly cut into other drugs, often without the buyers' knowledge.

The US has primarily blamed two countries for the trafficking of fentanyl — Mexico and China. A 2020 DEA intelligence report ('Fentanyl Flow to the United States'), stated that fentanyl and

fentanyl-related substances were trafficked from China through international mail and express consignment operations.

Investigative journalist Ben Westhoff told Vice News about how he found several Chinese companies in Wuhan and Shanghai being involved in the manufacturing of chemicals used to create synthetic opioids (precursors). China-manufactured chemicals would be shipped to Mexico for processing into pills and then sent to the US.

The previously mentioned House committee report stated that the Chinese Communist Party "directly subsidises" fentanyl production through tax rebates to companies — often engaged in other, legal chemical manufacturing — which are implicated in the production of precursors. On April 24, US President Joe Biden signed the FEND Off Fentanyl Bill into law to combat "illicit fentanyl traffickers in Mexico and the creators of precursor chemicals in China".

Need for US-China cooperation

The US understands that dealing with the fentanyl crisis at home needs cooperation with China. Both governments have made occasional progress on the matter.

In 2019, China announced it would add fentanyl-related substances to a list of controlled narcotic drugs. According to the DEA, China's move saw some of the production shifting to India, although here too export of fentanyl precursors has been regulated since 2018.

However, given the deterioration of the US-China relations following the Covid-19 pandemic, trade wars, and tensions over Taiwan and the South China Sea, cooperation on this front has been adversely impacted.

Of late, there has been an attempt at resuming cooperation. In November 2023, following Xi's meeting with Biden, a bilateral Counternarcotics Working Group was announced to coordinate law enforcement actions and address the misuse of precursor chemicals, among other things. The many roadblocks to dealing with the fentanyl crisis

According to Westhoff, a lot depends on China's local governments. Many provinces see fentanyl production as a source of employment for people. To evade law enforcement agencies, operations often slightly tweak the formulae of certain chemicals.

China has also deflected blame onto the US, pointing to how even before fentanyl, the opioid crisis was in full swing. US pharmaceutical companies such as Purdue Pharma have been accused of handing out heavy-duty opioid prescriptions to patients, making them opioid addicts who seek ever more potent drugs.

And China is just a part of a much more complex puzzle, involving many countries, criminal organisations, and issues. For instance, Mexico is a major player in the trade, but cooperation with the country has been difficult to achieve. Earlier this year, the AP reported the head of Mexico's detective agency as saying: "Mexico has been the champion of methamphetamine production, and now fentanyl."

Relevance: GS Prelims & Mains Paper II; International Issues

Source: Indian Express

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