

Renaissance of Law and Literature in the Modern Era

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Abstract:

Law and literature have been interconnected disciplines since time immemorial. However, in the last few decades, the nexus between law and literature has attracted the attention of scholars all over the world. Literature has always been employed as a tool to bring into light and denounce the social evils and inhumane practices prevalent in the society. Many literary works such as William Shakespeare's 'Merchant of Venice', John Galsworthy's 'Justice', Charles Dickens' 'The Pickwick Papers', Frank Kafka's 'Trial' etc. deal with law as a major theme. On the other hand, a literary bent of many renowned judges helps them to quote different writers in their judgments. Thus, this paper will focus on the renaissance of law and literature in modern era, the Law and Literature Movement, significance of literary studies in legal profession, and literature as an effective tool for learning English language for law students.

Keywords: Law, literary study, English literature and language, legal profession.

Introduction:

"Literature always anticipates life. It doesn't copy it but moulds it to its purpose."

– Oscar Wilde

There is symbiotic connection between the two disciplines law and literature. Law has been taken up by dramatists, poets and authors from ancient to modern age as major or minor theme in their works. The literary classics of Sophocles, Homer, Christopher Marlowe, William Shakespeare etc. had revenge as a central theme. Not only this but plethora of literary works such as William Shakespeare's 'Merchant of Venice', John Galsworthy's 'Justice', Charles Dickens' 'The Pickwick Papers', Frank Kafka's 'Trial', Harriet Beecher Stowe's 'Uncle Tom's Cabin', George Eliot's 'The Mill on the Floss' etc. deal with law as a theme of their works.

Furthermore, the association of law and literature is visible in the works of well-known lawyers turned authors such as Francis Bacon, John Donne, Henry Fielding, Franz Kafka, John Grisham, Mahatma Gandhi, Soli Sorabji, Nani Palkhiwala etc. At the same time, the judicial opinions of several erudite judges such as Lord Denning, Justice Krishna Iyer, Justice Markandeya Katju etc. have been regarded to have literary merit. In addition to this, many ingenious advocates quote from literary texts to be emphatic in their arguments in the courtroom. There are undeniable benefits of literary texts in the field of law. Literature not only promotes knowledge of grammar and vocabulary but also sharpens linguistic and cognitive skills of the students. The literary pieces lend a perspective to the legal professionals while arguing the cases in the court, which is difficult to be gained through theoretical courses of law. Literary readings of fiction and non-fiction teach the law students critical and analytical thinking, and help them to understand and examine law from a humanistic perspective.

Law and Literature Movement

The intersection between law and literature started long ago in Britain and America but these interdisciplinary subjects started to draw the attention of the researchers and scholars with the foundation of the Law and Literature Movement, the first interdisciplinary foray within legal studies in 1960's and 1970's by John H Wigmore and Justice Benjamin Cardozo. The Law and Literature Movement emphasized on achieving intellectual and aesthetic goals as well as improving the ability to interpret laws by intersecting law and literature. The followers of this Movement considered literary texts as mirrors of the society, which reflects the condition of law and order in every society in different ages. A well-known scholar James Boyd White also focused on the relationship between legal text and literary analysis in his renowned publication 'The Legal Imagination'. Thus, bringing these two discourses together helps in opening new ways of thinking about law and justice particularly humanity.

After this Movement, the study of law and literature as a subject started in Universities and law schools in 1970s all over the world. Even in India, most of the National Law Schools and some other Universities have included Law and Literature as a compulsory or elective subject in their curriculum in the five-year integrated degree course in law. The judges, advocates, professors at law schools, students and readers recognize the close relationship

between the fields of literature and law. Many scholars such as Ian Ward, Bruce L. Rockwood, Gregg D. Crane and Nancy Cook are of the view that practitioners in both the fields can benefit from a study of rhetoric, comprehension of language, and an understanding of interdisciplinary nature of law and literature.

The Law and Literature Movement has focused on twin projects of law and literature – law-in-literature and law-as-literature. The concept of law-in-literature emphasizes on the legal themes depicted in novels, dramas and other literary works. The writers who write about law in literature stress upon reading certain works of literature that either centrally or partially deal with legal issues such as George Bernard Shaw’s ‘Pygmalion’, Charles Dickens’ ‘Bleak House’, Anton Chekhov’s ‘A Malefactor’ etc. In this concept, the writers use their independent views on laws. It helps the students to gain human understanding of the law.

The other concept law-as-literature analyzes the prose, rhetoric and narrative that judges, advocates and other legal professionals use to explain the legal arguments and conclusions in their judicial opinions in variety of cases. Some legal and literary scholars suggest that intellectual benefits can be derived from approaching legal texts as if they were literary criticism; using a deconstructive approach. For instance, law students can arrive at an understanding of the legal text's internal contradictions, biases, prejudices and fallacies that can sharpen their rational and legal acumen. But some critics of the law-as-literature approach opine that the fields of law and literature are contrary. According to them, literature is dramatic and therefore it is concerned with developing conflict, whereas the purpose of law is to resolve the conflict. Richard A. Posner, one of the critics of the approach, in his book ‘Law and Literature: A Misunderstood Relation’ has mentioned this essential difference, and has also accentuated that law is taken up only metaphorically in literary works and it does not hold any major concern. The scholars of law-as-literature consider law as literature, unlike interpreting law from literature. Benjamin Cardozo, James White, Ronald Dworkin and some other scholars are in favour of considering law as literature. Legal professionals can use literature to improve legal understanding and legal interpretation using theories of literary interpretation covering all other fields of knowledge.

In addition to this, some scholars consider the third approach i.e. law and literature. It compares and contrasts the analytical tools that both of these disciplines employ while

interpreting a particular text, whether it is a constitution, a statute, a judicial precedent, any other legal document or a work of literature.

Significance of literary studies in legal profession

The major points that connect law and literature are linguistic conception of law and narratology in law. Literature helps in improvement of judicial decisions or legal interpretation. Moreover, the most common feature in law is playing with words. A legal professional must be able to comprehend the meaning of the text, connect it with the real world, and transform it into action wherever possible. Reading of literary texts assists and guides in the field of interpretation and preparing the arguments. A lawyer must read a text in an analytical way like literary critics. He must learn the art of reading between the lines also. Literary texts provide an opportunity to develop the perception of different stories and texts which helps the legal professionals to argue the case in the courtroom in a persuasive manner. Benjamin N. Cardozo considered that literature had the ability to educate. He believed that fiction plays a vital role in decision-making by the courts. According to him, a judge must create a certain image of reality while forming his decision. Literature can enhance the ability to perceive a text and thus, in turn, improve interpretation and composition of legal texts. By reading literature, a lawyer can improve his ability to describe and narrate the facts in a systematic way. There are several writers who write about the law in the contemporary society as well as multiple judges who use literary texts or quotes in their judgments to make their arguments more effective. There is an array of judgments where literary quotes are used to clarify the facts. Few of them are as follows:

In Supreme Court Advocates on Record Association and Another v. Union of India [9], while upholding the primacy of the opinion of the Chief Justice of India, the Court cautioned against the misuse of this power and Hon'ble Justice quotes Shakespeare in 'Measure for Measure',

“We begin with a note of caution, thus:
O, it is excellent to have a giant's strength;
but it is tyrannous To use it like a giant.”

In Gopal Dass thru. brother Anand vs Union of India, a case about an Indian government employee who was arrested by the Pakistani Border Security Force on entering Pakistan, Justice

Markandey Katju started his judgment by quoting the following lines written by Faiz Ahmed Faiz:

“Qafas udaas hai yaaron sabaa se kuch to kaho Kaheen to beher-e-khuda aaj zikr-e-yaar chale”

These lines aptly express the power of poetry to place an emphasis on the intricacies of human life. In addition to this, Justice Markandey Katju has also quoted Portia's famous speech in Shakespeare's 'Merchant of Venice' in this judgment:

"The quality of mercy is not strain'd;
It droppeth as the gentle rain from heaven Upon the place beneath. It is twice blest:
It blesseth him that gives and him that takes.
It is an attribute to God himself;
And earthly power doth then show likest God's When mercy seasons justice."

Furthermore, in the famous case *Aruna Ramchandra Shanbaug vs Union of India & Ors*, Justice Katju, dismissed the petition to allow euthanasia and quoted the following lines of Mirja Ghalib to mention the fact clearly:

‘Marte hain aarzo mein marneki, Maut aati hai par nahin aati’ demonstrating the gravity of the case in hand.

In *Budhadev Karmaskar vs State of West Bengal*, Justice Katju and Justice Gyan Sudha Mishra mention that ‘This is a case of brutal murder of a sex worker. Sex workers are also human beings and no one has a right to assault or murder them.’ Furthermore, they referred to many literary works in the following lines:

“In the novels and stories of the great Bengali Writer Sharat Chand Chattopadhyaya, many prostitutes have been shown to be women of very high character, e.g., Rajyalakshmi in 'Shrikant', Chandramukhi in 'Devdas' etc. The plight of prostitutes has been depicted by the great Urdu poet Sahil Ludhianvi in his poem 'Chakle' which has been sung in the Hindi film Pyasa "Jineh Naaz Hai Hind Per wo kahan hain" (simplified version of the verse 'Sana Khwan- e-taqdees-e-Mashrik Kahan Hain').

We may also refer to the character Sonya Marmelodov in Dostoyevsky's famous novel 'Crime and Punishment'. Sonya is depicted as a girl who sacrifices her body to earn some bread for her impoverished family.

Reference may also be made to Amrapali, who was a contemporary of Lord Buddha”

Another learned judicial luminary Justice V.R. Krishna Iyer is also known for his literary flair who often quoted lines from the works of Oscar Wild, Richard Lovelace etc while writing the judgments.

Thus, the references to the abovementioned judgments and judicial luminaries indicate that the association of law and literature is used for their mutual benefit. These quotations from literary texts enrich the rhetoric and narrative in the judgments and enhance the understanding of the predicament in a subtle manner.

Literature as an effective tool for learning English language for law students

It is a well-known fact that literature can influence and do wonders in the transformation of a person's life. Basically, literature is language in its finest form. That is why, studying literature encourages the learners towards language acquisition, expands the students' language awareness, and develops their interpretative and narrative abilities. Literary texts can be used to improve grammar and vocabulary of the students. The students can understand the denotative and connotative meanings of the words through these texts. It is the duty of English language teachers in law colleges to inculcate habit of reading literary texts among the students, particularly the students who come from vernacular medium. Though literature has been introduced as a part of curriculum in some law colleges in India, it must be a continuous process for the students to read literary text to get maximum benefit of it. Literature may lead the reader to an unexplored and unexplained world. It ignites the fire of imagining and visualizing things, and transforming the desires into a dream, and then dream into a reality. Imagination, on the other hand, encourages the readers to decide and achieve their goals. Literature also helps the readers in cultural understanding of the society. It describes the political scenario and punitive methods on commission of crimes in any society at a certain time and place.

Law professors have been using literature to narrate the stories of law since long. Novels, short stories, essays, articles, legal documents etc. are used by students and professors together to comprehend and analyse situations from different perspectives.

Similarities and differences between Law and Literature

Law and Literature are apparently two separate branches of social science yet the aim of both of these disciplines is to not only monitor the conduct of the masses but also to encourage the people to maintain law and order in the society for peaceful living. Literature stresses on emotions and moral values while law focuses on human behaviour and social norms. Both of these disciplines create awareness against various social evils such as racism, religious bigotry, tyranny etc. Many writers such as John Galsworthy, Charles Dickens, Fyodor Dostoevsky etc. have raised the issues of the social evils prevalent in the contemporary society such as child labour, child abuse, miserable condition of prisons etc. in their popular fiction and compelled the government to enact significant legislation to reform the social condition of children, prisoners and working-class people in England. Thus, literature can also be used as an instrument for betterment of mankind. Many writers like Harriet Beecher Stowe, Solomon Northup and Olaudah Equiano wrote anti-slavery literature that pioneered abolitionist movement. Consequently, slavery was declared unconstitutional in 1865 in United States. This anti-slavery movement had many issues related to narration and interpretation of legal texts. Many scholars such as White believed in the similarity of methods of explanation, description, narration and interpretation of both disciplines.

Conclusion

The modern era of unparalleled economic, political and social upheaval has produced new legal challenges in the society. The study of literature allows us to better understand the world we live in and helps in language development, value enrichment and holistic growth of a person. The students of law work diligently and obtain the necessary legal knowledge and skills that enable them to get employment. But after joining any company or practising in the court, these students find it difficult to deal with the emotional, professional and other crises. At present, the education in law colleges is successful in making the students ready for work but not for life. The incorporation of English literature in the curriculum develops a cultural and

intercultural understanding in the law students who are expected to work in a heterogeneous environment. The study of literary work broadens the views and outlooks of legal professionals, sensitizes them to human nature, and makes them aware of the realities of the society. The autobiographies and biographies of well-known judges and legal professionals motivate the law students to grow in every sphere of life. The students can give aesthetic expression to their arguments and legal writings applying the knowledge of literature. Moreover, techniques of textual analysis developed by literary critics can also be helpful in interpreting legal texts or documents. But, in the present era of technology, it poses a major challenge that most of the students prefer social media platforms as chat rooms over classics which is the major cause behind the disinterest in literature. However, efforts are being made by many scholars to bridge the two disciplines yet this idea has not drawn much attention of many law schools and literary critics. There is still a need to develop better interdisciplinary connection between law and literature in the present scenario as literature may help in teaching the art of living in today's stressful world. 'Most recently, James Boyd White, who first signalled the educative potential of law and literature has returned to re-emphasise the essential need to educate lawyers and law students in the use of language and comments that it is the 'integration' of literature in legal study, and not its study as some sort of foreign field, which remains at the heart of the law and literature enterprise.' (Ian Ward, *Law and Literature*, pg 26)

Thus, the study of literary texts helps the legal professionals not only in professional but personal life also. Literature helps in better understanding of human psychology, predicament and societal norms. And thus, it helps the legal professionals in precise understanding of human behaviour by developing creative, analytical and critical thinking related to law and justice.

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