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Women, Law and Literature: A Feminist Legal Critique of Manju Kapur and Meena Kandaswamy

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Introduction:

A woman is at once a victim and a victor, sometimes crushed by the system and yet she constantly rises above discrimination, violence and exploitation to find a niche for herself. She is constantly searching for strength and independence, focusing on her inner strength to overcome barriers posed on her by a largely biased society where even laws enacted to protect her often fail to do so. The selected works of Manju Kapur and Meena Kandaswamy reflect the complex workings of the psyche of a woman, who is caught in the web of relationships and the struggle between tradition and modernity often faced by women in Indian society. The inner struggle between a woman's desire to take care of her household and her passion to discover deeper modes of fulfilment that fall outside the traditional social norms are portrayed in the selected texts of Manju Kapur and Meena Kandaswamy. Women's psychology, physicality, socio-economic condition, marginality and literary confinements are best expressed through a literary form popularly known as women's writings. The main concerns of women's writings are the representation of women in literature and women as writers in a male dominated world.

Key words: Feminist Jurisprudence, Patriarchal Subordination, Domestic Violence, Literature

Manju Kapur and Meena Kandaswamy have brought out the perennial problem of gender hierarchy and have shown how gender violence, oppression and marginalization is perpetuated in spite of legal and constitutional safeguards provided to women in India. At the same time, they have questioned the efficiency of the Indian Justice system. Feminist perspectives of Simone de Beauvoir, Julia Kristeva, Kate Millet and Gayatri Spivak have also been incorporated in the study. The study has also attempted to explain the nuances of domestic violence in the light of feminist legal theory to offer a multi-disciplinary dimension.

At a more comprehensive level it focuses on the representation of gender-based discrimination and violence as it impacts Indian women despite legal safeguards, in select Indian women's writings. Law has always featured in the literatures of the past. Such works have been called "Legal Novels" and contain substantive insights into law which is not readily found in other fields of study. Constitutional provisions relating to education and work, certain laws on crime against women, domestic violence, custodial rights and personal law have been contextualized.

Women, Law and Literature

This article gives an introduction to the authors and the selected works of Manju Kapur such as *Difficult Daughters* (1998), *A Married Woman* (2003), *Home* (2006), *Custody* (2011), and that of Meena Kandaswamy *When I Hit you: or A Portrait of the Writer as a Young wife* (2017) and *Touch* (2006). This chapter aims at bringing into perspective the different theories that have been

applied into the study of the primary texts. The emergence of women's writings has been highlighted and the theories applied in the narratives are identified and explained. The intersection of women, law and literature has been brought to a focal point. The commonality of law and literature, the emergence of the law and literature movement, the contextualization of the women characters in their legal situation are narratives that are addressed in this article. This article also gives a brief literature review of works done on the authors and theories related to the interpretation of their works, particularly the feminist legal theory. This study focuses on the intersection of women, law and literature. It has been observed in the essay "Convergences: Law, Literature, and Feminism" that:

Both law and literatures have often assumed that if not totally absent, women are the other, the object of male gaze, the subject of discussion, not the speaker. Looking at law and literature together enables us to see how each discipline incorporates these assumptions (as men speak, judge, describe, and ascribe) and how to challenge that shared vision of the social order.

The law and literature movement contains several distinct approaches. These approaches fall into the broader law in literature and law as literature categories. The law as literature movement which is propounded by Benjamin N. Cardozo sees legal text as forms of literature thus making the literary critique and analyses of it possible. Emphasis is laid on the rhetoric tools rather than the subject matter. On the other hand, the law in literature approach deals with the way legal situation is presented in literature-the fictional situations presented in literature, which can reveal a great deal about political and social situations, and the individual that often finds himself before the court. Scholars of law and literature approach see an intrinsic value in the use of literature to discuss legal topics. Weisberg believes that literature should be valued for its ability to cause one to relate to others and also for the political and social context that novels, particularly those dealing with the law, grapple with. Weisberg wishes to critique social institutions and legal norms. The subject matter and not the rhetorical tools are given importance. What transpires out of this is that law has always featured in the literatures of the past. Such works have been called —Legal Novels and contain substantive insights into law which is not readily found in other fields of study. In the recent years, the fairy tale has also been accepted as a legitimate subject of study in the literature department and now this seemingly childish genre of fantasy literature has been included in the study of law. The law and literature movement has indeed developed from a mere awareness of possible links between the two disciplines to an all-encompassing field of study that includes even the study of folk literature in its legal context. Consequently, this study incorporates feminist legal theory to extract deeper meaning to women's subordination.

Feminist Legal Theory or Feminist Jurisprudence is based on the belief that law has been fundamental in women's historical subordination. The term Feminist Jurisprudence was introduced in the late 1970's by Ann Scales and it was used in a publication for the first time in the first issue of Harvard Women's Law Journal in 1978. In 1984 Martha Fineman founded the feminism and legal theory project to explain the relationship between feminist theory, practice and law which has been instrumental in the development of feminist legal theory. The Foundation upon which the Feminist Legal Theory was based was laid by women who challenged the laws. The

feminist Legal theory evolved as a critique of the American legal system which was accused of being gender-prioritised and largely patriarchal in nature. Chamallas had discussed Clare Dalton's definition of feminism as it relates to the study of law which captures the different concerns of feminist legal writing:

Feminism is ...the range of committed inquiry and activity dedicated first, to describe women's subordination- exploring its nature and extent; dedicated second, to asking both how – through what mechanisms, and why - for what complex and interwoven reasons- women continue to occupy that position; and dedicated third, to change.

Feminist legal theory attempts to explain the ways in which law has been responsible for subordinate status. It was created to recognise and combat the legal system which, according to them, had been structured primarily for male intentions often sidelining important components and experience faced by women and other marginalised fractions of the community. Law, itself has been accused of perpetuating male value system at the expense of female values. Feminist Legal theory is committed to changing women's status through a reworking of the law and its approach to gender. Patricia Cain gives a definition of Feminist legal scholarship which centres on the grounding of women's experience: Feminist legal scholarship seeks to analyze the law's effect on women as a class... The analysis is formed by a distinctly feminist point of view, a point of view that is shaped by an understanding of women's life experiences. This understanding can come either from living life as a woman and developing critical consciousness about that experience or from listening carefully to the stories of female experience that come from others... Legal scholarship is not feminist unless it is grounded in women's experience.

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Feminist legal scholar Catherine Mackinnon had asserted that law is Male. According to her the law sees and treats women the way men see and treat women. Her stance presents an uncompromising picture of law as enacting male power and criticized as such yet it is not wholly right to conclude that law is not gendered. She declares that, "Male dominance is perhaps the most pervasive and tenacious system of power in history..." (Kinnon qtd in Hill 358). She further claims that implicit male bias pervades every facet of modern life. In the essay "Convergences: Law, Literature and Feminism" it was pointed out that:

The work of feminist theory – in both law and literature –is to examine how both disciplines continue to assume either that women are irrelevant or that their role is to be the subject of male desire. The shared work is to recover the other traditions-women who have written, spoken, acted, claimed, judged. (1919).

History has shown that women have not been completely silenced and their stories have invariably emerged. In recent years we find women breaking out of the roles assigned to them and generating their own stories which may generally be termed as women's writings. They needed to find their own voice and space for their mental effort. Charlotte Bronte has echoed this sentiment in Jane Eyre, "Women feel just as much as men feel; they need exercise for their faculties and a field for their efforts as much as their brothers do." (106). A plethora of Indian female writers have tried to depict the female exploitation and suffering in the male-dominated society and among them are Manju Kapur and Meena Kandaswamy.

Conclusion

Through a comparative analysis of the selected works of Manju Kapur and Meena Kandaswamy, this study demonstrates that legal reform alone is insufficient to dismantle systemic gender inequality in India. While the Indian legal framework grants statutory protections against domestic violence, custodial injustice, and systemic oppression, the narratives of Kapur and Kandaswamy reveal how deep-seated patriarchal structures, social taboos, and judicial biases continuously subvert these safeguards.

By applying Feminist Legal Theory to these texts, the research highlights that law is not a neutral instrument; historically, it has reflected and reinforced male dominance. Kapur's domestic landscapes and Kandaswamy's stark portrayals of marital violence both illustrate that female subjugation operates at the complex intersection of institutional law, social expectations, and personal relationships.

Ultimately, these authors turn to literature as an alternative site of justice. Where formal legal mechanisms treat women as passive subjects or silence their lived experiences, creative writing offers a platform to reclaim agency, expose institutional shortcomings, and challenge the male gaze. By bridging law and literature, Kapur and Kandaswamy not only critique the inadequacy of

current legal structures but also redefine women's writing as an essential medium for legal and social critique.

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