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## COMPLEMENTARINESS OF LAW AND LITERATURE: A PROPOS TO UPHOLD HUMAN RIGHTS

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### Abstract:

Human Rights discourse has been gaining traction with each passing year and the rise of human rights violations too have been surfacing unabated. Literature aspires to uphold the human rights of the masses through literary creations and thus tries to sensitize the masses for the same, whereas the Law operates through a strict scepter at hand when upholding itself, thus at times failing miserably in displaying the requisite humanitarianism. This is where the law makers need to have a social understanding; law upholders and enforcers a social sentiment, which can easily be garnered through a literary intercourse ensuring the complementariness of the two. The poetical, biographical, autobiographical, fictional and other genres of literature written with a testimonial spirit hold ample substance for human rights discourses and can be suitably utilized for the development of humane sensibilities to deal within legal spheres. African American literature in its fictional and autobiographical works is saturated with the discourses on the violation of their basic human rights based on race, colour and gender whereas Dalit-Bahujan discourses are vociferous over the issues of caste and untouchability and gender.

This paper makes an effort to underline the necessity of literary sensibility among the law learners, upholders and enforcers for an effective social understanding through literature and tries to highlight the testimonial nature of African American and Dalit-Bahujan literature which can be read and analyzed to cultivate the necessary sensitivity for upholding human rights. It tries to establish an intimate relationship between law and literature. The research is qualitative and doctrinal in nature to evolve a fundamental understanding between Law, Literature and Human Rights.

**Key words:** Law and Literature, Human Rights, African American, Dalit-Bahujan, Humanitarianism, Complementariness.

### Introduction:

With the expansion of the scope of Literature, Humanities and Law, human rights issues have found a stable platform and have reflected themselves through various discourses in multiple disciplines across the world. The limits of each of these disciplines have been pushed further with the charged events of human rights violations in the democracies and autocracies around the globe. Such events have challenged the efficacy and functioning of Law on one hand and at the same time given ample fodder to the literary critics, theorists, writers and thinkers to take their course on the issue. Literature on one hand has portrayed the true picture of society with a critical eye on the freedom and rights of the people; the Law on the other hand has tried to function as efficiently as possible for upholding the Constitutions of the Land and protection of the human rights. With a critical review we can realize that Literature keeps a fine eye on the functioning of the society and charges the law with its unsparing approach indirectly through its literary representations. The influences of one over other have remained all through the development of each of them.

### Discussion:

#### *Law and Literature*

Law ensures the enforcement of the minimum basic rights to the inhabitants guaranteed by the Constitution of the respective States without exploitation and prevents the misuse of the liberties tending to encroachment of other's space whereas Literature maintains the quorum of the sensibilities of the law making approaches of the experts to devise noble and just tools for human development. Simon Lee in his article, *Law and Literature: Good bye Austin, Hello Austen?* talks about the deep impact of literature and television on human psyche than any 'campaign' to teach them. Teaching people thorough soft ways is one aspect of sensitization and making them learn lessons through tougher ways is another. Literature and art play the softer roles and law the harder ones. In the same essay, Simon focuses on few relevant conclusions drawn by Richard Posner in his book *Law and Literature*, which talks about intricate connections between literature and law. He writes,



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First, both lawyers and literary critics interpret texts. Second, law and justice are perennial themes of literature. Third, literature is perennial theme of legal regulation and litigation. Fourth, both law and literature employ techniques of rhetoric and drama. (Lee 255)

Literature and Law exist as the adjacent faces of the same coin for upholding the human rights and remain intertwined with each other. They reveal the real picture of the society, problems and solutions on one hand and the tool for the enforcement of the same on the other. They have a complementary existence with each other rather than supplementary. The humanitarian approach of literature make the issues sensitive and deepen the understanding ability of the concerned whereas the strict and channeled approach of the law makes it judgmental, brutal and lifeless if dealt solely on the basis of articles and statues. This brings into focus the need of coherence between law and literature which should work closely to minimize this disparity. Further promoting the concept of human rights approach in law and literature, Posner writes,

A course in law and literature can also provide introduction to legal history, legal anthropology and comparative law... It may even provide solution to age old problem of teaching legal writing. In addition law and literature provides a way into feminist legal theory, the law as a humanity movement and critical legal studies movement. (Posner 358)

This idea needs to be nurtured to have a more holistic understanding of law and human rights which should not be understood as an emotionless and inorganic stream of discipline. Though literature too at times has a very harsh portrayal and critical evaluation of the law, which gives it space through its characters and their narrations, is presented as a puppet in the hands of the wealthy and powerful and rarely succeeding against the odds in favour of the poor and the vulnerable but literature concludes itself with the spirit of humanitarianism and 'literary justice' even if it has to stand contrary to the fictional narrative of the literary work as a true or hypothetical reflection of the laws of the time.

Posner writes, 'Legal interpretation is perceived as mechanical whereas, literary interpretation is imaginative.' (358) Literariness adds to the life and emotional quotient of the law and makes it alive. It makes it more humane. Law in itself is abstract and works on the specific codes. Emotions hold no space in it which is questioned by the literature itself. Jonathan swift in his major work *Gulliver Travels* underlines the lifelessness of the law and lack of emotions of the lawyers, saying that,

... bred up from their youth in the art of proving by words multiplied for the purpose, that white is black, and black is white, according as they are paid... It is a maxim among these lawyers that whatever hath been done before may legally be done again: and therefore they take special care to record all the decisions formerly made against common justice and the general reason of mankind. These under the common name of precedents, they produce as authority to justify iniquitous opinions. (Swift 295-7)

However Simon Lee remarks with more positivity and hope and says, 'lawyers are wordsmiths and their words reflect values. The more they can command the language and understand the values projected by the law, the better lawyers, citizens and human beings they will be.' (Lee 258)

Literature has the potential to substantiate law with basic approach of common man towards life and make it more human friendly and inclusive rather than let it evolve as a code of mere jurisprudence. For law to evolve more humanly, literary interpretations have to supersede legal jurisprudence. Law and literature need to move with common welfare oriented approach. Literature too has the responsibility over itself of sensitizing the common man's mind towards the law and to promote them to work out solutions for the life-issues without getting into the hassles of legal procedures. We keenly observe that law and literature are inalienable. Law may have separate existence to the point where it focuses merely on the technicalities of the trade, which unambiguously make it mechanical but to have it workable and fruitful among humans, it needs to have a healthy correlation with the literary humanist approaches. Literary core values have to lace with the basic law to make it more breathable and alive.

### **Human Rights Literature**

The reflections of the society surface through literature. It sensitively portrays the real life events and incidents through the genre of autobiography. The pleasures and pains find voice through it. It is an effective platform for putting forth the human rights issues which impacted their own life and which have been observed throughout their past. Literature effectively blends through it. African American literature in the West and Dalit-Bahujan literature in India exist as a suitable and effective source which can be used for the germination of necessary sensibility among the legal fraternity towards



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human rights. Their testimonial nature of writing chills the spine through raw and bare display of human rights violations and is the abundant source of information and knowledge to cultivate the spirit of humanism.

### ***African American Literature and Human Rights Violations***

African American literature has given voice to African Americans, Africans, Chicano Americans, Red Indians, Aborigines of Australia, etc. in the similar way as Dalit-Bahujan literature to the marginalized sections of the society in India. Among notable African American writers of 20<sup>th</sup> century and later are Richard Wright, James Baldwin, Malcom X, Toni Morrison, Ralph Ellison, Alice Walker who have expressed deep concerns for the human rights violations of the African Americans and have very realistically portrayed the African- American society. On the same lines we can judge the Dalit-Bahujan literature in the Indian context, which are real life narratives of pains and sufferings. They are the encyclopedias of human rights violations in India. Namdeo Dhasal, Baburao Bagul, Bama, Omprakash Valmiki, Sharankumar Limbale, Urmila pawar, Kancha Ilaiah and many more other writers of 20<sup>th</sup> century and later have voiced their life traumas through their autobiographies which show real Indian picture. The sufferings of African Americans are based on the difference of ‘Race’ whereas the sufferings of the Dalit-Bahujans are based on the issues of ‘Caste’. The untouchability is the byproduct of it which deeply eroded the social harmony of the Indian society. The women of both the African-American and Indian society suffered on the lines of sexism and violence. The Native-Americans, Asian-Americans and Chicano-Americans have contributed to the African-American literary platform for expressing the human rights concerns of the African Americans. The writings which started in the eighteenth century through random poetry and slave narratives directly from the mouth of the sufferers themselves became a major voice through succeeding centuries and rippled a movement which brought the gradual repeal of inhuman laws and modifications of many other codes. The literary movement impacted the laws of the land. The African American narratives took not only to autobiography and pain coated poetries, but short-stories and fiction too came up gradually. Starting from the autobiographical spiritual narratives, the first African-American poetry in English came from Jupiter Hammon in 1761, (female poet Lucy Terry wrote French ballad in 1746) or Phillis Wheatley who published volume of poems in 1773 to Slave narratives and Free Black narratives of Frederick Douglass, Harriet Beecher Stowe, Nancy Prince, Solomon Northrup and others who opened doors for further post slavery narratives of Du Bois’ *The Souls of Black Folk*, Booker T. Washington’s *Up From Slavery* and others. The Harlem Renaissance further propelled the human rights issues with renewed vigour and impacted the world view of the human resistance against violation of human rights. It got popularized as a New Negro Movement. This gradually impacted the female consciousness and they came up with further revitalized energy and approach on their issues of gender discrimination among the Black and White community besides the vibrancy of anti-race movements. Harlem renaissance writings of Langston Hughes, Claude McKay, Zora Neale Hurston, Dorothy West or Civil Rights writings of Richard Wright’s *Native Son*; Ralph Ellison’s *Invisible Man*; James Baldwin’s *Go Tell It on The Mountain*, Anne Moody’s *Coming of Age in Mississippi* and others. Further Tony Morrison’s *The Bluest Eye*, *Song of Solomon*, *Beloved*, *Jazz*, Alice Walker’s *Colour Purple*, *The Third Life of Grange Copeland*, Maya Angelou’s *I Know Why the Caged Bird Sings*, Gloria Hull’s *All The Men are Black*, *All the Women are White, But Some of Us are Brave*, emboldened the Black Power Movement and the issue of Human Rights. These works raised the issues of racism all over the globe and brought the evil to the forefront of western world discussions. They gave new thrust to the ideals of human dignity, equality and human rights. All of these brought to light the pains and sorrows of the African American women and the agonies of them being women in the African American community itself. They discussed issues of poverty, family violence, loss of ancient rich cultural heritage and motherland. Other remarkable works like Michael Doane’s *City of Lights*, Nadine Gordimer’s *The July People*, Wole Soyinka’s *Kongi’s Harvest*, *Death of the King’s Horsemen*, Buchi Emecheta’s *The Bride Price*, *Second Class Citizen*, *Slave Girl*, Chinua’s Achebe’s *No Longer at Ease*, *Things Fall Apart*, *Arrow of God*, and Nagugi Wa Thiongo’s *Petals of Blood*, *The River Between* sensitized the psyche of people effectively.

### ***Dalit-Bahujan Literature and Human Rights Violations***

Similar happened in the Indian space where the marginalized people from centuries arose to write about themselves and worked hard to carve a niche for themselves in the literary arena. The sufferers who have largely been the people from depressed classes suffered exploitation and killings from the mighty and led pitiable life at the mercy of the Savarnas- the wealthy and the powerful. Generally and widely referred to as Dalits and Backwards, now they are collectively renaming themselves as ‘Bahujans’ and struggling hard to expand their socio-economic and political representation through human



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rights claims of which they are equally worthy of. ‘Dalit’, the term in general refers to the Scheduled Castes (SC), Scheduled Tribes (ST), Neo-Buddhists and Ravidasia Sikhs of India. The manifesto of Dalit Panthers gave an even wider definition of the newly evolved term Dalit as, “... labourers, landless and destitute peasants, women and all those who have been exploited politically and economically and in the name of religion are Dalits.” (Omvedt 3) Those Backwards who have economically been better off than the SCs and STs and considered themselves socially and culturally superior to the Dalits but politically remained comparatively unagitated, too have gradually aligned themselves with the Dalits under the general term ‘Bahujan’ which has added strength to the voices of both the Dalits and Backwards for the demand of the redressal of their human rights. The conscious spirit of Sant Ravidas, Sant Kabir, Sant Tukaram, Guru Gobind Singh and many other reformers added to the spiritual movement of the common masses but it gained its deciding edge with the fiery thoughts of social leaders like Jyotirao Phule, Iothi Thass, Periyar, Narayan Guru, Sant Gadge and others. It got further emboldened with the metallic works of Dr. B. R. Ambedkar who not only charged the de-motivated people with the spirit to struggle and rise, but also himself boldly stood against the Savarna hegemony, led mass movements, made representations before British, wrote acutely biting and emerged as the most impactful icon in the pre and post independence times for upholding the human rights of all the people of Indian Republic, especially for the destitute. The speeches and writings of Jyotirao Phule, Periyar and Ambedkar propelled the Bahujan movement and it created a fertile ground for the emergence of Dalit-Bahujan literature. Their writings motivated innumerable thinkers and writers who took to working for human rights issues. Initial post-independence works were carried out by many prominent writers as Namdeo Dhasal who wrote *Golpitha*, Baburao Bagul’s *When I Had Concealed My Caste*, Bama’s *Karukku*, *Sangati*, Meeena Kandasamy wrote *Touch*, *Portrait of the Writer as a Young Wife*, *Ms. Militancy*, *The Gypsy Goddess*. Gradually came Omprakash Valmiki’s *Joothan*, Daya Pawar’s *Baluta*, *Kondvada*, Ravikimar’s *Venomous Touch: Notes on Caste, Culture and Politics*, Urmila Pawar’s *Aaidan: The Weave of My Life*, Ajay Navaria’s *Unclaimed Terrain: The Script and Other Stories*, *Yes Sir, People From the Other Side*, Santabai Krishnabai Kamble’s *The Kaleidoscopic Story of My Life*, Arun Krishnaji Kamble’s *Ramayana Sanskruti Sangharsh*, and other prominent writings which unraveled the coarse, tough and cursed life-histories of the marginalized in the much celebrated Indian theme. Besides the sensitive minds and painful histories of the Bahujan writers, many other writers from forward castes and classes made efforts to feel their pain and narrate it through their fictional stories. Among them the prominent are Mulk Raj Anand who wrote *Untouchable*, Arudhati Roy wrote *The God of Small Things*, Arvind Adiga wrote *The White Tiger* and Rohinton Mistry wrote *The Fine Balance*.

Both the African American And Dalit- Bahujan writers wrote many significant critical works on the aesthetics of African American and Bahujan Literature. Significant African American writing by African American include Toni Morrison’s *The Origin of Others*, Rasberry Vaughn’s *Race and the Totalitarian Century*, Kenneth W. Warren’s *What was African American Literature*, Brent Hayes Edwards’ *The Practice of Diaspora: Literature Translation and the Rise of Black Internationalism* and by Indians include Jyotirao Phule’s *Gulamgiri*, B.R. Ambedkar’s *Castes in India: Their Mechanism, Genesis and Development; Annihilation of Caste*, ; Kancha Ilaiah’s *Why I am Not a Hindu*; Arjun Dangle’s *Poisoned Bread*; Sharankumar Limbale’s *Towards An Aesthetic of Dalit Literature: History, Controversies and Considerations*; Gail Omvedt’s *Dalit Visions: The Anti-Caste Movement and Construction of an Indian Identity*, and many others. Both African-American and Dalit-Bahujan literature and movement reflect similar consciousness and strive for same recognition and representation for fulfillment of their human rights. A comprehensive study of such African American and Dalit literature needs to be taken to develop an unadulterated, realistic and bare understanding of human rights violations and the shortcomings of the approaches the legal experts suffer from.

### Conclusion:

Thus we observe that Law and Literature count on numerous commonalities when looked through the Human Rights frame. They stand in conjunction to each other and can draw from the other for the benefit of the society. Being complementary in nature they need to be studied and researched in unison. The literature needs to have a critical eye on the laws designed and Law needs to have a humanitarian approach reflected by the literature of the times. Elizabeth Anker, Associate Professor of Department of English Language and Literature, Cornell University, USA, believes that,

Literature enables a better understanding and interpretation of law ... story-telling and narration are central to law (such as in trial advocacy and legal opinions) and ... greater understanding of law’s stories by examining literature and its modes of narration [can be harnessed]. (Anker, Linking Literature with Law)



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Literature improves the interpretative ability of the Law professionals who practice Law. It enriches their cognitive ability and turns them into a realist, who could place themselves in a better position needed for empathetic approach towards the common man and guards them from turning into a cold blooded human. Literature broadens and deepens their visualization. Anker further writes that ‘connections between law and literature are ultimately about social justice and human rights.’ Thus Literature needs to keep a balanced approach towards Law and Law needs to cultivate a literary touch within itself which will certainly uphold the primacy of Human Rights in the world.

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