1 Law and the Aesthetics of Atrocity

> It is when we think of the world the aesthetic of indifference might bring into being that we recognize the urgency of remembering the stories we have not written.[1]

For several weeks in the early months of 2002, a pogrom singularly targeting Muslims was executed in the western Indian state of Gujarat. The violence resulted in deaths numbering in the thousands, egregious forms of sexual harm against women, massive displacements and loss of property, hearth and home.[2] 'Gujarat 2002', as the pogrom has come to be popularly called, is independent India's most litigated and mediatised[3] event of anti-minority mass atrocity.[4] In the two decades since 2002, there has been much contestation over memory and forgetting related to the pogrom, played out in multiple sites such as litigation, films, literature, art, reportage, the economy and, of course, electoral politics. Of these sites, this book engages with judgments and films, by far the most 'publicly available commemorative symbols, rituals, and technologies'[5] of collective memory of the pogrom.

The pogrom's legal and cinematic representations continue to provoke debates regarding state impunity, minority rights, liberalism, justice and the very meaning of India as a secular, constitutional democracy. Central to these post-pogrom debates is a concern with collective memory: the ways in which the pogrom and its aftermath are remembered through 'shared meanings'[6] in public discourse, how these memories are invoked through 'circuit[s] of culture' like law and films,[7] by whom and to achieve what end.[8]

This book reads judgments and films—two key narratives of India's secular legal imagination[9]—as a posteriori sites of collective memory where the contestations about the Gujarat pogrom have been most pronounced. The first of these two narratives is written into the texts of four judgments of the Best Bakery case—a landmark criminal trial related to the massacre of a Muslim family in the city of Vadodara on 1 March 2002. The second narrative

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is framed in the images and sounds of three Bollywood films about the pogrom, namely *Dev* (2004), *Parzania* (2007) and *Kai Po Che* (2013).

These two narratives have had a shared temporal journey—the three films span a period of nine years (2004–13), coinciding closely with the years through which the trial in the Best Bakery case ran (2003–12) (Figure 1.1). Both the trial and the films have been the cause of several controversies that were widely reported in the media, notably on issues of witness intimidation, faulty police investigation and censorship. These controversies have given the trial and the films a cultural and political traction that has made both the narratives and the event live on in collective memory since 2002. This book focuses on the decade-long post-pogrom period because it offers a concentrated insight into the consolidation of Hindu right-wing nationalism, or Hindutva,[10] and neoliberalism in the wake of the pogrom.[11] I refer to this consolidation as the 'New India'. Attending to this consolidation will throw light on how the relationship between secular law and religious violence is understood and articulated in postcolonial India by the judiciary and in cinema.

The judicial narrative reconstructs the pogrom as a matter of 'fact' to get to the 'truth', convict the wrongdoers and deliver justice. The cinematic

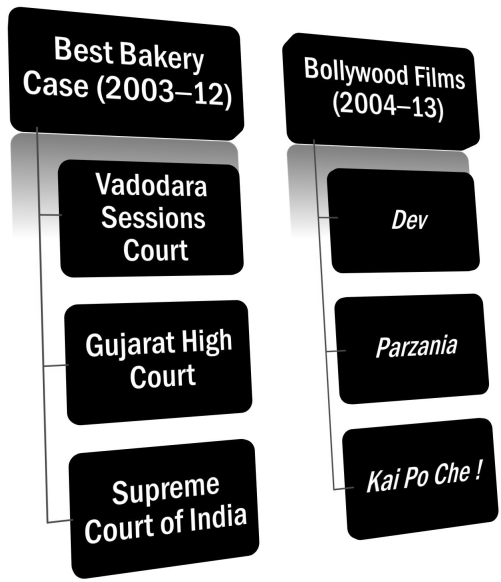

Figure 1.1 Judgments and films: A shared narrative of collective memory
Source: Prepared by author.

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narrative uses the scaffolding of facts to offer fictionalised accounts of ordinary human depravity and compassion in the face of mass violence. When read together (rather than in opposition), the shared narrative of the judgments and the films engender ways of remembering the pogrom in which a faith in secular law offers a resolution to the crisis of religious violence. In both the legal and cinematic imaginations, the pogrom is reconstructed as a conflict between secular law and religious violence, in which secular law ultimately emerges victorious.

The book argues that the shared narrative of law and cinema participates in the ordering of collective memory, which produces ways of remembering that acknowledge the horror of the pogrom and simultaneously rationalise it as aberrant. Such ordering is made possible through the workings of a particular kind of rationality that masks secular law's complicities with religious violence. I call this a 'state-making and state-preserving' rationality that demonstrates how 'popular sovereignty takes the paradoxical form of inclusion [of Muslims] and unspeakable violence [against them]'.[12] In the public's collective memory, then, this rationality, as recorded in the shared narrative of law and cinema, considers Muslims as citizens and condemns the pogrom while always already exonerating secular law from having played any role in fomenting the actual violence—thus keeping intact the violent (legal) order against India's Muslim citizens.

To pursue this argument, I develop a 'jurisprudential-aesthetic' (J-A) approach to the reading of the judgments and the films. The J-A approach enables me to pay particular attention to the intertextual form of the judgments and films—to look for 'the *way* something is said in contrast to [merely] *what* is said'.[13] I do this by foregrounding the aesthetic dimensions in the texts of the judgments and the jurisprudential dimensions in the texts of the films.[14] Despite working in different genres, judgments and films are both public sites and records of storytelling that share a 'commitment to narrative as a central organizing principle'.[15] The development and deployment of the J-A approach helps to understand law not only as an autonomous body of rational knowledge with its own self-referential norms, rules and principles but also as one that shapes and is shaped by aesthetics—passions, emotions, sentiments and the senses.[16]

When the judgments of the Best Bakery case and the three films are read using the J-A approach, we can see two things: first, how the legal and the cinematic work together to produce collective memory; and second, how the shared narrative of the judgments and the films order the collective memories

of the pogrom. This ordering engenders ways of remembering that condemn the violence while rationalising it as aberrational—a temporary crisis that can be overcome by restoring faith in secular law. My J-A reading will make visible a particular rationality at work in ordering collective memories of the pogrom—a state-making and state-preserving one. This rationality reconstructs the pogrom as an event in which secular law is understood to be rescuing the postcolonial nation-state from the destructive effects of religious violence.

This state-making and state-preserving rationality embeds the ideas of legalism, secularism and developmentalism in a national constitutional imagination, which is endorsed consistently by the Supreme Court of India.[17] These attributes—interpreted into the Constitution of India—work as markers of Indian modernity, considered by many to be in opposition to the so-called nativist ideology of Hindutva.[18] And yet, as this book will demonstrate, this triad of legalism, secularism and developmentalism operates discursively to both condemn and normalise violence against Muslims by advancing seemingly secular critiques of the pogrom, as represented in both the judgments and the films.[19]

In this double-play of normalisation and condemnation, anti-Muslim violence is rationalised—by references to the 1947 Partition of the subcontinent—as an a priori condition of the postcolonial Indian nation-state's coming into being.[20] In the constitutional imagination, India as a secular, rule-of-law abiding democracy exists because of the Partition—in contradistinction to the theocratic Pakistan.[21] For the Hindu Right, India and its Hindu citizens carry a distinct identity because of a traumatic history of violence (against Hindus by Muslims) that has to be constantly avenged through the 'weaponisation' of Partition memory to keep the Indian nation safe from Muslim outsiders.[22] Both these imaginations, as my J-A reading will show, are animated by the aforementioned triad. Embedded in the narrative subtexts of the judgments and films is a Hindutva discourse that aims to fashion India into a Hindu *rashtra*, or nation—the holy land of Hindus.[23] This triad thus becomes germane to the idea of the New India, which is marked by the symbiotic rise of neoliberalism and Hindutva.

In the rest of this chapter, I will offer a short account of Gujarat 2002—the event and its contexts—and explain how the relationship between law and cinema has worked to produce collective memories of the pogrom. I will then introduce the orientation and scope of the book. The purpose of this section

is to provide an outline of the bodies of literature that I am drawing from and the scholarly field that I am contributing to, and to introduce the terms that form the conceptual base of the book.

Gujarat 2002: A 'Small' Retelling

Legal and aesthetic records of Gujarat 2002 have played an important role in shaping collective memories of the pogrom. This is the case especially for those like me who experienced it from a safe distance, consuming the unfolding of the violence on television screens or in newspapers, and then through films. The pogrom's contested narratives are best captured by a set of iconic photographs—like Qutubuddin Ansari begging for mercy with folded hands, or a saffron bandana-clad Ashok Mochi brandishing an iron rod with outstretched arms[24]—and landmark criminal trials of highly localised massacres, like the Best Bakery and Gulberg Society cases.[25] These images have not only produced a surfeit of reportage but also offered templates for popular culture and aesthetic reconstructions in film,[26] literature[27] and art.[28]

In my retelling of the Gujarat pogrom—both in this section and in the rest of the book—I do not claim to reveal the 'neutral truth' about the event.[29] I attend to a practice of reading that does not consider meaning to be bound entirely to 'real' authorial intent (of the judges or the filmmakers) and instead acknowledges that 'every text is embedded in an interrelated network of other texts whose boundaries are porous'.[30] My account maintains fidelity to the texts I will read,[31] rather than trying to establish interpretive superiority.[32] In a tradition of critical legal scholarship,[33] my account critiques what I disagree with, but without rejection,[34] recognises the partiality of my own views[35] and prioritises the question of suffering, without sentimentalising it.[36] The version of the events of the pogrom and the narrative that I hold on to through this book is aimed at foregrounding the 'small voices'[37] which struggle to keep alive a certain memory of the pogrom even as they are constantly being 'drowned in the noise of statist [and corporatist] commands'[38] that propagate a dominant memory.

It is now two decades since Gujarat experienced one of independent India's most violent mass atrocities against its Muslim minority population.[39] Postcolonial India has experienced many incidents of anti-minority mass religious violence since the Partition in 1947,[40] including the ones that have come before and after Gujarat 2002: notably, the ongoing persecution of

Muslims by the occupying Indian army in Kashmir;[41] the 1983 massacre of Bengali Muslim immigrants from Bangladesh in Nellie, Assam;[42] the anti-Sikh violence of 1984 in Delhi;[43] the anti-Muslim violence of 1992 in Bombay;[44] the anti-Christian violence in Kandhamal, Orissa (now Odisha), in 2008;[45] the anti-Muslim violence in Muzzaffarnagar, Uttar Pradesh, in 2013;[46] and most recently, the anti-Muslim violence in northeast Delhi, in 2020.[47] All of these events, among many others that are lower in scale and intensity, have been part of a larger script that animates the violence of postcolonial state-making.[48]

The Gujarat pogrom takes ahead the history of anti-minority mass violence in India[49] and offers a new template for normalising the Hindu nationalist project of both symbolically and materially reconfiguring India as the holy land for Hindus.[50] The Gujarat pogrom was distinct in certain specific ways in comparison to previous events of anti-Muslim mass violence.[51] The success with which Muslims were targeted was marked by the sophisticated planning and execution of the pogrom, the macabre forms of brutality and the unprecedented extent of state involvement, police inaction and judicial complicity.[52]

Although official estimates state that the violence lasted for three days, many Gujaratis who lived through it say that it lasted for as long as three months.[53] The killings, rapes, arson and destruction continued unabated, yet despite a complete breakdown of law and order and grave instances of police inaction, a constitutional state of emergency was not declared by the president of India. It can be argued that such a decision reveals how the federal government—which at that time was the National Democratic Alliance, led by the Hindu nationalist Bharatiya Janata Party (BJP)—condoned the event.[54] This failure to impose president's rule rendered the violence as not deserving of federal attention in political and public consciousness, even though it could be considered to be a situation where there was a complete breakdown of the constitutional machinery.[55]

Starting on 28 February 2002, groups of militant Hindus—with active support from Hindu right-wing outfits like the Rashtriya Swayamsevak Sangh (RSS), the Vishwa Hindu Parishad and the Bajrang Dal—singularly targeted Muslims across rural and urban Gujarat: killing close to 2,000 people (which included some Hindu, Christian and Parsi casualties as well), 'disappearing' an estimated 2,500 people and driving tens of thousands from their homes.[56] Sexual violence was used to murder Muslim women, including

pregnant women, in order to humiliate the Muslim community.[57] Homes and property owned by Muslims were pillaged and burnt. Several mosques were desecrated and razed to the ground, and roads paved over them overnight.[58] The violence targeted Muslims irrespective of their class status and residential locations.[59]

That Muslims could be attacked in such a systematic manner without much resistance from the community was not only because of the state administration's complicity and police inaction. The sophisticated organisation was also made possible because an attack on Muslims had been planned over a long period of time. This planning included the advance accumulation of arms by Hindu militant groups[60] and the legislative planning of the city of Ahmedabad over many years, which resulted in the creation of Muslim ghettos whose captive populations were easy to attack.[61] The violence, thus, was not akin to a 'riot'—a spontaneous conflagration—but the result of long-term and systematic planning aided through state support that characterises a 'pogrom'.[62]

Even over a decade after 2002, many Muslims continued to be displaced,[63] and many victim-survivors still await compensation for damages.[64] The criminal justice processes trying some of the perpetrators have been under threat of being compromised by political interference,[65] intimidation of witnesses and judges,[66] and faulty investigations by the police and special investigation agencies.[67] By the Gujarat government's own admission made to the Supreme Court of India, of a total of 4,252 cases that victim-survivors registered with the police, nearly half were summarily closed by the police and thus never progressed to the trial stage.[68] For the few cases that did get to trial, some in the first instance resulted in full acquittal of all accused due to lack of evidence, reflecting the police's tardy investigation.

State impunity in India, especially for mass anti-minority violence, is strengthened by the active cooperation of the criminal justice system, and local political and patronage networks.[69] If lower conviction rates in the post-pogrom trials are one way to measure state impunity, then Gujarat has been particularly notable. As of 2012, in comparison to the national conviction rate of 18.5 per cent for cases related to riots, the conviction rate in cases related to the pogrom in Gujarat was 1.2 per cent.[70] Despite the failures in investigation and prosecution related to criminal trials arising out of the pogrom, the judiciary continues to be considered an able and willing neutral arbiter of justice that is not complicit with the deep structures of Hindutva's

anti-Muslim prejudice. This has been called the 'impunity effect': 'how a majoritarian regime conducts farcical legal proceedings that allow it to acknowledge, yet benefit from, state-backed violence against minorities'.[71]

The normalisation of state impunity in the wake of Gujarat 2002 has not, however, gone unchallenged. Despite the failures of the state to effectively carry out prosecutions, activists, journalists, artists, academics and lawyers have spearheaded campaigns to seek justice for and with the victims and survivors of the pogrom. In these campaigns, they have expressed faith in secular law in the form of both the Constitution of India and international law as important tools for holding the state accountable.[72] From the initial characterisation of the event as a 'genocide' rather than a 'riot' in order to mobilise international attention by comparing it to the Holocaust,[73] to the campaign that led to the drafting of national legislation drawing on provisions in the Rome Statute of the International Criminal Court to include command responsibility in Indian criminal law,[74] secular and international legal standards have been the benchmark used to demonstrate both the Indian state's unwillingness to prosecute and the way its governance is being shaped by Hindutva ideology. The Hindu Right has, alongside, projected that it trusts the secular legal mechanisms of the country. Under the secular criminal justice system, leaders of the Hindu Right have been both convicted[75] and acquitted of wrongdoing for Gujarat 2002.[76] Since 2002, the Hindu Right has time and again cited these convictions and the acquittals as the triumph of secular law.[77] Secular law, thus, has been deployed in both the pro- and anti-Hindu Right narratives. While the parliamentary and ideological Left and the Liberals see the Constitution as a tool to resist the spread of Hindutva, the Hindu Right cite the Constitution to vindicate its commitment to secularism and consider Hindutva ideology to be in alignment with the secular constitution.[78]

After the 2002 pogrom, Gujarat, under the chief ministership of Narendra Modi (since 2014, the prime minister of India) of the BJP, has been celebrated as one of India's most developed states with unparalleled urban and industrial infrastructure, and has become a preferred destination for corporate investment by multinationals. Immediately after the pogrom, a group of influential Gujarati industrialists came together to form the Resurgent Group of Gujarat that organised an investors' conference in 2003 called Vibrant Gujarat. The aim was to simultaneously defend Gujarat as a business-friendly state and present Narendra Modi as a strong-willed business-friendly leader against the criticism that was directed at him by the Confederation of Indian

Industry for his role as chief minister during the pogrom. This inaugurated what has been called the 'Gujarat model of "development": violent Hindu nationalism underwritten by serious corporate money', resulting in a renewed relationship between Modi and Indian big business that propelled his prime ministerial ambitions and the current power and influence that the BJP wields drawing on the support of major industrialists and crony capitalism.[79] Due to the projections of rapid growth rates and the ease of doing business, the Gujarat Model has been showcased by political parties and industrialists as a template for development in the New India. These projections have been questioned by scholars who have argued that Gujarat's growth is built on the structural marginalisation of Muslims, Dalits and Adivasis. The Gujarat Model has been analysed as playing a role in consolidating the state's Hindu majoritarianism and has also been deployed to whitewash the memories of 2002.[80]

Modi's secular critics allege that he—along with other politicians in the Gujarat BJP—oversaw the planning and execution of the 2002 violence. It has been argued that the pogrom was meant to be a definitive step towards furthering the Hindu Right's vision of establishing India as a Hindu *rashtra*.[81] Hindutva's neo-fascist vision, fused with a Zionist sensibility, wants to establish India as the holy land for Hindus alone through both Hindu supremacist violence against religious minorities and secular 'constitutional accommodation'.[82] Muslims and Christians who are in the territory of India are not considered original inhabitants because their holy lands are elsewhere. According to Hindutva ideology, those who follow Islam and Christianity must assimilate, if they wish to stay in India, or their forced removal or killings will stand justified.[83] In the making of such an ideology against Abrahamic monotheism, Hindutva, ironically, advances an idea of Hinduism as 'political monotheism' tied to a single all-powerful Aryan god in the mythological figure of Ram.[84] In so doing, Hinduism is accorded a pseudo-historical status of a homogeneous and ancient religious order that is indigenous to an undivided territory called Bharatvarsha—the Constitution choosing its shortened version Bharat—which is both the fatherland and holy land of authentic Hindus.[85]

Gujarat has been called the 'Hindutva laboratory' that executed the pogrom as an experiment to teach Muslims in India 'a lesson'.[86] Modi and many of his ministers in Gujarat have been named in independent fact-finding reports,[87] survivor testimonies,[88] revelations by public servants about

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state complicity,[89] undercover investigations by journalists[90] and activist memoirs.[91] Statements by the Supreme Court of India have condemned the state government for ordering the police to step back and let the mobs rein free.[92] Many Hindu right-wing leaders (including Modi) have been recorded on camera instigating the mobs with their inflammatory anti-Muslim speeches and justifying the pogrom by citing the Godhra train-burning incident of 27 February 2002 that killed 58 *kar sevak*s (Hindu pilgrims) as a legitimate cause for this *pratikriya* (retributive action) by hurt, victimised and angry Hindus.[93]

The incident of the burning of compartment S-6 of the Sabarmati Express, carrying *kar sevak*s returning from Ayodhya,[94] allegedly by a Muslim mob at Godhra train station in Gujarat, has come to stand as the temporal and ideological justification for the pogrom, or as its 'precipitating event'.[95] In line with an explanation that Modi had provided as the then chief minister (CM)—'every "action" has an equal and opposite "reaction"'[96]—almost all references to the Gujarat pogrom until today continue to replay this cause-and-effect logic of 'who cast the first stone':[97] the violent Muslims burnt the innocent Hindus in the train, so now the tolerant Hindus are no longer able to remain silent.[98] They are avenging the deaths of their Hindu brothers and sisters by killing the intolerant and ungrateful Muslims.[99] In Teesta Setalvad's characterisation: 'Every act of violence of the majority Hindu is an act of retaliation of the perennially and permanently barbaric Mussalmaan.'[100] Collective memory of the pogrom has, thus, been mobilised through the marking of Godhra as a singular 'flashpoint'[101] moment that performs a 'moral inversion'[102] where India's majority Hindus become victims of its minority Muslims. Such a logic masks the deep and dispersed structures of Hindutva which enabled the planning of the pogrom well before the train caught fire.[103] It also masks the historical and economic antecedents of Hindutva in Gujarat that did not erupt only as a spontaneous and reactionary response to Godhra.[104]

The pogrom took place during Modi's time in office, and arguably, the violence consolidated the Hindu vote in Modi's favour, which led to him winning four consecutive state elections in Gujarat as CM since 2002.[105] In 2014, Modi was elected as the prime minister of India through a media-managed election campaign that wedded soft Hindutva with robust neoliberal developmentalism.[106] His election saw a clear majority emerge for a single party for the first time in independent India since 1984.[107]

During the run-up to his prime ministerial campaign, in 2012 Modi was exonerated due to the lack of prosecutable evidence—given a 'clean chit' in a closure report[108]—by the Special Investigation Team (SIT) appointed by the Supreme Court of India, which was tasked with specifically looking into three major massacres committed during the pogrom. The independence of this body has been questioned for procedural, investigative and ethical lapses.[109] In 2017, a protest petition by Zakia Jafri, a victim-survivor, against the SIT's exoneration of Modi was dismissed by the Gujarat High Court, upholding the clean chit. An appeal against this decision was dismissed by the Supreme Court in 2022.[110] In response to the 2017 judicial exoneration of his accountability as head of state, Modi had tweeted, 'Satyameva Jayate', or 'truth alone triumphs',[111] a Sanskrit expression from an ancient Hindu religious text (the Mundaka Upanishad) that has been secularised as India's national motto, accompanying the national emblem, the Sarnath pillar (which is of Buddhist origin), both of which adorn the original cover of the Constitution of India.[112]

In an interview with the news agency Reuters in 2013, Modi likened his feelings for the victims to the sadness that a person in a car would feel if the driver ran over a puppy.[113] Regarding continuing to fund relief camps for the Muslims displaced by the pogrom, Modi had expressed eugenicist panic about how they could turn into 'child producing centres' that will breed more Muslims.[114] Indeed, the possibility that Modi would express any remorse at all for the pogrom had, by 2013, become so absurd that one news outlet spoke of it in the form of an April Fool's day joke.[115] His standard refrain whenever asked about the 2002 violence has been to say, 'Why even talk about 2002? … It's the past. What does it matter?'[116]

It is Modi's and the Hindu Right's rhetoric of 'let's move on' that has animated much of the dominant legal and aesthetic discourse about how the Gujarat pogrom is collectively remembered.[117] This rhetoric, however, is not reflective of a practice of denial but one which, even while acknowledging the horror of the pogrom, either traces everything about it back to what it believes to be its originary cause, that is, Godhra, or relegates 'all violence to an amorphous "politics"'.[118] Such relegation works to guard against 'summoning a past that still vividly lurks in the present'.[119] As Ghassem-Fachandi notes:

> Such interpretations elide the more disturbing realization that not only do political parties manipulate constituencies for electoral gain, but

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> people themselves become complicit in this by inhabiting representations, participating in acts and thoughts that have effects beyond the mere political calculations of those who organize violence. The political machinations of the pogrom reveal only half the story.[120]

This book, thus, is interested in the other half of the story. In pursuing its argument, *Ways of Remembering* tries to work against this logic of amorphous politics by looking beyond the realpolitik of the memorial reconstructions of the pogrom to develop a method of reading the public lives of law and cinema as a shared narrative to understand their role in the production of different ways of remembering. What joins these ways of remembering is their unequivocal condemnation of the violence. However, embedded in these ways of remembering, as the application of my J-A approach will demonstrate, is a state-making and state-preserving rationality that leaves unquestioned the triad that constitutes this very rationality—legalism, secularism and developmentalism. This triad, which is foundational to the Hindutva justifications of the pogrom in the first place, continues to order the secular memorial aftermath of the violence.

Law in/as Aesthetics

The conceptual and methodological orientation of this book draws on and locates itself at the intersection of two fields of scholarship, namely, aesthetic jurisprudence[121] and cultural legal studies,[122] both of which are broadly concerned with the law's sensory, affective and narrative dimensions. I refer to this as the 'law in/as aesthetics' orientation that is interested in the relationship between law and the human senses: the law's appeal to the senses and how the senses perceive the law.[123] This body of scholarship is closely related to the law and literature movement that considers law as a narrative genre, inquiring into how literature, literary metaphors and rhetoric inform judgment writing, and how literary works represent the law.[124]

The focus of the law and literature movement grew over time through Western common law jurisdictions, overlapping with critical approaches to law, to include the humanities broadly (particularly art, cinema, photography, theatre and music) and to consider not only law's representation in these aesthetic forms but also how law was embedded in these forms and sometimes even resembled them, and vice versa.[125] This move marked a shift from

interpretation as the primary critical legal method of reading the texts of law,[126] towards reading law's unconscious and affective intensities—passions, desires and fetishes—from psychoanalytical, postmodern and post-structural perspectives.[127]

Law in/as aesthetics can be considered a 'minor' jurisprudential tradition,[128] which is interested in some of the same questions—'what is law?' and 'what is the nature of law?'—that concern what has been called 'restricted jurisprudence': a jurisprudence that is narrowly focused on a hierarchy or pedigree of posited sources and considers law to be a self-contained and self-referential body of knowledge.[129] However, instead of trying to find a determinate answer only from posited sources of state law, law in/as aesthetics 'suspend[s] law's conventional conceptual, doctrinal, and institutional boundaries in an effort to imagine different modalities for understanding law'.[130] It ventures into the realms of the speculative, surreal, ephemeral, abstract, affective and experiential. To make this move, law in/as aesthetics delves into the feelings and emotions that we attach to law (or that the law attaches to us), and that are generated by law beyond its posited forms, by paying attention to the mythological, cultural, virtual, technological, architectural and affective avatars of law.[131]

Under the broad rubric of law in/as aesthetics, I have identified four types of scholarly works, which can be categorised as follows:

1. Representation: Works that are concerned with the representations of law in aesthetic genres—such as in art,[132] literature,[133] cinema[134] and television[135]—and use such representations to make larger arguments about law, politics and society.
2. Form: Works that study how the legal form can be an aesthetic category in itself (for instance, considering the literary composition of judgments,[136] a court's architecture,[137] the performative dimensions of judicial proceedings,[138] the sartorial authority of a judge's clothing[139] or the relationship between the forms of law, sound and music[140]).
3. Affect: Works that inquire into how aesthetic forms generate affective intensities that appeal to a legal imagination (for example, in the way in which cinematic narrative can give the audience a sense of authority to pass judgement, or how the tonality of the judge's voice in a courtroom can engender fear or sympathy for the accused).[141]
4. Technology: Works that study how visual, acoustic and haptic technologies impact and manipulate the senses in the realm of the juridical (like the administration of truth serum on an accused, or witnesses testifying

through videoconferencing, or the use of a vanished photo on Snapchat as evidence).[142]

What joins all the aforementioned law in/as aesthetics scholarship is their unsettling of the Manichean distinction between the categories of law and aesthetics, such that aesthetics is not considered the Other of law but rather that one cannot be imagined without the other.

In this book, I develop a theoretical orientation that combines these different kinds of scholarship to imagine law outside of its conventional or posited confines, and at the same time maintains a fidelity towards the materiality of the posited texts—judgments and films. In so doing, the book contributes specifically to scholarship in the area of law and cinema, and broadly to the fields of postcolonial law and Indian jurisprudence. This combination is itself unusual because the majority of scholarship around law and cinema has been oriented towards North America, the UK, Canada, Israel and Australia. Here, I take it to India, a non-Western and postcolonial location in the common law world, to speak to a specific event of mass violence. However, this is no simple transplant because this body of scholarship has itself almost never engaged with Indian law, nor the aesthetics of Bollywood cinema (let alone with other Indian cinema). Its references are primarily always Hollywood cinema, post-Holocaust cinema, Western European cinema and, if it has travelled to the non-West, Japanese and some South American cinema—but mostly those that have found world recognition through Hollywood. On the other hand, Indian film studies has had very little engagement with law's representation or law's affective dimensions in film, and Indian legal scholarship has remained hesitant to engage in studies of law's aesthetic dimensions.[143] Where this engagement is present, it has been limited to works that have focused on questions of censorship,[144] intellectual property[145] and, to a much lesser extent, pedagogy.[146]

My gesture of bringing a J-A frame developed using scholarship coming out of Western jurisdictions to explain an event in a postcolonial jurisdiction is not a work of an uncomplicated theoretical extrapolation but the recognition of a hermeneutical encounter. I am formally trained in Indian law and have subsequently acquired jurisprudential training in Canada and Australia. I am, thus, writing from the interstices of a disciplinary location that continues to be challenged and enriched through these encounters.[147]

I, therefore, write with a postcolonial legal and aesthetic sensibility that alerts me to both the possibilities and limitations of the theoretical bricolage that I have put together.[148] A part of this sensibility consists of the practice of responsibility towards the place, the peoples and the texts I am writing about, as well as towards the multi-jurisdictional disciplinary locations that I am writing from. This book demonstrates a mongrel heuristic that works through the oppositional and shared epistemologies that I have inherited.[149]

New India

The New India, in this book, is at once a temporal, cultural and ideological marker,[150] that describes the condition of the symbiotic rise of Hindutva and neoliberalism.[151] Beginning in the early 1990s—with the BJP's rise in national popularity and the consolidation of an upper-caste Hindu electorate that coincided with the liberalisation of the Indian economy—this condition combines the state's posturing as a champion of free-market economic policies, with an aggressive invocation of Hindu cultural conservatism that considers capitalist globalisation and Hindutva to be 'not only reconcilable but complementary'.[152] Instead of 'facilitating a moderation' of political movements driven by religious ideology, as has been the case in many other parts of the world, the embracing of neoliberalism has strengthened the Hindu Right.[153]

An instance of this is reflected in the findings of the Justice Rajinder Sachar Committee Report of 2005, which evidenced the widespread social, economic and educational disenfranchisement of Muslims across India.[154] The condition of Muslims today[155]—which has only worsened since Modi became the prime minister, with an alarming increase in hate crimes[156]—coexists with the celebratory projections of India's economic growth, military might and commitment to social and economic mobility captured appositely in the BJP slogans 'India Shining' and 'New India'.[157] Scholars have identified Gujarat 2002 to be paradigmatic of this condition.[158]

This book is particularly concerned with how the triangulated state-making and state-preserving rationalities of secularism (state regulation of religions in the language of freedom and tolerance),[159] legalism (strict constitutional adherence or constitutional foundationalism)[160] and developmentalism (state-organised political economy that weds socialism with neoliberalism in the service of growth)[161] have become part of the

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'common sense'[162] of both the constitutional and popular imaginations of Indian democracy over the last 70 years. Court judgments and Bollywood cinema have been the two most publicly available memorial records of this New India in general, and of the Gujarat pogrom in particular. These two records have been previously researched separately, but not together.

Gujarat 2002 has led to the production of a vast body of literature that I have learned and borrowed from. This book is written in conversation with this body of literature and hopes to add its own insights from within the discipline of law.[163] The literature on which I have drawn has offered a powerful critique of the rise of Hindutva, its close affiliation with neoliberalism, how the combination of the two enabled the planning and execution of the pogrom, and how particularly the state of Gujarat served as the fertile ground for experimentation with the Hindutva vision of establishing a Hindu homeland, or *rashtra*, through the annihilation of the Muslim Other/outsider.

The disciplinary locations from where scholarly research on the pogrom has been carried out are anthropology,[164] sociology,[165] political science,[166] history,[167] media studies,[168] performance studies,[169] and marginally in law.[170] Alongside, there is a rich body of activist writings and journalism that has meticulously documented the violence of the pogrom, particularly its gendered and sexualised manifestations, the testimonies of victim-survivors and the arduous journey of justice-seeking processes in its aftermath.[171] Most of these studies place the event on a continuum with the history of both Hindutva ideology and anti-minority, particularly anti-Muslim, mass violence in independent India perpetrated by the Hindu Right.[172]

Law has been addressed in this literature broadly in three contexts: first, with regard to the struggles of the survivors for justice;[173] second, to highlight the failings of the criminal justice system;[174] and third, constitutional and human rights law standards have been used to challenge state impunity.[175] Law's role in this literature has been understood primarily as a remedial one, with the acknowledgement that it is the political and ideological dispensation of the government that determines the course that justice would take for victims of mass violence. That the legal process has been compromised, or has failed in responding adequately to mass violence, has been analysed to be an outcome of the Indian judiciary's structural limitations, particularly the anti-Muslim bias reflected both in the judiciary's composition and in practices of adjudication;[176] and also due to the lackadaisical workings of the police, either

through fomenting violence through acts of commission and omission, or through faulty investigations.[177]

One abiding feature of this body of literature, especially works that engage with the law directly, has been the reiteration of faith in the constitutional values of secularism. There exists a very rich tradition of scholarly debates about secularism in India,[178] and in much of this literature there is a fair dose of suspicion about its avowed liberal virtues and Western antecedents,[179] even as some have tried to Indianise secularism.[180] The literature related to the Gujarat pogrom, or, for that matter, the literature related to issues of Hindu–Muslim violence in India, has tended to deploy constitutional secularism as a standard to argue against the politics of the Hindu Right.

Hindutva ideology has, from its formal inception in the 1920s,[181] considered India to be the holy land for Hindus and members of all other religions, especially Muslims, as a population of contaminants who need to either assimilate into Hindu ways of living or be ousted or annihilated.[182] With the BJP in power, the agenda to establish a Hindu *rashtra* has gained renewed vigour.[183] The founding 'fathers' of the movement have been influenced strongly by European fascism, with Adolf Hitler and Benito Mussolini being considered key figures of inspiration.[184] The contemporary Hindu Right is a dispersed group of outfits with an intellectual fountainhead in the organisation called the RSS.[185] The political consolidation of the Hindu Right as a parliamentary party in the BJP[186] has happened over a period of time due to a range of events, beginning notably with the 1947 Partition that created India and Pakistan as two sovereign dominions.[187] Once Pakistan established itself as an Islamic republic,[188] the Hindu Right expressed its discontent with M. K. Gandhi's opposition to forming India into a Hindu theocracy and one of their ideologues assassinated him.[189]

Since India's independence from Britain in 1947 (also the year of the Partition),[190] the other event cultivating a much stronger emergence of the Hindu Right was the constitutional Emergency, or president's rule, that was declared by the Indian National Congress (INC), or the Congress Party.[191] The Emergency lasted for 21 months through 1975–77, during which time an unprecedented political solidarity emerged between forces opposed to the INC, leading to the formation of the BJP in 1980, the Hindu Right's parliamentary force.[192] Since the Emergency, many other Hindu Right groups have emerged, including those that engage in parliamentary politics,[193] and

fringe non-formalised militant outfits.[194] Notable among these are regional political parties like the Shiv Sena, and militant outfits like the Vishwa Hindu Parishad and the Bajrang Dal. All of these groups consider themselves to be a part of what they call the Sangh Parivar (the collective family of Hindutva organisations).[195] The Sangh Parivar's popularity over the years has increased due to its belligerent stand against Pakistan, particularly with regard to nuclear bomb politics and India's constitutionally sanctioned military occupation of Kashmir.[196]

Since the Hindu Right—through the BJP—has acquired nationwide support and attained the formidable stature of a parliamentary party, its position on constitutional secularism has become paradoxical. Currently, it veers between rejecting constitutional secularism on the one hand[197] and asserting Hindutva to be consistent with the Constitution on the other.[198] The move towards the latter position offers justifications for a Hinduisation of the idea of secularism. In this formulation, secularism is an intrinsic part of Hindu religion, and thus Hinduism is in alignment with both the Constitution and democracy.[199]

In developing and mainstreaming this argument, the Hindu Right has found allies in Hindu liberals.[200] This tacit alliance of Hindu liberals and conservatives argues in favour of establishing an ostensibly secular body of family laws (to be based on codified Hindu laws) called the Uniform Civil Code, which will deny constitutional validity to Muslim laws in the name of saving the rights of Muslim women from Muslim men and their own religion.[201] This alliance between liberal and conservative Hindus that fortified the relationship between Hindutva and neoliberalism was a moment in 1990 when affirmative action policies for non-Hindu 'other backward classes' recommended by the Mandal Commission Report from a decade earlier was implemented to increase the total reservations for scheduled castes and tribes.[202] Upper-caste students, out of the imagined fear of losing their caste privilege and the challenge that affirmative action posed to caste hierarchy, touted this as marking the end of merit.[203] In time, this led to a consolidation of the Hindu upper-caste electorate—against emerging non-brahmin (Bahujan) political assertions[204]—which has been the primary beneficiary and supporter of India's economic neoliberalisation as well the intensification of Hindutva's secularised projections of Hindu pride.[205] The Hindu Right's gradual appropriation of the idiom of constitutional secularism received legal imprimatur in 1994 when its central

philosophy of Hindutva was characterised as a 'way of life' by the Supreme Court of India.[206]

My contribution to the legal literature on Gujarat 2002 is to offer a jurisprudential account that takes the Hindu Right's secular turn seriously.[207] This turn is illustratively captured in the Modi government's dual propositions of declaring the Constitution to be a holy book, and the Hindu holy book, the Bhagavad Gita, to be the 'national scripture'.[208] This turn, when it began, was accompanied by the consolidation of the Hindu upper-caste electorate in the wake of the implementation of the Mandal Commission recommendations in 1990, followed by India liberalising its markets in 1991 under pressure from the International Monetary Fund's structural adjustment programmes.[209] In 1992 came the demolition of the eighteenth-century Babri Mosque by Hindu militant mobs in Ayodhya to stake claim to a place that, according to the Hindu Right, was where the mythological Aryan-raced[210] Hindu warrior-god Ram was born.[211] In the legal disputes about the archaeological and historical accuracy of this claim,[212] the Indian judiciary, even while condemning the demolition of the mosque, has taken the side of Hindu mythology, effectively endowing a religious deity with legal personhood.[213] The demolition's aftermath saw widespread anti-Muslim violence in Bombay, whose main perpetrators are yet to be brought to justice.[214] These three temporal moments in Mandal, Markets and the Masjid—upper-caste Hindu electoral consolidation in 1990, economic liberalisation in 1991, and the Babri Mosque demolition in 1992 and its violent aftermath in Bombay, respectively—marked the beginnings of the Hindu Right's modern public persona, presented as one that seamlessly mixed neo-fascism with neoliberalism.[215]

This is where Gujarat 2002 gains significance, as a state that experimented with this mix, and executed it in a highly sophisticated way. The phenomenon of the Gujarat model of development that perfected the coming together of neoliberalism and Hindutva has also been documented and analysed in existing literature.[216] However, what impact this has had on the judiciary at both state and national levels, and in particular on the judiciary's response to Gujarat 2002, remains an area that offers scope for jurisprudential exploration. Given that the pogrom has been the most litigated of all events of anti-Muslim, or even anti-minority, mass violence in independent India, a focus on the judiciary's conduct gains special significance. This is more so because since the early 1990s, much like the Hindu Right, and connected to global trends, the Indian judiciary has also undergone a (neo)liberal turn reflected in many

landmark judgments that bring together religious conservatism and free-market friendliness.[217]

Bollywood

The liberalisation of the Indian economy in 1991 also led to a drastic transformation in media and popular cultures.[218] This transformation was most palpable in the inauguration of 24/7 news media, cable television and the internationalisation of mainstream Hindi cinema or Bollywood.[219] These developments played a key role in the mainstreaming of a soft version of Hindutva ideology, presented as the celebration of a syncretic Indian culture that was secular in appearance and Hindu in sentiment, made palatable for the consumption of an emerging aspirational and liberal middle class, which included the Indian diaspora.[220]

India's state television, Doordarshan, had already begun the process of Hindu-ising the public and private spheres of Indian life through the production and broadcast of the dramatised versions of the Hindu epics Ramayana and Mahabharata through the early 1990s, coinciding with the demolition of the Babri Mosque and the national consolidation of the Hindu Right.[221] The new cable television channels began airing advertisements for multinational brands and producing soap operas celebrating Hindu tradition as modernist ethos.[222] Hindutva was being repackaged as rooted progressivism in popular culture, in contradistinction to representations of Islam as either fossilised or threatening.[223]

Bollywood cinema's reimagination of a New India that emerged after 1991 has played a particularly significant role in the naturalisation of a fused Hindutva and neoliberal ethos.[224] This ethos combined the progressivism of the developmental vision of a liberalising economy and an aggressive upper-caste Hindu nationalism in a syncretic and secular package.[225] The virtues of the rule of law in this cinematic imagination were embodied in hypermasculine figures such as the patriotic policeman or army officer, the aspirational entrepreneur, the rebellious lover who challenges authority but subscribes to patriarchy or the sacrificing and loyal wife in the joint Hindu family—all of which were deployed as secular tropes and plot devices that recovered and rehabilitated the Hindu foundations of the nation from degradation, decay and corruption.[226] An emerging trend in the task of advancing the fused narrative of Hindutva and neoliberalism in Bollywood cinema involves close

relations between Bollywood actors and filmmakers with Narendra Modi, a direct involvement of the RSS with directors and produces, the work of certain actors in doing films that both subtlety and unabashedly tow the Hindutva line, superstars being spokespersons for Hindutva ideology in their public speeches and a growing fandom surrounding their ideological persona.[227]

Bollywood's legal universe is not restricted to the 'courtroom drama' genre in which law appears in its most obvious forms: lawyers, clients, litigants, accused, disputes, trials, judges and courts.[228] Although the courtroom, lawyers and judges have featured many times as part of films' diegetic narrative,[229] law as a normative idea of good has primarily inflected plots in the form of vigilante justice, moral conflicts, an end to suffering, the death or transformation of the villain or anti-hero, and as romantic/familial/patriotic love.[230]

In the two decades since the liberalisation of the Indian economy began in 1991, ideas of justice in Bollywood cinema have fetishised the secular rule of law and the entrepreneurial zeal as public virtues for the modern postcolonial nation-state.[231] However, even in this imagination, justice in Bollywood cinema does not come only from secular state law but also from *dharma*,[232] a juridico-moral ethic derived from Hindu scriptures that dictates the conduct of characters and frames the larger narratives that they are a part of.[233] On the occasions when any part of a film's plot—especially pertaining to issues around sex, religion and representations of the nation—goes against this juridico-moral ethic, such films inevitably end up being at the receiving end of both state and non-state forms of censorship.[234] Hindu right-wing political parties and its militant outfits have been especially active in deploying violence and have made use of the secular legal system and its laws on public decency, sedition and hate speech to censor such films (as well as works in other artistic genres).[235]

Political parties of all hues, buttressed by court orders, have time and again sought to regulate the spectatorial space of the cinema theatre in India as a location for demanding patriotic allegiance from audiences as a juridico-moral ethic of dutiful citizenship.[236] This has been done by making theatres play the Indian national anthem before the start of every film, thus making it de facto mandatory for all to stand up in reverence.[237] There have been several reported cases of audience members being abused and beaten for not standing up to honour the national anthem.[238]

It is for this reason that Bollywood as a genre and an industry has traditionally steered clear of developing stories on issues of an overtly political

nature.[239] Doing that has been the domain of the independent feature and documentary film movements.[240] However, since the Bollywood aesthetic is potent in sentimentality,[241] melodrama[242] and music,[243] myriad films have been made about political events of mass suffering, such as the 1947 Partition; or, the Partition as a trope—where brothers get separated in childhood and get reunited in adulthood—has been deployed in stories that apparently make no references to the event itself. [244]

With the advent of 24/7 news media backed by private capital, infotainment has emerged as a particular narrative form.[245] In this genre, news channels use Bollywood background scores that appeal to the affective mood that the incident being reported is meant to create. At the same time, Bollywood cinema borrows the docu-drama model in making films that tell stories about contemporary political events as fiction.[246] In presenting a fictional narrative about politically charged events, such films defend themselves from the ire of the Hindu Right by using a standard opening disclaimer: that resemblance to any event, or persons living or dead, is purely coincidental.[247] From the filmmakers' point of view, these disclaimers also serve the purpose of insulating them from defamation and other anti-free speech suits for hurting popular sentiments.[248]

In the case of Gujarat 2002, a number of films—both feature and documentary—have been made over the decade following the pogrom. All these films have by and large taken a critical view of the violence. Regardless of their degrees of criticality, both feature and documentary films have been at the receiving end of legal and extra-legal censorship.[249] However, with regard to the Bollywood feature films on the Gujarat pogrom, as this book will show, the more fictional the account has claimed to be, the less the incidence of censorship has been.

Film studies scholarship on India is extremely sophisticated, and this body of work has produced critical accounts of film ideology and its interactions with secularism and nationalism, including cultures of censorship and spectatorship.[250] However, despite the fact that the Bollywood films on the pogrom constitute a key cinematic archive of collective memory, a scholarly study of the cinema of Gujarat 2002 is yet to be done.[251] *Ways of Remembering* studies three of the most popular (and controversial) of these films, which provide rich material for understanding how popular culture has been memorialising the pogrom, but also offer insights into cinematic imaginations of law and justice in contemporary India. This imagination is

not restricted only to the way law is represented in these films but also includes the allusions, allegories and affects that cinema as a form of storytelling engenders. Legal scholarship in India has not yet extended serious thought to engaging with cinema and film studies. This book hopes to make a contribution in that area.

Collective Memory

Ways of Remembering, thus, brings a close study of the judgments of a landmark post-pogrom criminal trial into conversation with three major post-pogrom Bollywood films. The place where this meeting of the legal and the cinematic narratives take place is in the realm of collective memory. Collective memory provides a useful interface for a productive conversation between law and cinema, to address the overlaps between how their content, form and technique record memories of the pogrom.[252] For example, the rule of precedent is a memorial technique of adjudication in the common law, which can be compared to the use of narrative tropes in cinema: both cite their prior iteration as a way of justifying recurrence. Similarly, witness testimonies in a trial are akin to the use of flashbacks in a film: the unseen is made visible through the device of storytelling to aid in adjudication and narrative cohesion. While filmic and literary works on collective memory have featured centrally in feminist oral-history accounts of the 1947 Partition,[253] and in anthropological work on post-independence events of mass violence like the 1984 anti-Sikh violence,[254] and the 1992 anti-Muslim violence in Bombay,[255] Gujarat 2002 has not yet been studied using the analytic of collective memory.[256] This is the case in both film studies and law. Although scholarship on film and (mass) violence in India has engaged the question of memory,[257] Indian legal scholarship has rarely studied mass violence in the context of either film or memory.[258]

Collective memory—a term originally coined by sociologist Émile Durkheim, and subsequently developed by his student Maurice Halbwachs—is a mode of active remembering that is only possible to produce in groups, not individually. As Halbwachs notes in his classic work *On Collective Memory*: 'It is in society that people normally acquire their memories. It is also in society that they recall, recognise, and localise their memories.'[259] Within group formations, collective memory is not only generated through commemorative interactions between group members but also draws on

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publicly available material like cinema and judgments. Group interactions with these materials that record the history of violence happen at public locations like a cinema theatre or a courthouse, or through the publics that they mobilise. These continuous interactions in the present unsettle any possibility of collective memory becoming ossified, thus making it 'the *active past* that forms our identities'.[260]

In the context of the Gujarat pogrom, both law and cinema are publicly available material that are in continuous engagement with an active past: one whose meanings and truths are being revealed and regenerated through the ongoing investigations, trials, political rhetoric and aesthetic memorialisations. Legal and filmic reconstructions of the pogrom are archives that both lend to and derive meaning from their collective public reception and response.

In this book, collective memory is not an empirical claim about how the Gujarat pogrom is remembered in the New India. It is a metaphor which offers the possibility of thinking about Gujarat 2002 as it is remembered through both the factual and fictional narratives of judgments and films. The idea of the collective here is much like Benedict Anderson's description of how the 'imagined community' of the nation gained 'profound emotional legitimacy', facilitated by 'print-capitalism' under colonialism.[261] In a similar vein, this book will show that there is a national collective that the judgments and the films mobilise, and it is the shared public address of law and cinema that engenders particular ways of remembering the pogrom for this collective.

The texts of the trial judgments and the texts of the films are widely available and accessible as collective memorial records of the Gujarat pogrom. As such, through their 'address', the judgments and the films mobilise their national 'publics'.[262] These publics are formed through an 'assemblage' of the legal and cinematic narratives on the pogrom.[263] This assemblage is where collective memories of the pogrom are continuously being made and ordered.

Traditionally, one would consider the legal record in judgments to be factual accounts and the cinematic record as a fictional one. However, the lines between fact and fiction get blurred when we train ourselves to look at law and aesthetics not as Manichean categories but as porous and symbiotic ones.[264] When seen in this way, through the J-A approach that this book will develop, the judgments and the films can be understood as part of a shared narrative that engenders particular ways of remembering the pogrom. As my J-A reading demonstrates, the judgments and the films, even as they address their publics from a putatively secular location that condemns the pogrom in

no uncertain terms, they simultaneously normalise, through their shared narrative, the very rationalities—secularism, legalism and developmentalism—that offer justifications for the pogrom's execution and order its memorial aftermath.

The Book Itself

The title of the book alludes to the work of British Marxist writer and critic John Berger's 1972 work *Ways of Seeing*, in which he wrote: 'The way we see things is affected by what we know or what we believe.'[265] *Ways of Remembering*, thus, aims to demonstrate that there is no incontestable memory of the Gujarat pogrom. What constitute collective memories of the pogrom are contestations between different ways of remembering, rather than a contest between memory and forgetting. These ways of remembering, as I will show, are affected by the state-making and state-preserving rationalisations implicit in the shared narrative of the judgments and films. What is collectively remembered—as knowledge and belief—about Gujarat 2002 is produced by a narrative through which judgments and films mobilise their national publics.

Chapter 2, 'A Jurisprudential-Aesthetic Approach', offers a description of my theoretical orientation. Here, I situate my J-A lens in the scholarship on which I have drawn and explain how it offers a novel way to read the judgments and films relating to Gujarat 2002. In this chapter, I will also describe the salient features of the politics and aesthetics of the Bollywood genre and locate my account of the pogrom in cinematic narratives of justice more broadly.

Chapters 3 and 4 form the crux of the book. Chapter 3, 'The Best Bakery Judgments: Aesthetics of Judicial Memory', focuses on a reading of a landmark post-pogrom criminal trial that ran from 2003 to 2012, heard across the full hierarchy of the Indian judiciary. In this chapter, I offer a close reading of the texts of the four judgments related to the Best Bakery case and then apply the J-A approach to read the judgments as records of collective memory. The chapter considers the aesthetic form in the judgments that engenders collective memories. By describing the life-worlds of the case, I show how an encounter between law and aesthetics shapes a particular way of remembering the pogrom. This way of remembering masks the role that secular law played in enabling the pogrom by positing the rationality of secular law and the

irrationality of religious violence as oppositional. The judgments ultimately tell a story in which secular law saves the New India from religious violence.

Chapter 4, 'Bollywood's Law: Cinematic Justice and Collective Memory', reads three well-known Bollywood films on the pogrom—*Dev* (2004), *Parzania* (2007) and *Kai Po Che* (2013)—that were released through the post-pogrom decade when the Best Bakery case was in the courts. My J-A reading of the three films shows how the plots, narrative tropes and cinematic techniques of the films tell a story of the pogrom that simultaneously condemns and rationalises the event. As I will show, the films offer imaginations of cinematic justice (by remaining faithful to the Constitution of India and the juridico-moral ethic of *dharma*) through their representative and affective addresses that acknowledge the horror of the pogrom, while aligning with the state-making and state-preserving rationality of the New India. The films, thus, order collective memories of the pogrom to generate ways of remembering that condemn the visible violence of religious sectarianism, and at the same time they keep the deep-seated structural and ideological violence of the putative secular Indian nation-state against its Muslim minorities intact.

I conclude the book by outlining an important way of remembering the pogrom that has emerged through my J-A reading of the judgments and films. This way of remembering is unique to secular law's role in state-making and state-preserving practices in the New India. My readings will show that there is a particular kind of governmental rationality at work that valorises accelerated legalism and developmentalism as primary markers of secular constitutionalism. Such a rationality is simultaneously accompanied by a conjuncture of violence and violation against minority groups, which remains implicitly tied to the Indian state's secular performances and enactments of legalism. In this way of remembering, the pogrom becomes paradigmatic of an emerging alliance between the state that is working to preserve itself against an imagined threat by the Muslim 'outsider' and the responsibilised selves of secular Hindu citizens who perform this rationality, drawing authority from the secular law's promises of justice and development.