

**THE SPECTACULAR ACCUMULATION OF COLLECTIVE MEMORY:
CINEMATIC JUSTICE AND THE JURIDICAL ORDERING OF EXCESS IN ‘NEW’ INDIA**

Oishik Sircar

Teaching Fellow and Doctoral Candidate

Institute for International Law and the Humanities

Melbourne Law School, The University of Melbourne

oishik.sircar@unimelb.edu.au

The French Situationist thinker Guy Debord, in his influential *The Society of the Spectacle*, refers to “spectacle” as the accumulation of capital to the point of collapse, where capital itself becomes an image. In this paper, I read cinematic images of the 2002 anti-Muslim Gujarat pogrom to argue that the memory of mass atrocity as reconstructed on celluloid has become a spectacle – a site of accumulation and commodification, and law is a conduit in the making and management of these spectacles of memory. Through my reading of four Hindi feature films on the Gujarat pogrom, I argue that what is of consequence in the excessive memorialization of the 2002 violence is not a contest between remembering and forgetting, as the secular left in India claims and fears. Instead, what is at stake are the generation particular ways of remembering the pogrom that have accumulated to normalize the violent practices of state-making in ‘new’ India.

Mediatized re-constructions of the pogrom – of which cinema is a major one – not only commemorate the event in abundance, but also develop a vision of cinematic justice that call on imaginations of legalism to play a specific role in the memorialization of the pogrom. As I will illustrate, the four films – *Dev*, *Parzania*, *Firaaq* and *Kai Po Che* – even while recognizing the horror of the pogrom, offer a vision of justice that valorizes the violent techniques of postcolonial state-making, which actually formed the foundations for the pogrom. By demonstrating this, I argue, that in its memorialization of the Gujarat pogrom, the filmic archive of collective memory works as a narrative compact between law, aesthetics and capital, to accumulate a particular ways of remembering, that align itself with the violent state-making practices of postcolonial India, even as it acknowledges the horror of the event.

I will read the films through a method of interpretation that I call the ‘jurisprudential-aesthetic’ lens. This method is built on the traditions of law and aesthetics scholarship and seeks to understand how the relationship between law, aesthetics and capital produces and orders collective memory and its excesses. In particular, I will make visible the role that law plays in this relationship in ordering the surfeit of aesthetic memorial reconstructions of the pogrom. A jurisprudential-aesthetic reading of the films reveal the workings of a technique of governance that I call ‘developmental juridical rationality’. This concept draws on Michel Foucault’s idea of “governmental rationality,” and the later scholarship that locates the distinctive forms of its operation in the postcolony. Developmental juridical rationality, as I will conclude, orders collective memory of the pogrom to generate a way of remembering that, even as it condemns the visible violence of religious sectarianism, keeps the deep-seated structural and ideological violence of the putative secular Indian nation against its Muslim minorities intact.

The imperative for analyzing the collective memories of Gujarat 2002, as produced by a compact between law, aesthetics and capital, lies in my characterization of the event as a ‘pogrom’, instead of a riot or genocide. According to Parvis Ghassem-Fachandi: “A pogrom is driven by words and images as much as by the associations and invocations that accompany it. The enactment of the Gujarat pogrom followed a script collectively shared on the streets and in media representations.” In his detailed ethnographic study of the 2002 violence, Ghassem-Fachandi observes that the pogrom was an enactment of an “imaginary script” of Hindu disgust and hatred towards the Muslim that was already being performed in Gujarat much before the actual violence began on February 28, 2002. This script was a “symbolic [accumulated] repository to imagine violence” against Muslims, animated in aesthetic products of globalized modernity, like print news, photographs and a mainstream Hindi feature film.

Ghassem-Fachandi’s analysis, however, does not engage the law. Yet the law, as matter and metaphor, is a major collaborator in the imaginary script that provided a rationale for the enactment of violence. Despite being a constitutionally secular country, the jurisprudence of Indian courts on secularism, especially in the wake of the rise of *Hindutva* have time and again spoken a language that casts secularism as the preserve of Hinduism, which is hailed as so tolerant a religion that it accommodates other minority religions. In effect, the courts have projected secularism as the assimilation of minority religions into India’s imagined universal Hindu fold. That India is at its core a Hindu *Rashtra*, is the revivalist argument of the Hindu right, and *Hindutva* politics follows a fascist agenda that seeks to restore that purity. Interestingly though, in pursuing its agenda the Hindu right speaks the liberal rights language of secularism, treating freedom of religion as a matter of formal equality in law, stating that all religions are equal as long as minority religions embrace Hindu culture. The rise of Hindu right wing politics has accompanied the neoliberalization of the Indian economy since 1991, and both *Hindutva* and the state’s neoliberal developmentalist policies have received legal imprimatur since then through a range of judgments and legislations.

Yet, in its examination of the Gujarat pogrom, legal analysis has remained mostly concerned with the institutional discourse of trials, investigations, judgments and legislations, focusing on criminal law issues related to impunity, constitutional issues related to the rule of law and secularism, and human rights and international law issues related to freedom of religion, citizenship and transitional justice. These are extremely important analyses that populate the archive of analytical legal work on the Gujarat pogrom. However, the aesthetic dimensions of law has been given no space in this body of legal scholarship on Gujarat 2002, despite the fact that law occupies a significant place in all aesthetic reconstructions that I examine in this paper. As I understand, this is because, on the one hand, law in jurisprudential analysis is seldom imagined as an aesthetic category and on the other, law is constantly burdened by the demands of being a problem-solving discipline, meant only to deliver justice as quantifiable result: convictions, compensation, reparations, legislations. While scholarship in the humanities and social sciences has engaged the aesthetic archive, it has, in turn, failed to engage with law and its representations in the aesthetic. The existing body of scholarship, both in law and humanities/ social sciences, has also paid scant attention to theorizing collective memory, and the role that law and aesthetics play in its making

and in ordering its aftermath, particularly under the combined conditions of postcolonialism and neoliberal capitalism.

Given law's significant presence in the way the filmic reconstructions of Gujarat 2002 frame collective memory, it is imperative that law is understood as a discursive category that is not restricted to the texts of legislations and judgments in its making of collective memory, but also informs aesthetic imaginations of justice.

By drawing on law and aesthetics scholarship and Marxist approaches to visual culture, I develop the jurisprudential-aesthetic lens to read law's alter-egos in cinema that memorialize the Gujarat pogrom. In doing so, I work with the assumption that the excessive production of words and images – in the way the pogrom's imaginary script is authored – is at play in framing its memory. Law, aesthetics and capital, thus, operate as a narrative compact in ordering collective memory. In the application of this method, I pay attention to the sublime language and images/ imaginaries of law in the aesthetic reconstructions of the pogrom, to show the role law plays in fashioning visions of justice, and accumulating particular ways of remembering. The legal images/ imaginaries in these aesthetic reconstructions, I argue, result in ordering collective memories to serve the ends of the postcolonial nation-state's techniques of governance. Such an ordering is operationalized through the work of 'developmental juridical rationality': which is a combined operation of the triad of secularism, developmentalism and legalism. The jurisprudential-aesthetic lens orients the critical jurist to identify, interpret and critique the motifs and tropes of this triad which informs visions of justice, and how that in turn, orders collective memory.

My aim, in using the jurisprudential-aesthetic method to read law *in* and *as* aesthetics, is to find answers to two questions: first, what aesthetic role is law assigned in the work of actively accumulating spectacular forms of collective memory under conditions of postcolonial capitalism? Second, what kind of juridical rationality lends meaning to law's institutions and ideas of justice as they are represented in the register of a neoliberal and mediatized aesthetic of Hindi cinema? In answering these questions, the jurisprudential-aesthetic lens is meant to reveal "law's desire to dress the exercise of political power in legitimacy," and show how "legal institutions are centrally involved in organizing irresponsibility," even as law speaks and performs in the sublime, and yet spectacular, languages of justice.