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The Story of Section 295-A: A Law and Literature Approach

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UNIVERSITY OF CALGARY

The Story of Section 295-A:
A Law and Literature Approach

by

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A THESIS

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Abstract

This thesis examines the historical origins of section 295-A of the Indian Penal Code using analytical methods borrowed from the law and literature movement. The law was enacted in 1927 in response to controversy that erupted over the acquittal of Mahashe Rajpal, who was the publisher of a scurrilous pamphlet entitled *Rangila Rasul*. The development of this law is traced through the narratives that appeared in various archival documents, including court rulings, newspaper articles and minutes from the Indian Legislative Assembly Debates. The *Rangila Rasul* affair, and its culmination in the form of section 295-A, illustrates the multifaceted and entangled relationship that exists between law and narrative, and provides a rich historical context for engaging with contemporary debates surrounding subsequent applications of the law.

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Dedication

*to my mother,
who read every word*

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Introduction

In February 2014, controversy erupted surrounding Penguin Books India's decision to withdraw and pulp all copies of *The Hindus: An Alternative History*, written by Wendy Doniger, one of academia's foremost scholars of Indology.¹ The formal complaint was filed in 2010 by Dinanath Batra, the leader of the Rashtriya Swayamsevak Sangh, which is a right-wing Hindu nationalist group in India.² Batra claimed that Doniger's book violated section 295-A of the Indian Penal Code, which reads as follows:

295A. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

As such, section 295-A makes "insults or attempts to insult" the religious sentiments of a particular class in India a criminal offence. After four years of legal proceedings, the publisher settled out of court with the complainants, and agreed to pulp Doniger's book. The incident made headlines, and received media coverage around the world. Although Doniger released a statement in support of Penguin Books India's decision to withdraw the book, a number of scholars in both India and North America publicly condemned the publisher's decision and vocalized their concerns about the future of academic freedom and censorship in India.³ These worries are

¹ Wendy Doniger, *The Hindus: An Alternative History* (New York: Oxford University Press, 2009).

² PEN International, PEN Canada and the International Human Rights Program at the University of Toronto Faculty of Law, *Imposing Silence: The Use of India's Laws to Suppress Free Speech*, 2015, online: <<http://www.pen-international.org/wp-content/uploads/2015/05/Imposing-Silence-4-WEB.pdf>> (accessed April 29, 2017), p. 15.

³ McComas Taylor, "Hindu Activism and Academic Censorship in India," *Journal of South Asian Studies* 37 (2014): 717-725, Brian K. Pennington, "The Unseen Hand of an Underappreciated Law: The

certainly justified, as this incident represents only one of the most recent and widely publicized cases, with numerous journalists, artists and academics having been previously targeted for allegedly outraging the “religious feelings” of a class.

The issues with section 295-A and the condemnation of the politics of offence within India transcend “the Doniger affair,” or any single incident involving its application, and instead reflect a pattern of censorship that is deeply troubling for many scholars of South Asian religions.⁴ In the past, these complaints have raised important questions about “who speaks for Hinduism,” and have provoked scholars to approach their work with critical reflexivity in order to unpack what Richard King has referred to as the “politics of knowledge.”⁵ As allegations of offence continue to plague scholars, a familiar pattern of responding to such charges has also developed, particularly amongst intellectuals in North America. The filing of a formal complaint—including those famously lodged against Jeffrey Kripal, James Laine, Paul Courtright and Wendy Doniger— is typically followed by a spate of petitions, academic journal articles, public statements and panel discussions, such as those

Doniger Affair and Its Aftermath,” *Journal of the American Academy of Religion* 84 (2016): 323-336, Rupa Viswanath, “Economies of Offense: Hatred, Speech, and Violence in India,” *Journal of the American Academy of Religion* 84 (2016): 352-363, Anantanand Rambachan, “Academy and Community: Overcoming Suspicion and Building Trust,” *Journal of the American Academy of Religion*, 84 (2016): 367-372, C.S. Adcock, “Violence, Passion, and the Law: A Brief History of Section 295A and Its Antecedents,” *Journal of the American Academy of Religion* 84 (2016): 1-15, Wendy Doniger, “A Response,” *Journal of the American Academy of Religion* 84 (2016): 364-366, Deepak Sarma, “The Doniger Difficulty: Colonial Cotton and Swadeshi Sensibilities,” *India Review* 13 (2014): 287-289, Aarti Sethi and Shuddhabrata Sengupta, “Toward a Readers’ Uprising: Reflections in the Wake of Assaults on Books and Authors in Today’s India,” *India Review* 13 (2014): 290-299, and Vinay Lal, “State, Civil Society, and the Right to Dissent: Some Thoughts on Censorship in Contemporary India,” *India Review* 13 (2014): 277-282.

⁴ Ibid.

⁵ One volume of the *Journal of the American Academy of Religion* was dedicated to exploring the topic of “who speaks for Hinduism.” For more information, see Richard King, *Orientalism and Religion: Postcolonial Theory, India and “The Mystic East,”* (New York: Routledge, 1999), 1 and the several articles that followed in Sarah Caldwell and Brian K. Smith, “Introduction: Who Speaks for Hinduism?” *Journal of the American Academy of Religion* 68 (2000): 705-710.

that have taken place at the annual meeting of the American Academy of Religion; these modes of engaging with and responding to the censorship of academic work have created important platforms for criticism, debate and discussion.⁶ Such scrutiny has made the scholarly analysis of these events a formidable field of scholarship in its own right. Despite the considerable international attention garnered by charges laid against North American scholars, especially Wendy Doniger, there is a dearth of attention paid to the Indian scholars, journalists, filmmakers and artists that are most heavily impacted by this law.⁷ Each case, while discrete, is connected to a pattern of perceived insult, outrage and response that cannot be properly understood without reference to the historical origins of section 295-A.

Although the contemporary issues associated with the law have been widely discussed in recent years, the origins of this controversial section have not received adequate attention in extant scholarship, particularly in religious studies. As Julia Stephens notes, given the importance of the events that led up to the law's creation, with regard to both popular memory and the ongoing application of the law, "scholars have devoted surprisingly little attention to the episode."⁸ The "episode" that she is referring to became known as the "*Rangila Rasul* affair" in common parlance, and the reverberations of these events can still be felt today. The incident

⁶ It is important to note that not all of the charges laid have been under section 295-A. For instance, James Laine was charged under section 153, 153-A and 34 of the Indian Penal Code. See, "Govt bans book on Shivaji, draws flak," *The Times of India*, January 14, 2004.

⁷ Some of the more well-known examples include M.F. Husain, a painter, and journalist Shireen Dalvi, and author Perumal Murugan. However, many of these cases are finished before charges are laid, as a result of threats. For more information, see the PEN International, "Imposing Silence."

⁸ Julia Stephens, "The Politics of Muslim Rage: Secular Law and Religious Sentiment in Late Colonial India," *History Workshop Journal* 77 (2014): 46.

revolved around the publication of a scurrilous pamphlet entitled “*Rangila Rasul*,” which was originally published in 1924 by a man named Mahashe Rajpal. The pamphlet, which was viewed as blasphemous and highly offensive to Muslims, stirred up a great deal of controversy between the Hindu and Muslim communities, particularly in the Punjab. The invective contents of the pamphlet detailed the private life of the Prophet Muhammad, implying “sexual dalliance,” which prompted the government to press charges under section 153-A of the Indian Penal Code.⁹ The height of communal agitation coincided with Rajpal’s acquittal on appeal in the Lahore High Court, which followed several years of court proceedings and two successful convictions by the lower courts. The protests and intense criticism that erupted in the wake of the judgment influenced the government’s decision to enact a law that they hoped would prevent the repetition of such a ruling, and quell the rising tide of outrage that threatened to disturb public order. Further exacerbating tensions during this period, the distinction between the political sphere and religious identity had blurred to the point of being largely indistinguishable. The British colonial administrators contributed to this coalescence by perpetuating essentialized, and distinctive, understandings of Hindu and Muslim identities. In particular, the establishment of communally defined electorates reified the boundaries between the Hindu and Muslim communities, and challenged any lingering perception of the separation between religion and politics.¹⁰ This created a

⁹ Julia Stephens, “The Politics of Muslim Rage: Secular Law and Religious Sentiment in Late Colonial India,” *History Workshop Journal* 77 (2014): 45.

¹⁰ The perceived differences between the Hindu and Muslim communities were less distinct prior to the twentieth century, and British colonization contributed to the construction of more concrete religious identities. For examples, and further explanations of how these differences became reified, see Harjot Oberoi, *The Construction of Religious Boundaries: Culture, Identity, and Diversity* (Chicago:

particularly incendiary environment, which one opinion piece described as a “powder magazine of communal hatred,” into which was thrown the “bomb shell” of the *Rangila Rasul* judgment.¹¹

Section 295-A found its home in Chapter XV of the Indian Penal Code, which covers offences relating to religion. The Code was formally enacted in 1860, with some revisions made during the colonial period, but many sections of the Code were retained by the various states on the Indian subcontinent, after they gained independence from colonial rule. In drafting the Indian Penal Code, Thomas Babington Macaulay stated in his notes that the principle upon which this chapter rested was that “every man should be suffered to profess his own religion, and that no man should be suffered to insult the religion of another”; he believed that should the British administration fail to accord with this principle, it would risk “the dissolution of society” in India.¹² Macaulay remarked that such insults to religion served only to “inflame fanaticism,” and that in India, such dangers could “only be averted by a firm adherence to the true principles of toleration.”¹³ It was for this reason that Macaulay encouraged the British government to provide a punishment of “great severity” for religious offence, so as to avoid “tumult,” “sanguinary outrage,” and “armed insurrection.”¹⁴ While section 295-A was not added to the

University of Chicago Press, 1994), 1-19, Richard King, *Orientalism and Religion: Postcolonial Theory, India and ‘The Mystic East,’* (New York: Routledge, 1999), and Lucy Carroll, “Colonial Perceptions of Indian Society and the Emergence of Caste(s) Associations,” *Journal of Asian Studies* 37 (1978): 233-250.

¹¹ “A Menacing Situation,” *The Hindustan Times*, August 3, 1927: 8.

¹² Thomas Babington Macaulay, “Introductory Report and Notes Upon the Indian Penal Code,” in *The Miscellaneous Writings, Speeches and Poems of Lord Macaulay*, Vol IV (London: Longmans, Green, and Co, 1880), 104.

¹³ *Ibid*: 105.

¹⁴ *Ibid*.

Code until 1927, Macaulay's early notes specify that provisions within the chapter should still "allow all fair latitude to religious discussion."¹⁵

This thesis will not venture into the territory of attempting to provide an originalist legal argument about the current application of section 295-A, nor will it outline the law's evolution through landmark cases and shifting precedent; that being said, there is a remarkable dissonance between the formative narratives that appeared in the press and that emerged during the Indian Legislative Assembly debates, and the contemporary application of the law. Given the stark contrast between the intended and present application of the law, failing to acknowledge this deviation would be both disingenuous and irresponsible. Although it is not the focus here, further research on the changes that have taken place with regard to the interpretation and application of the law is called for given the significant impact section 295-A has on many artists, journalists and scholars within India today.

In tracing the course of the *Rangila Rasul* affair through archival documents, it became plainly evident that narrative was the fulcrum upon which the story of section 295-A hinged. Both the narratives within the law, as well as the stories told about the law, played an integral role in its development. The narratives interwoven throughout the court rulings, newspaper articles and minutes from the Legislative Assembly debates coalesced into the final wording of the statute. Simply put, the role of narrative in the story of section 295-A demanded recognition. The law and literature movement provided the precise framework needed to explore the multifaceted relationships between narrative and the formation of this law. In a

¹⁵ Ibid: 106.

burgeoning and methodologically diverse field of inquiry, the work of legal scholars such as Linda Edwards and Stephen Paskey provides insight into the entangled relationship between law and stories that is reflected in the historical documents from the period. In turn, the *Rangila Rasul* controversy not only acts as a specific case study to which the frameworks of the law and literature movement can be applied, but also builds on the arguments put forward by Edwards and Paskey.

Chapter Summary

The first chapter provides an overview of the scholarship pertinent to the project, as well as a description of the theoretical and methodological approaches adopted throughout. To begin, it describes the contours of the law and literature movement, and delves into Linda Edwards' and Stephen Paskey's work, which is used in the following chapters to analyze the narratives present in the various archival documents. In addition, a brief discussion of Hayden White's theories is included, to unpack the historical approach taken in researching and writing about the development of section 295-A. Lastly, the chapter includes a literature review of scholarship that exists on the topic of section 295-A and the historical context of its enactment. Each of the following chapters, which analyze the development of section 295-A, are organized both chronologically and by the type of archival document being reviewed: court judgments, newspaper articles and minutes from the Indian Legislative Assembly debates, respectively.

The second chapter focuses on three court cases that scholars have identified as being integral to the formation of section 295-A: the *Rangila Rasul*, *Vichitra Jivan* and *Risala Vartman* cases. The judgments are considered in sequence, and a brief

description of the historical context is provided. Due to the pivotal role of the *Rangila Rasul* case in the nascent story of section 295-A, the final judgment of Justice Dalip Singh of the Lahore High Court, which acquitted Rajpal of charges under section 153-A of the Indian Penal Code, is analyzed using methods derived from Linda Edwards' work. In the course of this analysis, the archetypal tragedy narrative within the judgment, which includes the presence of a "tragic flaw," is identified.

The third chapter analyzes the narratives that appeared in the press, primarily in the English-language newspapers, in the months following the *Rangila Rasul* judgment. The controversy that erupted in the wake of Justice Dalip Singh's ruling is captured by the frequent reports of "monster meetings," and the resolutions from these meetings that were printed in the press illustrate the degree to which the stories told about the inadequacy of the law influenced the government's decision to introduce the Criminal Law Amendment Bill. The state of disequilibrium that was caused by the *Rangila Rasul* ruling, which spurred mass protests and demands for new legislation, as well as the return to a relative state of stability following the government's announcement that they would be introducing a Bill to resolve the "tragic flaw" in the legislation, illustrate what Linda Edwards has described in her research as a "rescue narrative."¹⁶ The chapter concludes with an analysis of this rescue narrative.

The final chapter examines the debates that took place within the Indian Legislative Assembly concerning the introduction of section 295-A of the Indian Penal Code and the corresponding amendments that were being made to the

¹⁶ Linda Edwards, "Once Upon a Time in Law: Myth, Metaphor, and Authority," *Tennessee Law Review* 77 (2010): 883-916.

Criminal Procedure Code. Throughout the chapter, particular attention is paid to the considerations of lawmakers in selecting the wording of the provision, as well as their concerns about the manner in which the law would be used in the future. Utilizing Stephen Paskey's work, which argues for the erasure of the dichotomy between law and stories, the chapter concludes with an analysis of the stock story embedded in section 295-A, and an examination of how the stories told by the lawmakers about religion, government and communal tensions, translated into the wording of the law itself.¹⁷

¹⁷ Stephen Paskey, "The Law is Made of Stories: Erasing the False Dichotomy between Stories and Legal Rules," *Legal Communication and Rhetoric* 11 (2014): 51-82.

Chapter 1: Literature Review

Theory and Methodology

The narrative of “law as science” is a longstanding trope within legal circles that emphasizes the centrality of reasoning and rules-based decision-making. This formalist understanding of the law, which views the application of rules as, more or less, “uncontroversial when applied to stipulated facts,” is echoed in the assertions made by Frederick Ritso in *The Science of the Law* in 1815:¹⁸

...the law is not a mere series of unconnected decrees and ordinances, but, in the strictest sense of the word, a science founded on principle, and claiming an exalted rank in the empire of reason.¹⁹

Although such an extreme conception of law as science has been refuted by many scholars within the field, Stephen Paskey correctly asserts that many experts still “cling to certain vestiges of [this] viewpoint.”²⁰ As James Boyd White points out in his incipient work on law and narrative, “The dominant view of the law in the English-speaking world today is positivistic and rule-focused: law is seen as a

¹⁸ Christopher Columbus Langdell, the Dean of Harvard Law School in the late nineteenth century, is frequently referenced in the literature as an example of this formalist conception of law as a science. Langdell’s “orthodoxy” heavily influenced the manner in which law is taught and espoused traditionalist understandings of law that persist in many legal circles to this day. See Thomas C. Grey, “Langdell’s Orthodoxy,” *University of Pittsburgh Law Review* 45 (1983): 1-53 and M.C. Roos, “Is Law Science?” *Potchefstroom Electronic Law Journal* 17 (2014): 1396.

¹⁹ Frederick Ritso, *An Introduction to The Science of The Law; Shewing The Advantages of a Law Education* (London: W. Clarke and Sons, 1815), ii.

²⁰ Linda Edwards uses the metaphor of a walled city to describe the relationship between traditionalists and oppositionists: “Imagine an ancient walled city. Inside the walls, the city’s inhabitants busily go about their work. They have routines. They have a common language. They do not always agree with each other, but they meet in common places and use accepted methods and procedures to decide the city’s issues. Outside the wall stands a small group of prophets. The prophets have messages for the city’s people, and they are trying to be heard over the city’s walls. Occasionally a few city dwellers become aware that someone is shouting from outside the walls, but the words fall strangely on city dwellers’ ears. The distant voices, barely audible, are lost among the background sounds of ongoing city life. Occasionally, a city leader looks over the walls, notices the prophets, and lobs a verbal assault in their direction, but city life is unaffected. Year after year, the prophets speak, and year after year, the city ignores them. See Linda Edwards, “Where Do the Prophets Stand?: Hamdi, Myth and the Master’s Tools,” *Connecticut Public Interest Law Journal* 43 (2013): 43 and Stephen Paskey, “The Law is Made of Stories: Erasing the False Dichotomy Between Stories and Legal Rules,” *Legal Communication and Rhetoric* 11 (2014): 51.

system of rules emanating from a particular sovereign to a population bound by it.”²¹ The shift towards integrating literary theory and the study of narrative into legal discourse is therefore inherently subversive. Indeed, the burgeoning field of law and literature casts aspersions on these traditional assumptions about the nature of law, and in turn challenges the reified distinction between law and narrative that persists in legal institutions.²²

In *Law's Stories: Narrative and Rhetoric in the Law*, Paul Gewirtz explains that there are several identifiable categories of research that coexist under the general moniker of the “law and literature” movement.²³ This unique field within the general array of “law and” disciplines broadly encapsulates the work done in studying both “law *in* literature and law *as* literature.”²⁴ While the study of “law *in* literature,” which focuses on the “representations of law and lawyers in fiction,” is an important subfield within the movement, it is the notion of “law *as* literature,” and the work of scholars within this branch of the field, that will prove most instructive for conducting an analysis of the development of section 295-A. As Gewirtz explains, “[w]ork in this category examines law and legal texts the way a literary text might be examined, sometimes with the help of tools provided by literary theory and literary criticism.”²⁵ While the study of law and literature is by

²¹ James Boyd White, *The Legal Imagination* (US: University of Chicago Press, 1985), xii.

²² Jane B. Baron, in her critique of the law and literature movement, emphasizes the importance of the “law and” that have emerged, like “law and literature,” that have “encouraged consideration of law’s dependence on and connection to other disciplines.” See Jane B. Baron, “Law, Literature, and the Problems of Interdisciplinarity,” *Yale Law Journal* 108 (1999): 1059-1060.

²³ Paul Gewirtz, “Narrative and Rhetoric in the Law,” in *Law's Stories: Narrative and Rhetoric in the Law*, eds. Peter Brooks and Paul Gewirtz (New Haven: Yale University Press, 1996), 3-4.

²⁴ *Ibid.*: 3.

²⁵ Gewirtz, “Narrative and Rhetoric”: 4.

no means a new field, the recognition of narrative as a veritable field of study within legal scholarship has grown significantly over the past several decades.

Linda Edwards, in “Speaking of Stories and Law,” sketches a map of the scholarly terrain within the field of law and narrative since the 1970s, drawing a useful distinction between three conceptual approaches within the movement.²⁶

The three categories are as follows:

(1) the jurisprudential role of narrative as a universal preconstruction, underlying most forms of human thought, including rules of law; (2) the role of narrative in public law talk—what we say and how we reason in briefs and judicial opinions; and (3) the role of narrative in the lawyering task of persuasion.²⁷

Although the analysis of section 295-A’s history which follows may occasionally veer into the conceptual territory that Edwards identifies as type (3), it will focus primarily on ideas that appear within scholarship of type (1) and (2). More abstract in nature, type (1) scholarship, as defined by Edwards, presents itself in stark contrast to legal formalists, and takes the view that “law ultimately is the product of commonly shared narratives and other cultural frames that form the soil from which all legal principles grow.”²⁸ The relationships between the law and narrative are indeed “multiple and complex,” as the history of section 295-A will demonstrate.²⁹

²⁶ Linda Edwards, “Speaking of Stories and Law,” *Legal Communication and Rhetoric* 13 (2016): 159-169.

²⁷ Not described in detail above is scholarship of types (2) and (3). Edwards describes type (2) scholarship as a “meta-discourse,” or the “way we write and speak about legal outcomes.” Type (3) scholarship on the other hand carries the goal of “understand[ing] and us[ing] the language of the law,” including how lawyers can use “narrative to persuade.” See Edwards, “Speaking of Stories and Law”: 159, 163 and 165.

²⁸ Edwards, “Speaking of Stories and Law”: 160.

²⁹ *Ibid*: 179.

Numerous scholars have played an instrumental role in exploring the manifold dimensions of this relationship. Although this thesis will draw primarily upon the work of Stephen Paskey and Linda Edwards, it is important to situate their work within the broader context of the law and literature movement. The origins of the contemporary iteration of this movement have been traced to various sources, but several scholars have pointed to the seminal work of James Boyd White in *The Legal Imagination*.³⁰ Although the stated aim of the book is to improve the legal writing of the reader, White's interdisciplinary approach, which discusses the writings of a diverse range of authors like Twain, Dickens and Thoreau, examines the different ways in which language is used. Fundamentally, as Edwards points out, this marked a shift away from the formalist account of law as "the product of mandatory authority," towards the notion of law as "commonly shared narratives."³¹

In *Nomos and Narrative*, Robert Cover characterized the relationship between law and narrative as follows:

The rules and principles of justice, the formal institutions of the law, and the conventions of a social order are, indeed, important to that world; they are, however, but a small part of the normative universe that ought to claim our attention. No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning. For every constitution there is an epic, for each Decalogue a scripture. Once understood in the context of the narratives that give it meaning, law becomes not merely a system of rules to be observed, but a world in which we live.³²

Furthermore, Cover opines that law and narrative are "inseparably related," and that "[h]istory and literature cannot escape their location in a normative universe,

³⁰ See generally James Boyd White, *Legal Imagination*.

³¹ Edwards, "Speaking of Stories and Law": 160.

³² Robert M. Cover, *Narrative, Violence, and the Law: The Essays of Robert Cover*, eds. Martha Minow, Michael Ryan and Austin Sarat (Ann Arbor: The University of Michigan Press, 1995), 95-96.

nor can prescription, even when embodied in a legal text, escape its origin and its end in experience, in the narratives that are the trajectories plotted upon material reality by our imaginations.”³³ Indeed, the enactment of section 295-A is a testament to Cover’s words. This understanding of the interdependency between law and narrative, as expressed by Cover, and echoed in the work of other scholars that followed his field of inquiry, represent the shift away from traditional assumptions regarding the “hermeticism” of law, towards an appreciation of the role played by narrative; these works highlight the importance of the complex social, cultural and religious narratives that contributed to the development of section 295-A of the Indian Penal Code, and illustrate the historical applicability of the law and literature movement.³⁴

It is from this tradition, illustrated by the work of scholars such as James Boyd White and Robert Cover, that Linda Edwards and Stephen Paskey emerge with their theories and methodologies on the relationship between law and narrative. Although some scholars have criticized the work of those within the law and literature movement for its abject lack of methodological and theoretical coherence, Michael Pantazakos astutely observes that it is “the abnegation of an over-arching philosophical agenda [that] is the movement’s...strength.”³⁵ In order to provide some focus within the broader theoretical milieu of the “law and literature” movement, it is Edwards’ and Paskey’s scholarship—in conjunction with the

³³ Cover, *Narrative*: 96.

³⁴ In “Narrativity of the Law,” Peter Brooks refers to the hermeticism of law as “its intention to remain a separate discourse that defines its terms internally.” See Peter Brooks, “Narrativity of the Law,” *Law and Literature* 14 (2002): 2.

³⁵ Michael Pantazakos, “‘Ad Humanitatem Pertinent’: A Personal Reflection on the History and Purpose of the Law and Literature Movement,” *Cardozo Studies in Law and Literature* 7 (1995): 33.

historical theories of Hayden White— that will most heavily inform the analyses that ensue.

Linda Edwards has produced several papers that explore the relationship between law and narrative, which represent all of the aforementioned three types of scholarship in the field. For the purposes of this thesis, the methodological and theoretical frameworks presented in the article, “Speaking of Stories and Law,” as well as in “Where Do the Prophets Stand?: Hamdi, Myth and the Master’s Tools,” and “Once Upon a Time in Law: Myth, Metaphor, and Authority” will be used to analyze the role of narrative in the development of section 295-A.

In “Where Do the Prophets Stand?” Edwards examines a particular legal case through the narrative lens of “redemptive violence.”³⁶ Throughout the article, she challenges the traditionalist view of law as a “seemingly preordained logical structure,” and instead claims that it is “a matter of human choice, and as with all matters of human choice, it is driven by contested values, frames, power, and politics.”³⁷ Edwards maintains that traditional “law talk,” texts and methodologies associated with the legal profession and traditional legal theory “do not fully or fundamentally account for legal outcomes,” and that one must take into consideration that legal outcomes are in fact “the product of underlying values and assumptions about human nature and the world.”³⁸ This requires an understanding of the preconstructions of the law, comprised of “cultural myths, metaphors, and

³⁶ Edwards, “Where Do the Prophets Stand?”: 45.

³⁷ Ibid: 46.

³⁸ Ibid: 47.

meta-narratives that frame the way those in power see the world.”³⁹ Emphasizing the role played by these preconstructions, Edwards states that:

Far more effectively than authorities or policies, these implicit but largely unrecognized frames (values, assumptions, social and political structures) account for where we are and how we got here. Thus, myths and other frames operate silently but powerfully beneath traditional law talk about objective reasons.⁴⁰

Archival evidence from the 1920s, indicates that numerous “unrecognized frames,” which will be examined in subsequent chapters, contributed to the creation of section 295-A. Edwards highlights the irony of excluding cultural myths and preconstructions from accounts of legal results, which form the “unseen foundation” of law itself.⁴¹ On the role of narrative in establishing these “cultural myths,” Edwards asserts that:

Cultural myths and other master stories are among the most pervasive of these unconscious schemas. Human beings are hard-wired to organize the world narratively, with abstract reasoning and deductive processes only arising derivatively from the preexisting narrative structure. Myths and master stories operate widely within cultures to mediate new events and infuse them with shared social meaning. These cultural myths function as templates to channel other potentially similar events into a well-worn path. The outcome suggested by the myth or master story will seem both true and inevitable.⁴²

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid: 48.

⁴² This idea of being “hard-wired to organize the world narratively” has been studied by scholars like Steven Winter that take a cognitive approach to understanding the law. Winter states that “contrary to conventional wisdom...human imagination operates in an orderly and systematic fashion.” These take the form of “schemas” and, as Linda Edwards explains, these provide “interpretive frameworks through which people perceive the world and make judgments about it.” For this reason, Edwards argues that “cultural myths” and “master stories” are “among the most pervasive of these unconscious schemas.” See Edwards, “Where Do the Prophets Stand?": 50-51 and Steven L. Winter, *A Clearing in the Forest: Law, Life, and Mind* (Chicago: University of Chicago Press, 2003): xi.

Indeed, it is not a matter of “*whether* we see the world through the lens of a story,” but rather “*which* story lens we will use.”⁴³ However, Edwards aptly recognizes that it is impossible to “cross-examine a myth unless we recognize it, becoming aware of its fingerprints on the legal decisions of our day. And we are not likely to recognize the myth and its work if we pretend that law is limited to the methods of traditional legal argument.”⁴⁴ Indeed, in an earlier article, Edwards was the first to define the term “narrative reasoning,” which she describes as follows:

Narrative reasoning evaluates a litigant’s story against cultural narratives and the moral values and themes these narratives encode. It asserts, “X is the answer because that result is consistent with our story.” Cultural narratives define the moral value and meaning of actions and events by setting them in the context of a narrative structure. The *paideic* process of defining a meaningful world of moral order is accomplished in each culture through the telling and re-telling of foundational narratives, often mythic, rather than through state-made rules.⁴⁵

By identifying the conflicting stories at play, and the cultural narratives that shaped the establishment of section 295-A in its chosen form, this thesis will contextualize the creation of this law and examine some of the cultural myths, narratives and preconstructions that contributed to its institution.

In “Once Upon a Time in Law,” Linda Edwards makes the case for developing a “legal narratology,” and examines the role played by a “birth story” and “rescue story” narrative in two different legal cases.⁴⁶ The extent to which these narratives influence the creation and interpretation of law is emphasized below:

⁴³ Edwards, “Where Do the Prophets Stand?”: 52.

⁴⁴ *Ibid*: 66.

⁴⁵ Linda Edwards, “The Convergence of Analogical and Dialectic Imaginations in Legal Discourse,” *Legal Studies Forum* 20 (1996): 11.

⁴⁶ Linda Edwards, “Once Upon a Time in Law: Myth, Metaphor, and Authority,” *Tennessee Law Review* 77 (2010) 891-907.

In discussions of cases, statutes, and constitutional provisions, there are stories of birth, death, battle, betrayal, tricksters, and champions. In fact, we may not be able to talk about these sources of law without telling stories about them. These stories do their narrative work beneath the surface of routine law talk and lead straight to the conclusions that become the law.⁴⁷

Despite the traditional emphasis on legal authority, rules and policy, Edwards claims that “we are actually swimming in a sea of narrative.”⁴⁸ Furthermore, Edwards identifies the two most important elements in writing law’s stories: character and plot.⁴⁹ With regard to character, Linda Edwards explains that in stories about or within the field of law, the manner in which abstract ideas become reified through metaphor allows “[c]haracters [to] be entities, like courts or legislatures or prosecutors’ offices, or even abstract concepts, like a principle or a policy, a statute or a case holding.”⁵⁰ The origin story of section 295-A demonstrates the narrative qualities of moving from a “steady state” to “trouble”—a narrative shift that is particularly evident in the press— where the steady state is “the legitimate ordinary.”⁵¹ Conflict and instability, as Edwards explains, must be framed: “In narrative terms, whatever disrupts a steady state is bad.”⁵² The narratives, both in the courts and in in public forums, surrounding the court cases that contributed to the creation of section 295-A demonstrate this shift, in differing ways, in an attempt to “resolve the disequilibrium” created by the scurrilous writings, “and

⁴⁷ Edwards, “Once Upon a Time”: 884.

⁴⁸ Ibid.

⁴⁹ Ibid: 886.

⁵⁰ Ibid: 889.

⁵¹ As briefly mentioned by Edwards, Anthony Amsterdam and Jerome Bruner in *Minding the Law* outline a similar plot that transitions from a “steady state” to “trouble,” which “[evokes] efforts at redress” in order to restore the situation to either an old or new steady state. Ibid: 887 and Anthony Amsterdam and Jerome Bruner, *Minding the Law* (Cambridge: Harvard University Press, 2002), 113-114.

⁵² Ibid: 887.

return to some version of legitimate stability—either to the original state (restoration) or to some other good and stable place (transformation).”⁵³ Edwards also uses the idea of myth, in the sense of an archetype or master story, to explain the way narratives encode law; in particular, she examines the way in which “[m]yths provide ready templates for plots,” and provide a ready-made interpretive lens, or “blueprint,” for certain “archetypal situations” and “character templates.”⁵⁴ Such overarching narratives are pervasive throughout the various judgments that preceded the legislative amendment, but it is the presence of a “tragedy archetype” within Justice Dalip Singh’s ruling that will be evaluated in chapter two. Edwards’ work, in this respect, will provide a framework for identifying and analyzing the narratives that shaped the development of section 295-A.

In “The Law is Made of Stories,” Stephen Paskey presents an unprecedented argument in challenging the distinction between governing rules, or laws, and narrative. First, he argues that all governing rules have the “underlying structure of a *stock story*,” which he describes as a recurring “story template,” or “story skeleton,” which acts as a “model for similar stories that will be told with differing events, entities, and details.”⁵⁵ This means that the “elements of the rule correspond to the elements of a story and have a logical relationship that qualifies as a ‘plot.’”⁵⁶ In an effort to define the term, Paskey uses the example of a burglary charge to describe the general qualities of a stock story:

⁵³ Ibid: 887-888.

⁵⁴ Edwards, “Once Upon a Time”: 889.

⁵⁵ Paskey, “The Law is Made of Stories”: 52, 70.

⁵⁶ Ibid: 52.

[T]he sentence is a *stock story*: it includes a plot (the conviction follows from the entry), and the essential elements of the story (events, entities, etc.) are each stated generally, as a type rather than a specific person, entry, or dwelling... The same points are true when a governing rule is codified as a statute.⁵⁷

Second, he argues that the processes of “analytical” or “rules-based reasoning,” which are traditionally ascribed to the law, are often representative of “narrative reasoning,”⁵⁸ which Paskey defines as “*a process of systematically comparing and contrasting narratives for the purpose of reaching a conclusion*, either about what the law is (or should be) or how the law applies to a given set of facts.”⁵⁹ This “comparing and contrasting” of narratives in order to determine what the law should be is plainly evident in the transcripts of the Legislative Assembly debates from 1927, in particular, and many of the other primary source documents referenced throughout this study more broadly. Rather than make the distinction between rules-based reasoning and narrative reasoning, as most scholars—including Edwards—have done, Paskey understands the latter to be a “meta-category of reasoning, one that cuts across traditional boundaries.”⁶⁰ In opposing the traditional dichotomy between laws and their stories, Paskey claims that: “every governing rule *demand*s a story: a story is embedded in the rule’s structure, and the rule can be satisfied only by telling a story.”⁶¹ While Edwards maintains that “[r]ules are not narratives,” Paskey argues that “every governing legal rule is literally a form of narrative, in which the essential elements of a story—events, characters, and

⁵⁷ Ibid: 72.

⁵⁸ Edwards was the first scholar to define “narrative reasoning” in the context of legal scholarship. See *ibid*: 57 and Edwards, “The Convergence of Analogical”: 11.

⁵⁹ Emphasis included in the original passage. See, Paskey, “The Law is Made of Stories”: 76.

⁶⁰ Ibid.

⁶¹ Ibid: 52.

plot—have been reduced to general terms.”⁶² In her response to Paskey’s argument in “Speaking of Stories and Law,” Edwards accepts that a governing rule has the structure of a stock story, but rejects his claim that “[a] governing rule...does not simply provide evidence of its narrative origin: *it is, in fact, still a narrative,*” by pointing out that the shared structure between a governing legal rule and a stock story does not make the rule itself a story.⁶³ Although she makes an apt distinction, Paskey’s argument nevertheless contributes to the understanding of law’s entangled relationship with narrative, through the lens of the stock story, which will help to unpack the origins of section 295-A.

In describing the relationship between the elements of a stock story and a governing rule, Paskey presents a chart that shows the parallels between the rule text and story elements.⁶⁴ Utilizing this model, a similar illustration of section 295-A might look as follows:⁶⁵

| Rule Text | Story Element |
|--|---|
| Whoever | The main character |
| with | A logical connector |
| deliberate and malicious intention | The character’s state of mind |
| of outraging the religious feelings of any class of citizens of India | A consequence, and both an implied character and an implied event |
| by words, either spoken or written, or by signs or by visible representations or otherwise | The character’s act; an event caused by the character |
| insults or attempts to insult the religion or the religious beliefs of that class | A consequence, and implied characters beyond the main character |
| shall | A logical connector completing the if-then structure |
| be punished with imprisonment of either | Conclusion, consequence and event |

⁶² Paskey, “The Law is Made of Stories”: 52 and Edwards, “The Convergence of Analogical”: 22.

⁶³ Paskey, “The Law is Made of Stories”: 72 and Edwards, “Speaking of Stories and Law”: 171.

⁶⁴ Paskey, “The Law is Made of Stories”: 73.

⁶⁵ The story elements have been taken directly from Paskey’s article, for the most part verbatim. See *ibid.*

| | |
|--|--|
| description for a term which may extend to three years, or with fine, or with both | |
|--|--|

Thus, section 295-A meets Paskey’s requirements for a stock story, as “the rule includes characters..., at least two events..., and a consequence (the conviction),” and there is a plot: “the elements are logically related, and the conviction follows directly from other elements.”⁶⁶ The stock story within the governing rule, in this case section 295-A, “*demand*s a story,” which requires a form of narrative reasoning.⁶⁷ As evidenced by the role played by the *Rangila Rasul* case in the making of section 295-A, the stock story or governing rule is created through “the process ...[of] stripping the story in the first case to its bare elements, stating those elements generally, and then comparing the resulting stock story to the story in the second case.”⁶⁸ However, this thesis will move beyond simply analyzing the structure of the stock story, and instead examine how the historical events, discourses and narratives that precipitated the creation of section 295-A contributed to the formation of each element of this stock story. As Paskey points out, “[i]n a very real sense, the law is made of stories: lawmakers enact legal rules because they wish to dictate how some categories of real-life stories should end.”⁶⁹

In his discussion of narrative reasoning, Paskey identifies “five strands of narrative reasoning” that provide a useful framework for analysis:⁷⁰

The facts of a case are compared to and contrasted with

A story embedded in a governing rule

⁶⁶ Ibid.

⁶⁷ Ibid: 52.

⁶⁸ Ibid: 71.

⁶⁹ Ibid: 52-53.

⁷⁰ Ibid: 78.

A story in an [sic] factually analogous court decision
A story about public policy
A story about social custom
A story about cultural and moral values⁷¹

Each of these five strands of narrative reasoning, to varying degrees in different archival documents, can be seen to be at work in shaping section 295-A. Whether one is examining the lawmakers' considerations in selecting the appropriate "plot" for the stock story they wished to be embedded in the governing rule, the influence of the *Vichitra Jivan* and *Vartman* cases, or the significance placed by Indian and British alike—for different reasons—on protecting the "religious feelings" of Hindus and Muslims in the wake of controversy and communal conflict, section 295-A represents the product of these five strands of narrative reasoning at work.

However, Paskey fails to provide a satisfactory explication of the manner in which narratives within the courts, the public sphere and amongst political representatives, contribute to the formation of the "stock story" or governing rule. In stating that "statutory rules are... the product of stories," Paskey opens the door for other scholars to continue this line of research.⁷² He states that "[w]e can be better scholars...if we understand that stories are not simply a tool for persuasion: they are embedded in the structure of law itself," and that "[i]n a very literal sense, no one can make laws...without telling stories."⁷³ In fact, Paskey astutely acknowledges in his conclusion that his article "raises more questions than it answers," and calls for scholars to take up the challenge in exploring "what the

⁷¹ Ibid.

⁷² Ibid: 80.

⁷³ Ibid: 54.

thesis means for legislative drafting.”⁷⁴ This thesis takes up that challenge. In addition, by applying the frameworks developed by scholars within the law and literature movement, like Edwards and Paskey, to the subject of the historical development of section 295-A, it will demonstrate the valuable insight that such theoretical and methodological approaches can provide to other fields, especially religious studies.

Of course, this thesis will also adopt a historical approach, which requires an additional methodological and theoretical foundation. For this, Hayden White’s work in unpacking the relationship between history and narrative, as well as exploring the connection between historical evidence and historical accounts, will be crucial. White, in his many works, sought to bring history and literature together, stating that “[t]he differences between a history and a fictional account of reality are matters of degree rather than of kind.”⁷⁵ The distinction between the traditional historian’s task of “finding” a story, in contrast with the notion that the writer of fiction “invents” their story, “obscures the extent to which ‘invention’ also plays a part in the historian’s operations.”⁷⁶ A stark departure from the Rankian conception of historical objectivity that has coloured historiography throughout the nineteenth and early twentieth centuries, White focuses on the inherent subjectivity of

⁷⁴ Ibid: 79.

⁷⁵ See footnote 27 in Hayden White, *Tropics of Discourse: Essays in Cultural Criticism* (Baltimore: John Hopkins University Press, 1978), 78.

⁷⁶ Hayden White, *Metahistory: The Historical Imagination in Nineteenth-Century Europe* (Baltimore: John Hopkins University Press, 1975), 6-7.

historical writing and interpretation— introducing a framework for viewing the historical account as narrative.⁷⁷ In describing the historian's role, White states that:

The same event can serve as a different kind of element of many different historical stories, depending on the role it is assigned in a specific motific characterization of the set to which it belongs. The death of the king may be a beginning, an ending, or simply a transitional event in three different stories... The historian arranges the events...into a hierarchy of significance by assigning events different functions as story elements in such a way as to disclose the formal coherence of a whole set of events considered as a comprehensible process with a discernible beginning, middle, and end.⁷⁸

In this way, White engages in the deconstruction of the Manichaeian walls that have divided the disciplines of history and literature by applying the principles of literary theory to analyze the narrativity, or storytelling, that transpires in the writing of a historical account.⁷⁹

With regard to the historical methodology adopted herein, Hayden White's conception of the relationship between historical data and the formation of a narrative is instructive. Following in the footsteps of Hegel and Croce, White asserts that "history, like other formalizations of poetic insight, was as much a 'making' (an *inventio*) as it was a 'finding' of the facts that comprised the structure of its perceptions."⁸⁰ The historical records—in the case of this project, the newspaper articles, government documents and legislative assembly debate minutes—do not represent a pre-formed narrative, which is merely being discovered. Rather, the

⁷⁷ This is not to say that Hayden White views the process of telling history as entirely subjective, but rather a far cry from the Rankian conception of historic accounts as pursuing complete objectivity, or *wie es eigentlich gewesen*: the past as it actually happened. For one perspective on the Rankian legacy of "historical objectivity," see Peter Novick, *That Noble Dream: The "Objectivity Question" and the American Historical Profession* (Cambridge: Cambridge University Press, 1988), 25-28.

⁷⁸ White, *Metahistory*: 6-7.

⁷⁹ White's views on the narrativity and "storytelling" elements in historical accounts, which he argues should be included in the study of historiography, can be found in Hayden White, "The Historical Text as Literary Artifact," *Clio* 3 (1974): 277-303.

⁸⁰ Hayden White, "Interpretation in History," *New Literary History* 4 (1973): 285.

historian exercises agency in selecting what evidence to present, explaining it and constructing a narrative: “Histories (and philosophies of history as well) combine a certain amount of ‘data,’ theoretical concepts for ‘explaining’ these data, and a narrative structure for their presentation as an icon of sets of events presumed to have occurred in times past.”⁸¹ This process of constructing narrative is described by White as follows:

What the historian must bring to his consideration of the record are general notions of the *kinds of stories* that might be found there, just as he must bring to consideration of the problem of narrative representation some notion of the ‘pre-generic plot-structure’ by which the story *he* tells is endowed with formal coherency.⁸²

While there have been several historical works published that present differing narratives on the creation of section 295-A, this project will tell a slightly different story using available historical data. Fundamentally an origins story, with an identifiable beginning, middle and end, it is the explanatory power of the framework provided by Edwards and Paskey that allows this particular historical narrative, as well as its analysis, to contribute to the field as a whole.

Primary and Secondary Sources

In order to analyze the history of section 295-A and contribute to the existing secondary literature on the subject, archival materials, retrieved from the British Library, will be utilized throughout. The summary of existing scholarship that follows will focus primarily on the historical studies that specifically address the making of the law, including the events and cultural context that laid the foundations for, and shaped, its implementation. In particular, any explanation of

⁸¹ White, *Metahistory*: xxix.

⁸² White, “Interpretation”: 294.

this law's history inevitably includes reference to the *Rangila Rasul* case. While the law itself has not been the primary focus of many studies until recent years—and even then, many studies have focused on contemporary controversies without delving into the law's historical development—a brief overview of the scholarly works that have touched on this subject will provide a foundation for contextualizing the current study. Some of the scholarship will be referenced throughout the body of the thesis in order to provide a broad historical context, but the analyses of the narratives at play in the archival documents will be largely derived from the theoretical traditions of Edwards and Paskey, as outlined above. This summary of the existing literature will not only help to situate this project within the broader body of work on the subject of section 295-A, but will also demonstrate the innovative, interdisciplinary approach that is adopted by this study in utilizing the theories and methods of both the “law and literature” movement, as depicted in the work of Edwards and Paskey, as well as those within the discipline of history, particularly Hayden White. In doing so, this study expands the historical understanding of the law's creation, and demonstrates the value that the “law and literature” movement brings to other disciplines, like religious studies.

The primary sources that will be used throughout this project for the purposes of historical analysis include newspaper articles, government documents and minutes from the Legislative Assembly debates obtained from the British Library's India Office Records collection. Articles from newspapers such as *The Hindustan Times*, *The Times of India*, *The Hindu*, *The Tribune* and the *Manchester Guardian* will provide historical evidence to illustrate the narratives, controversies

and dialogues that were unfolding in the public sphere—or at least the English language papers—in response to the *Rangila Rasul* case.⁸³ Similarly, government documents, particularly those from the Public and Judicial Department files, will supplement the articles and provide insight into the colonial administration’s actions at the time. Lastly, minutes from the Legislative Assembly debates where the drafting and implementation of section 295-A were discussed will elucidate the concerns and considerations that the lawmakers had at the time. Where there are gaps in primary source documentation on a particular topic, such as transcripts from trials in the lower courts, and debates that were taking place contemporaneously in the vernacular press, secondary literature will be utilized.

The 1920s within Northern India, particularly in the Punjab, have been characterized within the literature as fraught with communal tension. In particular, controversy between Hindu and Muslim groups abounded, which made the environment into which the *Rangila Rasul* pamphlet was released incredibly volatile. Much of the work that has been done on the state of the Punjab in the 1920s in general, and the historical context of the creation of section 295-A specifically, situate the events that preceded the law’s promulgation within the broader theme of communal conflict during the period. By far, the most comprehensive historical account of the *Rangila Rasul* affair, and the communal tensions that characterized

⁸³ Prem Raman Uprety discusses the differing tones and contents of English language papers and vernacular papers during the 1920s. Uprety explains that the vernacular press was more often responsible for provoking communal conflict during this period, particularly because these papers would often be read aloud in public spaces. However, the English language papers, with either British or Indian proprietors, had a circulation that was limited by language. This project will refer to newspaper articles from several English language newspapers, but will draw on secondary literature which translates and describes vernacular publications for context where appropriate. See Prem Raman Uprety, *Religion and Politics in Punjab in the 1920’s* (New Delhi: Sterling Publishers, 1980), 94-95.

the atmosphere in the Punjab at the time, is Gene R. Thursby's *Hindu-Muslim Relations in British India: A Study of Controversy, Conflict, and Communal Movements in Northern India 1923-1928*.⁸⁴ Thursby identifies the *Vichitra Jivan*, *Rangila Rasul* and *Vartman* cases as exemplifications of the "worst forms of Hindu-Muslim controversialism," which prompted the government to "shift from poorly coordinated and intermittent intervention to major executive and judicial action."⁸⁵ Similarly, Prem Raman Uprety, in *Religion and Politics in Punjab in the 1920's* positions the events surrounding the *Rangila Rasul* case as an example of the institutionalization of communal conflict between Hindus and Muslims during this period, and argues more broadly that the political, economic and religious controversies that flared in the Punjab during the 1920's "served as a prelude to the partition of 1947."⁸⁶ Due to the position of the Governor of the Punjab at the time, it is unsurprising that *Hailey: A Study in British Imperialism, 1872-1969*, a historical account by John W. Cell, also reinforces the conception of the *Rangila Rasul* case as a manifestation of the rampant communal conflict in the Punjab.⁸⁷ Although these scholars, particularly Thursby, provide a rich historical account of the events that preceded the legislative amendment, the *Rangila Rasul* case and the debates that led to the Indian Legislative Assembly passing section 295-A into law are not the primary focus of the studies.

⁸⁴ See generally G. R. Thursby, *Hindu-Muslim Relations in British India: A Study of Controversy, Conflict, and Communal Movements in Northern India* (Leiden: Brill, 1975).

⁸⁵ *Ibid*: 40.

⁸⁶ Uprety: 5.

⁸⁷ John W. Cell, *Hailey: A Study in British Imperialism, 1872-1969* (Cambridge: Cambridge University Press, 1992), 145.

Other scholars have focused their attention on the British administration's proscription of offensive literature, and the topic of censorship within British India more broadly. In his seminal study on collections of proscribed literature, *Banned: Controversial Literature and Political Control in British India, 1907-1947*, N. Gerald Barrier examines the "politics of proscription" during the first half of the twentieth century.⁸⁸ In this work, Barrier has compiled a comprehensive "annotated guide" to the literature that was banned during this period for fomenting communal conflict, and provides an overview of the communalism, conflict and controversy that led to the publication of these materials.⁸⁹ With a chapter devoted to "R. Rasul and its Aftermath," Girja Kumar in *The Book on Trial: Fundamentalism and Censorship in India*, examines individual case studies of incidents related to censorship within India, and includes a description of the *Rangila Rasul* affair.⁹⁰ It is Barrier's account, however, that will prove most instructive, with its focus on the historical context of and broader narratives related to, the politics of proscription that characterized the mid-1920s in the Punjab.

While accounts such as Thursby, Barrier and Uprety's have been instrumental in laying the groundwork for further explorations of the development of section 295-A of the Indian Penal Code, this subject has received scant attention from scholars until recent years. As Julia Stephens explains in "The Politics of Muslim Rage: Secular Law and Religious Sentiment in Late Colonial India," given the

⁸⁸ N. Gerald Barrier, *Banned: Controversial Literature and Political Control in British India, 1907-1947* (Columbia: University of Missouri Press, 1974), 1.

⁸⁹ See generally Barrier, *Banned*.

⁹⁰ Girja Kumar, *The Book on Trial: Fundamentalism and Censorship in India* (New Delhi: Har-Anand, 1997), 47-60.

significance of the *Rangila Rasul* case, it is surprising that “few historians have explored the debates that unfolded in the press about the trial and legislation.”⁹¹ However, Stephens also aptly recognized that the “relative paucity of attention seems to be changing, sparked in part by recent controversies in Pakistan and India over censorship and blasphemy.”⁹² Scholars such as Julia Stephens, Neeti Nair, Richa Raj, Nishant Kumar, David Gilmartin and Farhana A. Nazir have all studied the development of section 295-A, focusing on various aspects of the *Rangila Rasul* affair; most notably, they have concentrated on the emotional or affective elements, the historical and political context, and the legislative evolution of statutes governing religious offence more generally.

Both David Gilmartin, in “Democracy, Nationalism and the Public: A Speculation on Colonial Muslim Politics,” and Julia Stephens explore the emotional or affective element to the *Rangila Rasul* case. In his article, Gilmartin argues that a different form of political engagement emerged from Muslim leaders’ appeals to emotion during the *Rangila Rasul* controversy, exploring the notion of affect in relation to the conflict.⁹³ Stephens, building on Gilmartin’s framing of the *Rangila Rasul* controversy, “explores the entangled histories of secular law and religious sentiment” during the controversy, and demonstrates the extent to which “religious

⁹¹ Stephens’ remarks run contrary to those of David Gilmartin, who claims that “[t]his agitation over Rangila Rasul had little long-lasting political significance.” Contrary to Gilmartin’s assertion, the aftermath of this case reverberated throughout the press and Legislative Assembly debates for years, and contemporary issues related to censorship have sparked a renewed interest in this period and the events that preceded the amendment of the law. In addition, events surrounding the case, such as the murder of Rajpal by Ilam Din in 1929, continued to give place to these events in popular memory. See Stephens, “The Politics of Muslim Rage”: 46, David Gilmartin, “Democracy, Nationalism and the Public: A Speculation on Colonial Muslim Politics,” *Journal of South Asian Studies* 14 (1991): 135 and Zarina Salamat, “Ghazi Ilmuddin,” *Journal of the Pakistan Historical Society* 42 (1994): 419-428.

⁹² Stephens, “The Politics of Muslim Rage”: 61.

⁹³ Gilmartin, “Democracy”: 130-131.

sentiments,” politics and law were “inextricably intertwined.”⁹⁴ Stephens’ historical account, which relies heavily on discussions taking place in the Muslim vernacular press on the topic of the *Rangila Rasul* controversy, will help to inform the analysis that follows of the narratives that shaped section 295-A.

Several scholars have examined the development of section 295-A and the *Rangila Rasul* case from a primarily historical and political perspective, including Richa Raj, Nishant Kumar and Neeti Nair.⁹⁵ Kumar revisits the history of the *Rangila Rasul* controversy and the debates that unfolded over the passing of section 295-A, exploring the role that these events played in negotiating the “subject-citizen conundrum,” and establishing the primacy of the identity of the “religious subject” over the individual.⁹⁶ In Nair’s article, “Beyond the ‘Communal’ 1920s: The Problem of Intention, Legislative Pragmatism, and the Making of Section 295A of the Indian Penal Code,” she provides a thorough account of the nature of the debates that preceded the implementation of the law, in both the press and the Legislative Assembly; however, rather than framing these discussions as simply further illustrating the rampant communal tensions of the time, Nair claims that these debates “allude to a different possible reality,” one where the “role of the state in protecting the rights of religious communities to arrive at a *consensus* that is

⁹⁴ Stephens, “The Politics of Muslim Rage”: 46-47.

⁹⁵ See generally Richa Raj, “A Pamphlet and its (Dis)contents: A Case Study of *Rangila Rasul* and the Controversy Surrounding it in Colonial Punjab, 1923-29,” *History and Sociology of South Asia* 9 (2015): 146-162, Nishant Kumar, “Laws and Colonial Subjects: The Subject-Citizen Riddle and the Making of Section 295 (A),” in *Subjects, Citizens and Law: Colonial and Independent India*, eds. Gunnel Cederlöf and Sanjukta Das Gupta (New York: Routledge, 2017), 82-103 and Neeti Nair, “Beyond the ‘Communal’ 1920s: The Problem of Intention, Legislative Pragmatism, and the Making of Section 295A of the Indian Penal Code,” *The Indian Economic and Social History Review* 50 (2013): 317-340.

⁹⁶ Kumar, “Laws and Colonial Subjects”: 84.

negotiated” is represented by section 295-A itself.⁹⁷ Although this study will analyze the development of section 295-A through the lens of the law and literature movement, it will adopt a historical approach that is very similar to Nair’s, and utilize many of the same archival sources.

There have also been studies that have discussed the history of section 295-A within the context of Chapter XV of the Indian Penal Code, which covers offences against religion more generally. Both Siddharth Narrain and Farhana A. Nazir, in their respective works, detail the evolution of the legislation related to religious offence within British India.⁹⁸ In doing so, each of their respective studies delves into the impact that the *Rangila Rasul* case had on the amendment of the law, with Narrain noting that of the hate speech laws within India, “Section 295A has the most dramatic origin.”⁹⁹ Furthermore, Nazir, in her dissertation on the history of Pakistan’s blasphemy laws,¹⁰⁰ analyzes not only the evolution of religious offence within British India from the early nineteenth century, but studies the manner in which the *Rangila Rasul* case, as well as the *Vartman* and *Vichitra Jivan* cases,

⁹⁷ Nair, “Beyond the Communal”: 318.

⁹⁸ Siddharth Narrain “The Harm in Hate Speech Laws: Examining the Origins of Hate Speech Legislation in India” in *Sentiment, Politics, Censorship: The State of Hurt*, eds. Rina Ramdev, Sandhya D. Nambiar and Debaditya Bhattacharya (California: Sage Publications, 2016) and Farhana A. Nazir “A Study of the Evolution of Legislation on Offences Relating to Religion in British India and their Implications in Contemporary Pakistan” (PhD Dissertation, Divinity School, The University of Edinburgh, December 2013).

⁹⁹ Siddharth Narrain, “The Harm in Hate Speech Laws: Examining the Origins of Hate Speech Legislation in India,” in *Sentiment, Politics, Censorship: The State of Hurt*, eds. Rina Ramdev, Sandhya D. Nambiar and Debaditya Bhattacharya (California: Sage Publications, 2016), 39-54.

¹⁰⁰ Both section 295-A of the Indian Penal Code and Pakistan’s blasphemy laws share the same British colonial origins. For more information, see Shemeem Burney Abbas, *Pakistan’s Blasphemy Laws: From Islamic Empires to the Taliban* (US: University of Texas Press, 2013), 73-75 and Asad Ali Ahmed, “Specters of Macaulay: Blasphemy, the Indian Penal Code, and Pakistan’s Postcolonial Predicament,” *Censorship in South Asia: Cultural Regulation from Sedition to Seduction*, eds. Raminder Kaur and William Mazzarella (Indianapolis: Indiana University Press, 2009), 172-194.

influenced Indian legislators' decision to enact section 295-A.¹⁰¹ While these accounts provide a deeper understanding of some of the British administrators' jurisprudential considerations regarding the adjudication of religious offence in India, including some of the watershed cases like the *Rangila Rasul* case that acted as a catalyst for the institution of section 295-A, this project will apply a different framework of analysis to the events and cases that precipitated the amendment of the Indian Penal Code, by borrowing from the law and literature movement.

There are a number of branches of research directly related to section 295-A that have been purposefully omitted from this overview of existing scholarship, as they are beyond the scope of this project. This includes the voluminous, and rapidly growing, body of scholarly commentaries on and critique of the contemporary interpretations and applications of section 295-A within India, particularly regarding the effects of the law on academic censorship; this topic has been the subject of much heated debate within the field of religious studies, and continues to provoke dialogue and reflection.¹⁰² Similarly, work that includes discussion of

¹⁰¹ Nazir, "Evolution of Legislation": 83-97.

¹⁰² Examples of this work include James Laine, "Resisting My Attackers; Resisting My Defenders: Representing the Shivaji Narratives," *Engaging South Asian Religions: Boundaries, Appropriations, and Resistances*, eds. Mathew N. Schmalz and Peter Gottschalk (Albany: State University of New York Press, 2011), 153-172, McComas Taylor, "Hindu Activism and Academic Censorship in India," *Journal of South Asian Studies* 37 (2014): 717-725, Brian K. Pennington, "The Unseen Hand of an Underappreciated Law: The Doniger Affair and Its Aftermath," *Journal of the American Academy of Religion* 84 (2016): 323-336, Rupa Viswanath, "Economies of Offense: Hatred, Speech, and Violence in India," *Journal of the American Academy of Religion* 84 (2016): 352-363, Anantanand Rambachan, "Academy and Community: Overcoming Suspicion and Building Trust," *Journal of the American Academy of Religion*, 84 (2016): 367-372, C.S. Adcock, "Violence, Passion, and the Law: A Brief History of Section 295A and Its Antecedents," *Journal of the American Academy of Religion* 84 (2016): 1-15, Wendy Doniger, "A Response," *Journal of the American Academy of Religion* 84 (2016): 364-366, Romila Thapar, "Banning Books," *India Review* 13 (2014): 283-286, Deepak Sarma, "The Doniger Difficulty: Colonial Cotton and Swadeshi Sensibilities," *India Review* 13 (2014): 287-289, Aarti Sethi and Shuddhabrata Sengupta, "Toward a Readers' Uprising: Reflections in the Wake of Assaults on Books and Authors in Today's India," *India Review* 13 (2014): 290-299, and Vinay Lal, "State, Civil

section 295-A, where the primary purpose is to make an argument regarding the history of censorship within India, but does not include an historical account of the events that led to the law's enactment, is not directly relevant. In addition, the work of many legal scholars on section 295-A, which analyze the evolution of the law, including its constitutional challenges and landmark cases, as well as those that examine the balance between freedom of speech and the need for the protection of religious rights and public order more generally, are also beyond the scope of this thesis, due to its historical as opposed to philosophical, or strictly legal, focus.¹⁰³

Although it has become a topic of interest for researchers in recent years, the scholarly attention that has been paid to the events surrounding the development of section 295-A has, as Stephens mentioned in 2013, been relatively limited. This thesis, in adopting an historical approach, and utilizing the theoretical frameworks of the "law and literature" movement in its analyses, will not only expand the scholarly understanding of the significance of the events that preceded the legislative amendment, but also demonstrate the applicability of such theories and modes of analysis to studies of religion.

Society, and the Right to Dissent: Some Thoughts on Censorship in Contemporary India," *India Review* 13 (2014): 277-282.

¹⁰³ See, for example, S.J. Sorabjee, "Freedom of Expression and Censorship: Some Aspects of the Indian Experience," *Northern Ireland Legal Quarterly* 45 (1994): 327-342.

Chapter 2: In the Courts

Punjab in the 1920s: Historical Context

The surge in publication of “scurrilous literature” in the mid-1920s had an incendiary effect on communal tensions across India, especially in the Punjab, which in turn led legislators to enact a new provision within the Indian Penal Code: section 295-A. There were a variety of factors that contributed to the rising communal tensions during this period. Following the dissolution of Gandhi’s and the Ali brothers’ Non-Cooperation and Khilafat Movement in 1922, there was a great deal of confusion and disorganization amongst the various communal groups that had participated.¹⁰⁴ Thursby describes the transition following Gandhi’s arrest by the British in 1922 as follows:

The collapse of the campaign left behind a confusing array of half-spent hopes, well-nursed grudges, and widely diverse opinions about the course that should be set now that Gandhi was gone and the alliance against the “wrongs” was broken. Politicians stumbled forward through the maze of constitutional and agitational options which were left standing by the 1919 Reforms and the 1920-1922 Movement, and religionists fell back and armed themselves against the menace of Hindu-Muslim conflict which was beginning to stalk the decade.¹⁰⁵

These Hindu-Muslim tensions became increasingly prominent throughout the 1920s, and manifested through the escalation of vituperative debates in the press, as well as a remarkable surge in riots and communal violence. As Barrier notes, the publications were “both a symptom and a cause of unrest.”¹⁰⁶ For example, during the period from 1923 to 1928, the British administration listed 112 communal

¹⁰⁴ For more information about these movements, see Gail Minault, *The Khilafat Movement: Religious Symbolism and Political Mobilization in India* (New York: Columbia University Press, 1982).

¹⁰⁵ Thursby, *Hindu-Muslim*: 134.

¹⁰⁶ Barrier, *Banned*: 16.

disorders and attributed the deaths of 450 individuals, as well as 5,000 major injuries, to the violence that had resulted from communal conflict.¹⁰⁷ Scholars have identified several major catalysts of rioting and violence during this period, including the slaughter of cows, the playing of music outside of mosques, proselytization and the “gutter press.”¹⁰⁸ These factors sparked numerous conflicts throughout the 1920s and served to increase communal tensions in the Punjab, but they also reflected the complicated politico-religious circumstances¹⁰⁹ that characterized the period. There were several groups that were involved in these conflicts, and various nuanced inter- and intra-communal debates that transpired during this time,¹¹⁰ but the most significant for the purposes of contextualizing this study include the Hindu *shuddhi* and *sangathan* movements, as well as the corresponding Muslim counter-movements of *tanzim* and *tabligh*. The various narratives that permeated throughout, and emerged from, these movements formed the backdrop against which the discussions regarding the *Rangila Rasul* case and the drafting of section 295-A took place, and ultimately shaped the wording, or the plot line of the “stock story,” that was chosen for the law.

¹⁰⁷ Thursby, *Hindu-Muslim*: 72.

¹⁰⁸ Ibid: 72-93; Uprety: 134-168; and Kenneth W. Jones, “Communalism in the Punjab: The Arya Samaj Contribution,” *Journal of Asian Studies* 28 (1968): 39-54.

¹⁰⁹ The structure of electorates played an important role in blurring the boundaries between the religious and the political. See Thursby, *Hindu-Muslim*: 134.

¹¹⁰ The nuance of these inter- and intra- communal debates, while not the focus of this study, are integral to understanding the politico-religious environment at the time. For instance, although this study focuses on controversies between the Hindu and Muslim communities in the 1920s, there was a great deal of intra-communal debates taking place during this period, within each of the defined communities in the Punjab. For instance, while blatant insults to the Prophet, like in the case of *Rangila Rasul*, earned the condemnation of all members of the Muslim community, various leaders and groups differed in opinion on their proposed solutions. Similarly, the role of Sikh groups was integral to the political environment during this period in the Punjab. For more information about these inter- and intra-communal controversies more generally, see Uprety, *Religion and Politics*.

The proliferation of Arya Samajist literature, with the explicit objective of *shuddhi*, or proselytization, as well as Muslim efforts in kind through *tanzim* and *tabligh*, led to the press becoming an ideological and religious battleground. These movements, according to Neeti Nair, had become a standard “component of public life in the 1920s.”¹¹¹ The *shuddhi* movement had as its primary objective the “re-conversion of lower-caste Hindus, untouchables, and later Muslims and Christians into the Arya Samaj,” and was started in 1878 by Swami Dayanand Saraswati, but became increasingly active in the 1920s.¹¹² The *sangathan* movement, on the other hand, advocated for a “consolidated Hindu community.”¹¹³ As Nair explains, in the wake of the Morley-Minto reforms, which established separate electorates for Muslims, the Arya Samaj in the Punjab “renewed efforts to convince other Hindus of the need for both *shuddhi* and *sangathan*.”¹¹⁴ The Muslim *tanzim* and *tabligh*, or “organization” and “propagation” movements, were initiated in response to the activity of Hindu campaigns.¹¹⁵ The combination resulted in the proliferation of scurrilous publications that assumed “an unprecedented level of virulence.”¹¹⁶ The complicated and tense relations between Muslim and Hindu religious communities and political organizations, contributed to the escalation of inter- and intra-communal antagonism that characterized the 1920s and formed the backdrop for the *Rangila Rasul* controversy.

¹¹¹ Neeti Nair, *Changing Homelands: Hindu Politics and the Partition of India* (Cambridge: Harvard University Press, 2011), 53.

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ Translations for these terms appear in Julia Stephens’ article. See, Stephens, “The Politics of Muslim Rage”: 48.

¹¹⁶ *Ibid.*

The press played an integral role in further inciting inter-communal conflicts during the 1920s, particularly in the Punjab. The control of the press had been the subject of much debate within the colonial administration for quite some time, but it was the volume of “scurrilous” literature and the controversy generated by the undesirable ruling in the *Rangila Rasul* case that brought these issues to a head.¹¹⁷ As Uprety has noted, the antagonistic tone of publications during this period, particularly within the vernacular press, was amplified by the rapid increase in the number of newspapers, magazines and publications over the course of the decade.¹¹⁸ Witnessing a remarkable surge in publications, with the total quantity of newspapers and magazines in the Punjab rising from 328 in 1923 to 661 by 1929, the press during this period “not only reflected the mood of the people, but also was instrumental in shaping it.”¹¹⁹ The reaction to the *Rangila Rasul* judgment, both by the colonial administrators and the popular press, brought the issue of these communal controversies, as well as the corresponding issue concerning the balance of freedom of speech and the right to practice and propagate religion, to the forefront where it could no longer be dismissed.

It was into this rather incendiary climate that a series of “scurrilous” pamphlets and publications critical of the Prophet Muhammad were released. Three publications in particular stirred up considerable controversy between Hindus and Muslims and eventually culminated in the Indian Legislative Assembly passing

¹¹⁷ For more information regarding regulation of the press prior to the *Rangila Rasul* affair, see Barrier, *Banned*: 51-86.

¹¹⁸ Uprety, *Religion and Politics*: 94-95.

¹¹⁹ *Ibid*: 95, 104.

section 295-A of the Indian Penal Code.¹²⁰ As Thursby aptly points out, these three “Arya caricatures of the Prophet” marked a distinct transition from “intermittent intervention” to major executive and judicial action.”¹²¹ The three cases were the *Rangila Rasul*, the *Vichitra Jivan*, and the *Risala-i-Vartman*, and all three of the publications in question were considered highly offensive to Muslims, for reasons that will be explained below. Although the *Rangila Rasul* case was by far the most highly publicized and influential of the three cases, relevant judgments in both the *Vichitra Jivan* and *Vartman* cases will be analyzed below in order to identify and elucidate the competing narratives that were at play.

The *Rangila Rasul* Affair

In May 1924, the Hindu proprietor of a bookstore in Lahore by the name of Mahashe Rajpal printed a “scurrilous pamphlet” entitled *Rangila Rasul*. The author of the pamphlet remained anonymous, although researchers have since determined that the author was an Arya Samajist by the name of Pandit Chamupati.¹²² The publication quickly aggravated communal tensions between Hindus and Muslims within the region, with the first edition selling one thousand copies. Within a couple of months, Muslim protests and agitation had alerted the Punjab Government to its existence. Officials such as Governor Hailey of the Punjab recognized the severity of the offense contained within the text of the pamphlet, and stated that:

There was really a very serious danger of disorder, for an attack on the Prophet was a concrete offence against Islam that stung them to the quick,

¹²⁰ Thursby, *Hindu-Muslim*: 40.

¹²¹ Ibid.

¹²² Ibid.

and they could not bear the thought that Hindus could repeat it with impunity.¹²³

The level of unrest prompted the government to charge Rajpal under section 153-A of the Indian Penal Code.¹²⁴ The text of section 153-A, with its explanation, prohibited the promotion of “enmity or hatred” as follows:

Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty’s subjects, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty’s subjects.

The trial proceedings, prosecuting Rajpal under this section, commenced in October before the magistrate, but the final judgment of the Lahore High Court was not issued for three years.¹²⁵

The title, “Rangila Rasul,” has been translated by Julia Stephens to “the colourful Prophet,” and by Thursby to the “merry,” “jovial” or “libertine” Prophet; however, the connotations of this title “in Urdu and Hindi implied a strong insinuation of sexual dalliance.”¹²⁶ The writing in the pamphlet matched the salacious insinuations of its title, as it brazenly discussed the intimate relationships

¹²³ Thursby, *Hindu-Muslim*: 41.

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ Stephens, “The Politics of Muslim Rage”: 45 and Thursby, *Hindu-Muslim*: 43. For more information about the proliferation of these types of licentious publications like the *Rangila Rasul* and *Vichitra Jivan*, see Charu Gupta, *Sexuality, Obscenity, Community: Women, Muslims, and the Hindu Public in Colonial India* (NY: Palgrave, 2002), 247.

of the Prophet Muhammad.¹²⁷ Thursby describes the contents of the pamphlet in detail, stating that:

The pamphlet treated in turn the various wives of the Prophet and the circumstances surrounding his marriage to each of them. The author included in his account subtle but direct criticisms of the Prophet and of Islam while continuing to maintain his *persona* as an admirer of them. Finally, at the close of the work he utilized a secondary meaning of *rangila* as 'colorful' in order to suggest that the wide experience of the Prophet in matters of the household and in intimate relationships with many wives indicated that he had been indeed a person of many colors—a veritable rainbow. The rainbow image provided a framework within which to organize the conclusion of the work, which offered seven moral lessons drawn from the significance of the Prophet as viewed in terms of his personal life.¹²⁸

Due to the blatantly scurrilous nature of the work, the initial ruling of Phailbus, the Magistrate, found that Rajpal was guilty.¹²⁹ The prosecution argued that the attack on the Prophet within the pamphlet could only be viewed as a promotion, or an attempt to promote, feelings of enmity between classes, thus rendering him guilty of offense under section 153-A.¹³⁰ Maintaining his innocence, Rajpal pleaded not guilty, and his defense argued that his intention in publishing the *Rangila Rasul* fell within the explanation of the section, as he intended "to aid in [the] removal of social evils such as concubinage, temporary marriage..., polygamy, and gross disparity of age in marriage."¹³¹ The defense also maintained that the "allegations in the pamphlet were true, as shown by the fact that they were based upon material in works by Muslim and European scholars."¹³² The prosecution challenged the magistrate's acceptance of the argument that the factuality of the writing was material to the

¹²⁷ Thursby, *Hindu-Muslim*: 43-45.

¹²⁸ *Ibid*: 44-45.

¹²⁹ *Ibid*: 46.

¹³⁰ *Ibid*: 45.

¹³¹ *Ibid*.

¹³² *Ibid*.

case, seeking a revision; however, on November 13, 1925, Justice Martineau of the Lahore High Court found that “it is relevant to show the intention of the accused in writing the pamphlet complained of, and also to prove that the allegations contained therein are based on facts as distinguished from rumour.”¹³³ This ruling ultimately proved immaterial to the outcome of the case, as Phailbus determined that Rajpal’s publication had been “a wanton attack upon the Prophet of Islam to hold him up to ridicule and contempt, to ridicule his religion and thus to wound the feelings of his followers,” and that he was guilty under section 153-A because “the natural result of the publication of such a pamphlet would be to incense the Muhammadans against the author of the book and those whom they conceive to be, rightly or wrongly, as the sympathizers of the author.”¹³⁴ Factoring in the lack of “mitigating factors,” and acknowledging that “communal relations...were already tense,” Phailbus issued a rather severe sentence of eighteen months rigorous imprisonment and a fine of 1,000 Rs.¹³⁵ After being appealed to the Lahore Sessions Court, the judge, Mr. F. Nicholas, upheld the magistrate’s original judgment, but reduced Rajpal’s sentence to six months of rigorous imprisonment.¹³⁶ In explaining the sentence, Nicholas observed that:

There is no doubt in view of the peculiar situation in which the members of the two communities concerned have to live side by side in this country that the act of the appellant in committing the offence which has been held against him is both reprehensible and dangerous, and that it is necessary both to punish him and to deter others from similar acts.¹³⁷

¹³³ Ibid and Emperor v. Raj Pal AIR 1926 Lahore 195.

¹³⁴ The Magistrate’s ruling, quoted in Thursby, *Hindu-Muslim*: 46.

¹³⁵ Ibid.

¹³⁶ Ibid: 46-47.

¹³⁷ “Appeal Decided: Rangila Rasul Case,” *The Times of India*, February 10, 1927: 12.

With this statement, the judge made clear the purpose of his ruling, and reaffirmed that the pamphlet was indeed a deeply offensive publication.

The undeniably invective content of the *Rangila Rasul* pamphlet garnered public attention and was covered by the press throughout the duration of the various trials, but it was Justice Dalip Singh's final ruling in the Lahore High Court that attracted the most attention and stirred up controversy. The discussion of Justice Dalip Singh's ruling that ensues will be paired with a narrative analysis of the judgment text itself. By applying Linda Edwards' method of narrative analysis, which she uses to assess the myths and archetypal stories present in advocate briefs, and borrowing from the general categories used by Aristotle in *Poetics* to describe tragedy, the following analysis will identify and unpack the presence of an archetypal tragedy narrative within the text of Justice Dalip Singh's judgment.¹³⁸ The judgment will be outlined in sequence below with some commentary, in order to highlight the development of a plot.

On May 4, 1927, Justice Dalip Singh of the Lahore High Court delivered the final, landmark ruling in the Rajpal case, and one that would prove to have long-lasting consequences on criminal law related to religious offence within India. The petitioner argued that the facts of the *Rangila Rasul* case “[did] not constitute an offence within the meaning of S. 153A,” on the grounds that “the word ‘classes’ does not include religious denominations but means ‘races,’” and that “criticism or satire

¹³⁸ This analysis will conform most closely to the definition, elements and general understanding of “tragedy” as outlined by Aristotle in *Poetics*. See, Aristotle, *On Poetics*, trans. Seth Benardete and Michael Davis (Indiana: St. Augustine's Press, 2002).

on a religious teacher is not within the purview of the section.”¹³⁹ Although Justice Dalip Singh rejected the first contention on the grounds that accepting it “would restrict the meaning of the word ‘classes’ in a way not warranted by anything within the section itself,” he grappled with and ultimately accepted the second argument.¹⁴⁰

However, prior to presenting his decision on this point, Justice Dalip Singh refers to the previous trials in the lower courts. Lending a sense of temporality to the narrative, the judge recounted the evolution of the case, acknowledging the decision of the Sessions court and quoting the previous decisions of the judges from the lower courts:

The trial Court found that the accused had no other intention:

Except to make a wanton attack upon the Prophet of Islam, to hold him up to ridicule and contempt, to ridicule his religion and thus to wound the feelings of his followers.

and it held that if this was the intention of the accused the Court had no doubt that his act fell within the purview of S. 153A.

The learned Sessions Judge on appeal held that the pamphlet, read as a whole:

was intentionally offensive, scurrilous, and wounding to the religious feelings of the Mahomedan community, and that it was undoubtedly malicious in tone and intention and that in the case of this publication the intention was obviously to wound and insult the feelings of a particular community.¹⁴¹

While Justice Dalip Singh rejected the defense’s contentions that “the pamphlet [did] not show any such intention and that it was only meant to show the evils of polygamy and marriage between persons of disparate age,” and concurred with

¹³⁹ Raj Paul v. Emperor AIR 1927 Lahore 591.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

each of the lower court judges' respective positions that the pamphlet was in fact a "scurrilous satire on the founder of the Muslim religion," he found himself unable to view the publication as an attack upon the religion as a whole:

...I cannot find anything in it which shows that it was meant to attack the Mahomedan religion as such or to hold up Mahomedans as objects worthy of enmity or hatred. On the contrary the pamphlet expressly says the people should do as Mahomad advised but should not act as Mahomed himself acted.¹⁴²

In issuing this statement, Justice Dalip Singh gives some weight to Rajpal's defence. But this acknowledgement of the merit of the petitioner's case is short-lived. In the very next sentence, he condemns the publication once more, stating that "[t]he tone of the pamphlet as a whole is undoubtedly malicious and likely to wound the religious feelings of the Muslim community if it did not incur their even more justifiable contempt."¹⁴³ Such condemnations of the moral depravity of the pamphlet's contents are laced throughout the text, interspersed with points on the interpretation of the law, building suspense and establishing as fact the scurrilous nature of the publication.

The judge then proceeds to identify the question upon which the outcome of the case hinges: "whether a malicious satire on the personal life of [a] religious teacher is within the purview of S. 153-A."¹⁴⁴ Continuing, Justice Dalip Singh summarized each of the four main arguments presented by the government advocate, listing them off in sequence. First, that "a satire on the founder of a

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

religion necessarily implies satire on the followers of that religion.”¹⁴⁵ In response to this contention, the judge opines vaguely that this “is not necessarily so.”¹⁴⁶ Second, the advocate proposed that “satire on a religious leader by some one [sic] not his follower is within 153A, if there is something to show that he is satirizing the religious leader because he belongs to another community.”¹⁴⁷ Third, the advocate argued that there were words used in the pamphlet that were defamatory to Muslims as a class, but the judge remarked that he “[had] not been able to find such words.”¹⁴⁸ Fourth, the advocate claimed that the “feelings of contempt for Muslims would be aroused among the Hindu readers of this pamphlet.”¹⁴⁹

The judge continues to summarize the back-and-forth of the petitioner and government advocate’s arguments, developing the tragedy narrative and building a story to support his conclusion: the final judgment. In response to the government advocate’s argument, the petitioner’s counsel contended that “‘contempt’ [was] not the same as ‘hatred’ or ‘enmity.’”¹⁵⁰ Following this, the judge described another argument put forward by the government advocate:

The learned Government advocate further contended that in view of the tension between Hindus and Muslims and the fact that the Mahomedan community is more fanatical on the question of religion than other communities a satire on the founder of the Muslim religion is more likely to promote hatred and enmity between the masses than a satire on the founder of another religion, e.g. Christianity.¹⁵¹

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid: 591-592.

¹⁵¹ Ibid: 592.

However, the judge immediately rejected this argument on the grounds that “ignorance or fanaticism of a particular community” should not “determine the nature of an act.”¹⁵² Although he acknowledged that such attitudes might “aggravate the offence in certain cases,” he viewed the consequence of this line of argument as unacceptable, stating that:

...it cannot be held that the words used about the founder of one religious creed might not come within the purview of S. 153A, and words used about the founder of another religious creed might come within that purview because of the known fact that one community will resent such words more actively than the other. The nature of the act, namely whether it is an offence or not, cannot be determined by the reaction of a particular class.¹⁵³

In presenting this view, Justice Dalip Singh both acknowledges the reality of communal tensions, and rejects the government advocate’s argument. Furthermore, he dismisses the advocate’s third argument regarding the satire of a religious leader; indeed, Justice Dalip Singh asserted that “nobody who believes in a religious teacher will satirize him. It would follow, therefore, that wherever there is a satire on a religious leader and it is impossible to determine to which community the author belongs then the feelings of his followers will be roused against all who are not followers of that particular creed.”¹⁵⁴ Ultimately, the judge rejected this argument as well, on the grounds that he did not believe that section 153-A was intended to have such a “wide meaning.”¹⁵⁵

Continuing to construct a narrative, Justice Dalip Singh moves from addressing the intentions of the original lawmakers, and contrasts those intentions

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

with the negative impact that his interpretation could have on the future of freedom of speech. Invoking the authority of the law's intended meaning, which, by his estimation, was "to prevent persons from making attacks on a particular community as it exists at the present time," he rejected the interpretation that section 153-A should be used to "stop polemics against deceased religious leaders however scurrilous and in bad taste such attacks might be."¹⁵⁶ In order to support this position, he provides a hypothetical example of the implications attached to interpreting the issue conversely:

For instance, if the fact that Mussalmans resent attacks on their Prophet was to be the measure of whether S. 153A applied or not then an historical work in which the life of the prophet was considered and judgment passed on his character by a serious historian might come within the definition of S. 153A. I am unable to hold that S. 153 A was meant or was intended to prevent all adverse discussions of the life and character of a deceased religious leader.¹⁵⁷

This hypothetical example allows the judge to illustrate the extent to which a particular story, or case, can or should conform to the stock story embedded in the governing rule. Yet, once again, Justice Dalip Singh expresses his disdain for the contents of the pamphlet, recognizing that such a publication "can only arouse the contempt of all decent persons of whatever community, [and]... wound the religious feelings of certain Mussalmans."¹⁵⁸ However, he determines that the past intentions of lawmakers in creating the law, and the interpretation of subsequent cases, in conjunction with the undesirable consequences that would stem from an alternative reading of the law and his view that the case goes beyond the scope of the "stock

¹⁵⁶ Ibid.

¹⁵⁷ This concern about preserving protections for "historical work" is reflected further in discussions that took place in the press and in the Legislative Assembly debates, and will be unpacked in later chapters. See, *ibid.*

¹⁵⁸ Ibid.

story,” led him to conclude that while hatred might be the result of such a scurrilous pamphlet, the promotion of such feelings “cannot be made the test of the section.”¹⁵⁹

It is, however, Justice Dalip Singh’s concluding statements that truly complete the archetypal tragedy narrative. The final remarks read as follows:

It seems to me that a clause might well have been added to S. 297 by which the publication of pamphlets published with the intention of wounding the religious feelings of any person or of insulting the religion of any person might be made criminal.

I can only say, that, speaking for myself, I regret the absence of such clause, but I am unable to hold that this particular case comes within the purview of S. 153A. I, therefore, reluctantly accept the revision and acquit the petitioner.¹⁶⁰

These concluding remarks illuminate the presence of an archetypal tragedy narrative within the judgment in several important ways. In combination with the various condemnations of the tone and scurrilous contents of the pamphlet that are peppered throughout the text, his conclusion reaffirms the moral depravity of the *Rangila Rasul* pamphlet. In acknowledging the deeply troubling nature of the pamphlet, and expressing his personal regrets that he was unable to find Rajpal guilty, he is acknowledging the presence of a “tragic flaw” that is embedded within section 153-A. The recommendation, or suggestion, that an alternative law might be created to guard against such an undesirable outcome in the future reaffirms the mentality that, if not for the “tragic flaw” within the law, the outcome of the case might have been favourable, insofar as the judge would have been able to successfully convict Rajpal for what he described as an “undoubtedly malicious” pamphlet. Throughout the judgment, which began by citing the lower court judges’

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

guilty verdicts and quoting the disparaging comments they made about the pamphlet, Justice Dalip Singh reluctantly moves away from lending his support to this “favourable” result, while at the same time stressing the undeniable moral turpitude associated with both the pamphlet’s invective contents and his inability to mete out an adequate sentence as punishment. The story the judge tells frames his judgment as a “tragic” ruling that is the inevitable, but unfortunate, consequence of a defect in the law.

In analyzing the underlying narrative of this judgment, it is integral that two critical components be identified: character and plot. As Edwards asserts, the metaphorical manner in which statutes are conceptualized leads to the reification of elements of law, “as if [they] were a sentient being or a concrete thing.”¹⁶¹ Therefore, when it comes to law’s stories, “[c]haracters can be entities, like courts or legislatures or prosecutors’ offices, or even abstract concepts, like a principle or a policy, a statute or a case holding.”¹⁶² The underlying archetypal narrative similarly provides “a ready stock of characters to ‘people’ these plots with champions, children, tricksters, mentors, kings, mothers, demons, and sages... [and these] character templates... stand ready, inviting us to cast both people and things in particular archetypal roles.”¹⁶³ In the *Rangila Rasul* case, there are several characters, but the protagonist—the archetypal “tragic hero”— is section 153-A itself, and the plot focuses on unpacking its role in the narrative of the judgment. The judge appeals to the authority of the governing rule, and is unable to hand down

¹⁶¹ Linda Edwards, “Once Upon a Time in Law”: 889.

¹⁶² *Ibid.*

¹⁶³ *Ibid.*: 890.

the ruling he purportedly wishes to, due to the “tragic flaw” in the law.¹⁶⁴ There is condemnation of the scurrilous tone and contentious writing within the pamphlet throughout the trials, both from the lower court judges as well as Justice Dalip Singh. As the narrative builds throughout the judgment, he presents facts, arguments and counter arguments, which in a traditional legal sense serve as a presentation of the judge’s analytical reasoning, but also highlight the tension between the moral turpitude attributed to the publication and the interpretive limitations that he identifies in the law as it existed in that moment. In this way, the moral depravity of the pamphlet is well established. But yet, there is a tragic flaw that cannot be overcome. It is within Justice Dalip Singh’s final remarks that one can recognize the fulcrum point, which signals the narrative shift towards descent: from what is presented as a more “desirable” outcome to one that is framed as being deeply troubling for the judge. What began as a judgment that favourably cited the convictions delivered by the lower courts, concludes with a reversal of fortune and the ultimate recognition of the insufficiency of the law—demonstrating *peripeteia* and *anagnorisis* respectively—to deliver a ruling that the judge deems inevitable, but extremely unfortunate.¹⁶⁵ The *pathos*, or suffering, is evident in his expression of “regret” that the law possesses this “tragic flaw,” and that there are no alternative charges that can be laid, leading to Justice Dalip Singh’s “reluctant” acquittal of Rajpal.¹⁶⁶

¹⁶⁴ The “tragic flaw” corresponds with Aristotle’s understanding with *hamartia*. For more information, see Angela Curran, *Aristotle and the Poetics* (New York: Routledge, 2016), 194-197.

¹⁶⁵ For an explanation of *peripeteia* and *anagnorisis*, see Curran, *Aristotle*: 189-194.

¹⁶⁶ *Ibid.*

The judgment spurred a maelstrom of controversy, communal protest and dissent, which is evidenced by the intense scrutiny and prolific coverage the issue received in the press. The debates that transpired in the press will be discussed in chapter three, but it is important to note that the identification of the archetypal tragedy narrative that is present within Justice Dalip Singh's ruling should not be misconstrued as an argument for the interpretation of the trial's outcome, generally speaking, as a tragedy; such an interpretation of this analysis would not only overlook the nuance of the argument about the relationship between law and narrative, but would also fall beyond the scope of this study. It is not that Justice Dalip Singh's ruling was a "tragedy" of justice, objectively speaking, but rather he employed—consciously or otherwise—a narrative archetype, that of tragedy, in order to tell a convincing story about how and why he arrived at his final decision.

The British administration recognized the precarious situation that existed following Rajpal's acquittal. In correspondence with Sir William Vincent, Governor Hailey issued the following comments about the aftermath of Justice Dalip Singh's judgment:

There was really a very serious danger of disorder, for an attack on the Prophet was a concrete offence against Islam that stung them to the quick, and they could not bear the thought that Hindus could repeat it with impunity.¹⁶⁷

Although the government managed to effectively quell the possibility of immediate uprisings by prohibiting public gatherings and patrolling major areas, Hailey did publicly express his shock at Justice Dalip Singh's judgment.¹⁶⁸ Governor Hailey met

¹⁶⁷ See footnote 74 in Thursby, *Hindu-Muslim*: 41.

¹⁶⁸ Governor Hailey's comments quoted within text. See, *ibid.*

with a Muslim deputation to hear their grievances with the outcome of the trial, and shared their concerns.¹⁶⁹ While he was not entirely candid with the deputation about his opinion on the case, his private correspondence was unequivocal: “I can only say that the judgment astonishes me.”¹⁷⁰ However, upon the advice of his lawyers, he chose not to address the *Rangila Rasul* case for the time being; instead, Hailey waited to see how a similar case, that concerning the scurrilous *Risala-i-Vartman* publication, then before the courts, proceeded.¹⁷¹ If the ruling in the case did not clear up the ambiguities surrounding the scope of section 153-A, then—and only then— would he pursue a legislative solution.¹⁷²

Before discussing the stories that were told about the law within the press following Justice Dalip Singh’s ruling, it is crucial that two other cases be addressed: the *Vichitra Jivan* and *Risala-i-Vartman* cases. The narratives within the judgments will not be analyzed in the same manner as that of the *Rangila Rasul* case, but the historical importance of these cases in contributing to the ambiguity of the law with regards to the interpretation of section 153-A will be explored below. By providing a summary of their progress through the courts, and focusing on the inconsistencies in the judges’ arguments and rulings, the next section of this chapter will address additional legal factors that led the British administration and the Indian Legislative Assembly to add section 295-A to the Indian Penal Code.

¹⁶⁹ Cell, *Hailey*: 145.

¹⁷⁰ *Ibid.*

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*

The *Vichitra Jivan* and *Risala-i-Vartman* Cases

Two other cases that influenced the British administration and the Indian Legislative Assembly in their decision to introduce section 295-A were being heard before the courts around the same time as the *Rangila Rasul* case: the *Vichitra Jivan* and *Risala-i-Vartman* cases.¹⁷³ Although Justice Dalip Singh's ruling in the *Rangila Rasul* case was the primary catalyst for the creation of section 295-A, both of these cases reaffirmed the troubling ambiguity of the interpretation of the law with respect to insults on the founders of religion—in all three cases, the Prophet Muhammad. This section will provide a brief overview of the *Vichitra Jivan* and *Risala-i-Vartman* cases in order to bridge the gap between the judgment delivered by the Lahore High Court in the *Rangila Rasul* case and the administration's decision to address the "tragic flaw" highlighted in Justice Dalip Singh's ruling by amending the Indian Penal Code.

Although the *Vichitra Jivan* was published in November 1923, prior to the *Rangila Rasul* pamphlet, the government did not pursue action against it until September 1926, while Rajpal's case was before the courts.¹⁷⁴ In October 1926, the book was declared forfeit by the local government under section 99A of the Criminal Procedure Code on the grounds that the subject matter was punishable under section 153-A.¹⁷⁵ However, by this time, the book had already gone through three editions and approximately 6,000 copies had been published.¹⁷⁶ The case was first

¹⁷³ For a thorough historical account of the original publications and legal proceedings that transpired in both of these cases, see Thursby, *Hindu-Muslim*: 40-62.

¹⁷⁴ Kali-Charan Sharma v. King-Emperor AIR 1927 Allahabad 650.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid: 651.

brought to the Agra District Magistrate, H.R. Nevill, but the defence counsel was able to secure a hearing in the Allahabad High Court to challenge the order of forfeiture.¹⁷⁷ The trial in the High Court was presided over by two European judges, Justices Walsh and Lindsay, and one Indian judge, Justice Banerji.¹⁷⁸ It was, however, Justice Lindsay that penned the judgment regarding the forfeiture of the book on February 24, 1927.

The author of the *Vichitra Jivan* was an Arya Samajist preacher by the name of Pandit Kali Charan Sharma, and the title of the book, as translated by the Allahabad High Court judge, Justice Lindsay, was the *Strange Life: Strange and Diverting Episodes in the Life of Mohammad Sahib*.¹⁷⁹ The primary object of the publication, plainly expressed in the preface of the book, was to contribute to the *shuddhi* movement and aid the reclamation process of converting Muslims to Hinduism:

I wrote the books because I am a missionary of the Arya Samaj. I do Shudhi work in order to try to convert people to the Vedic religion and to prevent my people from becoming Muslim.¹⁸⁰

Such conversion campaigns “excited bitter animosity” between Hindus and Muslims, and contributed to the tensions between communities during this period.¹⁸¹ In his judgment, Judge Lindsay describes the contents of the book in sequence. The intention of the author in writing the book was purportedly educational, insofar as he wished to “teach Hindus something about the tenets of the Mahomedan religion,”

¹⁷⁷ Thursby, *Hindu-Muslim*: 51.

¹⁷⁸ Kali-Charan Sharma v. King-Emperor AIR 1927 Allahabad 649.

¹⁷⁹ Thursby, *Hindu-Muslim*: 48 and *ibid*.

¹⁸⁰ Text from the *Vichitra Jivan* quoted in Kali-Charan Sharma v. King-Emperor AIR 1927 Allahabad 651.

¹⁸¹ *Ibid*.

due to the fact that “people who speak and read the Hindi language have hitherto had little or no opportunity of becoming acquainted with the religion of Islam,” in contrast to “persons... laying themselves out by secret methods to entrap Hindus in the snare of Islam.”¹⁸² The introductory chapter continues this theme by referring to publications that have attacked Hinduism, stating that they have been produced for the purpose “of insulting Hindu saints and sages and in order to create a general feeling of hatred against them.”¹⁸³ Sharma positions the *Vichitra Jivan* as a response to the “degraded Maulvis and Ghazis” that have insulted the Hindu religion and its deities.¹⁸⁴ Although Sharma explicitly stated in his introduction to the book that it was not his intention to wound the feelings of Muslims, his purpose was ultimately to demonstrate that the “Mahomedans if they could only reflect calmly, must necessarily repent of their belief in [the Prophet] as a messenger from God.”¹⁸⁵ The remainder of the book was divided into twelve chapters. Justice Lindsay characterized the subject matter of these chapters in his judgment as follows:

[T]he earlier portions [purport] to describe the perverted morals of Arab society at the time of the appearance of the Prophet. Here reference is made to the general prevalence at that time of drunkenness, superstition, adultery, incest and bestiality and it is asserted that although the Prophet posed as a reformer of morals he became in fact “a victim of all the vices just enumerated. [...]

The later portions of the book are devoted to a narrative of incidents in the history of the life of the Prophet interspersed with caustic and provocative comment on the part of the author. Many of the passages here are difficult to describe temperately. They abound in vituperation and sarcasm expressed with the grossest obscenity which cannot fail to suggest that they were written deliberately for the purpose of holding up Mohammad to odium and derision so as to present him to the reader as a man wholly

¹⁸² Kali-Charan Sharma v. King-Emperor AIR 1927 Allahabad 650.

¹⁸³ Translation of the *Vichitra Jivan* quoted in the judgment. See, *ibid.*

¹⁸⁴ *Ibid.*

¹⁸⁵ *Ibid.*: 651.

unworthy of the reverence of the millions who believe in him and in his doctrine.¹⁸⁶

Justice Lindsay's disapproval of the tone and contents of the *Vichitra Jivan* is blatantly pronounced in his description of the book, as evidenced by the quote above.

In his ruling, Justice Lindsay determined that the case hinged on the intention of the author. Applying a principle that had been used in cases of seditious libel, the test that the judge applied to the *Vichitra Jivan* case was as follows:

If the language is of a nature calculated to produce or to promote feelings of enmity or hatred the writer must be presumed to intend that which his act was likely to produce.¹⁸⁷

Following this line of reasoning, the Justice opined that in the case of the *Vichitra Jivan* publication, the "natural, indeed the inevitable consequence of...this book is the excitement of enmity or hatred or both between the followers of the Hindu and Mahomedan religions."¹⁸⁸ It was, however, Justice Lindsay's comments towards the conclusion of his judgment that called into question the clarity of precedent for interpreting section 153-A with regard to insults on the founder of a religion. Whereas in the *Rangila Rasul* case, Justice Dalip Singh would determine that an insult to the founder of a religion does not necessarily fall within the penumbra of

¹⁸⁶ Ibid.

¹⁸⁷ Ibid: 652.

¹⁸⁸ Ibid.

indeterminacy¹⁸⁹ in the legislation, Justice Lindsay's ruling found quite the opposite to be true.¹⁹⁰ Indeed, Justice Lindsay declared that he was unable:

...to appreciate the distinction between an attack upon a system of religion in the abstract and one upon the people who believe in it. I do not think that it is humanly possible to hold up to obloquy and derision a religious belief without stirring up resentment and hatred on the part of those who accept it as their creed.¹⁹¹

Similarly, citing the testimony of a witness from the trials, Justice Lindsay asserts that arguing "that an attack upon a religion does not necessarily involve an attack upon its adherents possesses no merits in the eyes of the Muslims of Agra."¹⁹²

Rather than making the distinction between the promotion of enmity or hatred between classes and an attack upon a historical founder of a religion, as Justice Dalip Singh would do a few months later in his reading of section 153-A, Justice Lindsay—as well as Justices Walsh and Banerji, who issued statements in assent at the end of the judgment—decided that it was not possible to make this distinction. Sharma's application to have the forfeiture of the *Vichitra Jivan* overturned was dismissed.

According to Thursby's account, the case was then sent back to Magistrate Nevill, who ruled that Sharma was guilty under section 153-A and delivered a "relatively heavy sentence of one year of rigorous imprisonment and a fine of one thousand rupees in lieu of an additional six months imprisonment."¹⁹³ The case was appealed. After being rejected by the Agra Sessions Court, an application for revision

¹⁸⁹ Paskey borrows this term from H.L.A. Hart, and uses it to describe the fact that "every rule has a 'core of settled meaning' and a 'penumbra' of indeterminacy, a group of harder cases that arguably lie within the rule's shadow." See, Paskey, "The Law is Made of Stories": 60.

¹⁹⁰ Thursby describes this ruling as "diametrically opposed to that of Justice Dalip Singh's. See, Thursby, *Hindu-Muslim*: 53.

¹⁹¹ *Kali-Charan Sharma v. King-Emperor* AIR 1927 Allahabad 652.

¹⁹² *Ibid.*

¹⁹³ Thursby, *Hindu-Muslim*: 54.

was accepted by the Allahabad High Court on the grounds that there had been violations of the Criminal Procedure Code.¹⁹⁴ Only weeks after Justice Dalip Singh's final ruling in the *Rangila Rasul* case, Justice Dalal delivered his final judgment on May 23, 1927.¹⁹⁵

In his judgment, Justice Dalal references Justice Dalip Singh's ruling in the *Rangila Rasul* case and offers a dissenting opinion on the applicability of section 153-A with regard to offences against the founders of religions. In doing so, he challenged the distinction made between insulting the Prophet Muhammad, which Justice Dalip Singh decided fell outside of the ambit of section 153-A, and inciting enmity or hatred between classes:

With all respect to the learned Judge [Justice Dalip Singh], I am not prepared to agree with the nice distinction he has drawn between a book which may hurt the feelings of Mahomedans and a book which may cause feelings of enmity or hatred between different classes of His Majesty's subjects.¹⁹⁶

By means of explanation, Justice Dalal argued that a "nice distinction" like the one made by Justice Dalip Singh of the Lahore High Court could not be made by "a common or ordinary citizen of a town in India," and that therefore one should decide the interpretation of the case not from the perspective of a "learned judge," but rather from the perspective of an ordinary citizen:¹⁹⁷

Speaking for myself I look at such a matter not as a somewhat learned Judge of a High Court, but as a common or ordinary citizen of a town in India. I would place myself in the position of a Mahomedan who honours his prophet, and then consider what my feelings would be towards a Hindu who ridiculed that Prophet, not out of any eccentricity (some vichitra mind), but

¹⁹⁴ For more detail, see *ibid*: 54-55 and *Kali-Charan Sharma v. King Emperor* AIR 1927 Allahabad 654 (2).

¹⁹⁵ Thursby, *Hindu-Muslim*: 55 and *Kali-Charan Sharma v. King Emperor* AIR 1927 Allahabad 654 (2).

¹⁹⁶ *Kali-Charan Sharma v. King Emperor* AIR 1927 Allahabad 655.

¹⁹⁷ *Ibid*.

in the prosecution of a propaganda started by a class of persons who are not Mahomedans. In such a position from the hatred of the author I would, as an ordinary man, proceed to hatred of the class to which the author belonged and which instigated the author.¹⁹⁸

The application for revision was ultimately dismissed in Justice Dalal's judgment, with the only change being a "substantial reduction" in the sentence handed down by the Magistrate.¹⁹⁹ However, it was the conflicting interpretations represented in Justice Dalal and Justice Dalip Singh's judgments, regarding the applicability and interpretation of section 153-A, that led to considerable confusion regarding the appropriate application of the law.

Governor Hailey, who had previously expressed his consternation regarding the "scurrilous" *Rangila Rasul* publication, was concerned about the impact that this ambiguity in the law would have on future cases and in further provoking communal tensions. When a similar case came before the courts a few weeks after the *Rangila Rasul* judgment, Hailey saw it as an opportunity to clarify the scope of section 153-A.²⁰⁰ Several weeks after the conclusion of the *Rangila Rasul* case, the Punjab Government had proscribed and initiated proceedings against "Sair-i-Dozakh," or "A Trip to Hell," an article that had been published in the May issue of a newly established journal: the *Risala-i-Vartman*.²⁰¹ Shortly after the appearance of the article in Amritsar in mid-May 1927, posters—purportedly created by the Mirza of the Ahmadiyya Muslims in Qadian— were distributed amongst Muslims, highlighting the blasphemous contents of the publication and directing public

¹⁹⁸ Ibid: 655-656.

¹⁹⁹ Ibid: 656.

²⁰⁰ Cell, *Hailey*: 145.

²⁰¹ Thursby, *Hindu-Muslim*: 56.

attention towards the journal.²⁰² In response to the “considerable excitement” that this publication caused amongst Amritsar’s Muslim population, the government proscribed the publication under section 99A of the Criminal Procedure Code and then charged Gian Chand Pathak, the editor, printer and publisher of the journal, and Devi Sharan Sharma, the author of the offending article, under section 153-A of the Indian Penal Code.²⁰³ According to Barrier, Hailey contacted Judge Broadway in the hopes of “secur[ing] an opposite ruling,” even though he was on vacation at the time, and requested that he return to Lahore posthaste in order to preside over the *Risala-i-Vartman* case.²⁰⁴ Upon special request by the government, Justices Broadway and Skemp composed a special bench, which Thursby claimed Hailey justified “on the grounds that an authoritative decision was required at the earliest possible moment in order to forestall further publication of attacks on the Prophet Muhammad, to allay public excitement, and to resolve the outstanding legal issues.”²⁰⁵ The decision would either clarify the law, or provide Hailey with the impetus to propose an amendment to the Code, but either way he did not want an “indefinite prolongation of the existing uncertainty and agitation.”²⁰⁶ It was no secret at the time that the *Vartman* trial would be treated as a test case, and the

²⁰² In the trial, the defense would go as far as to argue that there would not have been any objection to the article had it not been for the posters. No copy of the poster was submitted as evidence, and so this line of argument was dismissed. See, *ibid.*

²⁰³ On June 4, 1927 the Deputy Superintendent of Police, Mir Faiz-ul-Hassan, brought the article to Mr. Hamilton-Harding, the Superintendent of Police in Amritsar. The Superintendent found it “necessary to bring it to the notice of the Deputy Commissioner,” who immediately contacted the Punjab Government and proscribed the journal under section 99-A of the Criminal Procedure Code. On June 6, 1927, a copy of the journal was sent to the Punjab Government, which prompted the order to prosecute under section 153-A of the Indian Penal Code. Gian Chand Pathak and Devi Sharan Sharma were arrested on the 6th and 7th of June, respectively. See, Thursby, *Hindu-Muslim*: 56 and *Devi Sharan Sharma v. Emperor AIR Lahore 1927 594.*

²⁰⁴ Barrier, *Banned*: 100 and Thursby, *Hindu-Muslim*: 56-57.

²⁰⁵ Thursby, *Hindu-Muslim*: 57.

²⁰⁶ *Ibid.*

reasons behind the transfer were published widely.²⁰⁷ According to an article published in *The Hindustan Times*, the Crown's justification for the transfer was reported as follows:

The reason for transfer application, the counsel submitted, was that since the judgment of Justice Dalip Singh in [the] "Rangila Rasul" case certain people had thought that it gave them perfect immunity to attack and vilify founders of religions and as a consequence pamphlets and articles in magazines and newspapers calculated to wound the religious feelings of different classes of His Majesty's subjects were being published and the local Government had the occasion to proscribe some of these newspapers during the last few weeks. Moreover, there was an acute tension amongst the Mahomedans of Lahore and elsewhere over such scurrilous writings and uncertainty created by the conflict of opinion between this court and the Allahabad High Court. Whether such writings fell under the existing criminal law or not it was in the interest of justice that the High Court give an early authoritative ruling on it removing such uncertainty.²⁰⁸

Additionally, the newspaper reported that the government was "very anxious" about the "preservation of law and order," and that counsel submitted an affidavit to the Deputy Commissioner of Lahore "showing that the publication of attacks on prophet Mahomed was continuing [to] greatly [intensify] excitement already existing amongst the Mahommedan population of Lahore."²⁰⁹ He further contended that should the trial be delayed and stretched out in a similar manner as the *Rangila Rasul* case, "the tension amongst the Mahomedans will continue to increase and the Government will have to proscribe the newspapers almost every day."²¹⁰ It was under these special circumstances that the case was successfully transferred to the Lahore High Court and the trials against both Devi Sharan Sharma and Gian Chand

²⁰⁷ This information was published in the newspapers. See, for instance, "'Rangila Rasul' Storm," *The Tribune*, July 5, 1927: 3.

²⁰⁸ "'Risala Vartman' Case: Transferred to High Court," *The Hindustan Times*, July 7, 1927: 3.

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*

Pathak proceeded. While the trials were separate, the judges delivered a single judgment on both cases on August 6, 1927.²¹¹

Although the judges did not want to detail the contents of the article at length in order to avoid giving it “further publicity,” they describe the writing in “Sair-i-Dozakh” as follows:²¹²

...[I]t purported to be a dream in which the writer was borne to heaven where he was given a mysterious animal to ride and on its back he visited paradise and hell. In the latter place he professed to have seen certain historical Muslims surrounded by a large number of other Muslims and held certain coversations [sic] with them.²¹³

Furthermore, Justices Broadway and Skemp were unequivocal in their condemnation of the article, proclaiming that it was “in extremely bad taste, scurrilous in nature and is a disgusting satire on certain incidents in the life of the holy prophet of Islam.”²¹⁴ Although both of the defendants pleaded “not guilty,” the judges determined, based on the testimony of several witnesses, that they were in fact responsible for the publication.²¹⁵ However, the case hinged on whether or not the “Sair-i-Dozakh” fell within the purview of section 153-A.²¹⁶

²¹¹ While the cases were initially taken up by the District Magistrate of Amritsar, applications to have the case transferred to the Lahore High Court were filed by the Crown on July 1. The application was accompanied by a sworn affidavit from the Deputy Commissioner of Lahore which outlined the circumstances of the request. The application was successful, and the trials began on July 15 in the Lahore High Court. See *Devi Sharan Sharma v. Emperor* AIR Lahore 1927 594-595.

²¹² *Devi Sharan Sharma v. Emperor* AIR Lahore 1927 597.

²¹³ *Ibid.*

²¹⁴ *Ibid.*

²¹⁵ While Gian Chand Pathak was admittedly the publisher of the *Risala-i-Vartman*, he “denied all knowledge of the article” and claimed that he was not in Amritsar at the time that the issue was being prepared. Devi Sharan Sharma similarly admitted to being the author of the article in question, but maintained that the article he had deposited in the *Vartman's* letter box was written in Hindi, in contrast to the article which was published in Urdu. The language of publication would have had an impact on the intended audience of the publication. Sharma claimed that the article that he wrote in Hindi was written to support the Arya movement. Witnesses were cited in the judgment to discount Gian Chand Pathak’s claim of being absent from Amritsar. For instance, witnesses Habibullah and Shah Mohammed, two calligraphists, both swore that Sharma and Pathak brought the original manuscript to them together for publishing. Sharma’s claim regarding the language of publication

The prosecution argued that Devi Sharan Sharma and Gian Chand Pathak wrote and published “Sair-i-Dozakh” “with the intention of promoting hatred and enmity between the Muslims generally and those members of the Arya Samaj and Hindu Sabha who approved of, and were responsible for, the Shudhi and Sangathan movements, and who, it was contended, were believed to be behind these two accused.”²¹⁷ They did not claim that the movements themselves were the issue, but rather blamed the questionable tactics that had been adopted by these groups, as evidenced by scurrilous publications like the *Vartman*.²¹⁸ Due to the importance of “intention” in securing a conviction, the prosecution maintained that the intentions of Sharma and Pathak could be gleaned from:

(1) the nature of the article; (2) the policy of the paper in which it was published; (3) the class of persons whom it was sought to reach; (4) the fact that it was published at a time when the relations between the two communities were strained; and (5) the antecedents of the accused.²¹⁹

However, the counsel for the defense, Mr. Puri, argued that the article did not produce “feelings of any kind,” much less those of enmity or hatred.²²⁰ In addition, he claimed that the feelings were not reciprocal,²²¹ challenged the manner in which

was dismissed by Justice Broadway on the grounds that there was no evidence to support that the original article was written in Hindi, as well as by the fact that Sharma knew Urdu and had in fact published another article in the June issue in Urdu. Habibullah also swore that when he expressed his anger to the publisher and author over the scurrilous title of the article, Sharma told him “I am the author; I have written this Mazmun; I am responsible; copy it why are you afraid.” For these reasons, Justice Broadway found the both Devi Sharan Sharma and Gian Chand Pathak responsible for the publication. See *Devi Sharan Sharma v. Emperor* AIR Lahore 1927 595-596.

²¹⁶ Ibid: 597.

²¹⁷ Ibid.

²¹⁸ Ibid.

²¹⁹ Ibid.

²²⁰ Ibid.

²²¹ This point is in reference to section 153-A’s requirement that feelings of hatred and enmity must be created *between* classes.

external evidence— beyond the text of the publication itself—could be used, and that the “words themselves did not show any such intention.”²²²

In response to the contentions of the defense and prosecution, Justice Broadway determined that there was “no evidence showing that the promoters of the Shudhi and Sangathan movements were in any way connected” to the article.²²³ However, Justice Broadway acknowledged the indisputable connections of the accused with the Arya Samaj, as Gian Chand Pathak was admittedly a member of the group, while Devi Sharan Sharma professed to be an Arya Samajist by conviction; similarly, the stated objects of the *Risala-i-Vartman* were to “promote Shudhi and Sangathan.”²²⁴ For these reasons, Justice Broadway stated that “it cannot be regarded as surprising if the Muslims of Amritsar came to the conclusion that this article had the approval of the Arya Samaj and Hindu Sabha,” particularly given that “one Hindu gentleman alone publicly condemned it.”²²⁵ Reviewing the relevant cases, Justice Broadway concurred with the Crown regarding the admissibility of “external” evidence, such as the policy of the paper, the publication’s audience and the “state of feeling between the two communities at the time of publication.”²²⁶ In addition to accepting the inclusion of these external factors, the judge agreed with the Crown that the writing of the article itself was plainly scurrilous:

A reference to the article itself to my mind clearly shows that the words employed are such as would in the ordinary course create hatred and enmity in the minds of the Muslims against that class of Hindus whom the said Muslims hold responsible for this particular article.²²⁷

²²² Devi Sharan Sharma v. Emperor AIR Lahore 1927 597.

²²³ Ibid.

²²⁴ Ibid.

²²⁵ Ibid: 598.

²²⁶ Ibid.

²²⁷ Ibid.

Furthermore, Justice Broadway stated that:

When words used in an article are likely to produce hatred they must be presumed to have been intended to have that effect unless the contrary is shown, and in the present case, having regard to the fact that the words used in this article clearly tend to promote hatred and enmity between Hindus and Mahomedans as a class, it is for the accused to show that his intention was other than the ordinary one deducible from the actual words used.²²⁸

Despite the defense counsel's arguments, the judge determined that the article did indeed "produce a certain amount of excitement," and that these feelings "may properly be held to fall within the meaning of 'hatred' and 'enmity,'" as required by section 153-A.²²⁹ The judge also dismissed Mr. Puri's argument that the article did not incite reciprocal, as opposed to unilateral hatred, *between* classes, due to the fact that he could find no precedent for the proposition.²³⁰

The judgment also dealt with an argument parallel to that which made the *Rangila Rasul* case so unique. The defense in the *Vartman* case insisted that "the attack, assuming it to have been made on the Prophet Mahomed, was confined to him in his individual capacity and not as an attack on a class."²³¹ As evidenced by Justice Broadway's judgment, Justice Dalip Singh's interpretation on this question was not followed:

Having regard to the picture painted in this article it seems to me that there is really no force in this contention. The holy Prophet is depicted as being in hell suffering extreme torture; around him are his wives similarly situated, while around them all there are others beyond number, all in the same state of suffering. In my judgment the article deals with the Prophet Mahomed not as an individual but as the founder of Islam, and attempts to emphasize the futility of the Prophet's claims as the "intercessor" for his followers.... It

²²⁸ Ibid: 599.

²²⁹ Ibid.

²³⁰ Ibid.

²³¹ Ibid: 600.

seems to me that to depict the founder of Islam with his wives and numerous followers in hell undergoing the tortures of the damned was bound to inflame the minds of Mussalmans in general against the writer of the article and that class who rightly or wrongly were believed by them to be behind him.²³²

In a more general sense, Justice Broadway makes the following statement concerning the distinction between an attack on a founder of a religion and an attack on the religion itself towards the conclusion of the judgment:

At the same time a scurrilous and vituperative attack on a religion or on its founder (*and it seems to me difficult to distinguish an attack on the founder of a religion from an attack on the religion founded by him*) would require a considerable amount of explanation to take it out of the substantive part of S. 153A and bring it within the four corners of the explanation [emphasis added].²³³

Furthermore, Justice Broadway stated that even though he was unwilling to rule that “any criticism of a religious leader, whether dead or alive, falls within the ambit of S. 153A, I.P.C.,” he would hold that “the writing of a scurrilous and foul attack on such a religious leader would *prima facie* fail under the said section.”²³⁴ Without citing Justice Dalip Singh’s judgment, Justice Broadway effectively undermines the authority of the interpretation of the law that culminated in Rajpal’s acquittal and further contributed to the ambiguity of the scope of the law by failing to firmly close the door to the perceived “legal loophole” in section 153-A, as Hailey wished.²³⁵

Although he avoided citing Justice Dalip Singh’s controversial ruling, the judge did cite the *Vichitra Jivan* judgment to respond to Mr. Puri’s argument that the

²³² Ibid.

²³³ Ibid: 601.

²³⁴ The omission of any reference to the *Rangila Rasul* case was not accidental, as it was brought up during the trial. See, “Vartman’ Case Transferred to High Court,” *The Tribune*, July 6, 1927: 1.

²³⁵ Since Justice Broadway never explicitly mentions the *Rangila Rasul* judgment, even though he is dealing with a nearly identical question of law, it is unclear how precedent was being applied in the *Vartman* case.

conversion efforts of the Hindu *shuddhi* and *sangathan* movements, along with those of the Muslim *tanzim* and *tabligh* movements, made it “inevitable that the good points of [one religion] and the bad points of the [other religion] would be canvassed and that this would necessarily tend to create a certain amount of ill-feeling” in a “legitimate attempt at doing ‘missionary’ work.”²³⁶ Throughout the trial, the Crown relied on the *Vichitra Jivan* case, while Mr. Puri criticized the decision. Although Justice Broadway differentiated the *Vartman* case from the *Vichitra Jivan*, insofar as the author of the latter article had explicitly stated his missionary intentions whereas Devi Sharan Sharma and Gian Chand Pathak had not, the judge upheld and applied the previous decision to the *Vartman* case, claiming that “the article ‘Sair-i-Dozakh’ cannot be regarded as merely an attempt at ‘missionary’ work.”²³⁷

Justice Broadway ruled that Devi Sharan Sharma and Gian Chand Pathak were guilty under section 153-A of the Indian Penal Code. In the course of discussing sentencing, Sir Mohammad Shafi, representing the Crown, suggested that the punishment should be deterrent, while Mr. Puri argued that it should be nominal.²³⁸ The defence reasoned that a nominal sentence was sufficient given that the rival movements of *shuddhi* and *sangathan* on the one hand, and *tanzim* and *tabligh* on the other, had concurrently created their own respective “gutter press” that “had been equally aggressive.”²³⁹ However, he contended that since Muslims had not been prosecuted by the government for their publications that “scurrilous

²³⁶ Devi Sharan Sharma v. Emperor AIR Lahore 1927 600.

²³⁷ Ibid: 600-601.

²³⁸ Ibid: 601.

²³⁹ Ibid.

writings of this nature were not regarded as offences” and “that the penal provisions regarding such writings were meant for Hindus alone, and therefore as private persons they were driven in desperation to retort in this manner.”²⁴⁰ Justice Broadway dismissed this assessment as unfounded. In delivering the sentence of Devi Sharan Sharma, Justice Broadway took into account the previous warnings and scurrilous publications that he had authored, and decided that a “substantial punishment” should be awarded; Sharma was sentenced to rigorous imprisonment for one year and a fine of Rs. 500, or an additional six months of rigorous imprisonment in lieu of the fine.²⁴¹ Conversely, Justice Broadway deemed Gian Chand Pathak to be on “somewhat different footing,” and deserving of a lesser punishment; he sentenced Pathak to six months rigorous imprisonment and a fine of Rs. 250, or three months in default.²⁴²

Although Justices Broadway and Skemp delivered a “favourable” judgment in the *Vartman* case in the eyes of Governor Hailey and the British administration, the ambiguity surrounding the interpretation of the law was not clarified in their ruling. As Thursby points out, the “fundamental question at stake was whether or not it were possible for a person to intend to insult the religion or religious feelings of another without thereby intending to promote hatred and enmity between classes.”²⁴³ In the weeks following the *Rangila Rasul* judgment, several other pamphlets critical of the Prophet Muhammad were published by newspapers sympathetic to the Arya Samaj, making it clear to the government that a solution to

²⁴⁰ Ibid.

²⁴¹ Ibid: 602.

²⁴² Ibid.

²⁴³ Thursby, *Hindu-Muslim*: 67.

the legal ambiguity would have to be found.²⁴⁴ The mounting tensions and increasingly prolific “gutter press” prompted Governor Hailey to recommend the introduction of a bill within the Legislative Assembly to amend the Code.²⁴⁵ The Home Department agreed, and a draft of the revised legislation was prepared “so that the prosecution would need to establish an intention to insult the religion or outrage the religious feelings of a class and not to have to prove further that such insult or outrage to feelings was intended to produce feelings of enmity or hatred.”²⁴⁶ These amendments, once debated in the Legislative Assembly, would eventually culminate in the creation of section 295-A of the Indian Penal Code, which will be discussed in the final chapter of this study.

The “gutter press,” along with various newspapers, such as *The Hindustan Times*, were actively engaged in reporting on and critiquing these court proceedings as they unfolded. The press followed the *Rangila Rasul* trial throughout its duration, but the height of public debate and discussion coincided with the delivery of Justice Dalip Singh’s controversial ruling. The next chapter will discuss the integral role played by the press following the *Rangila Rasul* case, as well as analyze the emergence of a “rescue narrative,” which characterized the narrative shift that occurred within the articles and opinion pieces that were published on the topic. While Justice Dalip Singh utilizes an archetypal tragedy narrative within his judgment, the stories told in the press are instead stories told *about* the law. These

²⁴⁴ Ibid: 64-65.

²⁴⁵ Ibid: 66-67.

²⁴⁶ Ibid: 67.

stories played an important role in the manner in which section 295-A was ultimately drafted, as will be discussed in the final chapter.

Chapter 3: The Press

The engagement of the press played a critical role in the events that culminated in the creation of section 295-A in 1927. Scholars, such as Julia Stephens, have described the “unprecedented level of virulence” that manifested in the “vicious campaigns of print warfare,” and “almost daily newspaper headlines about religious riots,” that characterized the 1920s.²⁴⁷ Or, as one article published in *The Hindustan Times* described it: “In this powder magazine of communal hatred was thrown the ‘Rangila Rasul’ judgment as a bombshell.”²⁴⁸ Between incendiary writings in the “gutter press,” like the *Rangila Rasul*, *Vartman* and *Vichitra Jivan* publications, which served to inflame communal conflict, and the prolific coverage of current events in newspapers, the increasing number and diversity of print publications over the course of the 1920s created a platform for public debate and communal confrontation.²⁴⁹ In this way, the press played a vital role over the course of the *Rangila Rasul* affair, insofar as it “not only reflected the mood of the people, but also was instrumental in shaping it.”²⁵⁰ As Kenneth W. Jones explains, “Modern methods of communication and organization, coupled with rising literacy, created an increased potentiality for ideological debate. Books, pamphlets, and periodicals appeared in a widening stream which carried in it the rising consciousness of communal identity.”²⁵¹ In the Punjab alone, the number of publications rose from 328 in 1923 to 661 in 1929, with reports of proscriptions, court proceedings and

²⁴⁷ Stephens, “The Politics of Muslim Rage”: 48.

²⁴⁸ “A Menacing Situation,” *The Hindustan Times*, August 3, 1927: 8.

²⁴⁹ Uprety, *Religion and Politics*: 94-104.

²⁵⁰ Ibid: 105.

²⁵¹ Jones, “Communalism”: 47.

charges under section 153-A, among others, appearing frequently in the newspapers.²⁵²

The tone of different newspapers varied greatly depending on their language and intended audience. Uprety discusses these discrepancies in *Religion and Politics in the Punjab in the 1920s*, maintaining that the vernacular press at the time was more often responsible for provoking communal conflict during this period as compared to newspapers printed in English.²⁵³ Vernacular publications also had a wider reach in terms of their audience due to the fact that they were frequently read aloud in public spaces.²⁵⁴ Conversely, the English language papers, with either British or Indian proprietors, had a circulation that was restricted by virtue of language.²⁵⁵ The analysis that follows is restricted to English language newspapers, including *The Hindustan Times*, which has been largely neglected as a source in the existing scholarly literature on the subject of the *Rangila Rasul* case specifically, and the historical period more broadly. Drawing on a wide variety of articles and opinion pieces from *The Hindustan Times*, *The Times of India*, *The Tribune*, *The Hindu* and *The Manchester Guardian*, this chapter will demonstrate the overarching “rescue

²⁵² See Uprety, *Religion and Politics*: 95. In addition, various articles published at the time demonstrate the close attention that the press paid to incidents, such as “Creating Hatred: Syed Halshah Remanded,” *The Hindustan Times*, July 28, 1927: 3, “‘Gurughantal’ in Trouble: Editor Surrenders Voluntarily,” *The Hindustan Times*, July 30, 1927: 8, “New Editor of ‘Guru Ghantal,’” *The Hindustan Times*, August 6, 1927: 8, “Editor ‘Guru Ghantal,’” *The Hindustan Times*, August 11, 1927: 2, “Editor ‘Partap,’” *The Hindustan Times*, August 14, 1927: 3, “Editor ‘Guru Ghantal,’” *The Hindustan Times*, August 14, 1927: 3, “Editor on Trial: Case Postponed,” *The Hindustan Times*, August 17, 1927: 3, “Pamphlet Proscribed,” *The Hindustan Times*, August 19, 1927: 13, “Editor of ‘Swaraj,’” *The Hindustan Times*, August 25, 1927: 3, “Lahore Editors on Trial,” *The Hindustan Times*, August 26, 1927: 3, “Editor ‘Tarjuman’ Arrested: Charge of Promoting Class Hatred,” *The Hindustan Times*, September 10, 1927: 10, “Creating Class Hatred: Case Against ‘Light,’” *The Hindustan Times*, September 10, 1927: 10, “Case Against ‘Light,’” *The Hindustan Times*, September 11, 1927: 3, “Editor Arrested,” *The Hindustan Times*, September 11, 1927: 3.

²⁵³ Uprety, *Religion and Politics*: 94.

²⁵⁴ *Ibid*: 95.

²⁵⁵ *Ibid*.

narrative” that dominated contemporary discussions about the law.²⁵⁶ Although the press remained actively engaged in reporting on the *Rangila Rasul* case throughout the drawn out court proceedings, the height of public attention, controversy and editorializing coincided with the delivery of Justice Dalip Singh’s judgment. During this period, discussions about the problems posed by the “gutter press” were a common subject in the newspapers, as well as in the Punjab Legislative Council and Indian Legislative Assembly.²⁵⁷ For that reason, this chapter will focus on the debates that unfolded in the press and on the streets, as reported in the newspaper, following the conclusion of the *Rangila Rasul* case. Where it is essential to understand the debates that transpired in the vernacular press, this study utilizes secondary literature that has been published on the topic, which includes translations of the relevant materials.

Throughout this chapter, it will be demonstrated that the contemporary response to Justice Dalip Singh’s ruling took the form of a “rescue narrative,” as evidenced by newspaper articles and opinions published at the time. In “Once Upon a Time in Law: Myth, Metaphor, and Authority,” Linda Edwards analyzes the “rescue story” present in advocates’ briefs, and in doing so provides a useful description of what constitutes such a narrative.²⁵⁸ A characteristic common to these stories is that

²⁵⁶ The *Hindustan Times* was originally established by Akali Sikhs in 1923, and was edited by Sardar K.M. Panikkar. Within four years, around the time of the *Rangila Rasul* judgment, the newspaper was under severe financial strain and was bought by Madan Mohan Malaviya, with help from Lala Lajpat Rai. For more information about the history of *The Hindustan Times* or other English-language newspapers cited throughout this chapter, see Nadig Krishna Murthy, *Indian Journalism: Origin, Growth and Development of Indian Journalism* (Mysore: University of Mysore, 1966), 190-192.

²⁵⁷ See “Strangling Punjab’s Gutter Press,” *The Hindustan Times*, July 20, 1927: 1, “Supplementary Demands,” *The Hindustan Times*, July 20, 1927: 7, “‘Rangila Rasul’ Echo: Motions in Legislature,” *The Hindustan Times*, August 3, 1927: 7.

²⁵⁸ Edwards, “Once Upon a Time in Law”: 885.

they begin in a state of “incompleteness, distress, or disarray, and the goal is the completion of an important task or the restoration of the normative world.”²⁵⁹ In other words, a story that started with a sense of “normality and stability,” enters into a “stage of disequilibrium,” or what Amsterdam and Bruner refer to as a “steady state” devolving into “trouble.”²⁶⁰ As Edwards explains:

The steady state is, by definition, legitimate—the legitimate ordinary. In narrative terms, whatever disrupts a steady state is bad. The story describes the struggle to resolve the disequilibrium and return to some version of legitimate stability—either to the original steady state (restoration) or to some other good and stable place (transformation).²⁶¹

The debates that unfold in the press surrounding Justice Dalip Singh’s judgment demonstrate this precise narrative movement. What was once a steady state, insofar as the law was not known to possess the “tragic flaw” revealed by his ruling, devolved into a state of disequilibrium following the decision in the *Rangila Rasul* case. Various parties— Hindus, Muslims and colonial administrators— proposed, or in many cases demanded, differing solutions. These solutions, or methods of “rescue,” put forward by the disparate groups both reflected, and contributed to, the abject state of disarray that was perceived to have taken hold in the wake of Justice Dalip Singh’s controversial judgment. As will become apparent, the state of disequilibrium was further fueled by intra-communal divisions in opinion on how the various communities should respond to the ruling.

²⁵⁹ Ibid: 887.

²⁶⁰ Amsterdam and Bruner refer to this as the “initial steady state” which is “grounded in the legitimate ordinariness of things,” which is “disrupted by a *Trouble* consisting of circumstances attributable to human agency or susceptible to change by human intervention.” See Edwards, “Once Upon a Time in Law”: 887 and Amsterdam and Bruner, *Minding the Law*: 113-114.

²⁶¹ Edwards, “Once Upon a Time in Law”: 877-878.

In contrast to the analysis undertaken in the previous chapter, which focused on the archetypal tragedy narrative undergirding Justice Dalip Singh's judgment, this chapter delves into stories told *about* the law in the press: the many and varied impassioned responses to the *Rangila Rasul* ruling. These narratives most certainly had an impact on the development of section 295-A, as evidenced by Governor Hailey's aforementioned concerns regarding the rapidly escalating communal tensions between Hindus and Muslims. The press, which both reflected and encouraged the growth of these antagonisms, contributed to the British administration's disquieted state of mind and impelled them to recommend that the Indian Legislative Assembly introduce new legislation in the form of section 295-A posthaste.

Passing Judgment in the Press

The coverage of Rajpal's acquittal in the press was extensive and made headlines for months.²⁶² Riots were already underway in Lahore to protest the alleged assault of a Sikh girl by a Muslim boy when Justice Dalip Singh issued his judgment, which only served to add fuel to the fire.²⁶³ Although the decision was reported in the press immediately, Nair points out that it took almost three weeks for the full text of the judgment to be supplied to the press, resulting in a delayed response, which contributed to the prolonged duration of the protests.²⁶⁴ To add to the turmoil, Governor Hailey broke protocol in meeting with a deputation of Muslims on June 11 regarding the *Rangila Rasul* judgment; the meeting remained a

²⁶² Stephens, "The Politics of Muslim Rage": 49.

²⁶³ Ibid: 49.

²⁶⁴ Nair, "Beyond the Communal": 320.

topic of heated debate for weeks in the press, and as Nair points out, the “Governor’s response...seemed to give a free pass to subsequent Muslim expressions of anger as it sympathized with those Muslims who felt ‘justifiably offended’ by the pamphlet and felt they had no ‘legal weapon by which its repetition could be prevented in the future.’”²⁶⁵ Furthermore, Hailey conceded that the “judgment had left the government ‘much concerned’ for if this type of ‘religious controversy could be carried on with impunity’ there lay a ‘vista of endless trouble before the public.’”²⁶⁶ As Stephens explains, in her detailed account of “Muslim rage” during the time of this incident, the press frequently painted a “caricature” of Muslim anger that “vacillated between portraying all Muslims as fanatics and pitting ‘reasonable’ Muslims against those who inappropriately played up religious injury for political gain.”²⁶⁷ Such caricatures did not adequately capture the nuanced positions and debates that were taking place on the subject of the relationships between “law and religious freedom,” as well as “communal violence and government censorship.”²⁶⁸ The caricatures that Stephens mentions certainly permeated the opinion pieces that were published in *The Hindustan Times* in the aftermath of the *Rangila Rasul* affair, but the coverage also reflected the intra-communal disagreements and more nuanced discussions regarding ways to resolve the various issues. These solutions

²⁶⁵ The meeting was heavily criticized in the English language and Hindu press. One article published in the *The Tribune* on July 5, 1927 remarked that “It is learnt that the Punjab Governor’s unfortunate speech over the *Rangila Rasul* judgment and the press criticism thereof has made the Punjab Government reconsider the situation created by the speech.” Various Hindu groups, such as the Hindu Sabha of Ambala City, passed resolutions condemning the Governor’s actions. See, Nair, “Beyond the Communal”: 320, Thursby, *Hindu-Muslim*: 65, “‘Rangila Rasul’ Storm,” *The Tribune*, July 5, 1927: 3, “‘Rangila Rasul’ Judgment: Governor’s Attitude Deprecated,” *The Tribune*, July 5, 1927: 13.

²⁶⁶ Nair, “Beyond the Communal”: 320.

²⁶⁷ Stephens, “The Politics of Muslim Rage”: 50.

²⁶⁸ *Ibid.*

ranged from demanding the resignation of Justice Dalip Singh, and engaging in protests and acts of civil disobedience, to working with the government to push for legislation, as well as finding a way to censor “scurrilous” publication in the “gutter press” and quelling the surge of “fanaticism” in certain Muslim groups.

One of the newspapers that played a critical role in these debates was the *Muslim Outlook*, which published a series of articles throughout the summer of 1927 after the conclusion of the *Rangila Rasul* case that were extremely critical of the government’s role in regulating press publications.²⁶⁹ As Stephens explains, an adversarial exchange ensued, where “the government targeted the *Outlook* as one of the offending ‘communal’ papers.”²⁷⁰ On June 14, several days after the Muslim deputation met with Governor Hailey, the *Muslim Outlook* printed an article entitled “Resign!” that demanded the resignation of Justice Dalip Singh.²⁷¹ They claimed that:

Mr. Justice Dalip Singh should vacate his seat on the bench in consequence of his judgment in the “Rangila Rasul” case (A.I.R. 1927 Lah. 520) and the second that an enquiry should be held as to the circumstances under which that extraordinary judgment was written.²⁷²

The article opined that the judge had “betrayed a deplorable lack of experience and of a sense of responsibility,” and that he had “proved by his judgment a remarkable want of competence and care as a Judge.”²⁷³ The editor of the *Muslim Outlook*, Mr. D.

²⁶⁹ Ibid.

²⁷⁰ Ibid: 51.

²⁷¹ There was heavy criticism of Muslims over their protests in several English language newspapers, including *The Tribune*. One comment that appeared in this paper regarding the article read as follows: “If the feeling which actuated the *Muslim Outlook* in starting the agitation had been genuine, one would have expected it to write this article [“Resign!”], not in the middle of June, but in the beginning of May.” It further asserted that the present Muslim agitation had been stoked by the Governor’s reception of the deputation. See In the Matter of Muslim Outlook, Lahore, AIR Lahore 1927 611, and “A Menacing Situation: A Mischievous Agitation,” *The Tribune*, July 1, 1927: 3.

²⁷² The “Resign!” article, as quoted in the resign article quoted in the *Muslim Outlook* court judgment. See, In the Matter of Muslim Outlook, Lahore, AIR Lahore 1927 611.

²⁷³ Ibid.

S. Bukhary, as well as the printer and publisher, Mr. Nur-ul-Haq were successfully prosecuted for contempt of court for their extrajudicial claims, and sentenced to several months' simple imprisonment and fined.²⁷⁴ This conviction did not halt the *Muslim Outlook* in their criticisms, but rather "spurred the paper to more vigorous protest against judicial abuse."²⁷⁵ Similarly, it provoked Muslims to protest with increased vigour, and demand the release of their two incarcerated co-religionists at the numerous "monster meetings" that ensued.²⁷⁶ At a mass meeting in Delhi, Khwaja Hassan Nizami made remarks about the absurdity of the present situation, insofar as "no sections of the criminal law could be found to convict the reviler of the Prophet's life while a section should be traced to sentence one who insulted Mr. Justice Dalip Singh."²⁷⁷ The matter of the incarceration of Bukhary and Nur-ul-Haq was even discussed in the Punjab Legislative Council, where several members attempted to move a resolution recommending the release of the *Muslim Outlook* workers.²⁷⁸

One community leader, a former editor of the *Muslim Outlook* by the name of Mr. Upson, put forward a different theory to explain the cause of the protests, and speculated that the agitation was instigated by "ambitious" Muslim lawyers, who "rightly or wrongly, believed that on the administrative, but not on the judicial, side

²⁷⁴ Ibid: 611-613.

²⁷⁵ Stephens, "The Politics of Muslim Rage": 52.

²⁷⁶ Meetings of this nature took place across India, and resolutions were passed requesting that the judgment be reversed, that the judge resign, and that the staff of the *Muslim Outlook* be released. For instance, see: "Shaking to Rajpal," *The Tribune*, July 6, 1927: 2 and "Bombay Muslims Meet: 'Rangila Rasul' Agitation," *The Tribune*, July 6, 1927: 5.

²⁷⁷ "Shaking to Rajpal," *The Tribune*, July 6, 1927: 2, "Rangila Rasul in Assembly: Ghaznfar Ali's Resolution," *The Tribune*, July 6, 1927: 5, "'Muslim Outlook' Editor: Release Demanded," *The Tribune*, July 6, 1927: 11.

²⁷⁸ "Punjab Council Agenda," *The Hindustan Times*, July 15, 1927: 8, "'Gutter Press' of the Punjab," *The Tribune*, July 20, 1927: 5.

the High Court was alleged to be prejudiced against the Muslims,” and wished to capitalize on their co-religionists’ agitation to create a vacancy on the High Court Bench.²⁷⁹ This interpretation of the crisis reflected broader debates over electorates and Muslim representation in the civil service that were underway contemporaneously, and was a narrative that was adopted by other individuals at the time.²⁸⁰ In addition, Mr. Upson claimed that he could “hardly sympathize” with the agitation, and deplored the way the issue was being used by the Qadiani Ahmadis in “exploiting” the crisis “to popularize their sectarian propaganda.”²⁸¹ Finally, Mr. Upson argued that the *Muslim Outlook* agitation “was carried out on entirely wrong lines,” because he saw the present need as being “not the humiliation of a High Court Judge who could not have been inspired by communal prejudice but for a modification of the law or a ruling as to the correct interpretation of the law so that Muslims, Hindus and Christians might be restrained from attacks upon the characters of those whom they venerate.”²⁸² In at least one case, a newspaper cast communal aspersions on Justice Dalip Singh by falsely claiming that his ruling was a result of his Hindu faith when he was in actuality a Christian.²⁸³

Following the conclusion of the *Rangila Rasul* case, the government was unnerved by the increasing tensions and, in response, increased police presence to

²⁷⁹ See, “‘Rangila Rasul’ Case: Mr. Upson’s Views,” *The Tribune*, July 3, 1927: 2. Similar claims were also made by Mahomed Ali in the *Hamdard*. See, “Through Indian Eyes: If we had Moslem Raj,” *The Times of India*, July 19, 1927: 7.

²⁸⁰ Uprety discusses this “institutionalization” of communal tensions through electorates and the civil service. See Uprety, *Religion and Politics*: 27-93.

²⁸¹ “Unnecessary and Unwise Muslim Agitation: Mr. Upson’s Condemnation,” *The Hindustan Times*, July 5, 1927: 3 and “‘Rangila Rasul’ Case: Mr. Upson’s Views,” *The Tribune*, July 3, 1927: 2.

²⁸² *Ibid.*

²⁸³ According to one opinion piece, “a leading Anglo-Indian paper in Bombay encouraged the view that this is a communal affair by announcing in staring headlines that Mr. Justice Dalip Singh is a Hindu and the mistake was never corrected.” See, “The ‘Rangila Rasul’ Affair,” by Nagendranath Gupta, *The Tribune*, July 10, 1927: 2.

ensure that public order was maintained.²⁸⁴ Friction along communal lines manifested in widespread dissent, protests and “monster meetings” held by Muslim groups in order to protest the purportedly unchecked proliferation of the “gutter press,” Justice Dalip Singh’s ruling and the arrest of Bukhary and Nur-ul-Haq of the *Muslim Outlook*.²⁸⁵ For instance, a report in *The Tribune*, which covered one such “monster meeting” in Delhi on July 1 near the Jumma Masjid, estimated that there were as many as 70,000 people in the crowd, as well as heavy police presence.²⁸⁶ Speeches were delivered by various Muslim leaders stressing the severe nature of the offense that had been committed in the publication of the *Rangila Rasul* pamphlet, and the inadequate response that had been taken by the executive and judicial branches in upholding the dignity of the Prophet.²⁸⁷ Maulana Mufti Kifayat Ullah, who delivered one of the opening speeches, encouraged the crowd to demand an opinion from the government on Justice Dalip Singh’s ruling and reportedly discussed the following options:

If the Government confirmed this verdict of Mr. Justice Dalip Singh... then they must immediately get this law amended; but if the Government did not admit the existing law defective they then must have this judgment reversed by the Privy council and compel Mr. Justice Dalip Singh to resign. But if the

²⁸⁴ In particular, there had been a pattern of conflicts breaking out during holy days and processions, resulting in increased precautions around these times. See, Uprety, *Religion and Politics*: 134-175, and “Muharrum Precautions: Police Arrangements,” *The Hindustan Times*, July 8, 1927: 3.

²⁸⁵ See, Nair: 324. For examples, see “Anjuman-Ilm’s Protest,” *The Tribune*, July 7, 1927: 5, “Khilafatist Party’s Violent Action: Lahore Muslim Meetings,” *The Tribune*, July 7, 1927: 5, “Villification of Prophet, Islam Punishes With Death: ‘Rangila Rasul’ Judgment,” *The Tribune*, July 7, 1927: 9, “Bombay Muslims Condemn: ‘Rangila Rasul’ Agitation,” *The Tribune*, July 14, 1927: 5, “Rangoon Muslims Protest,” *The Tribune*, July 14, 1927: 5, “Madras Muslims’ Meeting,” *The Tribune*, July 14, 1927: 5, “‘Rangila Rasul’ Case Judgment: Bombay Muslims Indignant,” *The Hindustan Times*, July 14, 1927: 9, “Madras Muslims Astir,” *The Hindustan Times*, July 14, 1927: 9, “‘Rangila Rasul’ Case: Bangalore Muslims’ Demand,” *The Hindustan Times*, July 17, 1927: 10, “‘Rangila Rasul’ Judgment: Cawnpore Muslims’ Protest,” *The Hindustan Times*, July 22, 1927: 4.

²⁸⁶ “Muslims to Take Law in Hands, Delhi Mohammedans’ Ultimatum: ‘Rangila Rasul’ Judgment Agitation,” *The Tribune*, July 5, 1927: 4.

²⁸⁷ Ibid.

Government did not do either, then they should be warned that Mohammedans were prepared to do anything at any cost that was possible in this world to uphold the dignity and honour of their Holy Prophet without caring in the least for the worldly consequences of this action of theirs, as they would never tolerate the insult of the Rasul.²⁸⁸

Maulana Mohamed Ali, before delivering his speech, read aloud the resolution of the meeting, which declared that this form of insult to the Prophet was the “gravest crime,” and recommended that the government “take action”; he stressed that “[a]ny delay in the matter will be an indicator of the fact that the Government wants to compel the Mohammedans to take the law in their hands and matters like this will precipitate a catastrophe which no forces on the earth will be able to check.”²⁸⁹ Ali implored for Muslims to show enthusiasm that “doubled of what was demonstrated in the Khilafat agitation days,” because “[t]hen alone... Mohammedans could justify their true faith in their religion.”²⁹⁰ In a partial foreshadowing of the events that would transpire several years later, he allegedly instructed his co-religionists to demand that the government remedy the situation, “otherwise the lives of offenders like Rajpal are in danger.”²⁹¹ As Nair points out, “[w]hen these meetings continued to preach violence and threatened to overwhelm the law and order machinery of the government, the deputy commissioner of Lahore prohibited holding of public

²⁸⁸ Ibid.

²⁸⁹ After this meeting, Ali published a series of articles in his paper, the *Hamdard*, where he criticized the government for not providing adequate protections in the Indian Penal Code for religious offence, and urged that all Muslims should be focusing their energy on ensuring such legislation would be created. He also believed that the error in the judgment was not Justice Dalip Singh’s fault, but rather a flaw in the law. See, *ibid* and “Echo of ‘Rangila Rasul’: Maulana Mohammad Ali’s Views,” *The Hindustan Times*, July 12, 1927: 7.

²⁹⁰ “Muslims to Take Law in Hands, Delhi Mohammedans’ Ultimatum: ‘Rangila Rasul’ Judgment Agitation,” *The Tribune*, July 5, 1927: 4.

²⁹¹ Although the law was eventually amended, Rajpal was murdered in 1929, as will be explained later. See *ibid*.

meetings under section 144 of the IPC,” which in turn spurred the Khilafatists of Lahore to launch a civil disobedience campaign.²⁹²

A similarly raucous gathering was reported by *The Tribune* to have taken place on July 2 outside Mochi Gate in Lahore; the meeting was organized by Syed Habib and attended by an estimated 10,000 Muslims.²⁹³ As the meeting was nearing its conclusion, Zafar Ali Khan purportedly took to the stage to speak and refused to step down, causing Habib to lose his temper and the two to “exchange blows.”²⁹⁴ The City Magistrate, Mr. Phailbus, ordered all individuals present to head home, but Zafar Ali Khan refused, “shouting to his followers to come to Delhi Gate” so that they could hold a “fresh meeting.”²⁹⁵ The new meeting, which had approximately 500 people in attendance, witnessed Khan deliver an “intemperate speech” in a “state of wild excitement.”²⁹⁶ The City Magistrate and Deputy Commissioner, Mr. Ogilvie, ordered the meeting to disperse, and when Khan and his adherents refused, they were arrested.²⁹⁷ Although Zafar Ali Khan and his followers were released shortly thereafter, the District Magistrate issued orders prohibiting public gatherings in light of the heightened tensions.²⁹⁸ In response to these orders, several Khilafat leaders, including Maulvi Attaullah Shah, Abdul Rahman and Afzal Haq, chose to disregard the directive in an act of civil disobedience and assemble outside Delhi

²⁹² Nair, “Beyond the Communal”: 324.

²⁹³ “M. Hasrat Mohani at Lahore: ‘Rangila Rasul’ Condemned,” *The Hindustan Times*, July 5, 1927: 3, “Muslims Climb Down: Civil Disobedience Suspended,” *The Tribune*, July 10, 1927: 6, “Maulana Repents at Leisure, M. Zafar Ali Apologises [sic],” *The Tribune*, July 7, 1927: 5.

²⁹⁴ “Maulana Repents at Leisure, M. Zafar Ali Apologises [sic],” *The Tribune*, July 7, 1927: 5. In addition, see “Magistrate’s Order Contravened,” *The Times of India*, July 6, 1927: 9.

²⁹⁵ *Ibid.*

²⁹⁶ *Ibid.*

²⁹⁷ *Ibid.*

²⁹⁸ *Ibid.*

Gate for a meeting.²⁹⁹ The District Magistrate promptly prevented the meeting from taking place by arresting those who had summoned the gathering. The meeting moved from Delhi Gate to a private location, where it was reported that anti-Government speeches, and those critical of the *Rangila Rasul* judgment, took place, and plans were made to undertake a civil disobedience campaign.³⁰⁰ The assembly was declared unlawful by the District Magistrate, and after several individuals were arrested, the meeting dispersed.³⁰¹ In addition, resolutions were passed calling on Muslims to hold mass meetings across India on July 22 in order to demand that government stop the publication of the *Rangila Rasul* pamphlet.³⁰² At a mass meeting held at Delhi Gate a couple of weeks later to discuss the aftermath of the *Rangila Rasul* affair, and the demands of the Muslim community in response, the speakers also criticized the Hindu press for either keeping silent, and refusing to condemn the publication, or providing support and assistance to Rajpal.³⁰³

At a meeting of the Council of the Punjab Provincial Muslim League on July 5, presided over by Abdul Qadir, a resolution was passed criticizing the *Rangila Rasul* judgment and demanding government action. The resolution from the meeting, which was published in *The Tribune*, claimed that Justice Dalip Singh's judgment relied on "a wrong exposition of the law" and that the case should be heard by the Privy Council in order to receive an "authoritative and final pronouncement."³⁰⁴ In the interim, the Council called for the implementation of an appropriate "Regulation

²⁹⁹ Ibid.

³⁰⁰ Ibid.

³⁰¹ Ibid.

³⁰² "Muslim Mass Meeting: 'Rangila Rasul' Agitation," *The Hindustan Times*, July 17, 1927: 3.

³⁰³ Ibid.

³⁰⁴ "'Rangila Rasul' Case: Ordinance Demanded, Muslim League's Resolutions," *The Tribune*, July 10, 1927: 6.

or Ordinance” in order to quell the “free and unchecked publication” of scurrilous material.³⁰⁵ The Committee also demanded the immediate release of Bukhary and Nur-ul-Haq in light of Rajpal’s “most scurrilous and vile attack on the Holy Prophet of Islam.”³⁰⁶

Various Muslim associations discussed the continuation of the civil disobedience campaign on July 8 at the Barkat Ali Mahomedan Hall, which was reportedly attended by around forty “mostly moderate” Muslim leaders.³⁰⁷ Abdul Qadir, Mahomed Iqbal and Mian Abdul Aziz all delivered speeches urging the continued suspension of the campaign, and continued cooperation with the government.³⁰⁸ However, Afzal Haq, representing the Khilafat Committee, explained that it was not his intention to initiate a civil disobedience campaign, but following the District Magistrate’s order under section 144, which forced the dispersal of the meeting on July 4, such action was deemed necessary.³⁰⁹ Rather than provoking excitement, he believed that the Khilafat Committee’s speeches would have instead relieved tension amongst Muslims in Lahore, contrary to Mr. Ogilvie’s assertions.³¹⁰ While Haq made it clear that the Committee was prepared to suspend their acts of civil disobedience in accordance with the recommendations of so many Muslim leaders, he expressed hopes that “the moderate section of the Mussalmans would not confine their activities to merely giving advice to the Khilafat Committee, but

³⁰⁵ Ibid.

³⁰⁶ Ibid.

³⁰⁷ “Muslims Climb Down: Civil Disobedience Suspended,” *The Tribune*, July 10, 1927: 6 and “‘Be Constitutional’ Muslim Agitators Advised: Civil Disobedience Suspended,” *The Hindustan Times*, July 10, 1927: 9.

³⁰⁸ “Muslims Climb Down: Civil Disobedience Suspended,” *The Tribune*, July 10, 1927: 6, “‘Rangila Rasul’ Case: Ordinance Demanded, Muslim League’s Resolutions,” *The Tribune*, July 10, 1927: 6.

³⁰⁹ “Muslims Climb Down: Civil Disobedience Suspended,” *The Tribune*, July 10, 1927: 6.

³¹⁰ Ibid.

would request the Government to allow all lawful meetings held for lawful purposes and release those men who had been arrested or sentenced in obedience to the call of the Khilafat Committee.”³¹¹ In the following days, *The Hindustan Times* published a statement by Mohammad Shafi, which congratulated those at the meeting for their decision to halt the campaign, stating that “[c]onstitutional and wise action is certain to secure victory for our just cause.”³¹²

On July 7, a large meeting, reportedly attended by between 10,000 and 15,000 Muslims, was held in Lahore at the Badshahi Mosque, in order to announce the decision to suspend the civil disobedience against the District Magistrate’s order under section 144.³¹³ According to *The Times of India*, this was decided by “various Muslim Anjumans including the Khilafat Committee.”³¹⁴ However, the audience was anything but receptive to this announcement. When Mahomed Iqbal, the first speaker at the meeting, informed the crowd that Muslims should “reserve their energy for the struggle against their enemies who had insulted their Prophet and should not fritter away their spirit in defying the order issued by the District Magistrate,” as the Governor of the Punjab had “shown practical sympathy with them in the matter of the *Rangila Rasul* judgment,” and that “they should not alienate that sympathy by opposing Government at that stage,” those listening were

³¹¹ Ibid.

³¹² “‘Be Constitutional’ Muslim Agitators Advised: Sir Mohammad Shafi’s View,” *The Hindustan Times*, July 14, 1927: 9.

³¹³ “Stormy Moslem Meeting At Lahore: Suspension of Civil Disobedience,” *The Times of India*, July 11, 1927: 10, “Muslims Climb Down: Civil Disobedience Suspended,” *The Tribune*, July 10, 1927: 6, “The Muslim Agitation, Violent Speeches Continue: Another Meeting at Lahore,” *The Tribune*, July 13, 1927: 6.

³¹⁴ “Stormy Moslem Meeting At Lahore: Suspension of Civil Disobedience,” *The Times of India*, July 11, 1927: 10.

thoroughly unimpressed.³¹⁵ While Iqbal asked that efforts be temporarily suspended until the *Vartman* case was “disposed of by the High Court,” the audience members “howled down” the speaker.³¹⁶ Forced to sit down, Iqbal was replaced by Afzal Haq, who provided further explanation of the joint decision to halt the campaign.³¹⁷ Voices from the audience were heard demanding answers to questions like “Why then did you start defiance of the order at all? What about our volunteers and Maulvies who have been sent to jail?”³¹⁸ In response, Afzal Haq explained, amidst persistent interruptions, that they had only suspended the campaign for a week and “had sent telegrams to Khilafat workers in the province inviting them to come to Lahore and hold a conference not only to decide this question but many other questions regarding the *Rangila Rasul* judgment and subsequent insults that had been offered to their Prophet by certain other Hindu publications.”³¹⁹ Thus, if “their grievances were not remedied within this period they would launch a bigger movement in which Mussalmans would be asked to make greater sacrifices.”³²⁰ Zafar Ali Khan, speaking next, echoed these sentiments and assured the crowd that they had “only sheathed their sword for the time being,” and that in the meantime, they should continue to find people to support the movement, raise funds and “be

³¹⁵ “Stormy Moslem Meeting At Lahore: Suspension of Civil Disobedience,” *The Times of India*, July 11, 1927: 10 and “Stormy Scenes at Muslim Meeting,” *The Hindustan Times*, July 12, 1927: 1.

³¹⁶ The *Hindustan Times* similarly reported that Iqbal was “hooted down.” See “Stormy Moslem Meeting At Lahore: Suspension of Civil Disobedience,” *The Times of India*, July 11, 1927: 10 and “Stormy Scenes at Muslim Meeting,” *The Hindustan Times*, July 12, 1927: 1.

³¹⁷ “Stormy Moslem Meeting At Lahore: Suspension of Civil Disobedience,” *The Times of India*, July 11, 1927: 10.

³¹⁸ *Ibid.*

³¹⁹ *Ibid.*

³²⁰ *Ibid.*

prepared to offer their heads in sacrifice for Islam.”³²¹ Other groups, such as the Muslims of Bombay at their second mass meeting, echoed this disdain, and issued a similar caution to the government: “This meeting warns the Government that if proper measures [are] not taken to amend section 153 A, the Muslims will be compelled to take such steps as they think proper to protect the honour and the dignity of their religious prophet.”³²²

The involvement of Muslim women in the protests was highlighted by one article in *The Hindustan Times*, which reported that:

The growing strength of the Muslim agitation against the judgment in the ‘Rangila Rasul’ case is evident from the vigorous part the Muslim ladies are taking in the anti-Government crusade. A large Purdah meeting of the Muslim women of Delhi was held on July 10... at which Mrs. Khwaja Hassan Nizami presided... All the women speakers spoke in an intense tone of excitement and said that Muslim women were very much wounded at the “scurrilous attack” on their Prophet. Syeda Sultan Jahan in her speech emphatically instanced the part played in public life by Muslim women in Islamic countries like Turkey and Egypt and laid great stress on the necessity of educating Muslim women so that they may attain the proper standard of enlightenment to march along with men on the path of progress.³²³

The women at the meeting unanimously passed several resolutions. They asserted that “the Muslim women of Delhi strongly protest against the publication of the pamphlet known as ‘Rangila Rasul’ which has cast scurrilous aspersions on the name of our Prophet,” and demanded that the government punish those responsible for its publication.³²⁴ Furthermore, they urged “all Muslim women in different parts of the country to hold protest meetings of Muslim women independently of men and to continue to carry on this agitation until this wrong done against their Prophet and

³²¹ Ibid.

³²² “‘Rangila Rasul’ Judgment: Bombay Muslims’ Wrath,” *The Hindustan Times*, July 16, 1927: 13.

³²³ “Woman to the Fore: Muslim Agitation,” *The Hindustan Times*, July 13, 1927: 7.

³²⁴ Ibid.

religion is righted and an effective provision in the law is made to guard against...attacks on their Prophet and religion.”³²⁵ They also requested that Muslim leaders introduce a “mark of mourning to be borne by Muslim men and women” until the *Rangila Rasul* affair had been resolved.³²⁶ An opinion piece that was published on July 14 congratulated the Muslim women on their engagement, and claimed that “it is perhaps the first occasion when our Muslim sisters have held a meeting of such magnitude to support an agitation sponsored by their co-religionists of the stronger sex,” and that the resolutions passed at this meeting were “much more reasonable and sensible than the resolutions passed at the meetings hitherto held by men.”³²⁷

Battle lines were not only drawn between Muslims that supported the message of the *Muslim Outlook* and the government, but also between those demanding Justice Dalip Singh’s resignation and members of the Muslim community that instead wished to see the government assert its authority to quell the surge in communal violence resulting from scurrilous publications. This position was represented in the publication of a “manifesto” on May 14 in *The Tribune*, which was co-signed by several notable Muslim leaders, including Mohammad Shafi and Mahomed Iqbal.³²⁸ The statement read as follows:

In the opinion of the undersigned a section of the press and more particularly of the vernacular press has been for some time past and is still one of the main causes of the unhappy communal tension which is evident all around

³²⁵ Ibid.

³²⁶ Ibid.

³²⁷ The opinion piece also asserted that “Muslim ladies...are still extremely backward” and that “when women enter public life, their influence must always be moderating and restraining for men.” See “Our Muslim Sisters,” *The Hindustan Times*, July 14, 1927: 8.

³²⁸ Stephens refers to it as a “manifesto.” See, Stephens, “The Politics of Muslim Rage”: 52, and “Irresponsible Journalists: Action Against them Urged,” *The Tribune*, May 14, 1927: 6.

us. The Government should, in our opinion, take action under the law in order to inspire a sense of responsibility in the minds of those journalists who have failed to realize their responsibility in the discharge of their functions.³²⁹

Furthermore, the leaders stressed the “urgent need for studied moderation on the part of platform speakers,” the absence of which, they felt, had been “largely responsible for the existing deplorable situation.”³³⁰ Mahomed Iqbal, in particular, became a vocal advocate for this position, and was interviewed by the *Muslim Outlook* on his views; in this exchange, he stated that he “could never make up his mind to believe in absolute liberty in this world,” but that his views “should not be understood to mean a desire to suppress the liberty of the Press which I regard as a most potent factor in the elevation of a people. All that I desire is that the vernacular Press which realizes its power must realize its responsibility.”³³¹ Exacerbating these divisions, numerous articles and editorials appeared in the Hindu press and English-language papers, which emphasized the discrepancy between what were characterized as acceptable solutions and forms of protest by Muslims, and alternatively those that were, by their estimation, devoid of reason. Certain articles referred to Muslim leaders, like Iqbal, who were encouraging a co-operative approach to resolving the issue as “responsible,” “reasonable” and “rational” leaders, in contrast to the “fanatical” Muslim “extremists” that were seen as provoking unnecessary controversy and stirring up conflict.³³² For instance, an opinion piece

³²⁹ “Irresponsible Journalists: Action Against them Urged,” *The Tribune*, May 14, 1927: 6.

³³⁰ *Ibid.*

³³¹ This article from the *Muslim Outlook* is quoted in Stephens, “The Politics of Muslim Rage”: 52.

³³² “Simla Letter: ‘Rangila Rasul’ Agitation,” *The Tribune*, July 8, 1927: 3, “‘Rangila Rasul’ Agitation,” *The Tribune*, July 19, 1927: 1, “Sir Malcolm & Muslim Agitation: Parley with Fanaticism,” *The Hindustan Times*, July 8, 1927: 6, “Muslim Extremism: ‘Rangila Rasul’ Echo,” *The Hindustan Times*, July 8, 1927: 6.

printed in *The Hindustan Times* criticizing Hailey's meeting with the Muslim

deputation, which was originally published in *The Leader*, exemplifies this narrative:

If all Muslims were reasonable and fair-minded they would have been satisfied with the assurance given. But his Excellency forgot the fanatics, and that it is never safe to parley with fanaticism... We think it is the duty of fair-minded Muslims in the Punjab to act as Mr. Mohamed Ali has done and to express their strong disapproval of the efforts that are being made to confuse the issues and fan the fanaticism of ignorant Muslims....We are sure that there are broad minded and sensible Muslims in the Punjab who do not look with approval on the turn that events are taking and realize the great deal of harm to the community itself. It is their duty to exercise their steadying influence and explain to the ignorant Muslim the real inwardness of things.³³³

This dichotomous characterization of Muslims as either “reasonable” and “fair-minded,” on the one hand, or conversely “fanatical” and “ignorant,” appeared as a common narrative throughout numerous opinion pieces published in English-language newspapers during this time. Despite the rhetoric that appeared in these pieces, as Stephens points out, different sections of the Muslim community, like the *Muslim Outlook* and Iqbal, may have disagreed over the “degree” of censorship needed, but they both “articulated a concept of liberty that balanced political freedom with legal protection against speech that injured other citizens.”³³⁴

Other leaders responded by calling for a return to tolerance. In these arguments, the “rescue narrative” is plainly evident, as they tended to emphasize a return to an original, natural and peaceful state. For instance, *The Tribune* published the following statements made by Mohammad Shafi:

[T]he law of the land was apparently powerless to prevent this spread of this deadly poison. For when the writer of a despicable and scurrilous pamphlet such as the *Rangila Rasul* can go unpunished on the ground that its

³³³ *The Leader* was quoted in *The Hindustan Times*. See, “Sir Malcolm & Muslim Agitation: Parley with Fanaticism,” *The Hindustan Times*, July 8, 1927: 6.

³³⁴ Stephens, “The Politics of Muslim Rage”: 52.

publication does not fall within the purview of section 153 A of the Indian Penal Code, what hope is there of the Courts stepping in to check the advance of a poisonous gangrene which is destroying the beautiful fruit of religious toleration in a country hitherto famous as a peaceful home of all religions?³³⁵

Here, the understanding of the “normal” state is tied to the notion of a preexisting and natural state of “tolerance.”³³⁶ Couched in the language of protecting India, and defending the national cause, the piece concludes by claiming that the “only effective solution of the grave problem which we have now to face is a change of mentality and of hearts on both sides,” wherein “the prosperity of both lies the prosperity of India and on the recognition by each of the legitimate rights of the other rests the hope of that inter-communal co-operation and good-will which is absolutely essential if India is to attain her appointed goal.”³³⁷ In line with this mentality, leaders from various communities were engaged in discussions about how best to reduce communal tensions, while others, like Congress President Srinivas Iyengar, criticized the defamatory and offensive *Rangila Rasul* pamphlet while calling for an entente between Hindus and Muslims.³³⁸ Several weeks later, Maulana Mohamed Ali issued a similar statement to the press, discussing his “desire to promote tolerance and good will”:

I arrived yesterday from Ajmer after having gone to Lahore and Ajmer to preside over monster meetings of Musalmans in connection with the “Rangila

³³⁵ “Hindu-Muslim Situation,” *The Tribune*, July 6, 1927: 13.

³³⁶ For an analysis of the history of “tolerance,” see C.S. Adcock, *The Limits of Tolerance: Indian Secularism and the Politics of Religious Freedom* (Oxford: Oxford University Press, 2014).

³³⁷ “Hindu-Muslim Situation,” *The Tribune*, July 6, 1927: 13.

³³⁸ See, “Hindu Muslim Entente: Mr. Iyengar on Rangila Rasul,” *The Hindustan Times*, July 22, 1927: 18, “Artificial Propaganda: ‘Rangila Rasul’ Agitation, Mr. Mohammed Yaqub’s Views,” *The Tribune*, July 24, 1927: 5, “Rangila Rasul Agitation: ‘An Artificial Propaganda,’ Mr. Mohd. Yakub’s Views,” *The Hindustan Times*, July 24, 1927: 7. An opinion piece published shortly after Yakub’s comments were published, praised him for his “sanity” and “balance of mind” on the subject of communal relations, but criticized him for claiming that Hindu leaders had not come forward to condemn scurrilous publications against the Prophet. See, “Where Mr. Yakub Erred,” *The Tribune*, July 28, 1927: 8.

Rasul” case. As by this time everyone must know, I have been persistently fighting for weeks against the demand for the dismissal of Kunwar Dalip Singh and have been advising Musalmans to give up this unjust and unacceptable demand and instead of that to concentrate all their attention and energies on the enactment of a fresh provision of law making it directly and distinctly an offence relating to religion under chapter 15 of the I.P.C. to abuse prophets and saints and other persons held sacred by followers of any religion, so that a stop may be put to the vile practice that has grown of late of insulting the religions of various classes in this manner and this wounding their religious feelings.³³⁹

These appeals to the masses by members of government and the Legislative Assembly in pursuit of unity, tolerance and peaceful protest illustrate their desire to restore public order and a sense of equilibrium in the wake of Justice Dalip Singh’s judgment.

The commencement of the *Vartman* trial, widely reported as being a “test case” intended to clarify the legal ambiguity resulting from the inconsistency between the *Vichitra Jivan* and *Rangila Rasul* rulings, made headlines and provoked further protests over Rajpal’s acquittal. On July 17, the title “‘Vartman’ Case in High Court” appeared emblazoned across front page of *The Tribune*, and days later, *The Hindustan Times* cover featured the leading story: “‘Rangila Rasul’: More Muslim Protest.”³⁴⁰ The outrage over Justice Dalip Singh’s judgment persisted, with reports suggesting that around 50,000 people were present for a mass meeting in Calcutta, and over 40,000 in attendance for an “emphatic protest” at a mosque in Madras.³⁴¹ With matters being held in abeyance until the *Vartman* case was decided, pressure for the government to address the situation was mounting. Accordingly, the

³³⁹ “Unscrupulous News Agency: M. Mohomed Ali’s Complaint,” *The Hindustan Times*, July 30, 1927: 7.

³⁴⁰ “‘Vartman’ Case in High Court: The ‘Vartman’ Case, Question of Framing Charge,” *The Tribune*, July 17, 1927: 1 and “‘Rangila Rasul’: More Muslim Protest,” *The Hindustan Times*, July 19, 1927: 1.

³⁴¹ “‘Rangila Rasul’: More Muslim Protest,” *The Hindustan Times*, July 19, 1927: 1, “Muslims Hold Meetings: ‘Rangila Rasul’ Agitation,” *The Tribune*, July 20, 1927: 4, “Madras Muslims’ Indignation,” *The Tribune*, July 20, 1927: 4.

reporting of the *Vartman* trial was very thorough, providing detailed accounts of the court proceedings, including each witness' testimony, and other papers similarly covered the progression of the case closely.³⁴² One such article published on July 19 recounted the testimony of K.S. Shaikh Abdul Aziz, the Superintendent Press Branch of the Punjab Civil Secretariat, who testified to the strained relations between Hindus and Muslims at the time of the publication of the offending article in the *Vartman* by emphasizing the number of proscribed publications and government issued warnings that preceded its release:

In 1926, Government had issued 7 warnings to newspapers, 5 of which belonged to Hindus and 2 to Mussalmans. In 1926, there were 7 prosecutions under Sec. 153A, I.P.C.—1 against a Sikh, 3 against Hindu and 3 against Muslim newspapers. In 1927, up to date 13 warnings had been given to newspapers, of which 8 belonged to Hindus and 5 to Muslims. During the same period 19 publications had been proscribed, of which all except one belonged to the Punjab. Of these, one was by a Sikh, 10 by Hindus and 8 by Muslims. There were in 1927, 4 prosecutions under Sec. 153A, I.P.C.—one

³⁴² "The 'Vartman' Case: Hearing in High Court," *The Tribune*, July 17, 1927: 2, "Risala Vartman' Case: Application for Transfer to High Court," *The Hindustan Times*, July 3, 1927: 3, "Risala Vartman': Notice Issued on the Accused," *The Hindustan Times*, July 5, 1927: 7, "Risala Vartman' Case: Transferred to High Court," *The Hindustan Times*, July 7, 1927: 3, "Risala Vartaman' Case: To be Heard on the 15th July," *The Hindustan Times*, July 14, 1927: 3, "Risala Vartman' Case: To be Tried by Division Bench," *The Hindustan Times*, July 15, 1927: 3, "A Trip to Hell' and After: 'Risala Vartman' Case Disclosures," *The Hindustan Times*, July 17, 1927: 1, "Risala Vartman: Prosecution Case Closed," *The Hindustan Times*, July 19, 1927: 3, "Risala Vartman' Case: Kalma & Islam, Charges Framed Against Accused," *The Hindustan Times*, July 20, 1927: 3, "Risala Vartman' Case: Further Prosecution Evidence, Amritsar B.P.'s Statement," *The Hindustan Times*, July 21, 1927: 3, "Risala Vartman Case: Witness Heard, Alleged Insult on Prophet," *The Hindustan Times*, July 22, 1927: 3, "Prophets Wives, Story of Marriages: 'Risala Vartaman' Case," *The Hindustan Times*, July 23, 1927: 3, "Risala Vartman' Case: Prosecution Evidence Closed, Hearing Adjourned to July 27," *The Hindustan Times*, July 24, 1927: 3, "Risala Vartman' Case: No Defence Evidence to be Produced," *The Hindustan Times*, July 29, 1927: 3, "Pillars of Arya Samaj,' Gian Chand and Devisharan: 'Risala Vartaman' Case Proceedings," *The Hindustan Times*, July 30, 1927: 3, "Issue in 'Vartaman' Case: Defence Counsel's Arguments," *The Hindustan Times*, July 31, 1927: 3, "No Political Considerations, Case to be Decided on Merit: Justice Broadway's Assurance, 'Risala Vartaman' Case Proceedings," *The Hindustan Times*, July 31, 1927: 3, "The 'Vartman' Case: Charge Framed Against Both Accused," *The Tribune*, July 20, 1927: 1, "The 'Vartman' Case," *The Tribune*, July 21, 1927: 5, "Vartman' Case: Cross-Examination Concluded," *The Tribune*, July 22, 1927: 5, "The Vartman Case: Cross Examination Concluded, List of Defence Witnesses," *The Tribune*, July 24, 1927: 1, "Vartman' Case: Defence Evidence Given up [sic], Arguments on Thursday," *The Tribune*, July 28, 1927: 1. In addition, the final judgment made headlines. See, "Risala Vartman' Case Judgment: 'A Trip to Hell' Tragedy, Devi Sharan and Gian Chand Convicted," *The Hindustan Times*, August 7, 1927: 1.

against a Muslim and 3 against Hindus. Warnings were issued mostly in cases in which conviction was doubtful or prosecution was not thought desirable. In May 1927, 8 newspapers were proscribed for infringing Section 153A, I.P.C.; 8 newspapers were similarly proscribed in June 1927.³⁴³

This excerpt not only demonstrates the press' attentiveness in reporting the trial proceedings in the *Vartman* case, it also illustrates the remarkable surge in scurrilous publications; at the very least, the numbers reflect the British administration's increased desire to suppress the swell of controversial writings given the wave of tension that threatened to erupt into communal conflict over the *Rangila Rasul* case.³⁴⁴

On July 22, "High Court Day" was celebrated by Muslims in various places, and protests were widespread. As *The Hindustan Times* stated, Maulana Mohamed Ali issued a statement calling for Muslims to observe July 22 "not as the Punjab High Court Day, but as a day of special prayer so that this unpleasant affair may end very soon."³⁴⁵ He encouraged Muslims to use this day to pass resolutions demanding that either Justice Dalip Singh's verdict be reversed, or that the law be amended.³⁴⁶

Presumably in response to the *Vartman* "test case," the Maulana argued that:

[T]he Musalmans must not rest satisfied merely with any rulings of the High Court Divisional benches that such insults offered to sacred and religious leaders are capable of promoting hatred and enmity between different classes of His Majesty's subjects. Muslims want a direct and definite law which may be binding on all Judges, says the Maulana and not a mere ruling which a judge may accept or reject at his own discretion.³⁴⁷

³⁴³ Similar claims made about the increase in the number of proscriptions and publication of scurrilous material appeared elsewhere in the press. See, "Communal Writings in Press: Evidence in 'Vartman' Case, K.S. Abdul Aziz's Statement, Prosecution Evidence Concluded," *The Tribune*, July 19, 1927: 2.

³⁴⁴ Ibid.

³⁴⁵ "Observe as Prayer Day," *The Hindustan Times*, July 22, 1927: 7.

³⁴⁶ Ibid.

³⁴⁷ Ibid.

The Maulana saw it as “his duty to insist” on the creation of new legislation regardless of the outcome of the *Vartman* case.³⁴⁸ Although Muslims would “exalt in the decision” that convicted the editor and publisher of the scurrilous article in the *Vartman*, he reportedly felt that Muslims should engage in “demanding nothing less than a fresh piece of legislation,” as Justice Dalip Singh recommended in his judgment.³⁴⁹ An opinion piece published in *The Hindustan Times* praised the Maulana for rising “above petty communal jealousies and controversies” in a manner which the author contended would “obtain the support of all sober and sane thinking people.”³⁵⁰ Criticizing the Khilafat Committee for “unwisely...trying to focus Muslim opinion on the resignation of Justice Dalip Singh,” the article commended Ali on his recommendations:

The Musalmans are only weakening a strong case by misdirecting their enthusiasm against the High Court and Justice Dalip Singh, and as Maulana Mohammed Ali has appropriately remarked, are living a fool’s paradise if they believe that by asking for the resignation of Justice Dalip Singh they are in any way helping to protect the honor of their Prophet and the founder of Islam.³⁵¹

However, other meetings held on that day advocated for different solutions to the problem. For instance, at one mass meeting held in Delhi, reportedly attended by between seven and eight thousand people, the speakers insisted on the adequacy of the law, and demanded that Justice Dalip Singh be relieved of his duties and that his verdict be overturned; similarly, they demanded that the editor and printer of the *Muslim Outlook*, as well as those Muslims that were incarcerated for their actions

³⁴⁸ Ibid.

³⁴⁹ Ibid.

³⁵⁰ “The High Court Day,” *The Hindustan Times*, July 23, 1927: 8.

³⁵¹ Ibid.

during the civil disobedience campaign, be released immediately.³⁵² In *The Hindustan Times*, the day was described as follows:

From the reports that have been received by us of the manner in which the High Court Day was celebrated by Musalmans in various places, it is clear that the tension between Hindus and Musalmans is on the increase, and Musalmans are in no mood to peacefully await the judgment in the "Vartman" case. Rowdyism during the last few days has increased in many cities, and if the reports received by us from reliable correspondence are true, acts of petty violence have been committed by Muslim hooligans at various places, the victims of which have been wayfaring Hindus. The agitation against the High Court and Justice Dalip Singh which was wisely suspended has been re-started with greater vigour and increased zeal. If the agitators are allowed to have their own way, we are perfectly certain that serious bloodshed and rioting will result in many places.³⁵³

The panic over the state of disorder and disequilibrium that had resulted from Rajpal's acquittal was certainly portrayed in, and amplified by, such articles calling for the return to a steady state. In addition, the differing approaches to, and opinions on, "High Court Day" reflect the conflicting criticisms and varied "remedies" proposed to relieve inter-communal tensions caused by the *Rangila Rasul* case, which invariably led to intra-communal disagreements.

The mass meetings continued to be reported in the newspapers throughout the month of July, and were exacerbated by accounts of further scurrilous publications, which led to more resolutions being passed by Muslim groups. In fact, rumours were circulated in the newspapers about the publication of a second edition of the *Rangila Rasul* pamphlet, and further contributed to the sense of

³⁵² "Cry of 'Resign' Re-echoed by Muslims: Reversal of Judgment Urged, Observance of High Court Day, Monster Meeting of Delhi Muslims," *The Hindustan Times*, July 24, 1927: 1. The trial for the jailed Khilafatist protesters was also followed closely by the press. For instance, see "Khilafatist on Trial: Echo of Lahore Riots, Alleged Preaching Defiance of Law," *The Hindustan Times*, July 26, 1927: 2, "'Excited Speech' at Meeting: Lahore Mohurrum Echo," *The Times of India*, August 1, 1927: 6.

³⁵³ "High Court Day," *The Hindustan Times*, July 26, 1927: 8.

collective consternation felt by the Muslim community.³⁵⁴ At one gathering in Patna, held in a hall described as being “literally packed to suffocation,” resolutions were passed condemning the *Rangila Rasul* publication, requesting that the Punjab Government release the editor and printer of the *Muslim Outlook*, and urging the Muslim members of the Legislative Assembly and Council of State to create “clear and unambiguous laws to check scurrilous attacks on founders of different religions.”³⁵⁵ Sayed Abdul Aziz, who moved the first resolution, distinguished himself from the views of later speakers when he told the crowd that although it was necessary for Muslims to condemn the “improper conduct” of Rajpal, “they should not attack the whole Hindu community for the sin of one individual.”³⁵⁶ *The Hindustan Times* described his speech, saying that Aziz opined that the Muslims’ “religion did not teach them to attack the religion of others in return.”³⁵⁷ Addressing a potential lingering misconception about the *Rangila Rasul* judgment, he asserted that the judge “was not a Hindu but a Christian for the last three generations,” and emphasized that Justice Dalip Singh had “condemned [the contents of the pamphlet] in no uncertain terms.”³⁵⁸ Conversely, a meeting in Madras passed the following resolution, which was reportedly telegraphed to the Viceroy:

This meeting is notified that the Hindu-Muslim Communal tension in the Punjab [is] resulting from the deliberate conspiracy of a section of Hindus to attack Islam with a view to bring into contempt and eventually destroy the Muslim culture and civilization in India. In order that the scheme of self-Government in India be assured, it is necessary that [a] sense of security be produced and strengthened in the mind of the Muslim Community

³⁵⁴ “‘Rangila Rasul’: Rumour about Second Edition,” *The Hindustan Times*, July 27, 1927: 3.

³⁵⁵ “Insult to Prophet: Bihar Muslims’ Protest, ‘Rangila Rasul’ Echo,” *The Hindustan Times*, July 22, 1927: 9.

³⁵⁶ *Ibid.*

³⁵⁷ *Ibid.*

³⁵⁸ *Ibid.*

throughout India. This object can be obtained by among other things giving reforms to the North-Western Province, making Sindh a separate province and giving the Muslim Community in Punjab and Bengal that amount of representation in the Legislatures, local bodies and universities that it is entitled to on account of the majority of the population...all vacancies in the services of the Government and local bodies in the Punjab and Bengal be filled by qualified Mussalmans till their number is about half the total in services.³⁵⁹

A similarly critical set of resolutions was passed at a Muslim meeting in Lahore at the Badshahi Mosque on July 28.³⁶⁰ *The Hindustan Times* printed a translated copy of the eight resolutions, which included an assertion that the Hindu press, “have made it a religious duty, so to say, to calumniate Islam and its holy Founder.”³⁶¹ The meeting called on the government, and their co-religionists, to appeal the Rajpal case to the Privy Council; institute a clearer law; release the editor and publisher of the *Muslim Outlook*, as well as the Khilafat protesters that had been arrested; remedy the paucity of Muslim representation in government departments; appoint a Muslim judge from the Punjab to the High Court; confine their trade and dealings to Muslims; engage in the work of *tabligh*, “both among themselves...as well as among the ranks of Hindus and the untouchables”; and, since “the Associated Press is accused of perverting facts,” they maintained that Muslims should have their own “independent associated press service.”³⁶² The conflation of various issues, including joint electorates and the representation of Muslims in the administrative branch of government, with the communal disturbances connected to the *Rangila*

³⁵⁹ “‘Rangila Rasul’ Echo: Madras Muslims Astir, Telegram to Viceroy,” *The Hindustan Times*, July 28, 1927: 9.

³⁶⁰ “Lahore Muslim Meeting: Text of Resolutions, Aftermath of ‘Rangila Rasul,’” *The Hindustan Times*, July 29, 1927: 2.

³⁶¹ *Ibid.*

³⁶² *Ibid.*

Rasul judgment, evident in this passage, was a theme that permeated many of the discussions and debates during this period.³⁶³

By the end of July, reports of the disturbances caused by the *Rangila Rasul* judgment had managed to make their way into British newspapers.³⁶⁴ In response to an article published by the *Manchester Guardian*, which had previously claimed that the “Mohammedans are determined to suck the last ounce of hatred out of so excellent a grievance against their Hindu neighbours,” the Imam of the London Mosque, A.R. Dard, submitted a letter to the editor, which was published on July 29.³⁶⁵ In it, he praises the paper for giving “due importance to the subject of the *Rangila Rasul* judgment by publishing a leading article about it,” but criticizes the sentiments expressed above.³⁶⁶ Instead, he explained that Muslims “desire to live in peace with all people,” and claimed that it was instead “the aggressive attitude of the Hindus which is making the already existing tension acuter every day.”³⁶⁷ The Imam also quoted the *Civil and Military Gazette’s* critique of the Hindu Mahasabha’s “aggressive attitude” in its “wholly uncalled-for reflections on Sir Malcolm Hailey,” and cites a petition, which was to be delivered to the Secretary of State for India at a later date.³⁶⁸ The beginning of the petition read as follows:

We, the undersigned, most strongly affirm the principle that there should be no malicious attack upon the honour of the founder of any religion, and that

³⁶³ Another protest meeting in Meerut also discussed these issues together. See, “Protest Meeting at Meerut,” *The Hindustan Times*, July 29, 1927: 7.

³⁶⁴ “‘Rangila Rasul’ Echo: Agitation in England,” *The Hindustan Times*, July 29, 1927: 3, “Last Ounce of Hatred: ‘Manchester Guardian’s’ Remarks,” *The Hindustan Times*, July 29, 1927: 6, “‘Rangila Rasul’: 500 Signatories to Petition,” *The Hindustan Times*, August 5, 1927: 3.

³⁶⁵ “‘The Punjab and the Prophet,” *Manchester Guardian*, July 29, 1927.

³⁶⁶ *Ibid.*

³⁶⁷ *Ibid.*

³⁶⁸ *Ibid.*

the religious susceptibilities of all people, whatever their colour, caste, or creed, should be respected and not wounded in any way.³⁶⁹

According to the Imam, the petition had been signed by over three hundred people, including “eminent people” like Sir Arthur Conan Doyle, Sir William Simpson, and Sir Stanford London.”³⁷⁰

On July 30, the *Rangila Rasul* disturbances made headlines in the Punjab once again. The front page of *The Hindustan Times* was illustrative of the increasing tensions, as it featured the following stories: “Victims of ‘Rangila Rasul’ Vendetta,” “Muslim Fanaticism Let Loose,” “Woes of Frontier Hindus,” “Ousted From Villages: Deprived of Property,” and “Stranded Penniless in Peshawar.”³⁷¹ The articles referred to the escalating tensions over the *Rangila Rasul* case that had resulted in the “ousting” of Hindus and Sikhs from some tribal territories after they “were asked to dissociate themselves from ‘the doings of down country Hindus,’” and refused; other reports in the newspapers alleged “that tribal leaders had proposed severe restrictions on Hindus and Sikhs who wished to remain....or simply insisted they leave immediately.”³⁷² Boycotts of Hindus were urged, and shops were looted.³⁷³ One report of this incident read as follows:

³⁶⁹ Ibid.

³⁷⁰ Muslims in London also met to demand that the *Rangila Rasul* case be appealed to the Privy Council or that a new law be created, and for the editor and printer of the *Muslim Outlook* to be released. See, *ibid* and “‘Rangila Rasul’ Case: London Moslems Demand Revision of Judgment,” *The Times of India*, July 25, 1927: 11.

³⁷¹ “Victims of ‘Rangila Rasul’ Vendetta, Muslim Fanaticism Let Loose, Woes of Frontier Hindus, Ousted from Villages: Deprived of Property, Stranded Penniless in Peshawar,” *The Hindustan Times*, July 30, 1927: 1.

³⁷² See, Nair, “Beyond the Communal”: 327. In an interview with Mohammed Ali on the “Frontier situation,” *The Hindustan Times* reported that he had indicated that “reports that had appeared in the press so far [were] one-sided...and therefore he could not form a correct idea of the real situation.” But, Ali did state that the Punjab “had already been seething with an intense communal bitterness” and that its manifestation in this crisis was “only natural.” Furthermore, he criticized the silence of Hindu leaders like Mahatma Gandhi and Motilal Nehru, who, he asserted, could have helped to lessen

Under the ostensible pretext of the “Rangila Rasul” judgment the Muslims at the Frontier have set up a reign of terror the helpless Hindus and Sikhs being their victims of vendetta. Assault...and forcible conversion are part of their tyranny and intimidated villagers are [fleeing] for their lives and faith to seek shelter at Peshawar where already a large number of them are stranded deprived of all earthly possessions.³⁷⁴

The areas most affected, according to reports at the time, were the Khyber and Tirab areas, where *The Hindustan Times* claimed that some Muslims had “been excited by the Khilafatists to such an extent, that they are alleged to have openly challenged the Hindus to either accept Islam or vacate the villages.”³⁷⁵ According to Nair’s study, more than 400 Hindus and Sikhs ended up in Peshawar as refugees during this crisis, and it took three months, or longer, to return the refugees to their homes.³⁷⁶ Furthermore, reports at the time criticized the treatment of the “penniless” refugees, and indicated that the Khilafatists in Lahore were “spreading the [poison] of hatred against the Hindus and Sikhs in the province,” and aggravating the situation by demanding that Muslims boycott Hindus.³⁷⁷ Articles in *The Hindustan Times* commended the Hindu and Sikh refugees for refusing to submit to forced

the building resentment. See, “Mahomed Ali on Frontier Situation: Blame Shifted on to Hindus, Muslim Agitators Exculpated,” *The Hindustan Times*, August 6, 1927: 2. In a response to Ali’s comments, an opinion piece asserted that Ali and other Muslim leaders were guilty of throwing “unmerited abuse on Hindu leaders.” See “Would that the Giftie,” *The Hindustan Times*, August 7, 1927: 8.

³⁷³ “Victims of ‘Rangila Rasul’ Vendetta, Muslim Fanaticism Let Loose, Woes of Frontier Hindus, Ousted from Villages: Deprived of Property, Stranded Penniless in Peshawar,” *The Hindustan Times*, July 30, 1927: 1, and “Peshawar Hindus,” *The Hindustan Times*, July 30, 1927: 8.

³⁷⁴ “Victims of ‘Rangila Rasul’ Vendetta, Muslim Fanaticism Let Loose, Woes of Frontier Hindus, Ousted from Villages: Deprived of Property, Stranded Penniless in Peshawar,” *The Hindustan Times*, July 30, 1927: 1.

³⁷⁵ Ibid.

³⁷⁶ Nair, “Beyond the Communal”: 327, 329 and “Dharmasala Burnt: Hindus Exiled,” *The Hindustan Times*, August 11, 1927: 3.

³⁷⁷ “Victims of ‘Rangila Rasul’ Vendetta, Muslim Fanaticism Let Loose, Woes of Frontier Hindus, Ousted from Villages: Deprived of Property, Stranded Penniless in Peshawar,” *The Hindustan Times*, July 30, 1927: 1, and “Muslim Tyranny: Plight of Hindus & Sikhs, Reign of Terror in Frontier,” *The Hindustan Times*, July 30, 1927: 2.

conversion and instead “[sacrificing] their all at the altar of religion.”³⁷⁸ At the same time, criticism abounded for the government’s failure to intervene in the situation more quickly in order to prevent injury, theft and forced conversion, with one article making the claim that “[i]t is high time that Government should intervene and nip in the bud the evils of communal tension in this province where one community preponderates over the other out of all proportion or else it is feared the Mohammadan ferocity would devour the poor Hindus and Sikhs who are already more dead than alive on account of their meager numbers.”³⁷⁹ Protests were organized and large meetings convened to demonstrate the collective outrage of the Hindu community over these issues.³⁸⁰ At one such meeting held by Hindus and Sikhs in Peshawar on July 27, a resolution was passed which read as follows:

Resolved that this meeting of the Executives of Hindus and Sikhs of Peshawar lays it on record that it is for the mutual welfare of all communities that they should condemn the act of those persons who cast aspersions on religious leaders of other communities and dissociate itself from the act of Rajpal in publishing the book “Rangila Rasul” which has been the cause of hurting the religious susceptibilities of Muslims.³⁸¹

Over the weeks that the conflict at the Frontier unfolded, resolutions passed at Hindu meetings not only condemned the state of affairs in Peshawar, but also expressed outrage over the alleged murders of various Arya Samajists in different

³⁷⁸ “Muslim Tyranny: Plight of Hindus & Sikhs, Reign of Terror in Frontier,” *The Hindustan Times*, July 30, 1927: 2.

³⁷⁹ Ibid.

³⁸⁰ One Hindu meeting in Benares consisting of 20,000 attendees protested against the inaction of government and the mistreatment of Hindus at the Frontier. See, “Muslim Outrages: Benares Protest,” *The Hindustan Times*, August 11, 1927: 4, “Frontier Hindus and Sikhs: Mass Meeting in Amritsar,” *The Hindustan Times*, August 16, 1927: 3, “Frontier Outrages: Muslim M.L.A. Condemnation,” *The Hindustan Times*, August 16, 1927: 7, “Pashwa’s’ Ignoble Role: Public Condemnation, Delhi Mass Meeting,” *The Hindustan Times*, August 18, 1927: 7.

³⁸¹ “‘Rangila Rasul’ and Hindus: Peshawar’s Disapproval,” *The Hindustan Times*, July 31, 1927: 9. At another meeting, one of the Bihar Provincial Hindu Sabha, resolutions were passed condemning the attacks on Hindus in the tribal regions. See, “Bihar Hindu Sabha: Election of Office Bearers,” *The Hindustan Times*, August 7, 1927: 9.

provinces, and demanded that the government take steps to remedy the situation.³⁸²

In an interview with *The Hindustan Times*, Pandit Nekiram Sharma, the General Secretary of the All-India Hindu Mahasabha, reportedly claimed that issues at the Frontier were “only a prelude to a greater catastrophe that was awaiting to overtake the whole Hindu society throughout the country,” and cited the murders as further proof of this conspiracy.³⁸³ These attempts to secure the “mutual welfare” of all communities demonstrates the degree to which discord had set in, and represented an attempt to “rescue” the situation in order to restore some semblance of public order.

The increasingly antagonistic environment led to the publication of accusatory statements and direct comparisons of the level of acrimony that each community was entitled to feel.³⁸⁴ For instance, a statement made by Bhai Parmanand, a Hindu leader in the Punjab, to the press claimed that the *Rangila Rasul* agitation had been engineered, and been blown entirely out of proportion:

It is surprising to see how such an amount of fuss can be made about such a small petty affair. Thousands of Mohammedans who assembled at Delhi, Madras, Calcutta and a number of other places all over the country to condemn the book and Justice Kunwar Dalip Singh cannot even pretend to know anything about the book or the law point on which Kunwar Dalip Singh has given his decision. That the whole agitation is engineered by certain interested persons is quite apparent from the fact that, although I live in Lahore, I have not read the book myself and it can be confidently said that

³⁸² “Muslim Excesses & Govt. Indifference: Bareilly Incident & After, Protests From Far & Near,” *The Hindustan Times*, August 11, 1927: 4.

³⁸³ “Impending Catastrophe: Warning to Hindus,” *The Hindustan Times*, August 12, 1927: 7.

³⁸⁴ Another common comparison was the unequal prosecution of Hindu individuals responsible for offensive publications, as compared to the number of charges brought against Muslims. See “‘Vartman’ Case,” *The Hindustan Times*, August 7, 1927: 8, “Hindu Mass Meeting: Protest Against Oppression,” *The Hindustan Times*, August 9, 1927: 7. These charges of unequal treatment led the Punjab Government to issue a statement explaining their decisions with regard to proscriptions. See “‘Rangila Rasul’ & After: Punjab Govt. & Scurrilous Publications,” *The Hindustan Times*, August 20, 1927: 2.

very few of the Mohammedans who are creating so much agitation about it in the Punjab have ever seen it, to say nothing of the Mohammedans of Madras, Bombay or Calcutta who surely know nothing more than the name of the book through the papers.³⁸⁵

Initially Hindu leaders were accused of remaining silent on the issue, but criticisms such as those uttered by Bhai Parmanand above, began appearing more frequently in the newspapers. In addition, direct comparisons between the murder of Swami Shraddhanand in 1926, and the Hindu response to that incident, was compared to the contemporary issue of the insult resulting from the *Rangila Rasul* pamphlet, and the Muslim response to the offence. On this subject, Bhai Parmanand's comments in the same statement are indicative of the tone of these criticisms:

No sane Hindu would blame the entire Mohammedan community for the act of one Abdul Rashid unless some people are found to be in conspiracy with him. Murder of a revered leader of a community is surely much more serious [an] offence than writing a book of criticism on the conduct of the founder of a religion who by the very act of starting a new religion makes himself the object of criticism by his adversaries.³⁸⁶

Parmanand was not alone in criticizing the Muslim response to the agitation in this manner, and these increasingly vocal admonishments of the Muslim community's response undoubtedly served to further foment communal tensions. As one opinion piece, published on the same day as Parmanand's comments in *The Hindustan Times*, claimed: "never before during the last four years has the communal situation been so menacing and threatening as it is to-day."³⁸⁷

³⁸⁵ "Rangila Rasul' Fuss: An Engineered Agitation, Bhai Parmanand's Views," *The Hindustan Times*, August 3, 1927: 2.

³⁸⁶ Abdul Rashid was the individual responsible for murdering Swami Shraddhanand. See, *ibid.*

³⁸⁷ "A Menacing Situation," *The Hindustan Times*, August 3, 1927: 8.

In early August, the outcome of the *Vartman* trial made headlines.³⁸⁸ As outlined in the previous chapter, Devi Sharan Sharma and Gian Chand Pathak were found guilty, sentenced to rigorous imprisonment and fined for the offensive article. Reports in *The Hindustan Times* indicated that the Muslims were “jubilant” about the judgment, and that the case was “the main topic of conversation in Lahore” that day.³⁸⁹ While *The Hindustan Times* claimed that “moderate sections of both Hindus and Mahomedans feel relieved at the final disposal of the case, the extreme section of the Hindus think that the sentence pronounced is extremely severe and the Musalmans feel it has fallen short of their expectations, inasmuch as the maximum punishment provided under the section was not inflicted on both the accused.”³⁹⁰ Indeed, the *Hindu Herald* characterized the sentence as being “shockingly severe,” while the *Muslim Outlook* opined that “the curtain has fallen on the second act of fearful tragedy.”³⁹¹ Newspapers were vocal in their assessments of the *Vartman* judgment. For instance, the *Indian Daily Mail*, claimed that the need for clearer legislation remained, while the *Indian National Herald* saw Justices’ Broadway’s and Skemp’s conviction of the editor and printer as evidence of the sufficiency of the law.³⁹² The opinions expressed at public meetings also varied widely, and articles reporting these gatherings noted the relatively small turnout, as compared to the

³⁸⁸ “Risala Vartman’ Case Judgment: ‘A Trip to Hell’ Tragedy, Devi Sharan and Gian Chand Convicted,” *The Hindustan Times*, August 7, 1927: 1, “‘Vartaman’ Case Judgment: Muslims Jubilant,” *The Hindustan Times*, August 9, 1927: 1.

³⁸⁹ “‘Vartaman’ Case Judgment: Muslims Jubilant,” *The Hindustan Times*, August 9, 1927: 1. For instance, attendees at a meeting of Muslims in Patua passed a resolution supporting Broadway and Skemp’s judgment. See, “‘Vartman’ Case Judgment,” *The Hindustan Times*, August 10, 1927: 9.

³⁹⁰ “‘Vartaman’ Case Judgment: Muslims Jubilant,” *The Hindustan Times*, August 9, 1927: 1.

³⁹¹ *Ibid.*

³⁹² Both papers were quoted in *The Hindustan Times*. See, “Fresh Legislation Needed,” *The Hindustan Times*, August 18, 1927: 5, and “No Fresh Laws Required,” *The Hindustan Times*, August 18, 1927: 5.

previous “monster meetings.” Muslim leaders, like Zafar Ali Khan, claimed that Muslims would not halt their demonstrations until Justice Dalip Singh had resigned and a new law was in place.³⁹³ Alternatively, in a message to the *Muslim Outlook*, Mohammad Shafi commended Justices Broadway and Skemp on the delivery of “complete justice,” and appealed to his co-religionists to “adopt that calm and dignified behaviour, which our sacred religion enjoins on occasions like this.”³⁹⁴ In a stronger criticism of the outcome, Hassam-ud-Din of the Punjab Khilafat Committee, at a “poorly attended public meeting” outside Delhi Gate, announced that they were far from satisfied with the ruling; he maintained that section 153-A remained an insufficient piece of legislation to prevent attacks, and that the government had been derelict in their duty to address Muslims’ grievances for more than a month.³⁹⁵

A plea for the primacy of toleration was made by Hindu leaders at various meetings, including the Hindu Mahasabha of Benares, as evidenced by several resolutions that were passed at a meeting held on August 10 on the “situation created by the *Rangila Rasul* agitation.”³⁹⁶ The working committee stated that it “deplore[d] the publication of the [*Rangila Rasul*] pamphlet” and “strongly condemns attacks made by the followers of one religion on the *avatara*, prophets, founders, and objects of worship or reverence of another, and calls upon the leaders of public opinion of all communities...to use their influence to discourage such

³⁹³ “‘Vartaman’ Case Judgment: Muslims Jubilant,” *The Hindustan Times*, August 9, 1927: 1.

³⁹⁴ “Vartman Case and After: Sir M. Shafi’s Advice to Muslims,” *The Hindustan Times*, August 10, 1927: 3.

³⁹⁵ *Ibid.*

³⁹⁶ “Religious Toleration: Hindu Sabha’s Appeal, ‘Cease Mutual Acrimony,’” *The Hindustan Times*, August 11, 1927: 9. Another example of leaders encouraging toleration, in this case from a meeting of Muslims, can be seen in “Dawn of Better Sense: ‘Love Thy Neighbour,’ True Muslims’ Appeal,” *The Hindustan Times*, August 24, 1927: 3.

attacks and to prevent their circulation to the full extent of their power.”³⁹⁷ It did, however, commend Rajpal on allegedly issuing the following statement indicating his regret:

If any words of mine can soothe the feelings of my Muslim brethren I assure them that I respect their sentiments no less than I do mine. I have no idea of bringing out another edition of the “Rangila Rasul,” even though the law does not stand in the way of my doing so. In fact I stopped selling it as soon as I was told that some Muslims felt offended at its publication. This was done before any action was taken or even contemplated by Government.³⁹⁸

Failing to work towards actively preventing the publication of such scurrilous writings, by their estimation, would “[provoke] counter-attacks” on their own religion, as evidenced by the *Rangila Rasul* affair.³⁹⁹ For this reason, they advised their co-religionists to “regard it as their duty to the motherland to abstain, even in the face of provocation, from writing or publishing anything which can reasonably be interpreted as an offensive attack upon any religion.”⁴⁰⁰ An opinion piece published shortly thereafter commended the Hindu Mahasabha on their “sensible and sane view of the whole matter.”⁴⁰¹ Similarly, after being accused of being a communalist, and having remained silent throughout the entire ordeal, Mahatma Gandhi issued a public statement in *Young India*. In this article, he admitted that he had “hitherto resisted the temptation to be drawn into the controversy that has arisen over this pamphlet,” by confining himself to engaging in private

³⁹⁷ “Religious Toleration: Hindu Sabha’s Appeal, ‘Cease Mutual Acrimony,’” *The Hindustan Times*, August 11, 1927: 9.

³⁹⁸ Although this apology was referred to in the newspaper and in the Legislative Assembly debates, Nair points out that Rajpal’s apology was “demonstrably untrue,” insofar as in his “written statement to the court of the district magistrate Rajpal had clearly stated that he had ‘no cause to repent.’” See *ibid* and Nair, “Beyond the Communal”: 327.

³⁹⁹ *Ibid*.

⁴⁰⁰ *Ibid*.

⁴⁰¹ “The Mahasabha and Rangila Rasul,” *The Hindustan Times*, August 12, 1927: 8.

correspondence, but he claimed that, “of late the correspondence has increased beyond my capacity to deal with it privately.”⁴⁰² After urging different communities to “give up the polemical spirit,” and “extend...toleration to other faiths,” he claimed that the abuse of Justice Dalip Singh was uncalled for, and believed that the government would take the necessary steps to strengthen the law very soon.⁴⁰³

Towards the end of August, calls for the establishment of a new law replaced the frenetic “monster meetings” and protests that had characterized the responses over previous months. For instance, at a “poorly attended” meeting outside Mochi Gate, a speaker addressed the topic of the *Rangila Rasul* and *Vartman* judgments, and reportedly acknowledged that, “the excitement amongst the Muslims created by the former was cooled down by the latter.”⁴⁰⁴ At the meeting, it was maintained that the “present law was flexible and defective,” and that the government should institute a new law to cover such offences.⁴⁰⁵ Similarly, a poster campaign initiated by Muslims in Lahore demanded that a more severe law be created to cover crimes of religious offence, and that the *tabligh* movement must be fortified in order to further entrench love of the Prophet.⁴⁰⁶ It was not until the end of the month that the administration made it clear that a bill, amending the Indian Penal Code to include section 295-A, was to be put forward before the Indian Legislative Assembly immediately.

⁴⁰² “Gandhi’s Advice to Moslems: ‘Rangila Rasul’ Case,” *The Times of India*, September 23, 1927: 10, and “Muslim Agitation: Mahatma Gandhi’s Views, Both Communities to Blame,” *The Hindustan Times*, August 19, 1927: 7.

⁴⁰³ Ibid.

⁴⁰⁴ “New Law Wanted: Lahore Muslims Resolution,” *The Hindustan Times*, August 23, 1927: 3.

⁴⁰⁵ Ibid.

⁴⁰⁶ “Poster Campaign: Muslim Agitation for New Law,” *The Hindustan Times*, August 23, 1927: 7.

Throughout the *Vartman* trial, conversations between London and Delhi had been taking place in order to prepare for a judgment that either concurred with that of Justice Dalip Singh, and acquitted the editor and printer, or failed to explicitly dissent from the *Rangila Rasul* judgment.⁴⁰⁷ After much deliberation on the part of the government, it was decided that the *Vartman* case did not resolve the ambiguities in the law and left open the possibility of alternate interpretations. For this reason, a draft of section 295-A— which would protect the “religious feelings” of various classes from intentional “insult” and “outrage”— was approved by the Viceroy on August 20, and an official press communiqué was released within several days.⁴⁰⁸ The original text of the Criminal Law Amendment Bill was first published in *The Hindustan Times* on August 26:

Whoever by words either spoken or written or by signs or by visible representations or otherwise intentionally insult the religion or intentionally outrages or attempts to outrage the religious feelings of any class of His Majesty’s subjects shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.⁴⁰⁹

Support for the new law was expressed by different communities through public meetings, and was reported in the newspaper, as well as in editorials.⁴¹⁰ At the Bengal Khilafat Conference, resolutions were adopted once again criticizing the *Rangila Rasul* judgment, and commending the proposed legislative amendments— specifically the draft prepared by Mohamed Ali, which included specific reference to

⁴⁰⁷ Thursby, *Hindu-Muslim*: 66-67.

⁴⁰⁸ *Ibid*: 68-69.

⁴⁰⁹ “The New Law: Protecting Religion, Mr. Crerar’s Bill,” *The Hindustan Times*, August 26, 1927: 7.

⁴¹⁰ For instance, a Jain group lent their public support. See, “Penalizing Scurrilous Writings: Jain Youngmen’s Support,” *The Hindustan Times*, September 10, 1927: 2.

insults made against the Prophet.⁴¹¹ In a letter to the Viceroy, published in the newspaper, Mohamed Ali expressed his disdain for the scurrilous publications that had caused such a stir, and promoted the adoption of his draft of the new legislation— one which he believed would only punish those whose intention was to “insult a person’s religion or to wound his feelings,” as opposed to wrongly penalizing those engaged in “[s]erious criticism of the life and character...of such holy personages...with a view to elicit and ascertain historical or religious truth.”⁴¹² Several Muslim leaders expressed their opinions on the elements that the new legislation should contain. In a statement to the press, the head of the Ahmadiya community in Simla averred that the new section should include explicit reference to insults against the founders of religions; that a provision should be included to allow individuals to lay charges against an offender when the government chooses not to prosecute; that a refutation against an offensive publication should not qualify as an attack under the new law; that materials proscribed in one province should be proscribed in all provinces; and that a heavier sentence should be delivered as punishment to all offenders.⁴¹³ However, some articles asserted that the government’s desire to amend the law was proof of the inadequacy of the

⁴¹¹ Ali had proposed a different wording within the Indian Legislative Assembly, as will be discussed in the following chapter, for the provision that specifically mentioned insult to the Prophet. See, “Sword or Spirit: Bengal Khilafat Conference, Mr. Mohamed Ali’s Address,” *The Hindustan Times*, August 24, 1927: 11 and Thursby, *Hindu-Muslim*: 68, and “Punishment for Scurrilous Writing: Maulana-Mohamed Ali’s Letter to Viceroy,” *The Hindustan Times*, September 1, 1927: 4.

⁴¹² “Punishment for Scurrilous Writing: Maulana-Mohamed Ali’s Letter to Viceroy,” *The Hindustan Times*, September 1, 1927: 4.

⁴¹³ “Wanted New Law: ‘Vartman’ Case and After,” *The Hindustan Times*, August 25, 1927: 6.

existing legislation, and remarked at the absurdity of the Muslims' agitation demanding the resignation of Justice Dalip Singh.⁴¹⁴

Accordingly, after the Criminal Law Amendment Bill was introduced to the Indian Legislative Assembly, the commentary that appeared in the newspapers not only considered the wording of the law and provided detailed coverage of the legislative debates, but also discussed the balance that should exist between freedom of speech and religious protections. An opinion piece published in *The Hindustan Times* presented some prescient concerns with regard to this balance:

Our only fear is that the new section may not seriously militate against the liberty of thought and the free expression of views of individuals on matters relating to various religions. India is always notoriously conservative and reactionary, and if a law of this sort is passed there is no knowing what may or may not give umbrage to fanatically inclined individuals...[W]hile on the one hand this new legislation would suppress offensive and outrageous writings, on the other hand, it may militate against legitimate desirable criticism of the lives of religious leaders, and the free expression of liberal and original views. We know the members of the Legislative Assembly, in their enthusiasm to demonstrate their contempt for malicious and scurrilous writing against religious leaders, will be inclined to give their whole-hearted support to this law. But let us sound here a note of warning to them. The present communal tension will perhaps soon abate. The relations between communities will become better. But this law will remain on the Statute Book, and will continue to be used as an instrument of oppression in years to come. We are not opposed to some sort of legislation to meet the emergency that has arisen. But we would be doing a disservice to our country if we did not point out...the risks the country would be running in accepting the Bill as it stands.⁴¹⁵

Following the government's tabling of the Criminal Law Amendment Bill, numerous articles, editorials and public statements were published in the newspapers

⁴¹⁴ "New Section to Penal Code," *The Hindustan Times*, August 26, 1927: 8, and "Malicious and Scurrilous Writings," *The Hindustan Times*, August 28, 1927: 8.

⁴¹⁵ "Malicious and Scurrilous Writings," *The Hindustan Times*, August 28, 1927: 8. Similar criticisms were also levelled against the proposed legislation in "Criminal Law Amendment," *The Hindustan Times*, September 8, 1927: 8.

discussing the principles behind, and proper wording of, this new legislation. As will be explored in chapter four, this desire to protect freedom of speech and “legitimate criticism,” as well as the “temporary” need for this measure, was echoed in the Indian Legislative Assembly debates, and argued for particularly fervently by members that also represented the press. Although newspapers published articles and opinion pieces that covered the debates about the development of section 295-A in the Indian Legislative Assembly debates, the minutes themselves contain a wealth of information and speak to the concerns and considerations of lawmakers at the time. For this reason, chapter four will analyze the narratives that contributed to the making of section 295-A, as evidenced by the debate transcripts.

A “Rescue Narrative”

The stories told about the law by the press were many and varied, but they all reflected a distinct “rescue narrative.” After Justice Dalip Singh issued his ruling on May 4, 1927, the Punjab was thrown into a state of disequilibrium. As Linda Edwards maintains, a “rescue narrative” represents the shift from a “steady state,” or the “legitimate ordinary,” to one of discord, and the judgment indeed triggered that narrative shift.⁴¹⁶ Newspapers published countless articles reporting the “monster meetings” being held by Muslims to protest the ruling and demand the judge’s resignation, as well as editorials that reinforced the degree to which various communities had been destabilized by these events. Beyond the tensions that flared up between the Hindu and Muslim communities over the scurrilous publications, disagreements over the appropriate remedy, and how that solution should be

⁴¹⁶ Amsterdam and Bruner, *Minding the Law*: 113-114, and Edwards, “Once Upon a Time in Law”: 887.

pursued, led to intra-communal conflict and widespread criticism of the government. While some community leaders called for civil disobedience campaigns, others encouraged the adoption of a co-operative approach that would include government, in an attempt to quell the surge of outrage and resentment. The heightened state of communal tensions led some leaders to make a plea for tolerance in the face of what was perceived by some to be unbridled conflict. Following the conclusion of the *Vartman* trial and the government's decision to introduce new legislation, the panicked tone of community leaders as well as the acrimonious statements made to, and commentaries in, the newspapers faded away and were replaced by debates about the nature of the new legislation.

Beyond the apparent shift from an “ordinary” state, to one of instability, Edwards explains that in a rescue narrative:

[T]he story happens in the midst of danger presented by evil forces bent on domination or destruction. A band of the faithful—usually outnumbered and outgunned—resists.⁴¹⁷

These roles differed, and the protagonists and antagonists varied depending on the party that was making the complaint and their perception of the problem, but the overwhelming concern that was, for the most part, shared was restoring and clarifying the protections provided by the law. For parties like the colonial administration, the reasoning behind this desire was, at least in part, to restore “public order,” while for vocal members of the Muslim community, the perceived failure of section 153-A to offer a safeguard to scurrilous attacks against the Prophet was utterly unacceptable and posed a threat to their faith. Alternatively, as

⁴¹⁷ Edwards, “Once Upon a Time in Law”: 899.

evidenced by numerous opinion pieces, some members of the Hindu community believed the source of the problem was the “fanatical” Muslim response to the judge’s ruling, as opposed to the *Rangila Rasul* publication itself. Regardless, the need to “rescue” or “protect” the principle of the law is clear. Indeed, as Edwards points out, regardless of the solution proposed or the perceived cause of the issue, the core narrative is consistent: “rescuing someone or something important.”⁴¹⁸

Edwards states that the “object of rescue might be a person,” such as in the “classic example...[of] the ancient Sanskrit epic story of Ram’s rescue of his wife, Sita,” or a valued item, such as a “talisman,” where it is instead an object that is in need of “rescue” or “protection”; in this case, it is the legal principle itself that required protection.⁴¹⁹ Furthermore, Edwards explains that:

[A] rescue story calls for reaffirming existing law, or at least existing policy. In a rescue story, the antagonist is the character seeking change, while the protagonists seek protection for something that already exists, albeit in a vulnerable situation. The story uses a steady state/trouble/resolution plot structure, so it can position itself as conservative, a particularly helpful rhetorical posture. Such a story asks only for a return to normal, legitimate, ordinary life—a request that seems little enough to ask.⁴²⁰

For instance, several groups demanded the fortification of the law in order to ensure that it would adequately shield communities from attacks on the founders of religions, as they believed it had in the past. In this example, the protagonists—perhaps the Muslim community engaged in protest—sought to protect the principle of the law, which had, until Rajpal, served to prohibit scurrilous publications like the *Rangila Rasul* pamphlet. This baseline protection was viewed as the “normal,

⁴¹⁸ Ibid: 900.

⁴¹⁹ Ibid: 899.

⁴²⁰ Ibid: 908.

legitimate, ordinary” state. However, what had formerly been perceived as a legal safeguard against such attacks proved to be inadequate and thus the legal principle was threatened by Justice Dalip Singh’s judgment. The purpose of rescuing the law—by either demanding the judge’s resignation, asking for his ruling to be overturned or petitioning the government to implement stronger legislative protections—is “to keep the talisman and its protection in the hands of those who need it.”⁴²¹ Edwards aptly points out that in speaking of the presence of this “archetypal narrative,” it is important to acknowledge that the “plotline does not appear on the page, but the reader will supply it, unconsciously choosing from the ready supply of master stories in the shared culture.”⁴²² For this reason, the reports of the frenetic protests and “monster meetings,” as well as the wide-ranging criticisms of the situation, that appeared in the newspaper comprised a rescue narrative that demanded solutions in order to return to a “steady state.”

The announcement of the government, declaring that the Criminal Law Amendment Bill was to be tabled in front of the Indian Legislative Assembly, satisfied the demand for a resolution. While meetings were still held to discuss the format of the law and some of the peripheral issues related to the protests, the turnout to these meetings had notably diminished, and the fervid tone reflected in the newspapers, in both articles and editorials, had calmed. The disequilibrium caused by Justice Dalip Singh’s judgment had been steadied by the concrete steps taken to amend the law. In chapter four, it will become apparent that the forum for debate had shifted from the press, to occupying the halls of the Indian Legislative

⁴²¹ Ibid: 902.

⁴²² Ibid: 899.

Assembly. Although the emphases of these discussions varied, many of the same concerns and considerations that characterized the debates in the press found footing in the official debates of the Assembly. The “rescue narrative” that typified the stories told about the law in the press, when paired with the conception of the “tragic flaw” present in Justice Dalip Singh’s judgment, influenced the wording of the statute that was eventually approved by the Assembly.

Chapter 4: The Legislative Assembly Debates

After the colonial administration decided that it was necessary to enact new legislation in response to Justice Dalip Singh's ruling, the matter was put before the Indian Legislative Assembly. As Neeti Nair notes:

[T]he legislative assembly in 1927 was a very different *political space* from the legislative councils of earlier years. Following the Morley-Minto and Montford reforms of 1909 and 1919, the legislative assembly was now a space that included some Indians, a few of whom were elected, albeit under a limited franchise.⁴²³

Furthermore, Nair aptly recognizes the responsiveness of members of the Assembly throughout the 1920s to issues specific to various "constituencies," such as "religious communities,... the press, academia and lawmakers, who were taking crucial responsibility for the broader business of governing a diverse country."⁴²⁴ These differences of identity and profession influenced the positions taken by various members of the Assembly regarding the degree to which freedom of speech and religious feelings should be protected. Similarly, the concerns and considerations of the lawmakers, which built on the criticisms of the proposed legislation that appeared in the press, shaped their recommendations for the wording of section 295-A. Although the British administration was indeed in favour of the amendment, as evidenced by Hailey's correspondence, Nair emphasizes the extent to which the creation of section 295-A was a mutually sought after piece of legislation:

Law...was rendered accessible, amenable to pressure; it was a reflection of society, not the 'staging of state sovereignty and legitimacy.' This attitude, evident in several of the responses pushing for an amendment to the penal

⁴²³ Nair, "Beyond the Communal": 330.

⁴²⁴ Ibid.

code, is in contrast to the ‘omniscience’ attributed to ‘colonial law’ in the writings of anthropologist Deepak Mehta or the belief that ‘modern law cannot cope with the idea of malicious statements leading to moral or spiritual injury’ as posited by Talal Asad in his critique of *The Satanic Verses* controversy. Indeed, the edifice ‘colonial law’ itself comes into questionable relief as non-official *elected* and nominated legislators would join hands with British officials to amend the law.⁴²⁵

The Legislative Assembly Debates, where the Criminal Law Amendment Bill was tabled and discussed, took place over the months of August and September in 1927 and the opinions of these “non-official *elected* and nominated legislators” most certainly influenced the final wording of the law. Throughout these debates, there were frequent references to the stories told about the law in the press, as well as those that stemmed from court judgments in the *Vichitra Jivan*, *Vartman* and *Rangila Rasul* cases. Such “external” narratives were translated into the construction of the law itself. For instance, stories that emphasized the need to protect communities from religious offense prioritized heavy punishment and making the offence non-bailable to deter scurrilous publications like the *Rangila Rasul*, whereas those that stressed the importance of freedom of the press resisted the law and demanded safeguards for “legitimate criticism,” like the inclusion of a robust explanatory note to reign in the scope for judicial interpretation.

In his article, Stephen Paskey challenges the traditional dichotomy between stories and rules, and posits that “every governing legal rule...has the underlying structure of a *stock story*, a story template stated in general terms.”⁴²⁶ The second argument that Paskey makes is that the “analytical moves we think of as rule-based reasoning are often a form of narrative reasoning, in which the story in a given set of

⁴²⁵ Ibid: 329-330.

⁴²⁶ Paskey, “The Law is Made of Stories”: 52.

facts is compared to the stock story embedded in the rule.”⁴²⁷ Rather than view this exclusively as a form of analytical reasoning, as many scholars do, Paskey asserts that stories are not utilized in law “simply because they are persuasive,” but rather because “every governing rule *demand*s a story: a story is embedded in the rule’s structure, and the rule can be satisfied only by telling a story.”⁴²⁸ These arguments reflect two important facets of the relationship between law and narrative, but this chapter will also explore one additional dimension on top of the two arguments propounded by Paskey—one that precedes these two stages as a quasi-foundation for apprehending the depth of the relationship between law and narrative. That is, the role of stories in shaping the creation of a law.⁴²⁹

The aftermath of the *Rangila Rasul* case demonstrates the degree to which stories told about the law impact the construction of the stock story. This is evident both in the government’s initial decision to enact a law, as well as in the considerations of lawmakers in the Indian Legislative Assembly in shaping the wording of the law itself. These deliberations did not occur in a vacuum, but rather were suffused with stories that originated in the courts and the press. It was these stories from within the law, as well as about the law, that convinced legislators of the necessity of amending the Indian Penal Code and influenced the manner in which section 295-A was worded. Although Paskey does not explicitly make this argument in his article, he treads close in recognizing that “the law is made of stories,” insofar as, “lawmakers enact legal rules because they wish to dictate how

⁴²⁷ Ibid.

⁴²⁸ Ibid.

⁴²⁹ Paskey comes close to discussing this several times in his paper, but does not explicitly make this argument.

some categories of real-life stories should end.”⁴³⁰ Pondering the implications of his argument on other stages of the legislative process, Paskey muses that his work “raises more questions that it answers,” and that “[r]eaders may wonder, for instance, what the thesis means for legislative drafting or procedural rules.”⁴³¹ This chapter will explore precisely this question. Indeed, there was a fervent desire amongst legislators involved in the debates over section 295-A to avoid a repeat of the *Rangila Rasul* affair by ensuring that future offenders, like Rajpal, would not be acquitted. Furthermore, Paskey claims, “[i]n a very literal sense no one can make laws... without telling stories.”⁴³² Although he hints at this inceptive relationship, this chapter will delve into how these stories shaped section 295-A, and will conclude by analyzing the application of his twofold argument—that the governing rule is itself a stock story, and that this stock story in turn demands a story— to the development of the law.

The Introduction of Section 295-A

The Criminal Law Amendment Act of 1927 was introduced before the Indian Legislative Assembly on August 24.⁴³³ The initial proposed wording for section 295-A read as follows:

295A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, intentionally insults or attempts to insult the religion, or intentionally outrages or attempts to outrage the religious feelings, of any class of His Majesty’s subjects, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.⁴³⁴

⁴³⁰ Paskey, “The Law is Made of Stories”: 52-53.

⁴³¹ Ibid: 79.

⁴³² Ibid: 54.

⁴³³ “L.A. Bill No. 39 of 1927,” *The Gazette of India*, August 27, 1927: 213.

⁴³⁴ Ibid.

The *Gazette of India*, which printed the text above, also provided an explanation as to the “objects and reasons” behind section 295-A. Here, the “prevalence of malicious writings intended to insult the religion or outrage the religious feelings of various classes,” as well as the lack of a provision penalizing such publications, were cited as the rationale for the proposed law. Although it was acknowledged that these writings “can usually be dealt with under section 153A,” the argument put forward for the creation of section 295-A was that the existing section allowed for “only an indirect way of dealing with acts which may properly be made punishable themselves, apart from the question whether they have the further effect of promoting feelings of enmity or hatred between classes.”⁴³⁵

Although the Bill was not discussed in the Legislative Assembly on August 24, Abdul Haye, a member from the Punjab, demanded answers to a series of questions that he posed to the government concerning the *Rangila Rasul* case.⁴³⁶ Haye inquired as to whether or not the government was aware that Rajpal was originally convicted under section 153-A, and that Justice Dalip Singh, “while agreeing fully with the concurrent finding of the two lower courts that the pamphlet in question was a scurrilous satire on the founder of the Muslim religion, acquitted the accused,” as his act was deemed to fall outside the ambit of section 153-A.⁴³⁷ To both of these questions, J. Crerar, representing the government, answered in the affirmative.⁴³⁸ Haye then queried as to whether the government was aware of other cases where

⁴³⁵ Ibid.

⁴³⁶ Legislative Assembly Debates, August 24, 1927, in BL IOR V/9/78 Legislative Assembly Debates 1927, 3rd Assembly, 1st Session, 18 August-5 September (Vol 4).

⁴³⁷ Ibid.

⁴³⁸ Ibid.

the High Courts had identified the “defect in the existing law,” and, if so, why they had not yet taken steps to rectify the situation; to this, Crerar confirmed that the government was not aware of any such issues.⁴³⁹ In addition, Hays asked whether the government was aware of the “repeated scurrilous attacks against the Prophet of Islam by the Hindu Press and Hindu publishers,” since the acquittal of Rajpal.⁴⁴⁰ Crerar explained that the government had been made aware of two such attacks: one of which was “subject to legal proceedings,” and the second which was proscribed by the Punjab Government.⁴⁴¹ Similarly, Hays inquired into the government’s knowledge of the conflicting interpretations of section 153-A, as evidenced by the Allahabad High Court’s ruling, as well as whether or not the government would appeal Justice Dalip Singh’s decision to the Privy Council.⁴⁴² The government was indeed aware of these conflicting interpretations, but asserted that the Privy Council would not hear the case.⁴⁴³ Lastly, Hays asked that the government cease referring to the proceedings as the “*Rangila Rasul*” case, and ensure others follow suit, due to its offensive connotations, and instead use the moniker “Rajpal vs. Crown”; in addition, he requested that they find the author, or “real culprit,” behind the pamphlet, since Rajpal was “only the publisher.”⁴⁴⁴ Crerar explained that neither request could be met, and with that, the questions closed.

However, discussions concerning the *Rangila Rasul* case more generally continued with the commencement of the debates over section 295-A. On

⁴³⁹ Ibid.

⁴⁴⁰ Ibid.

⁴⁴¹ Ibid.

⁴⁴² Ibid.

⁴⁴³ Ibid.

⁴⁴⁴ Ibid.

September 5, J. Crerar moved that the Criminal Law Amendment Bill be referred to a Select Committee for review, as Justice Dalip Singh watched from the gallery.⁴⁴⁵ In presenting the Bill, Crerar maintained that the measure was a response to “the most urgent and insistent issue which confronts us in India to-day.”⁴⁴⁶ He believed that the intention of the Bill could be summarized by the original commentary of the Law Commissioners on Chapter XV of the Indian Penal Code, and quoted their words in his speech before the Assembly:

“The principle on which this Chapter is being framed is this, that every man should be suffered to profess his own religion and that no man should be suffered to insult the religion of another. Discussion indeed tends to elicit truth, but insults have no such tendency; instead of eliciting truth they only inflame fanaticism.”⁴⁴⁷

Drawing on a similar narrative that appeared in the press, the dangers referred to by the Law Commissioners, according to Crerar, could only be averted by means of toleration, and given the circumstances, he believed that the Assembly needed to ensure that the “spirit of toleration should have an effective protection and support in the law by the restraint and punishment of malicious and aggressive intolerance.”⁴⁴⁸ Crerar deemed that it was necessary to implement a law to prohibit “contumelious speeches and writings,” given that the existing laws offered such protections only indirectly, but also recognized that the section should not unduly hamper freedom of speech:⁴⁴⁹

⁴⁴⁵ “Protecting Prophets & Religions: New Bill on the Anvil, Last of Scurrilous Writings, Making Insult to Religions [sic] Impossible,” *The Hindustan Times*, September 7, 1927: 3 and Legislative Assembly Debates, September 5, 1927, in BL IOR V/9/78 Legislative Assembly Debates 1927, 3rd Assembly, 1st Session, 18 August-5 September (Vol 4).

⁴⁴⁶ Ibid.

⁴⁴⁷ Ibid.

⁴⁴⁸ Ibid.

⁴⁴⁹ Ibid.

But in applying a remedy for one evil, we must beware of setting up another and perhaps a worse evil. To...restrain scurrilous and aggressive intolerance is one thing, but we must beware of imposing unnecessary and dangerous impediments on the free movement of thought and speech in legitimate enquiry and discussion, which do not encroach on the rights and liberties of others, and which are themselves the best instruments of progress towards the spirit of reconciliation and toleration.⁴⁵⁰

Crerar claimed that the focus on the intention of the accused would protect against inappropriate and excessive restrictions on free speech, but that authors should still view it as their duty when “entering upon a religious enquiry, discussion or controversy” to “temper and moderate his language and arguments as to establish unimpeachably the integrity of his intention.”⁴⁵¹ Before finishing his speech, Crerar highlighted the portion of the Bill that gave the government exclusive authority, as per the Criminal Procedure Code, to prosecute under the proposed section:

It will, I think, be generally agreed that such a safeguard is necessary against frivolous, malicious or misguided prosecutions. Without this safeguard, the Bill, especially in times or places in which religious animosities run high, would be more calculated to inflame than allay the dangers of the evils against which it is directed.⁴⁵²

Having presented the key points that had been taken into consideration in the construction of the preliminary draft, Crerar turned the matter over to the members of the Assembly, who engaged in a spirited debate on the Bill’s merits.

The majority of the members of the Assembly lent their support to the Bill, including Abdul Haye. Although in his view it was regrettable that such legislation was necessary, Haye commended the government on introducing the Bill.⁴⁵³ He identified the “immediate cause of this legislation” as the “scurrilous attack upon the

⁴⁵⁰ Ibid.

⁴⁵¹ Ibid.

⁴⁵² Ibid.

⁴⁵³ Ibid.

Prophet of Islam,” which he remarked “created so much agitation among the Mussalmans of India,” that the situation was “fast growing menacing.”⁴⁵⁴ Haye was generally in support of the Bill, but with a subtle reference to Justice Dalip Singh’s ruling, he stated that he wished to see specific mention of insult to “a Prophet,...an Avatar,...a Guru or to the founder of a religion,” because, “[i]n view...of what has happened in the past,” he had “no desire to leave [such an interpretation] to the idiosyncrasy of a Judge.”⁴⁵⁵ Haye also requested that the punishment for the proposed section 295-A be made more substantial, explaining that the Muslims of India had “very strong views on this subject.”⁴⁵⁶ Another member, Raja Ghazanfar Ali Khan, who concurred with Haye on this point, later argued that “if the maximum punishment is higher, the trying Magistrate always considers that an attack upon a prophet of religion or a founder is more serious and more punishment should be awarded in such cases than for criticizing an ordinary man or man who is politically regarded as a leader.”⁴⁵⁷ In his final comment on the Bill, he expressed concern regarding the protections offered for those engaged in “honest and candid and *bona fide* criticism of a religion or its founder,” and suggested that perhaps an explanatory section should be added to the section for clarification.⁴⁵⁸

M.R. Jayakar rejected the recommendation made by members like Haye and Khan that the Bill should specifically reference founders of religions, and that the

⁴⁵⁴ Ibid.

⁴⁵⁵ Other Muslim members, like Raja Ghazanfar Ali Khan, expressed a similar view. See, *ibid.*

⁴⁵⁶ Ibid.

⁴⁵⁷ Ibid.

⁴⁵⁸ Ibid.

punishment outlined in the provision should be more severe.⁴⁵⁹ Jayakar posed the following questions, asking:

Is an offence against the peace and good will of the community less culpable because it is against a *follower* and not against a *founder*? Is an offence more culpable because it is against a *prophet*? Are we going to accept a graduated scale of criminality and administer justice according to the personality of the victim of the attack, or the measure of the disturbance of harmony and good will?⁴⁶⁰

Jayakar considered the principle of the existing Bill, which he believed was based on the notion that “no one in the name of religion has a right to disturb the peace and goodwill of the community because [it is] upon their preservation [that] nation-building processes depend.”⁴⁶¹ In contrast to Khan’s suggestion that heavier punishments should be meted out for insults to prophets, Jayakar questioned this assumption in asking, “If it causes the same trouble in the country, the same disturbance to peace and order as an attack upon the humble follower of a religion or his tenets or religious beliefs, why is it more or less culpable?”⁴⁶² In addition, he viewed the offence as one against the state— in the same vein as sections 153A and 124A, which prohibited sedition— as opposed to one against religion, and advised the Select Committee that they would be “lost in the quagmire and miasma of religious disquisition and controversy” should they refuse to recognize it as such.⁴⁶³ Furthermore, Jayakar regarded the Bill as “an expedient measure, a temporary remedy, devised for a temporary aberration,” rather than a permanent statute.⁴⁶⁴

⁴⁵⁹ Ibid.

⁴⁶⁰ Ibid.

⁴⁶¹ Ibid.

⁴⁶² Ibid.

⁴⁶³ Ibid.

⁴⁶⁴ Ibid.

While Pandit Hirday Nath Kunzru agreed that protections for legitimate criticism should be bolstered within the Bill, he also spoke to areas where the scope of section 295-A might be too restricted:

From another point of view...I am not sure that the Bill would be regarded as wide enough to cover all objectionable cases. Recently the feelings of the Hindu community in general and the people of Maharashtra in particular were agitated by some remarks which appeared in an Urdu paper about Sivaji. Now, any one who is acquainted with Maharashtra will know that Sivaji is not regarded merely as a political hero. He is looked upon with feelings bordering on religious reverence; but the Bill does not prevent the vilification of such a person. We have then to guard against these two great difficulties.⁴⁶⁵

Highlighting the conflicting need to adequately protect religious sentiments, while at the same time protecting free speech, Kunzru stated that it was the duty of lawmakers to “see that the Bill is of such a character as to satisfy members of all communities and at the same time not so wide as to kill all free and honest criticism.”⁴⁶⁶ This desire to maintain a balance between protecting religious feelings and freedom of speech was echoed by the majority of members that delivered speeches on the day, including Sir Hari Singh Gour, who similarly thought it necessary to protect those that, “in the discharge of a public duty to state a historical fact or to publish the result of research,” happened to unintentionally arouse “hostile feelings.”⁴⁶⁷

⁴⁶⁵ Ibid.

⁴⁶⁶ Ibid.

⁴⁶⁷ Sir Hari Singh Gour, within the same speech, criticized the government for enacting this indirect legislation rather than a blasphemy law: “if you really wish to suppress blasphemy, by all means do so, but say that you are enacting against blasphemy. Do not do it in the indirect and inferential way in which you are trying to do in this Bill. I realize the difficulty of a secular Government dealing with religions towards which it professes absolute neutrality. But it is a difficulty the solution of which lies in enacting against a possible breach of peace which it is the duty of Government to maintain.” See, *ibid.*

Early in the debate, D.V. Belvi moved an amendment to the Bill, which he referred to as a “panicky piece of legislation,” that would have had the Assembly distribute the Bill to the provinces to elicit feedback.⁴⁶⁸ Belvi’s amendment was ultimately quashed after receiving criticisms from various members. For instance, Lala Lajpat Rai disagreed with Belvi’s characterization of the legislation as “panicky,” and instead argued that it had “arisen out of an emergency.”⁴⁶⁹ Rai made his position known in no uncertain terms:

I want to submit that as soon as I heard of the decision of the High Court of the Punjab in the *Rangila Rasul* case, I lost no time in saying that, although, technically, the writer of the *Rangila Rasul* had been acquitted and the judgment was right in law,...morally he was guilty.⁴⁷⁰

Quoting at length from his own statements made to *The People*, a publication from Lahore, he expressed his thorough disdain for publications like Rajpal’s and claimed that under the current circumstances, the proposed amendment to the Code was a necessity that required prompt action.⁴⁷¹ In addition, he expressed his concern regarding the scope of the Bill, and its potential to hinder the ability of individuals to criticize their own religion in pursuit of progress.⁴⁷² Indeed, Rai opined that “it cannot but be recognized that social reform is very much tied down with religious reform, and, with the interpretation of religious texts.”⁴⁷³ He agreed with Hays that the section required an explanatory note to clarify the scope of the Bill, in order to protect “*bona fide* criticism, historical research, and...progressive reform in social

⁴⁶⁸ Ibid.

⁴⁶⁹ Ibid.

⁴⁷⁰ Ibid.

⁴⁷¹ Ibid.

⁴⁷² Ibid.

⁴⁷³ Ibid.

matters.”⁴⁷⁴ Given the “special circumstances” that led to the proposed provision, Rai openly opposed Belvi’s amendment, and encouraged the Assembly to pass the measure “as speedily as may be possible.”⁴⁷⁵ Additionally, members such as M.A. Jinnah, S. Srinivasa Iyengar, Pandit Madan Mohan Malaviya and Maulvi Sayyid Murtusa Saheb Bahadur agreed with the principle of the Bill, but rejected Belvi’s motion.⁴⁷⁶ For instance, Bahadur stressed that “any further delay will prove disastrous for the country.”⁴⁷⁷ Furthermore, Jinnah referred to Belvi’s amendment as a “dilatatory motion,” and echoed the other members’ concerns regarding the protection of “historical works...and honest criticisms of religion,” while Iyengar added that protections should be included specifically for journalists and members of the press.⁴⁷⁸ Malaviya agreed that the Bill should “receive very careful consideration,” due to its inevitable infringement on the “liberty of the subject,” but rejected Belvi’s motion on the grounds that circulating the Bill would be an unnecessary step given the widespread support for the measure within, and outside of, the Assembly.⁴⁷⁹

In supporting the principles of the Bill, Iyengar spoke to its necessity as follows:

[T]his Bill has been long overdue. It is by no means a day too soon. It is not simply for the Christians, but for every community and for every religion in the land. Simply because it has been necessitated by the *Rangila Rasul* case,

⁴⁷⁴ Ibid.

⁴⁷⁵ Ibid.

⁴⁷⁶ Some members spoke out against Belvi’s motion, including Maulvi Mohammad Shaffee, Mian Mohammad Shah Newaz and Maulvi Muhammad Yakub. See, *ibid.*

⁴⁷⁷ Ibid.

⁴⁷⁸ Ibid.

⁴⁷⁹ Ibid.

let us not imagine that the evil was not there or it is merely for the purpose of one religion being safeguarded.⁴⁸⁰

Emphasizing the importance of toleration, Iyengar used the example of an Asoka edict, which made “tolerance...the law of the land,” to demonstrate the “recrudescence of religious feuds” in recent years.⁴⁸¹ Although he acknowledged that section 295-A would not be sufficient to address the communal disturbances that had arisen, and that further statutes were required to achieve this end, in his view the Bill was a necessary step towards addressing the immediate situation.⁴⁸²

Although Belvi’s motion was eventually dismissed, some members of the Assembly rose to support his measure. M.K. Acharya, for instance, agreed that the Bill should be circulated to elicit the opinions of the public and the provinces.⁴⁸³ In his speech, he claimed that the Hindus “are the greatest sufferers” when considering attacks on religion, and remarked that “[f]or many hundred years, the Christian missionaries who have come to India by cartloads have been attacking the most supremely beautiful... revelations of spiritual life contained in the Hindu scriptures.”⁴⁸⁴ In a passionate speech, trumpeting the merits of Hinduism as the source of all religions, Acharya opined that should “fanatics lose their balance, there is no reason why we, sober and saner people, should also lose our balance.”⁴⁸⁵ Accordingly, he viewed it as prudent for the members to remain “cool-headed” and

⁴⁸⁰ Ibid.

⁴⁸¹ Ibid.

⁴⁸² Ibid.

⁴⁸³ Ibid.

⁴⁸⁴ Ibid.

⁴⁸⁵ Ibid.

wait the several months required to receive feedback on the Bill, rather than succumb to what he believed to be ravings of fanatics.⁴⁸⁶

Pandit Thakur Das Bhargava similarly supported Belvi's motion, and expressed his concerns about the effects that the Bill would have on liberty of speech. Presenting his opinion, Bhargava stated that:

When I read this Bill as it is, I feel, Sir, that the right of criticism and the right of liberty of speech have been taken away to such a large extent that I fear that this Bill will ultimately, if passed into law in its present state, only perpetuate religious intolerance which it seeks to avoid.⁴⁸⁷

However, rather than placing blame for this intolerance on the feuding religious communities, Bhargava claimed that these communal problems were caused by the "attitude of Government in dealing with the trouble."⁴⁸⁸ He argued that "the present situation would not have arisen if the Government had stiffened their attitude from the start towards the authors of those books," such as the *Rangila Rasul*.⁴⁸⁹ This pamphlet was allegedly a response to another article entitled *Uniswin Saddi ka Maharishi*, and, as Bhargava maintained, should the latter have been properly proscribed by government, the former would never have been published.⁴⁹⁰ Other members, such as Raja Ghazanfar Ali Khan, and other Muhammadan members, disagreed with this "diagnosis" of the problem, and commended the government's response to the *Rangila Rasul* affair.⁴⁹¹ Furthermore, he argued that the tensions between Hindus and Muslims had greatly intensified since the reforms had introduced separate electorates, and that "instead of remedying the disease, this Bill

⁴⁸⁶ Ibid.

⁴⁸⁷ Ibid.

⁴⁸⁸ Ibid.

⁴⁸⁹ Ibid.

⁴⁹⁰ Ibid.

⁴⁹¹ Ibid.

and others like it, if they are not administered in the right spirit, will only add to the virus of the disease and will prove more poisonous than the disease itself.”⁴⁹²

Referring to an article from the *Hindustan Times*, and quoting the *Tribune*, Bhargava cited a resolution arrived at by a group of Muslims in Lahore, which requested that the Bill be circulated, and supported Belvi’s motion which aligned with their demands.⁴⁹³

One member critiqued the prospect of giving government the exclusive right to initiate proceedings against scurrilous publications in the Criminal Procedure Code. M.S. Aney, the Berar Representative, who supported sending the Bill directly to the Select Committee, observed that the procedural portion of the proposed legislation was potentially problematic, insofar as it placed the power to press charges for scurrilous publications solely in the hands of the government.⁴⁹⁴ Aney pointed out that controversy and communal tensions had arisen due to the perceived lack of impartiality of the government in initiating proceedings, as well as their poor timing in responding to offensive publications.⁴⁹⁵ If this indeed contributed to the “existing deplorable position,” he posited that one must “seriously consider whether by the new changes that you seek to introduce in the Criminal Procedure Code, the powers to enforce the law and set the judicial machinery in motion should be entirely in the hands of the Government or whether there should be some latitude given to the aggrieved individuals or communities in

⁴⁹² Several members, particularly Muslim members, like Raja Ghazanfar Ali Khan, dissented from Bhargava’s diagnosis of the cause of this “disease.” See, *ibid.*

⁴⁹³ *Ibid.*

⁴⁹⁴ *Ibid.*

⁴⁹⁵ *Ibid.*

this matter.”⁴⁹⁶ In order to protect religious minorities in particular—who “are neither sufficiently numerous nor vociferous” to attract the attention of government— Aney contended that the Select Committee had a duty to determine whether or not these allegations regarding the lack of impartiality on the part of government, particularly in “launching prosecutions” under section 153-A, held merit, and alter the proposed wording accordingly, as per their findings.⁴⁹⁷ Other members, like Maulvi Muhammad Yakub, disagreed with the notion that individuals should be able to press charges directly, as “under the present unfortunate conditions of this country the result would be that the courts would be overloaded with frivolous cases of this sort.”⁴⁹⁸ But Assembly member K.C. Neogy concurred vehemently with Aney’s assessment, and added the following observation:

[I]f the Local Governments are not above these communal preferences, how are we to think that this new law which we are going to add to the Statute-book will not prove an engine of oppression, will not prove an engine in the hands of the executive further to alienate the communities?⁴⁹⁹

Neogy provided an example of selective government action in his home state of Bengal, where officials chose not to take action against scurrilous writings despite riots and the pleas of various communities.⁵⁰⁰ However, even with his concern about the manner in which the Bill would be administered, Neogy too was in support of the measure, in principle.⁵⁰¹

As the speeches in the first round of debates within the Indian Legislative Assembly drew to a close, some final remarks were offered by various members,

⁴⁹⁶ Ibid.

⁴⁹⁷ Ibid.

⁴⁹⁸ Ibid.

⁴⁹⁹ Ibid.

⁵⁰⁰ Ibid.

⁵⁰¹ Ibid.

concluding with Crerar. The member from Burma, Hla Tun Pru, requested that the Select Committee, in their deliberations, exclude his region from the purview of the provision, for, he argued, there were no communal tensions.⁵⁰² In a rather fascinating critique of the legislation, Pru also questioned the definition of religion itself:

Now, Sir, we are in certain difficulties with regard to what a religion is. So far as Muhammadanism, Buddhism, Christianity, Jainism, Zoroastrianism are concerned, everybody understands or thinks he understands what religion is. On the other hand, Sir, religion should be so construed as to include also atheism, rationalism and even irreligion. Why, Sir, should a man holding rationalist beliefs be unprotected under this particular section?⁵⁰³

The complexity of adequately defining religion for legal purposes is captured well in Pru's statements, and reflects broader discussions that continue to take place regarding the definition of religion in the law. Another member, T.A.K. Shervani—who supported the principle of the Bill—raised concerns about the intra-communal conflict that might be stirred up as a result of the Bill, insofar as lawmakers, concerned with the Hindu-Muslim controversy, had neglected to consider the fomentation of greater discord between “Sunnis, Shiahis and Ahmadis.”⁵⁰⁴ Despite these qualifying statements, Crerar recognized in his closing remarks that there was nearly unanimous support for the principle of the Bill, and appealed to Belvi to retract his request to circulate the provision throughout India for feedback.⁵⁰⁵ After refusing to oblige, Belvi's motion was defeated, but the motion to amend the Indian Penal Code and Code of Criminal Procedure to include section 295-A was adopted.

⁵⁰² Ibid.

⁵⁰³ Ibid.

⁵⁰⁴ Ibid.

⁵⁰⁵ Ibid.

The Select Committee was struck with a mandate to review the measure and provide its report to the Assembly within a week.⁵⁰⁶

Debating the Select Committee Report

The Select Committee presented its report on the Criminal Amendment Bill—specifically the addition of section 295-A— to the Legislative Assembly on September 14, after being delayed due to logistical issues in convening the Committee.⁵⁰⁷ The report stated that the proposed section 295-A was “by far the most important provision contained in the Bill” and that they examined it “in light of such criticisms as have been expressed since the Bill was introduced whether by member of the Legislature or of the general public.”⁵⁰⁸ The Committee concluded that the word “intentionally,” which was proposed in the original draft, did not adequately capture the spirit of the Bill, and after advising the Assembly that “outrage to religious feelings must be the sole, or primary, or at least the deliberate and conscious intention,” of the offending party, they recommended that the words “deliberate intention” be included in the statute.⁵⁰⁹ They admitted that even penalizing “an intentional outrage or attempted outrage upon the religious feelings of any class would be casting the net too wide,” but recognized the importance of making the statute sufficiently open so as to allow for the successful prosecution of those, like Rajpal, that might insult the founder of a religion:⁵¹⁰

⁵⁰⁶ Ibid.

⁵⁰⁷ Crerar requested this extension of the deadline on September 8. See, Legislative Assembly Debates, September 8, 1927, in BL IOR V/9/79 Index to the Legislative Assembly Debates (Official Report) Volume V, 6th September to the 20th September 1927, First Session of the Third Legislative Assembly, 1927.

⁵⁰⁸ “Part V,” *The Gazette of India*, September 17, 1927: 251.

⁵⁰⁹ Ibid.

⁵¹⁰ Ibid.

[W]e realize that the reference to the outraging of religious feelings was inserted to provide for the case of an insult to the founder of a religion or a person held sacred by the followers of a particular religion where such an outrage does not amount to an insult of the religion. It has in one instance been held that an insult to the founder of a religion is not necessarily an insult to the religion although it may outrage the religious feelings of its followers; and, to make it clear that an attack on a founder is not omitted from the scope of the section, we have specifically made punishable an insult to the “religious beliefs” of the followers of any religion.⁵¹¹

While the report does not specifically name Justice Dalip Singh or the *Rangila Rasul* case, the implicit reference to the judgment is clear.⁵¹² The Committee’s desire to prevent a repeat of this judicial decision, or, as Paskey states, their desire to “enact legal rules because they wish to dictate how some categories of real-life stories should end,” is plainly evident in this report.⁵¹³ In response to the criticisms leveled against the Bill in both the Assembly and the press, the Committee sought to install a mechanism in the wording of the statute to protect against the prosecution of individuals responsible for religious insults that had been “inflicted in good faith by a writer with the object of facilitating some measure of social reform.”⁵¹⁴ To mitigate this risk, the Committee “amplified the words ‘with deliberate intention’ by inserting reference to malice.”⁵¹⁵ Finally, they advised that procedurally the provision should require the “sanction of Government” to initiate prosecution, “in order to avoid factitious or vindictive proceedings which would not be likely to result in a

⁵¹¹ Ibid.

⁵¹² Although the report did not mention the judgment, numerous members referred to it explicitly as the cause for implementing the legislation throughout the debates.

⁵¹³ Paskey, “The Law is Made of Stories”: 52-53.

⁵¹⁴ “Part V,” *The Gazette of India*, September 17, 1927: 251.

⁵¹⁵ Ibid.

conviction.”⁵¹⁶ The proposed wording for section 295-A, submitted by the Select Committee, read as follows:

295A. Whoever, with *deliberate and malicious intention of outraging the religious feelings of any class of His Majesty’s subjects*, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious *beliefs* of *that* class, shall be punished with imprisonment, of either description for a term which may extend to two years, or with fine, or with both.⁵¹⁷

At the end of the report, published in the *Gazette of India*, several members of the Select Committee dissented from the views expressed by their colleagues. In the joint dissenting minutes, the members expressed their concern that the Bill would fail to achieve its purpose in deterring “people from scurrilous attacks upon religion or vulgar calumnies upon sacred characters.”⁵¹⁸ Although they agreed that the revised draft of the Bill was “less objectionable” when compared to the original, they maintained that it was still “a regrettable concession of intolerance.”⁵¹⁹ This notion was explained in the dissent as follows:

As we understand it, the inculcation of peace is an essential principle of all the great religions practiced in India, and all departures from this principle are only manifestations of religious fanaticism. If this be so—and obviously any form of religion would be anti-social and dangerous—then it follows that what the original Bill described as religious feelings are really irreligious feelings.⁵²⁰

In addition, the lawmakers expressed concern that the statute would serve to instigate further antagonisms:

This measure may tend to increase fanaticism because it creates a new offence. Pressure may also conceivably be put upon the authorities to use it

⁵¹⁶ Ibid.

⁵¹⁷ Italics were present in the original publication, and highlight the amendments that were suggested by the Select Committee. See, *ibid.*

⁵¹⁸ Ibid.

⁵¹⁹ Ibid.

⁵²⁰ Ibid.

against social reformers or those who wish to assist the evolution of the popular understanding of religions so as to bring this understanding into closer conformity with the spirit of the original teachings.⁵²¹

Those that chose to dissent believed that the existing law was sufficiently robust “to deal with all writings calculated to lead to a breach of the peace,” and cited the *Vartman* ruling as proof of this fact.⁵²² Moreover, several members lent their support to the offence being made non-bailable, while N.C. Kelkar recommended that a more substantive addition be made to the proposed legislation.⁵²³ His recommendations were as follows:

I think it would be still better, if an exception were added to section 2, indicating that it would not be an offence under this section to criticize the principles, doctrines or tenets or observances of any religion, with a view to investigate the truth, or improve the constitution of human society, or to promote social and religious reform. Such an exception may seem superfluous, but would make things quite clear, and be a good guide to the Judge.⁵²⁴

Besides his desire to strengthen the safeguards provided for “legitimate criticism,” Kelkar also wanted to see that the “right to initiate prosecution for this particular offence” not be held exclusively by government, due to their proven inability to exercise sufficient impartiality.⁵²⁵

The findings of the report, as well as the Criminal Law Amendment Bill itself, were debated in the Indian Legislative Assembly on September 16.⁵²⁶ In moving the

⁵²¹ Ibid.

⁵²² Ibid.

⁵²³ Some members added small comments in addition to the dissenting minute discussed above. For instance, M.A. Jinnah, Abdul Haye, Zulfiqar Ali Khan and J. Crerar thought that the offence should be made non-bailable. See, *ibid.*

⁵²⁴ Ibid.

⁵²⁵ Ibid.

⁵²⁶ Legislative Assembly Debates, September 16, 1927, in BL IOR V/9/79 Index to the Legislative Assembly Debates (Official Report) Volume V, 6th September to the 20th September 1927, First Session of the Third Legislative Assembly, 1927.

motion to consider the Bill, Crerar explained that the Committee had reviewed all of the concerns that had been expressed by members of the Assembly, “especially those relating to *bona fide* discussion, and, in particular, discussions of religious matters by persons who in good faith desire religious reform.”⁵²⁷ Despite these reassurances, several members found fault with the proposed legislation, fearing that it would have a natural propensity to stifle free speech.

One representative, A. Rangaswami Iyengar, admitted that while his “voice [would] be a voice in the wilderness,” he felt compelled to oppose the Bill, which he believed would impose “obligations of a most onerous character on the Press and public of this country.”⁵²⁸ As a member of the press, he claimed that “the perils of the newspaperman, of the public speaker, are already huge enough,” and that “having to have my being, my bread, my profession, my public services through newspapers and speeches and writings,” further limited by law would be unreasonable.⁵²⁹ Arguing that laws with a similarly broad scope, such as section 153-A and 124-A, had been used to incarcerate some of the “greatest patriots of the land,” Iyengar believed that section 295-A would “lead to the creation of such a sweeping class of offences that it will be very difficult to say what may or may not constitute an offence under this category of offences.”⁵³⁰ He was similarly concerned about the lack of protections provided for the “honest publisher and the honest printer,” that might suffer from the broad scope of the law:

⁵²⁷ Ibid.

⁵²⁸ Ibid.

⁵²⁹ Ibid.

⁵³⁰ Ibid.

It is all right to say that a particular pamphlet is inflammatory and that somebody should be locked up at once for it but before that somebody is locked up for it there are innumerable press agencies and innumerable newspapers who would be caught in the net before that single man—who may be a very insignificant individual and may or may not be affected by the proceedings taken against him—is locked up.⁵³¹

For him, the safeguard of including the qualifier for “deliberate and malicious intention” was insufficient. Iyengar was not alone in his apprehensions. In Belvi’s speech to the Assembly, he asserted that the Committee’s report demonstrated that “such sane and sober men as my friends Mr. K.C. Roy, Mr. Arthur Moore, Mr. Kelkar, Mr. N.C. Chunder and Mr. A. Rangaswami Iyengar” who were all “connected directly...to the Press of the country,” believed that the “present law is adequate,” and were thus “dead against the Bill.”⁵³² In contrast, Raja Ghazanfar Ali Khan professed to have “great admiration for the liberty of the Press,” but argued that the press had “no right to expect any sympathy from us,” due to the role they had played in contributing to “the present disgraceful state of affairs which exists in this country.”⁵³³ Accordingly, he urged the other representatives in the House to support the motion.

Other members had broader criticisms about the potential for the proposed measure to restrict free speech. For instance, D.V. Belvi claimed that the Bill was “fraught with very great danger”:⁵³⁴

It appears to be an innocuous measure at the first blush, but it seems to me that though it wears the garb of innocence, it will not only muzzle the Press

⁵³¹ Ibid.

⁵³² Ibid.

⁵³³ Ibid.

⁵³⁴ Ibid.

of the country to a certain extent, but it will also hamper the free expression of opinion on the part of scholars, historians and men of that kind.⁵³⁵

While some members, like Abdul Latif Sahib Farookhi, believed that the addition of the word “deliberate,” used to qualify the type of intention that was to be prohibited, acted as a safeguard to obviate such abuses of the law, several members remained skeptical of its effectiveness and echoed Belvi’s concern.⁵³⁶ On this point, N.C. Kelkar—who supported the motion, but hoped that amendments would be made to further improve the legislation— delivered a rather lengthy speech to the Assembly describing the “categories” of people that must be protected from unfair prosecution:

Then, Sir, I have absolutely no doubt in my own mind, and I do hope that this House also will have absolutely no doubt in its own mind, as to the classes of people who require protection and therefore we must insist that they shall get that protection. I will put before this House the categories I have got in my own mind, and that list of categories is almost in a gradually descending order of merit. First, I think the law must give protection to the sly skeptic—the doughty doubter. The service he renders to mankind is that he spreads a very wholesome contagion of doubt and unbelief and you often feel that by his magic touch the sands of belief and settled opinion slide and shift away from under your feet as when you stand in a swift current of a river.

Then I claim protection, Sir, for the diligent sociologist. He has obvious zeal for accurately noting down facts which may serve as data for generalization, and in that task he often has got to note down and expose sometimes even vulgar facts, because without the exposure of such vulgar details of religious or public life no useful generalizations can be drawn.

Then, Sir, I claim protection for the cold rationalist before the blast of whose trumpet of reason the walls of dogma and authority fall like the walls of Jericho.

Then again, I claim protection, Sir, for the absentminded philosopher whose very wide range of generalization is in itself a guarantee that he only looks at

⁵³⁵ Ibid.

⁵³⁶ Ibid.

the wood of society and simply forgets the trees of personalities. For this philosopher, I claim protection.

Then I would claim protection even for the mischievous but kindly humourist. We all know that he contributes greatly to the enjoyment of pleasantries in the social world, and yet we know that he sweeps the cobwebs of egotism and superstition from the inner corners of men's minds by the gentle breeze of ridicule.

And lastly, I will go further and claim protection even for the apparently merciless satirist who uses the knife but only in the spirit of a surgeon when performing what may be a necessary operation for the good of society.⁵³⁷

Indeed, Kelkar asserted that for these individuals—researchers, engaged citizens and artists alike—protections should be provided “from the law and against the law.”⁵³⁸ It was the inadequate protections offered for those individuals listed above that Kelkar found the Select Committee's report lacking, but endorsing the general principle of the Bill, he supported the motion to consider, and simply urged the House to ensure that appropriate modifications were made prior to its enactment.⁵³⁹

In addition to the criticisms Belvi leveled against the risk the law posed to scholars, he also argued that the “law as it stands is sufficient for all practical purposes,” and that blame for the recent surge in communal conflict should be placed squarely on the shoulders of government for having “slept over its duties for a number of years.”⁵⁴⁰ He viewed the successful conviction in the *Vartman* case as proof of the sufficiency of the existing law.⁵⁴¹ Additionally, he argued that the framing of the Bill, which gave government the exclusive authority to initiate

⁵³⁷ Ibid.

⁵³⁸ Ibid.

⁵³⁹ Ibid.

⁵⁴⁰ Ibid.

⁵⁴¹ Ibid.

prosecution, was improper, and he mused that the government perhaps wished “to play off one community against the other, sometimes showing partiality to members of the one community and sometimes showing partiality to members of another community.”⁵⁴² Instead, he argued that the aggrieved party should be given the opportunity “of going to the court and vindicating their rights.”⁵⁴³

Additionally, reference was made, throughout the debate, to the law being a “Muslim law,” created in response to the *Rangila Rasul* agitation for the benefit of Muslims, and for the sole purpose of protecting founders of religion. For instance, Zulfiqar Ali Khan, who supported the motion, believed that the Bill was necessary given the recent disturbances, and—even if it was being implemented for the sake of Muslims—he added that it would protect all communities, regardless of their religion; however, he believed that the punishment provided was too lenient, and that it should be made more severe in order to act as a deterrent.⁵⁴⁴ Alternatively, Nawab Sir Sahibzada Abdul Qaiyum conceded that the Bill was perhaps a result of the “hue and cry” raised by Muslims, but that such responses were only to be expected given the rise of the Arya Samaj, and their propensity towards “abusing and criticizing other religions and beliefs.”⁵⁴⁵ Furthermore, he argued that Islam taught him “not to criticize or vilify the founders of religions or any sacred persons of any religion in the world,” and that this inability to “return tit for tat...is why the Mussalmans seem to be more anxious to secure immunity for their Prophet and also

⁵⁴² Ibid.

⁵⁴³ Ibid.

⁵⁴⁴ Ibid.

⁵⁴⁵ Ibid.

for the Prophets and saints of others.”⁵⁴⁶ However, some framed this notion of section 295-A being a “Muslim measure” in a far more critical manner. Amar Nath Dutt, for instance, suggested that the Bill was reminiscent of the government’s “favourite wife policy,” referring, as Stephens explains, to the “idea that the colonial government cultivated the Muslim community as a political ally against Hindu nationalists.”⁵⁴⁷ Moreover, Dutt insisted that the “agitation against the *Rangila Rasul* case was wholly artificial,” and initiated in order to secure certain political results that would be favourable to Muslim communities.⁵⁴⁸ In a similar fashion, Roy claimed that the Bill had originated from “a set of men who are responsible for the communal disturbances in North India,” and that he had seen little sign of support for the measure outside of such circles.⁵⁴⁹ Other members disagreed with the characterization of section 295-A as a “Muslim Bill.” Raja Ghazanfar Ali Khan viewed it as “absolutely wrong to say that the demand for such legislation came from Muslim quarters,” or that it showed the government’s favouritism towards the community.⁵⁵⁰ Rather, he saw the Bill as one that affected “both communities equally.”⁵⁵¹ S. Srinivasa Iyengar echoed this sentiment, stating that he did not think that “the accident of the *Risala Vartman* or *Rangila Rasul* cases should make us imagine that it is a Muhammadan demand we are yielding to or that this legislation is for the benefit of Muhammadans”; rather, he viewed section 295-A as being “as

⁵⁴⁶ Ibid.

⁵⁴⁷ Ibid and Stephens, “The Politics of Muslim Rage”: 57.

⁵⁴⁸ Legislative Assembly Debates, September 16, 1927, in BL IOR V/9/79 Index to the Legislative Assembly Debates (Official Report) Volume V, 6th September to the 20th September 1927, First Session of the Third Legislative Assembly, 1927.

⁵⁴⁹ Ibid.

⁵⁵⁰ Ibid.

⁵⁵¹ Ibid.

much a law for the protection of my religion, Hinduism, as it is for the protection of Muhammadanism.”⁵⁵²

A number of amendments were moved throughout the debate in order to rectify the problems members identified in the Bill. Early in the course of discussions, Belvi once again moved that the Bill, as adjusted by the Select Committee, “be circulated for the purpose of eliciting opinion thereon by the 15th January 1928.”⁵⁵³ Denying that this course of action was intended as a “dilatatory motion,” he emphasized that it was their responsibility to solicit the opinions of the provinces in order to act in a truly democratic manner.⁵⁵⁴ To bolster his argument, Belvi posed the following question to the Assembly: “Do you know what the Press of this country has said about the measure?”⁵⁵⁵ Further demonstrating the significant role of newspaper narratives in shaping these debates, he explained that:

There is the *Statesman* of Calcutta, there is the *Hindu* of Madras and there is the *Indian National Herald* of Bombay. They are all opposed to the proposed new legislation. Are we to ignore the opinions of all these newspapers?... Should no importance be attached to the opinion of the people who educate the public? If you ignore the opinion of such important newspapers, I can only say that the House will be abusing its authority.⁵⁵⁶

Despite Belvi’s speech, the amendment was once again quashed after members spoke out against the delays it would cause. Abdul Latif Sahib Farookhi, for example, explained that following Justice Dalip Singh’s ruling, the “extent of feeling which prevailed in the country” was betrayed by the “monster meetings” that were “held in several parts of India,” and demonstrated the urgency of enacting section 295-A “as

⁵⁵² Ibid.

⁵⁵³ Ibid.

⁵⁵⁴ Ibid.

⁵⁵⁵ Ibid.

⁵⁵⁶ Ibid.

soon as possible.”⁵⁵⁷ He also countered Belvi’s claim that the newspapers were against the measure by stating how the *Statesman* had in fact recognized the importance of closing the loopholes that existed in the law, and remarking that the Muslim press was wholly in favour of the measure.⁵⁵⁸ Although Belvi’s amendment was once again defeated, concerns about the Bill persisted.

Numerous members of the Legislative Assembly opposed the Bill for various reasons. For instance, K.C. Roy refused to lend his support to section 295-A due to the fact “that the Bill is most inopportune, that the Bill will not serve the purpose which Government have in view, that the Bill is inconsistent with the spirit of toleration for which generations of Englishmen and Indians have worked in this country, and lastly,... that this Bill is a stigma on the Indian Press.”⁵⁵⁹ Others, like B.P. Naidu and Dutt, believed that the existing legislation was sufficient, and that this measure was merely a panicked response to communal antagonism that would put “a premium on intolerance and bigotry.”⁵⁶⁰ B. Das, who was a journalist and editor of the *Young Utkal* of Orissa, also opposed the Bill; he did not believe that it was possible that “an alien Government [could] legislate to set right religious disputes in the country.”⁵⁶¹ Quoting the *Statesman* in support of his position, Das read aloud the following passages:

In India bad law and bad journalism have for too long gone side by side. Who began is no longer a matter of importance, but irresponsibility in journalism has evoked oppressive legislation and that in its turn has led to a greater irresponsibility.⁵⁶²

⁵⁵⁷ Ibid.

⁵⁵⁸ Ibid.

⁵⁵⁹ Ibid.

⁵⁶⁰ Ibid.

⁵⁶¹ Ibid.

⁵⁶² Ibid.

Citing another opinion from the *Statesman*, he stated that:

No real discussion of religious questions, even if they be purely historical, will be permissible. Had a law akin to this been in existence in France, Renan would probably have ended his days in prison after writing “La Vie de Jesus.” Voltaire would certainly have done so. The fact is that the difficulty of the *Rangila Rasul* case has rushed the Government into a thoroughly bad piece of legislation.⁵⁶³

Not only do these passages demonstrate the extent to which the coverage of these issues in the press influenced lawmakers in the debates, they also show that opinion pieces and editorials were treated as an authoritative voice within the Assembly.

Although Das conceded that there might have been a “flaw in the law,” he was opposed to the motion.⁵⁶⁴ Calling for solidarity amongst journalists to oppose the motion, he chastised Farookhi for failing to join his colleagues from the press in denouncing the measure.⁵⁶⁵

In response to the objections raised by members of the press, S. Srinivasa Iyengar presented his view on how the measure, as revised by the Select Committee, included sufficient safeguards to protect freedom of speech:

I do not think, as the Bill is worded, that any fair criticism or even any vehement and unfair criticism or even criticism couched in insulting language, would come within it whether the language is used by a social reformer or merely by a critic opponent of the religion concerned or a skeptic. Even if the language of contempt is employed, it may not bring him by itself within the clutches of this measure if it becomes law though it may in some cases be some evidence of malice. What will bring him within the clutches of this Bill is only speeches and writings with deliberate and malicious intention to outrage feelings; that is to say, if he seeks to outrage the religious feelings of a particular class, and insults the religion or religious beliefs of that class.⁵⁶⁶

⁵⁶³ Ibid.

⁵⁶⁴ Ibid.

⁵⁶⁵ Ibid.

⁵⁶⁶ Ibid.

With this said, Iyengar submitted that “the Bill contains sufficient safeguards to protect the liberty of the Press or the liberty of the individual critic, historian or reformer in the amplest manner possible.”⁵⁶⁷ Even if the law were to be administered improperly or with bias in the future, he maintained that there would be plenty of opportunity to agitate for its fair application once the Bill became legislation, but that the principle behind the section was sound.

Throughout the debate, references to Justice Dalip Singh’s judgment and the disturbances that ensued following the conclusion of the *Rangila Rasul* case abounded. Comments made by Raja Ghazanfar Ali Khan are illustrative of several members’ perceptions of this connection:

The Honourable Judge who tried the Rajpal case said that, although he was convinced that the book was worded in very uncivilized language, and the author of that book deserved to be punished, as the law stood he could not punish him under section 153-A. He strongly recommended that the law should be amended so that all such cases may be covered by the law, and I think it was chiefly on the recommendation of the Judge, and the flaw in the law pointed out by him, that the Government found it necessary to bring forward this legislation.⁵⁶⁸

Furthermore, he pointed out that some members seemed to be confused about the Rajpal and *Vartman* cases, insofar as certain members—like A.H. Ghuznavi—were of the mistaken belief that the judgment in the latter case overturned that in the former.⁵⁶⁹ However, as Khan explained, if there was such an overturning of the judgment, the government “might have felt that it was not so necessary to have this

⁵⁶⁷ Ibid.

⁵⁶⁸ Ibid.

⁵⁶⁹ Ibid.

measure.”⁵⁷⁰ It is plainly evident that lawmakers perceived that section 295-A had been proposed in order to prevent the acquittal of “future Rajpals,” and as a way of ensuring that similar cases would conclude with a more favourable outcome moving forward.

After the question was put, initiating the process of taking the Bill under formal consideration, the topics of debate turned away from the more general merits of the measure and towards debating various proposed amendments to the Bill. Most of these amendments were, however, defeated. For instance, Pandit Nilakantha Das unsuccessfully moved that the words “religious feelings” be changed to “feelings,” as, he argued, feelings could not be “religious,” and thus the word was superfluous.⁵⁷¹ Another motion that was quickly defeated was one put forward by Amar Nath Dutt, which proposed that the words “any class of His Majesty’s subjects” be replaced by “Muhammadan subjects of His Majesty,” in order to reflect what Dutt believed was the sole desire of Muslims to see section 295-A enacted.⁵⁷² Before the session closed, he moved a second amendment, which also failed, where he suggested that the words “the Prophet of the Muhammadans” be substituted for “insults or attempts to insult the religion or the religious beliefs of that class,” as he did not understand “how a religion [could] be insulted.”⁵⁷³ In another failed motion, C. Duraiswamy Aiyangar proposed that after the words “spoken or written,” that the words “or by acts,” be added; however, as several members pointed out in their dissenting comments, other sections of the Indian Penal Code already covered such

⁵⁷⁰ Ibid.

⁵⁷¹ Ibid.

⁵⁷² Ibid.

⁵⁷³ Ibid.

offences.⁵⁷⁴ On similar grounds, an amendment moved by Belvi to insert the words “or by signs” after “written” was also defeated.⁵⁷⁵ Several other unsuccessful motions to amend the wording of the provision were put forward by members, including attempts to change the type of punishment to simple imprisonment and to shorten the maximum sentence from two years to one year.⁵⁷⁶

One member, Pandit Thakur Das Bhargava, moved that the following proviso be added to the section for the purposes of safeguarding “historical research and comparative study of religion”:

Provided that writings, speeches, visible representations or discussions for the *bona fide* purpose of research, comparative study, reform or revival of religion or religious beliefs shall not be deemed to be insults or attempts to insult the religion or religious beliefs of any class of His Majesty’s subjects.⁵⁷⁷

Explaining his reasoning, Bhargava stated that “[a]vatars and prophets...are bound to be criticized by the student of the comparative study of religions and not necessarily with that intention that is penal.”⁵⁷⁸ His motion was defeated, but T.

Prakasam proposed that an explanation be added to the section for a similar purpose. It read as follows:

Explanation: It does not amount to an offence within the meaning of this section, if the criticism offered by anybody on any religion or religious beliefs of a particular class is *bona fide* with a view to remove false notions based on superstitious or pernicious customs which are foreign to the true religion or with a view to prevent forcible conversions or re-conversions from one religion or faith or belief to another.⁵⁷⁹

⁵⁷⁴ Ibid.

⁵⁷⁵ Ibid.

⁵⁷⁶ Ibid.

⁵⁷⁷ Ibid.

⁵⁷⁸ Ibid.

⁵⁷⁹ Ibid.

Sharing Bhargava's apprehension, Prakasam moved his amendment in order to ensure that the scope of the law would be limited to those offences it was intended to apply to, due to the fact that the debates of the Assembly could not be referenced when arguing a case in court.⁵⁸⁰ Emphasizing his point, Prakasam maintained that "in enacting any piece of law, you had better make your intention quite clear... If the House fails to do it now, they would realize later what mischief is in store, which you do not intend and which you may not be able to prevent at that time."⁵⁸¹ Although this amendment was also defeated, it was a much closer vote, with forty members in favour of the motion and fifty-seven opposed.⁵⁸² Due to the failure of the motions tabled by both Bhargava and Prakasam, Kelkar chose to withdraw yet another amendment that covered very similar issues, and would have seen the following explanatory notes added to the clause:

Explanation 1.—It is not an offence under this section to set out facts and offer criticism based on such facts, pertaining to the public conduct of founders or saints or representative men or protagonists of any religion or any sect of any religion, provided that such setting out of facts and such criticism is not malicious.

Explanation 2.—It is not an offence under this section to set out facts, and to offer criticism based on such facts, pertaining to the principles, doctrines or tenets or observances of any religion or any sect of any religion, in the course of a historical or philosophical or sociological diquisition [sic], and with a view to promote social or religious reform.⁵⁸³

Although Kelkar's amendment was not moved, it is evident from the three members' motions, and the support given to Bhargava's motion in particular, that there was significant concern among the lawmakers of the Indian Legislative Assembly that

⁵⁸⁰ Ibid.

⁵⁸¹ Ibid.

⁵⁸² Ibid.

⁵⁸³ Ibid.

section 295-A would unduly hamper freedom of speech for the press and researchers alike.

As the session on September 16 drew to a close, clause 2 was added to the Bill. All of the amendments that were moved were defeated, and the rest of the Bill was to be considered on September 19, when the Assembly reconvened.

The Final Deliberations

On September 19, the Indian Legislative Assembly engaged in their final debate on the subject of the Criminal Law Amendment Bill of 1927. Before the conclusion of the previous session, the House had begun discussing clause three of the Bill. The first motion was tabled by Bhargava, who wished to amend the procedural portion of the Bill to allow individuals to initiate prosecution, rather than leave this power solely in the hands of government.⁵⁸⁴ He justified this amendment by explaining that the offence was not one against the state whose purpose was to explicitly preserve “public tranquility,” but rather an offence against the feelings of an individual or group; furthermore, he believed that the right of the individual to initiate prosecution was “a very great safeguard,” and would act as a, “safety valve to all human instincts of retaliation and revenge.”⁵⁸⁵ In addition, Bhargava opined that this right would constitute, “a very serious restraint on the wrong doer because he [would fear] that any individual in the land can bring him to book.”⁵⁸⁶ Criticizing the past conduct of government, and the lack of impartiality it

⁵⁸⁴ Legislative Assembly Debates, September 19, 1927, in BL IOR V/9/79 Index to the Legislative Assembly Debates (Official Report) Volume V, 6th September to the 20th September 1927, First Session of the Third Legislative Assembly, 1927.

⁵⁸⁵ Ibid.

⁵⁸⁶ Ibid.

had shown in previous cases, Bhargava stressed the importance of ensuring individuals had the power to initiate proceedings against those that offended their “religious feelings.”⁵⁸⁷ Several members voiced opposition to Bhargava’s amendment, including Nawab Sir Sahibzada Abdul Qaiyum, who was concerned that:

Instead of fighting over their grievances in the open streets in the form of riots, the masses will be carrying on a warfare in the law courts... The result will be the same. If this right is allowed to individuals, the better organized sections of the communities, instead of fighting matters in an open way, will be simply carrying on a warfare in the courts. I know there are individuals among the Hindu community who can spare a good deal of money for such litigation.⁵⁸⁸

For these reasons, Qaiyum believed government should bear the cost and responsibility of prosecution, rather than leaving the duty of initiating such proceedings to the discretion of—and as a burden on—the individual.⁵⁸⁹ Crerar echoed Qaiyum’s disdain for this amendment in his speech, stating that, if the Bill were to be enacted without the government being made responsible for initiating prosecution, it would be “tantamount to taking a barrel of gun-powder and exposing it in an open space where sparks from a smoldering fire are still flying around.”⁵⁹⁰ Although the vote split when the question was called, Bhargava’s amendment was defeated.

The next amendment was tabled by Abdul Haye, who recommended that the offence be made “non-bailable,” as opposed to “bailable.”⁵⁹¹ The original draft, prior

⁵⁸⁷ Ibid.

⁵⁸⁸ Ibid.

⁵⁸⁹ Ibid.

⁵⁹⁰ Ibid.

⁵⁹¹ Ibid.

to the Select Committee's report, had made the offence bailable. Haye argued for the return of this key provision, urging legislators to consider what would "naturally follow" such attacks on religion: "Once we have such attacks, or once we have such abusive publications, these publications and these attacks, I venture to submit may lead to breaches of the peace, to riots, murders, arson, and what is still worse to chaos and even to civil war."⁵⁹² Crerar lent his support to this amendment, due to the "gravity" of the offence, and the "public consequences that might flow from it."⁵⁹³ He pointed out that a judge would have to issue a warrant in order for the police to arrest someone under section 295-A, and that the court would have discretion over whether or not it was appropriate to issue bail under the circumstance.⁵⁹⁴ However, Crerar opined that he thought "it will be generally recognized that the kind of person most likely to commit an offence under this Bill will be some obscure and scurrilous scribbler writing from some obscure den or pot-house in a bazaar, whose appearance in court could by no means be relied upon."⁵⁹⁵ Opposing the motion, Jayakar pointed out that many members were hesitant to support the Bill at all, but that it was a "necessary evil," and amendments such as the one put forward by Haye would make the measure "more drastic than the necessities of the case require."⁵⁹⁶ In his estimation, those charged under the proposed section would neither be likely to abscond, nor tamper with evidence, making such an allowance unnecessary.⁵⁹⁷

⁵⁹² Ibid.

⁵⁹³ Ibid.

⁵⁹⁴ Ibid.

⁵⁹⁵ Ibid.

⁵⁹⁶ Ibid.

⁵⁹⁷ Ibid.

Despite there being several speeches made in opposition to the amendment, the motion was adopted.

Amendments were also tabled to have the duration of the Bill limited to several years, rather than being enacted as a permanent statute. K.C. Neogy moved that section 295-A should “remain in force up to the 31st day of December, 1930,” restricting its lifespan to just over three years.⁵⁹⁸ His interest in having the legislation be temporary stemmed from his belief that the recent communal disturbances that had made the Bill necessary would subside, and that it should be treated as an experimental measure to test whether local governments, responsible for initiating prosecution, would do so in an unbiased manner.⁵⁹⁹ Refuting Neogy’s arguments, Crerar proclaimed that “[t]he suggestion that this Bill was designed merely in order to conclude a current controversy is incorrect.”⁶⁰⁰ Rather, he claimed it had been devised in order to “establish beyond any question of a doubt a legal principle.”⁶⁰¹ Given that the principle of the Bill had been confirmed, Crerar stated that the measure had proven itself to be one of “permanent value and validity.”⁶⁰² The motion was defeated.

After Neogy’s amendment failed, Crerar moved that the Bill, as amended, be passed, and several members of the Assembly offered their final thoughts on the measure. Colonel J.D. Crawford commented that he felt “that this is an issue upon which we Europeans should be very largely influenced by the views of our Hindu

⁵⁹⁸ Ibid.

⁵⁹⁹ Ibid.

⁶⁰⁰ Ibid.

⁶⁰¹ Ibid.

⁶⁰² Ibid.

and Mussulman friends.”⁶⁰³ However, he was of the view that section 295-A was “hardly likely to prove adequate to the task,” of eliminating scurrilous publications and communal antagonism, and doubted that the Bill, as it stood, would be able to penalize those truly responsible, due to the preponderance of “dummy editors” amongst offending publications.⁶⁰⁴ He criticized the government on its lack of action, and urged it to play a more robust role in suppressing communal tensions.⁶⁰⁵ Similarly, T. Prakasam echoed other members’ criticisms of government inaction and further stressed that the provision, if enacted, would have deleterious effects on the press.⁶⁰⁶ In a different critique of the government, Sir Hari Singh Gour opined that the government should play the role of “defender of peace and not the defender of faith,” and thus asserted that the law should have been limited in scope to protecting against the “breach of public peace.”⁶⁰⁷ Believing that the law would be “applied in cases to which it was never intended by the Legislature,” Gour demonstrated the difficulty associated with the language of the Bill in the Indian context:

What is the meaning of “religious belief”? Now, Sir, so far as Hindus are concerned their social structure and religious system are interwoven, and what is a social matter to an Englishman is a matter of religious belief to a Hindu. The result is that matters of social reform, matters in which a person directs criticism against a purely social institution, are apt to come within the four corners of section 295A; and then, as I pointed out on the last occasion, it is not merely a case of Hindus *versus* Muhammadans, but it is a case of Muhammadans *versus* Muhammadans and Hindus *versus* Hindus.⁶⁰⁸

⁶⁰³ Ibid.

⁶⁰⁴ Ibid.

⁶⁰⁵ Ibid.

⁶⁰⁶ Ibid.

⁶⁰⁷ Ibid.

⁶⁰⁸ Ibid.

Pointing out that these types of intra-communal feuds between sub-sects of communities might not lead to overt conflict, Gour was not of the opinion that such disagreements should be prosecuted under the section, even though insults to religion may have been exchanged.⁶⁰⁹

In another speech opposing the passage of the Bill, Gaya Prasad Singh quoted an apology purportedly issued by Rajpal, following his realization that the *Rangila Rasul* pamphlet had caused outrage to Muslims:

If any words of mine can soothe the feelings of my Moslem brethren, I assure them that I respect their sentiments no less than I do mine. I have no idea of bringing out another edition of the *Rangila Rasul*, even though the law does not stand in the way of my doing so. In fact I stopped selling it as soon as I was told that some Moslems felt offended at its publication. This was done before any action was taken or even contemplated by Government.⁶¹⁰

The member also condemned the “adverse and undeserved criticism” that had been leveled against Justice Dalip Singh, and presented his doubts about the measure being proposed.⁶¹¹ Although he granted that the Bill was “shorn of much of its objectionable features” in the report of the Select Committee, he regretted that it had not been made both a temporary measure, and bailable, and still believed that it would act as a “menace to the liberty of thought and expression”—a message that was echoed vehemently in later speeches by Munshi Iswar Saran and T.

⁶⁰⁹ Ibid.

⁶¹⁰ Nair points out that Gaya Prasad Singh’s comment was “demonstrably untrue” given that in “his written statement to the court of the district magistrate Rajpal had clearly stated that he had ‘no cause to repent.’” See, Nair, “Beyond the Communal”: 327 and *ibid.* The apology was also reported in the newspapers. See, “The Merry Prophet: Book Not to be Published Again,” *The Times of India*, June 9, 1927: 10.

⁶¹¹ Legislative Assembly Debates, September 19, 1927, in BL IOR V/9/79 Index to the Legislative Assembly Debates (Official Report) Volume V, 6th September to the 20th September 1927, First Session of the Third Legislative Assembly, 1927.

Prakasam.⁶¹² In support of his view, he read the following excerpt aloud from the *Statesman*:

No measure more out of harmony with the Viceroy's speech, none more difficult to justify in the light of modern thought, could well be placed on the Statute book. The plain fact is that the Government has lost its head in face of a riotous agitation, and has been followed in that course by a hasty Assembly, which in this matter is plainly misrepresenting any Indian opinion that finds voice in the most influential organs of the native owned Press. It would be a tragedy without measure if at the beginnings of popular government in India, the Legislatures, under the encouragement of the Government, were to use their powers to suppress liberty of thought, speech and writing, and were to crowd the Penal Code with new offences conceived in the spirit of the Spanish Inquisition.⁶¹³

Although several members had referred to the measure as a "Muslim Bill," Gaya Prasad Singh worried that the measure would be abused, not for the benefit of Hindus or Muslims, but rather for "the Christian missionaries who vilify both the Hindu and the Muhammadan religions and their holy personages in unmeasured terms with impunity."⁶¹⁴

After delivering a final speech, urging members to support the Bill, Crerar moved that the measure be passed and enacted as law.⁶¹⁵ A significant majority of sixty-one members in favour outweighed the twenty-six who dissented.⁶¹⁶ On September 22, the Governor General formally assented to the Criminal Law Amendment Act of 1927, bringing section 295-A of the Indian Penal Code into force.⁶¹⁷ The final wording of the section read as follows:

295A. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects, by words, either

⁶¹² Ibid.

⁶¹³ Ibid.

⁶¹⁴ Ibid.

⁶¹⁵ Ibid.

⁶¹⁶ Ibid.

⁶¹⁷ "Act No. XXV of 1927," *The Gazette of India*, September 24, 1927: 69.

spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.⁶¹⁸

After months of communal conflict and fighting for a solution, section 295-A—for better or worse—officially became a part of the Indian Penal Code.

The Story in Section 295-A

The stories told about the law in the press, as well as in the Indian Legislative Assembly played an integral role in shaping section 295-A. The stories told about the inadequacy of the existing law, insofar as it would not be able to prevent the recurrence of another *Rangila Rasul* affair, provoked government to take steps in order to rectify the “loophole,” or “tragic flaw,” that was identified in Justice Dalip Singh’s ruling. The origins of, and reasons for, introducing the Criminal Law Amendment Bill were tied to the outcome of the *Rangila Rasul*, *Vartman* and *Vichitra Jivan* cases, and the associated ambiguities regarding the application of the law. This direct link was acknowledged frequently in both the newspapers as well as in the speeches that members of the House delivered before the Legislative Assembly. Furthermore, the insistence by certain members, such as Amar Nath Dutt, that the measure was, in all actuality, a “Muslim Bill,” reflects the extent to which certain individuals and groups perceived that the legislation being enacted was a direct result of the outcome of the *Rangila Rasul* case, and the outrage expressed by Muslim communities, rather than a Bill needed to address a previously unidentified gap in the law, affecting all communities, more generally. Although there was some disagreement as to whether or not the measure was necessary, or that it was an

⁶¹⁸ Ibid.

appropriate remedy to the communal antagonisms that erupted following Justice Dalip Singh's decision, most members accorded with the principle behind the provision.

Besides having a direct impact on government's decision to pursue a legislative solution, the stories told about the law also shaped the wording that was chosen for the section. Many of the members in the House echoed concerns that appeared in the press. Articles and opinion pieces published in the newspapers influenced the drafting process, and were frequently quoted at length throughout the debates as an authoritative source for gauging public opinion. For instance, one of the most prevalent criticisms of the measure was the potential for government—or the courts—to use it in such a way that it acted as a hindrance to the freedom of speech of journalists, academics and social reformers. In an effort to protect against such potentialities, and to ensure that the spirit of the Bill as intended would be respected by the judiciary, the Select Committee recommended that the words “deliberate and malicious” be used to specify the type of intention required in order for an offence to fall under the section. Although these recommendations were implemented in the final Act, others did not feel that these safeguards were sufficient. As illustrated by Kelkar's minute of dissent in the Select Committee report, and the various amendments that were put forward to add an explanation to the provision, there were numerous members who remained dubious that the words “deliberate and malicious” would indeed prove to be an adequate safeguard for those engaging in what the House believed to be legitimate criticism. Indeed, the stories told about the need to protect the “absentminded philosopher,” “diligent

sociologist” and “doughty doubter” from falling within the ambit of the law influenced the drafting of the section.

The purpose behind legislating a solution to the problem that was created first by Justice Dalip Singh’s judgment, and exacerbated further by the response of the various communities thereto, was, as Paskey states, due to the fact that the lawmakers felt compelled to “enact legal rules because they wish[ed] to dictate how some categories of real-life stories should end.”⁶¹⁹ The vast majority of lawmakers within the Assembly wished to avoid the repetition of another *Rangila Rasul* affair. However, despite there being a general consensus amongst members regarding the necessity for a provision such as section 295-A, the different endings that individual representatives envisioned for this specific category of real life stories varied. For instance, for several Muslim members, it was specifically offences against prophets and religious founders that they wished to see penalized, and this offence was sufficiently reprehensible that they also desired to make the offence non-bailable. Although the motions that were put forward in support of the former amendment failed, there was adequate support for the latter, and so the offence became non-bailable. Other common stories that were told about the law, in consideration of the “conclusion” that would follow from its implementation, included those that suggested that section 295-A would merely be a response to fanaticism, and that those who demonstrated, protested and made a show of the degree to which their “religious feelings” had been insulted, would trigger the application of the law. Accordingly, for those legislators that believed this law was being introduced in

⁶¹⁹ Paskey, “The Law is Made of Stories”: 52-53.

response to religious fanaticism, they expressed concern that the measure would further inflame communal tensions, and result in the transition of conflict from the streets to the courts. Various solutions were proposed by members in order to remedy this undesirable story ending, such as the inclusion of the measure in the defamation section of the Code, or by simply adding an explanatory note to the existing section 153-A.

Throughout the debates, various story endings were considered, and they translated directly into the wording of the “stock story” itself. Paskey describes the stock story within a governing rule as follows:

A stock story...is a conventional story type, a story stripped of all but essential details. The key elements of the story—events, entities, and consequences—are stated generally, and are thereby reduced to stock structures (a stock character, for instance) or to an idealized cognitive mode. A stock story is a recurring story template or “story skeleton,” a model for similar stories that will be told with differing events, entities and details.⁶²⁰

Furthermore, Paskey asserts that the “essential point is that the events, entities, and plot are expressed in *general* terms, and the logical relationship between the elements remains intact.”⁶²¹ Although Linda Edwards accepts that a rule “provides evidence of its narrative origin by its presentation in a causistic ‘if-then’ structure,” Paskey maintains that he takes this argument “a large step further” when he asserts that:⁶²²

A governing rule created by this process does not simply provide evidence of its narrative origin: *it is, in fact, still a narrative.*⁶²³

⁶²⁰ Ibid: 70;

⁶²¹ Ibid.

⁶²² Ibid: 72.

⁶²³ Ibid.

A governing rule, like section 295-A, is still a narrative, in Paskey’s view, because the “essential traits of a governing rule directly correspond to the essential traits of a stock story,” insofar as both consist of “entities, things, events, or circumstances,” that “are expressed in general terms and have a logical relationship.”⁶²⁴ In particular, he states that both governing rules and stock stories contain a plot: “for governing rules, a legal result; for stock stories, a significant consequence.”⁶²⁵

Borrowing from Paskey’s explication of a governing rule’s plot structure, the elements of section 295-A, as it was originally codified in 1927, could be broken down into the following segments:⁶²⁶

| Rule Text | Story Element |
|--|---|
| Whoever | The main character |
| with | A logical connector |
| deliberate and malicious intention | The character’s state of mind |
| of outraging the religious feelings of any class of His Majesty’s subjects | A consequence, and both an implied character and an implied event |
| by words, either spoken or written, or by visible representations | The character’s act; an event caused by the character |
| insults or attempts to insult the religion or the religious beliefs of that class | A consequence, and implied characters beyond the main character |
| shall | A logical connector completing the if-then structure |
| be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both | Conclusion, consequence and event |

According to Paskey’s description, section 295-A meets the criteria of a stock story.

It contains a character— or characters—that are represented by the relative pronoun “whoever”; consequences and events, such as the “outrage” to “religious feelings,” or the “insult” to religion, caused by the protagonist; and, of course, it has a

⁶²⁴ Ibid.

⁶²⁵ Ibid.

⁶²⁶ Story elements are taken directly from Paskey’s article, for the most part verbatim. See, *ibid.*

conclusion, whereby the protagonist must be “punished with imprisonment,” fine or both. Indeed, “the elements are logically related, and the conviction follows directly from other elements,” and if one were to remove the “legal result” from the wording of the statute, it would exist “merely [as] the description of an event and not a *story*.”⁶²⁷ Each element of this stock story, which was codified as a governing rule to eliminate a “legal loophole” to prevent the acquittal of another Rajpal, was derived from the lawmakers’ varied understandings of what would constitute an appropriate conclusion, or “legal result,” in cases of insult to religion, or religious belief.

Of course, each member’s conception of what would constitute a “favourable conclusion” of such stories involving insult to religion differed dramatically based on the stories that they told about society, government, and the issue of communal conflict. For example, Nawab Sir Sahibzada Abdul Qaiyum, a Muslim member, asserted that the rise of the Arya Samaj as a movement had spurred an increase in the frequency of attacks against religion, which he did not believe could be checked in the absence of legislation.⁶²⁸ In contrast, Amar Nath Dutt viewed the Arya Samaj as victims of unfair treatment by government, insofar as they had done little in the way of responding to the “woeful tales of murders of Hindus and leaders of the Arya Samaj.”⁶²⁹ Accusing the government of displaying favouritism towards Muslim communities, Dutt’s understanding of the broader social and administrative factors

⁶²⁷ Ibid: 74.

⁶²⁸ Legislative Assembly Debates, September 16, 1927, in BL IOR V/9/79 Index to the Legislative Assembly Debates (Official Report) Volume V, 6th September to the 20th September 1927, First Session of the Third Legislative Assembly, 1927.

⁶²⁹ Ibid.

at play influenced his conception as to how the story of section 295-A would unfold, and resulted in his choice to oppose the Bill. Several other members, as mentioned above, shared Dutt's concerns about the ability of government to impartially initiate prosecution, which was reflected in several proposed amendments that were tabled related to the procedural aspects of the legislation, whereas others, such as Crerar and Yakub, believed that the government must be given this responsibility in order to prevent an inundation of "frivolous" cases. These stories told about the potential consequences of the law, as well as the preferred outcomes and necessary safeguards, reflect the differing conceptions members had of the role, and weaknesses, of the government, as well as the broader issues faced by individuals and various communities. Another common concern amongst members was protecting freedom of speech. Thus, another "unfavourable" conclusion that many lawmakers wished to avoid was the prosecution of researchers, journalists and social reformers engaged in sincere criticism. As mentioned, the words "deliberate and malicious" were introduced to ensure that the section would provide the intended protections, and that subsequent stories would conclude appropriately. Each section of the stock story embedded in section 295-A, as well as the amendments proposed—whether or not they were defeated—reflect both the broader stories that members told about government, society and the issue of communal conflict, as well as the ideal outcome, or conclusion, that they envisioned this law providing.

The role of narrative reasoning was integral to this process of drafting, revising and applying section 295-A to cases. Although some scholars have

constructed a false dichotomy between law and stories, as Paskey explains, “the concept of narrative reasoning is better understood to be *a process of systematically comparing and contrasting narratives for the purpose of reaching a conclusion*, either about what the law is (or should be) or how the law applies to a given set of facts.”⁶³⁰ The former use of narrative reasoning, which serves to determine “what the law is (or should be),” is reflected in the stories told about government, society and communal conflict, as described above; the latter, or “how the law applies to a given set of facts,” would help to establish the trajectory of section 295-A with regard to precedent.⁶³¹ Breaking down the components of this narrative reasoning, Paskey identifies the following elements:

Narrative reasoning encompasses several different analytical moves, depending on one or all of these factors: whether a client’s story is compared to and contrasted with the stock story embedded in a governing rule (a type of rule-based reasoning), the story in a previously decided case (a type of analogical reasoning), a story about the social impact of a rule (a type of reasoning based on policy or custom), or the social and moral values embedded in a cultural narrative (“narrative reasoning” as Edwards defined it).⁶³²

Here, Paskey identifies “five strands of narrative reasoning,” whereby the facts in a case are compared to a story “embedded in a governing rule,” “in a factually analogous court decision,” “about public policy,” or about “social custom,” or about “cultural and moral values.”⁶³³ In this way, the application of law, including section

⁶³⁰ Paskey “The Law is Made of Stories”: 77.

⁶³¹ Ibid.

⁶³² Ibid.

⁶³³ Ibid: 78.

295-A, would translate into a process of “comparing stories to reach a conclusion.”⁶³⁴ As Paskey aptly points out:

When a society creates general rules of social obligation, whether by statute or common law, it attempts to force real-life stories, with all their messy details, into the paradigmatic mode of thinking. But the resulting rules still embody stock stories, and they can be satisfied only by telling a story. The Pythagorean theorem is a rule about the three sides of a right triangle, and it cannot be applied to circles or squares. In the same sense, a governing legal rule is a rule about stories, and it cannot be applied to something that is not a story.⁶³⁵

In turn, section 295-A, once passed, demanded stories. The stories of insult to religion that were to follow, and be heard by the courts, were compared and contrasted with the stock story embedded in the governing rule. In this way, a lawyer representing the party whose “religious feelings” may have been wounded, “must...understand the type of story the text demands and must see the stock story embedded in the rule as well as in the values and assumptions the story encodes.”⁶³⁶ Although the manner in which section 295-A was applied following its enactment goes beyond the scope of this thesis, Paskey’s research, as well as the insights of scholars in the law and literature movement, have a great deal to contribute to fields such as religious studies in developing a stronger understanding of how this law protecting against insult to religion came to be, and how it has been applied since its inception.

⁶³⁴ Ibid.

⁶³⁵ Ibid.

⁶³⁶ Ibid: 81.

Conclusion

The story of section 295-A cannot be told without reference to the narratives that shaped it. From the archetypal tragedy narrative that characterized Justice Dalip Singh's ruling in the *Rangila Rasul* case, to the stories told about the law in the press and in the Indian Legislative Assembly, narrative played an integral role in the process of drafting and enacting the law. Stories about religion, society and government were interwoven with one another to legislate a solution that lawmakers hoped would allay the communal tensions that erupted following the identification of the "tragic flaw" in the legislation, and Rajpal's acquittal. Borrowing from the methods and theories developed by scholars, such as Linda Edwards and Stephen Paskey, within the law and literature movement, provides insight into the depth of the relationship between law and narrative in this historically distinct case, and helps to enrich the scholarly understanding of the events that preceded the creation of section 295-A. The work of scholars in this burgeoning field has been under-utilized in humanities disciplines, such as religious studies, and has much to offer in enhancing the understanding of the entangled relationship between law and narrative outside the discipline of law. The history of section 295-A demonstrates this broad applicability, and also contributes to the law and literature movement, insofar as it provides a historical case study that addresses the role of narrative in the process of legislative drafting, which Paskey identifies as a topic in need of further inquiry.

Although section 295-A was enacted on September 22, 1927, the story of Rajpal and the *Rangila Rasul* affair had not concluded. Within months, reports of a

“Hindi version of ‘*Rangila Rasul*’” being distributed in Bombay appeared in the newspapers, sparking controversy once again, while others celebrated “Rajpal Day.”⁶³⁷ Around the same time, there were also attempts made on Rajpal’s life.⁶³⁸ Several years later, on April 6, 1929, Rajpal was fatally stabbed by a young Muslim man named Ilam Din, who allegedly proclaimed that he had acted in order to “[take] revenge for the prophet.”⁶³⁹ The murder made headlines, and dragged the *Rangila Rasul* affair back to the surface once more.⁶⁴⁰ In correspondence, the Chief Secretary to Government in the Punjab informed the Secretary to the Government of India, Home Department, that “it had always been considered likely that [Rajpal] would eventually fall a victim to some fanatical attack,” despite providing him with police

⁶³⁷ Around the same time as the *Vartman* case was still before the courts, another case against a publication called *Pratap* was also underway. This publication ridiculed the Muslims’ demand for new legislation after the *Rangila Rasul* case. See, “Case Against ‘Pratap’: Attack on the Prophet,” *The Times of India*, July 21, 1927: 11, “Poona City Notes: ‘Rajpal Day,’” *The Times of India*, October 5, 1927: 11, “Scurrilous Writings Legislation Applied: Delhi Bans ‘Rangila Rasul,’” *The Times of India*, September 26, 1927: 10, “Hindi ‘Rangila Rasul’ Case: Defence Contentions,” *The Times of India*, December 2, 1927: 6, “Hindi Version of ‘Rangila Rasul’: Case Opens in Bombay,” *The Times of India*, November 25, 1927: 10, “Hindi Rendering of ‘Rangila Rasul’: City Muslims Angry,” *The Times of India*, October 10, 1927: 5, “Bombay Booklet Banned: Another ‘Rangila Rasul,’” *The Times of India*, September 22, 1927: 6. In addition, another publication by Rajpal was proscribed within months of the conclusion of the *Rangila Rasul* case. See, “Mr. Rajpal Again: Another Pamphlet Banned by Government,” *The Times of India*, October 14, 1927: 14.

⁶³⁸ Rajpal had been placed under police watch for his own safety since August 10, 1927. See, “Sentenced to 7 Years: Rajpal Assault, Three Months’ Solitary Confinement,” *The Times of India*, September 29, 1927: 10, “Pamphleteer Stabbed by an Irate Moslem: Rajpal Had Incurred Wrath of Mohammedans in India by His ‘Merry Prophet,’” *The New York Times*, September 27, 1927: 6, “Assault on Swami Satyanand: Accused a Young Pathan,” *The Times of India*, October 11, 1927: 8, “Mr. Rajpal Stabbed: ‘Rangila Rasul’ Author, Alleged Attack by Mahomedan,” *The Times of India*, September 27, 1927: 9, “Arya Samaj Leader Stabbed by Moslem at Lahore,” *The Times of India*, October 10, 1927: 9.

⁶³⁹ See, “Murder of Raj Pal,” Letter from Chief Secretary to Government, Punjab, to Secretary to the Government of India, Home Department, Public and Judicial Department File, BL L/PJ/6/1977, April 20, 1929, and *Ilam Din v. Emperor* A.I.R 1930 Lahore 157.

⁶⁴⁰ The incident was even covered by *The New York Times*. See, “Hindu Author is Killed: Rajpal, Who Wrote Humourously of Mohammed, Stabbed to Death,” *The New York Times*, April 7, 1929: 23. In both *The Tribune* and *The Hindustan Times*, the event made headlines. See, “Over 100 Persons Injured, Bhai Permanand & Dr. Khanchand Assaulted: Armoured Cars Patrol Streets, Meetings and Processions Prohibited,” *The Tribune*, April 9, 1929: 1, and “Rajpal Murdered: Mahasha Rajpal Murdered, Lahore Sensation, Sudden Attack With Knife, Instantaneous Death,” *The Hindustan Times*, April 8, 1929: 1.

protection.⁶⁴¹ Ilam Din was caught immediately, but the government was anxious to quell any form of uprising given the tumultuous history associated with the victim and his trial.⁶⁴² Following the stabbing, police presence was increased, reinforcements were brought in from neighboring districts, and an order was issued prohibiting public meetings in order to prevent rioting.⁶⁴³ Despite the precautions taken, the government's refusal to allow Rajpal's funeral procession to take a route through the city resulted in a confrontation that turned bloody when a crowd decided to take an empty bier along the forbidden route.⁶⁴⁴ The government, anxious as a result of "past experience in May, 1927," attempted to halt the procession, but reported that the group used the bier "as a kind of a battering-ram" to force through police ranks.⁶⁴⁵ In response, a police charge, criticized for its brutality in the newspapers, dispelled the crowd.⁶⁴⁶ After a couple of days, the family of the deceased and the authorities agreed on a route, and the government estimated that between four and five thousand people participated in the procession, not including the crowds of onlookers.⁶⁴⁷

⁶⁴¹ See, "Murder of Raj Pal," Letter from Chief Secretary to Government, Punjab, to Secretary to the Government of India, Home Department, Public and Judicial Department File, BL L/PJ/6/1977, April 20, 1929, and Ilam Din v. Emperor A.I.R 1930 Lahore 157.

⁶⁴² "Armoured Cars Patrolling the Area," *The Times of India*, April 8, 1929: 11, "Armoured Cars Guarding Spot: Precautions Against Trouble," *The Times of India*, April 8, 1929: 11.

⁶⁴³ Ibid.

⁶⁴⁴ "100 Hurt in Lahore Riot: Police Break Up Funeral Parade for Rajpal, Slain Hindu Author," *The New York Times*, April 8, 1929: 6, and "Murder of Raj Pal," Letter from Chief Secretary to Government, Punjab, to Secretary to the Government of India, Home Department, Public and Judicial Department File, BL L/PJ/6/1977, April 20, 1929.

⁶⁴⁵ "Murder of Rajpal: Exciting 'Funeral' Scenes, Police Charge Hindu Crowd in Lahore: Empty Bier Smashed: Many Injured, Order to Disperse Defied," *The Times of India*, April 8, 1929: 11, and "Murder of Raj Pal," Letter from Chief Secretary to Government, Punjab, to Secretary to the Government of India, Home Department, Public and Judicial Department File, BL L/PJ/6/1977, April 20, 1929.

⁶⁴⁶ Ibid.

⁶⁴⁷ "Murder of Raj Pal," Letter from Chief Secretary to Government, Punjab, to Secretary to the Government of India, Home Department, Public and Judicial Department File, BL L/PJ/6/1977, April 20, 1929.

Ilam Din was represented by M.A. Jinnah throughout his trial, and was ultimately convicted of murder, sentenced to death and executed in October 1929.⁶⁴⁸ There was significant controversy surrounding his funeral arrangements as well, with protests breaking out, but following the reception of a deputation of Muslim leaders with the Governor, an agreement was reached to permit the funeral and return Ilam Din's body to Lahore.⁶⁴⁹ However, Ilam Din quickly became an object of veneration, a phenomenon which continues today.⁶⁵⁰ As Julia Stephens notes:

[Ilam Din] became a folk hero for some Muslims, and he continues to be a subject of popular hagiographies today. In one such book, *Ghazi Ilmuddin Shahid* (The Warrior Ilmuddin, Martyr), published in the late 1980s, the semi-fictional narrative includes dialogues between Ilmuddin, his friends, and his father during the days before the murder.⁶⁵¹

The book includes archival materials from Ilam Din's trial and the police reports related to his case, interwoven to blend "fact and fiction, historical narrative and lyrical poetry," to elucidate his "emotional life," and demonstrate that he was "the victim of a miscarriage of justice."⁶⁵² Once again, the living memory of Ilam Din was revisited in 2011, when the Lahore High Court considered a petition to review his

⁶⁴⁸ In Jinnah's defense of his client, he maintained that "the sentence of death was not called for and urged as extenuating circumstances, that the appellant is only 19 or 20 years of age and that his act was prompted by veneration for the founder of his religion and anger at one who had scurrilously attacked him." See, "Rajpal's Murderer: Death Sentence Upheld on Appeal," *The Times of India*, July 16, 1929: 3, and Ilam Din v. Emperor A.I.R 1930 Lahore 157.

⁶⁴⁹ The deputation on November 6, 1929 was led by Sir Mohammad Shafi, and included Sir Mahomed Iqbal. See, "Ilamdin's Body for Muslims: Burial at Lahore: Leaders; Undertaking to Govt. to Maintain Peace," *The Times of India*, November 11, 1929: 14, "Murderer of Rajpal: Ilamdin's Body, 50,000 Muslims Follow Bier: Military Pickets," *The Times of India*, November 15, 1929: 12.

⁶⁵⁰ For instance, in 1931, pictures of Ilam Din and his funeral ceremony were found in the home of Abdulla Khan, a man who was executed for murdering a bookseller. See, "Murder of Calcutta Booksellers," *The Times of India*, June 12, 1931: 12, "Alleged Murder of Calcutta Publisher: Prophet's Picture, Counsel's Address to the Jury," *The Times of India*, July 18, 1931: 13.

⁶⁵¹ Stephens, "The Politics of Muslim Rage": 45.

⁶⁵² Ibid: 45-46.

case following the “assassination of Salman Taseer, Governor of the Punjab and a prominent critic of Pakistan’s controversial blasphemy laws.”⁶⁵³ In a case that similarly demonstrates the integral role of narrative in the law, Julia Stephens remarks that “the courtroom simultaneously invokes feelings of attachment, narratives of national memory, and arguments about justice.”⁶⁵⁴

Beyond the popular memory of Ilam Din and Rajpal, the reverberations of section 295-A itself are felt acutely in India and around the world today. In India, the law has come under intense scrutiny over the past several decades. In *Ramji Lal Modi vs State of UP*, in 1957, the constitutionality of the section was challenged, albeit unsuccessfully, on the grounds that the law was an unreasonable restriction on freedom of speech that contravened the constitution.⁶⁵⁵ Since then, various organizations and individuals have criticized the law for infringing on human rights and placing undue restrictions on freedom of speech. Reports have been published by NGOs such as PEN International and Human Rights Watch, criticizing section 295-A, among other Indian laws, for suppressing free speech.⁶⁵⁶ In addition, scholars, both within and outside of India, have been particularly vocal in their condemnation of this law. Despite the protections the original lawmakers attempted to provide to the “diligent sociologist,” and “absentminded philosopher,” the section

⁶⁵³ Ibid: 46.

⁶⁵⁴ Ibid.

⁶⁵⁵ *Ramji Lal Modi v. The State of UP* A.I.R. 1957 S.C. 623.

⁶⁵⁶ PEN International, PEN Canada and the International Human Rights Program at the University of Toronto Faculty of Law, *Imposing Silence: The Use of India’s Laws to Suppress Free Speech*, 2015, online: < <http://www.pen-international.org/wp-content/uploads/2015/05/Imposing-Silence-4-WEB.pdf>> (accessed April 29, 2017), and Human Rights Watch, “Stifling Dissent: The Criminalization of Peaceful Expression in India,” May 26, 2016, Online: <<https://www.hrw.org/report/2016/05/24/stifling-dissent/criminalization-peaceful-expression-india>> (accessed May 7, 2017).

has been the topic of heated debate in academic circles following the prosecution of several academics as well as the violence that ensued in the course of protests against their work. From the threat of proscription and subsequent pulping of Wendy Doniger's book in 2014, which attracted international attention, to the destruction of the Bhandarkar Oriental Research Institute in Pune in response to James Laine's book on Shivaji, section 295-A has had a profound effect on scholars around the world.⁶⁵⁷ While incidents like the pulping of Doniger's book received international coverage in the press, and have become famous in Western academic circles, inadequate attention has been given to the Indian journalists, scholars, artists and filmmakers that are routinely silenced by this statute, and in consequence are themselves threatened by the prospect of insulting the "religious feelings" of a class. These cases of censorship and violence present scholars with an imperative to continue to research and critically assess the origins and evolution of section 295-A, an endeavor to which this project has sought to contribute.

In line with Paskey's claim that the law demands a story, scholars have recognized that the public disorder and violence that section 295-A was supposed to prevent is in fact further aggravated by the legislation. C.S. Adcock describes this phenomenon as follows:

In 1927, section 295A was enacted to extend the ease with which "wounding religious feelings" by verbal acts could be prosecuted. The purpose was to curb religious violence by curbing provocative speech. But the strategic field the law put into place worked differently: it extended the strategic value of demonstrating that passions had been aroused that threatened the public

⁶⁵⁷ See, James Laine, "Resisting My Attackers; Resisting My Defenders: Representing the Shivaji Narratives," in *Engaging South Asian Religions: Boundaries, Appropriations, and Resistances*, eds. Mathew N. Schmalz and Peter Gottschalk (Albany: State University of New York Press, 2011), and Wendy Doniger, "A Response," *Journal of the American Academy of Religion* 84 (2016): 364-366.

peace, in order to induce the government to take legal action against one's opponents. Section 295A thus gave a fillip to the politics of religious sentiment.⁶⁵⁸

Thus, the requirement of providing a narrative to fit the stock story, which Paskey identifies, is often satisfied through these displays of outrage. Although delving into the history of the evolution of section 295-A—the various interpretations and landmark cases—as well as engaging with the complex and spirited contemporary debates on its current applications go well beyond the scope of this project, the cross-fertilization of ideas from the law and literature movement with those of the religious studies scholars engaged in analyzing, critiquing and exploring the history of section 295-A may yet be able to provide deeper insights into the multifarious stories that define and shape this particular law.

⁶⁵⁸ C.S. Adcock, "Violence, Passion, and the Law: A Brief History of Section 295A and Its Antecedents," *Journal of the American Academy of Religion* 84 (2016): 9.

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