**[Law and literature](https://nation.com.pk/13-Jan-2020/law-and-literature%22%20%5Ct%20%22_new)**

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The Indian subcontinent is going through a painful turbulent transitional period in its history, a transition from feudal to modern society. In this period both law and literature can play an important role in getting over this transition, law by creating modern norms and destroying outdated feudal ones, literature by attacking feudal practices, religious bigotry, and despotism.

This article has been co-authored by two young women, one a lawyer from Delhi, India, and the other an Assistant Professor in English Literature in a College in Lahore, Pakistan, who are both progressive in their views, and want better relations between the two countries.

Law and Literature are two apparently distinct disciplines yet both these disciplines work towards reaching the same ultimate end i.e. policing the conduct of masses to keep them within the bounds of morality. The moral codes set by literary artists can gradually get into the books of law. And on the other hand, many literary critics have attempted to put forward fixed canons for different literary genres. Just as Aristotle through his book Poetics, has shaped the laws for writing and critiquing dramas.

Law has often been taken up by literary artists as major or minor thematic concern in their works such as Antigone, The Merchant of Venice, The Pickwick Papers and The Mill on the Floss etc. to name but a few. Literature has often helped the ingenious advocates to be emphatic in their arguments by quoting from great literary texts. Literature has also at times become a part of courtroom judgments in the hands of erudite judges.

Famous writers who were also lawyers or involved in law include Henry Fielding, John Donne, Francis Bacon, Johan Wolfgang von Goethe, E.T.A. Hoffman, Heinrich Heine, Franz Kafka, Alexander McCall Smith, William Faulkner, and Bernhard Schlink, to name but a few. And many a time men of law have been portrayed as characters both good as well as bad by literary writers. Who can overlook Chaucer’s portrayal of The Man of Law from his Prologue to the Canterbury Tales? Geoffrey Chaucer; the great English poet from the 14th century exclaims about his The Man of Law,

“Nowher so bisy a man as he there nas

And yet he semedbisier than he was.”

Chaucer’s The Man of Law seems busier than he actually is. He is an expert in drafting legal documents. He is from humble origins and is ambitious to mount up the ladder of social mobility. He is a great purchaser of lands because every land deal is merely a fee for him. Well! Does it ring a bell? Do we still have men of law like Chaucer’s The Man of Law from almost seven hundred years ago?

From this lighter note coming back to a serious one, literature has often become an instrument to make laws more humane and beneficial to mankind. For instance, Charles Dickens, the great Victorian Novelist, who at a point in his life was also an attorney’s apprentice, voiced adverse effects of Industrial Revolution on Victorian England through his novels. He raised the issues of malnourishment, child labor, child abuse and inadequate sanitary conditions, prison reforms, etc. His popular fiction helped in building up a strong public opinion; consequently significant legislation was enacted to make social conditions bearable for the working class and poor in Victorian England.

Harriet Beecher Stowe’s Uncle Tom’s Cabin(1852) reveals the horrors of slavery faced by an African-American slave, Uncle Tom. The book caused immense uproar and greatly supported the abolitionist cause. Abraham Lincoln greeted the author of the novel with these words, when he met her a decade after the publication, “So you’re the little woman who wrote the book that started this great war.” Many writers after Harriet Beecher Stowe wrote anti-slavery literature which furthered the abolitionist movement. This movement ultimately led to the legislation of declaring slavery unconstitutional in 1865 as a result of the American Civil War.

Upton’s Sinclair’s novel, The Jungle (1906) aimed at highlighting the misery, exploitation, abject poverty and harsh working conditions faced by the immigrant laborers working in meat-packing industry in Chicago. The book caused tremendous public commotion over food hygiene, so much so that it led to strict Food Control laws in USA ( earlier there were no laws regulating food quality in USA ). Sinclair profoundly remarked, “I aimed for the public’s heart and by accident I hit it in the stomach”.

John Steinbeck’s The Grapes of Wrath (1939) lays bare for inspection the shocking poverty and misery suffered by millions of migrants moving towards California for work during The Great Depression. When Eleanor Roosevelt, wife of US President Franklin Roosevelt read the novel, she called for Congressional hearings which led to reforms of labor laws in migrant camps.

Nadine Gordimer, the Nobel Prize winning South African writer boldly attacked the Apartheid Laws of her country which legalized racial discrimination by keeping the races apart. Her works were strictly banned by the Apartheid regime. Nelson Mandela’s famous speech ‘I Am Prepared to Die’ delivered in the court of law just before his life imprisonment sentence was also reviewed by Gordimer prior to its delivery as per Mandela’s wish. Nadine Gordimer’s anti-Apartheid literary writings along with the works of many other likeminded writers paved the way for the enactment of The Comprehensive Anti-Apartheid Act of 1986.

There exists an array of judgments where one can find literature, especially poetry being used to clarify facts or showcasing the legal dilemma a Judge is facing. In Gopol Dass thru brother Anand vs Union of India[1], a case about an Indian Government employee who was arrested by the Pakistani Border Security Force on entering Pakistan, Justice Katju of the Indian Supreme Court started his judgment by quoting Faiz Ahmed Faiz. The lines“Qafas udaas hai yaaron sabaa se kuch to kaho Kaheen to beher-e-khuda aaj zikr-e-yaar chale” perfectly elucidated the complexities of human emotion and the power of Urdu Poetry to aptly express them ( see Justice Katju’s article ‘The power of Urdu poetry’ online ).

In the famous case of Aruna Shanbaug[2], Justice Katju while dismissing the petition to allow euthanasia quoted Ghalib – ‘Marte hain aarzoo mein marneki, Maut aati hai par nahin aati’ demonstrating the gravity of the case in hand.

In Pebam Ningol Mikoi Devi vs State Of Manipur And Ors[3] - a case about preventive detention wherein a person was wrongfully detained, Indian Supreme Court judges HL Dattu and DK Jain made their point and despair by using Shakespeare’s lines to highlight the importance about liberty. Yet, another landmark case where literature can be found is Navtej Singh Johar& Ors vs Union of India[4], decriminalizing consensual sex between consenting adults of the same gender - the then Chief Justice Deepak Misra quoted German thinker, Johann Wolfgang von Goethe, who said, “I am what I am, so take me as I am”. This judgment quoted Arthur Schopenhauer, “No one can escape from their individuality” as well as John Stuart Mill was also quoted -“But society has now fairly got the better of individuality; and the danger which threatens human nature is not the excess, but the deficiency of personal impulses and preferences.”

In Budhadev Karmaskar v. State of West Bengal[5]- Justices Markandey Katju and Gyan Sudha Mishra of the Indian Supreme Court upheld the life sentence imprisonment imposed on the accused for the murder of a sex worker. This judgment referred to many literary works, from the great Bengali writer Sarat Chandra Chattopadhyaya’s novels Shrikant and Devdas, to Fyodor Dostoyevsky’s famous novel Crime and Punishment to Amrapali, a contemporary of Lord Buddha, and to the Urdu poet Sahir Ludhianvi’s poem ‘Chakle’, to convey that sex workers are entitled to a life of dignity as envisaged Article 21 of the Indian Constitution. In another order in the same case the judges quoted Ghalib’s verse ‘Pinha tha daam-e-sakht qareeb aashiyan ke, udhne na paaye the ki giraftaar hum hue’ to describe the plight of young girls caught in the sex trade due to abject poverty.

In Contempt proceedings against Syed Yousaf Raza Gillana, ex Prime Minister of Pakistan[6] - Justice Asif Saeed Khan Khosa of the Supreme Court of Pakistan cited two poems “Pity the Nation” and “Crime and Punishment” by famous poet Khalil Gibran and also the poem “For whom the bell tolls” by Johne Donne. Justice Khosa while citing “Pity the nation” added a new part which he wrote himself highlighting his sentiments on the political situation of the country.

The references to the judgments above validate our hypothesis that law and literature can be allied for their mutual benefit. In our postmodern era efforts have been made by many scholars to bridge the two disciplines. However the idea has not soared much high in our part of the world and has been generally ignored by law schools as well as literary critics. There is a need to develop better interdisciplinary connection between law and literature. It is essential to clarify by ‘better interdisciplinary connection’ we do not mean to merge the two disciplines but to encourage interdisciplinary borrowing. Law students should be taught literature so that they could give aesthetic expression to their arguments as well as legal writings. And they can also interpret legal texts by utilizing techniques of textual analysis developed by literary critics. On the other side literary artists should look into courtrooms to collect raw material for their works. What can offer a better climax than a dramatic court trial? Literature is an imitation of life and to be interesting, it should be an imitation of exciting life full of tensions or jubilations which are often found happening simultaneously in courts during a trial, and at the end in a verdict.