



Council for Social Development  
Southern Regional Centre, Hyderabad



Chityala Ailamma Centre for Interdisciplinary Research



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Hyderabad

# National Seminar on Law and Literature

In Honour of K.G. Kannabiran

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Report of  
National Seminar on Law and Literature  
In Honour of K.G.Kannabiran

Organized by  
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# Introduction

The National Seminar on Law and Literature aimed to open out the field of law and literatures bringing together writers, social scientists, musicians, artists, poets and law researchers with a love for literature and creative expression.

The relationship between law and literature is an important one. From laws on sedition and censorship to the vitality of resistance literature in times of struggle, creative writing has played a critical role in shaping the public conscience from the time of the freedom struggle to the contemporary times of new social movements. And importantly, there is a large corpus of writing and oral literature across regions and languages that speak to law and justice with its multiple resonances.

An as yet relatively uncharted field in India, this provides a rich context for research. The shifting relations between laws and literatures – the ways in which literatures have historically been in a contentious relation with the law – sedition, the banning of literatures, performance and film – is an area that merits closer attention. The framing of questions of justice with recourse to English literature (Oscar Wilde, in a well known instance) as also the performance of literature in courts to demonstrate the urgent restlessness of free speech in times of political turmoil (as was the case during the Emergency in Andhra Pradesh) effect the interpretation of law, indeed the preamble of the constitution, through literature. Translation is an important and indispensable project. The translation of literature into law; the translation of law/justice into literature; the imagination of constitutionalism through the opening out of fields of injustice, denials and humiliation in literature; the translation of one genre of literature into another and the place of law in this process; are important concerns.

In the era of intellectual property as a right vested in the individual, do literatures constitute the commons? And what are its boundaries and limits of literary commons?

What are the particularities in the relationship between law and literature in different socio-political and economic formations? During colonialism, for instance. Or during periods of globalization and neo-liberal times? Or during occupation? In societies structured by caste, or those that oust the adivasi from the literary and social imaginary? How does literature represent identities fractured by majoritarian hegemony and violence, and how does literature shape such identity?



The seminar featured exploratory presentations that will be developed into complete papers for publication in a volume of essays that will commemorate the work of the celebrated civil liberties advocate K.G.Kannabiran.

Participants explored the complex relationship between law and literature through an examination of specific texts, genres, compositions, playwrights, films, poets, writers or historical moments that present a coming together of various strands in the tapestry of literatures and law.

Asmita Resource Centre for Women has been actively involved in highlighting the interplay between law and literature and using these as powerful tools to address gender issues.

Volga, in her welcome address underscored the fact that the year 2012 marks the bicentenary year of Charles Dickens who wrote extensively about lawyers and the legal system and also marks the 150th birth anniversary of the legendary poet Gurazada Appa Rao who critiqued colonial rule. She also remembered that Kannabiran was a voracious reader who was committed to the freedom of expression – creative writing, film and music. He specifically asked for Rabindranath Tagore's poem *Where the Mind is without Fear* to become the anthem of social movements. Asmita translated it into Telugu and distributed it widely in deference to his request.



## Inaugural Address

Padmashri Jeelani Bano, the well-known Urdu writer delivered the inaugural address. Flagging the supremacy of the constitution as the sole arbiter that has the authority to resolve the conflict between what is acceptable in a society and boundaries of literature, she said that a few self proclaimed leaders continue to raise objection against some writers' writing on caste, religion and gender issues although in reality their writing is hardly controversial. And there are many who believe that writing goes beyond censorship and is a question of freedom of expression. However the question is whether such writing is against the law of the country or against the rights enshrined in the Constitution? She urged the participants in the seminar to attempt to answer these questions and analyze the nature of confrontation between the government, society and writers.

During the British Era, revolutionary writers used literature as a tool to condemn the inhumane practices of the British as well as the social evils prevalent during that time. A few writers were sentenced to death, few were sent to exile but in spite of this writers dared to write and continued to write. Their writing inspires us even today and as writers we have a responsibility and commitment to write against these forms of oppression and discrimination. In order to build an inclusive society, writers should continue representing the voices of the oppressed masses through their writing.

## Introduction to the Seminar

Kalpana Kannabiran in her introduction said that this seminar has been a long standing dream. It is a field that is begging to be explored. She said that her fascination with law and literature has to do with K.G. Kannabiran's absolute fascination with literature, popular media, film, and poetry. He was fascinated by the representation of the courtroom in films and teased out the point of law and similarity between courts, films and laws. The courtroom might be drab, but is transformed into a theatrical arena in film.

Her route to looking at law and literature was not from a literary background. The way literature figures in law is evident in the recent Supreme Court judgment of *Nandini Sundar vs. State of Chattisgarh* case where the court referred to Joseph Conrad's *Heart of Darkness*. The question remains whether the mention of literature takes law out of context and if law can actually cite literature and debate around it.



The engagement of law with literature remains much older. In the early 1980s, in a rape case Justice Krishna Iyer arguing for the remission of a man convicted of rape cited that no man is too old or too bad to be reformed, after all de *profundis* was written by a sexual pervert in prison (speaking of Oscar Wilde)! Justice Krishna Iyer was a strong believer in prison reform and not in retribution. How is literature used in the courtroom? The way literature figures in British courts is interesting because judgments themselves have literary value. An excerpt from the book *Literature of the law* was read to highlight this.

Referring to the judgments delivered by Indian courts, Kalpana said that while we have very good judgments coming out of Indian courts they are low on literary value for the simple reason that the court works in and through translation, where much that might be literary is lost in translation, which has been our experience in literature as well.

## Indian Legal System and Translation in the Indian Context

Translation is often an act of creativity that surpasses writing. But if we look at translation in court the act and the experience is translated into 'factual elements' and committed to paper - either in the police station or petition or lawyers brief. This translation itself interpolates fiction into the writing of fact from the mild to the frenzied - writing in a manner that makes for an effective case.

There are five ways in which the act of translation operates in the Indian context. Drawing on cases K.G. Kannabiran had fought, the Bhargava Commission that enquired into disappearances and torture during emergency is the first signpost. It turned out that police officers routinely fabricated First Information Reports, a fact that came up during



the proceedings of the commission of enquiry. This then is the first act of translation – of falsehoods into fact by the state.

The second act of translation requires the performance of experience/ ideology in the courtroom- this can happen in one of three ways: the performance of soliciting for prostitution in the courtroom during the Mukhtad Commission that investigated the rape of Rameeza Bee was an example.

Performance aids translation by the court in yet another way. In the Premananda case where the judge got a magician to perform tricks in the court to challenge Premananda's claim that he was a godman.

The third way is for poets to perform in court. This was with reference to a case challenging the constitutionality of revolutionary poetry during the Emergency. Cherabanda Raju was asked to recite his poetry in court and K.G. Kannabiran then pointed out that he was not saying anything that was not already contained in the Constitution.

Revolution is of utmost urgency and the sense of urgency is depicted through revolutionary poetry, there is urgency in the revolutionary voice, which does not necessarily mean that the revolution will happen immediately or even that they are going to do much more than speak in urgent voices. The writing of poetry in other words cannot be construed as part of the act of revolutionary overthrow of the state. In this one already sees a fourth level of translation - the strategic reading down of the power of the pen to justiciable elements.

The fifth level of translation is contained in the judgment, which in the appellate courts is in English, which most judges labour through. But even where it is in Hindi, there are problems as for instance in a case of rape in Jharkhand where the use of the word 'sahi' was interpreted by the complainant in a rape case as correct, while it actually meant thumb impression in the court's language - probably from siyahi or ink. At this level when the judgment comes out, there are multiple losses and disjunctures, if we look beyond the ratio or the final decision.

Perhaps because of this difficulty of translation, judgments tend to reproduce pages upon pages of other judgments. It is difficult to discern an original style or literary flourish in Indian judgments in English. But what are the ways in which the court represents ideas of justice? It is an act of representation after all, like literature.

The conception of the Constitution as a commons is important in the Indian context. In this era of the rise of the commons as the field of access and justice in times of appropriation, the Constitution as our commons is important. It lends itself to radical readings and not merely staccato precedent driven ones. And the imagining of the constitution as a commons that belonged equally to all but especially to those that are excluded and marginalized, was at the core of K.G.Kannabiran's life and work.



The final layer of translation: the reading of Constitutional rights as culture by marginalized groups and its translation into modes and forms and languages by communities that then use this translation to interrogate the state and government. Translation as resistance is rich with possibilities. In the course of translation of rights, there is simultaneously and criss crossing with it the translation of cultures. While all of it has to do with law and literature only a fraction of this rich and pregnant discourse is captured by court frames.

How is the law translated into creative writing? What are the ways in which literary criticism, and literary debates cross-pollinate ideas of law, consciously or implicitly? Where does justice figure in relation to law in literature? She concluded with two statements by Mohammed Hanif, who in a recent interview said that the Darul-uloom-Deoband is the greatest fiction writer of modern times. But importantly, in this context, he also said that silence is blasphemy.

Where blasphemy is unlawful, how do we as lawyers, writers, citizens, oust the lawful from our midst and put in its place the just. How do we translate the unlawful into the lawful? Under what conditions and what are its limits? What is the place of Ambedkar's idea of constitutional morality in this scheme?

Discussions following the introductory presentation by Kalpana Kannabiran were around the issue of censorship, technological imaginary and censorship by the state.



*Sumangala Damodaran:* Is there any documentation of the allegories used in rape and sexual abuse judgments. Referring to a case of child sexual abuse one needs to look at the court drama that unfolds negating the fact that a child is not a woman and thus there cannot be raped. These courtroom references need to move beyond cultural stereotypes.

*Usha Raman:* Both law and literature are in the realm of imagination. The Technological imaginary consists of the myths, attitudes and values that a culture attaches to new technologies, sometimes in terms of their perceived abilities to fix what's wrong with society, and sometimes in terms of their perceived destruction of social cohesion (Lister et al. 2003) and legal imaginary is one where law has to deliver the perfect system.



*N. Vasanthi:* Underscoring the symbiotic relationship between law and literature, observed that the progression of laws is influenced by literature for example the understanding of modesty by Indian courts. Therefore a symbiotic between the two should be the focus of our work.





## Session I: Faith, Scriptures and Literatures

Chair: Vasanth Kannabiran

T S Satyanath's paper, circulated in absentia, was an attempt to map the nature of relationship between literature and law in medieval Indian literature. Contrary to viewing such a relationship as interdisciplinary, implying an interface zone between watertight compartments, it has been suggested that *Dharmalastra*, differentiates in terms of typological and continuum categorizations such as *sama*, *dana*, *bedha* and *danda*. As the king is the custodian of Dharma, the administering of the righteous way centers around him, whether it is in law books or literature. Accordingly, the last three descriptions among the eighteen descriptions that are essential for a *mahakavya*, constitute mantringa, dutanga and yatranga respectively. Within the context of such a medieval mapping, the paper probes the textual and oral narratives on Bhartrihari that centers on an autobiographical verse from the *nitilataka* which problematizes the interrelationship between literature and law in medieval Indian literature.

Hameedah Nayeem's paper presented the relevance of deconstructing text and Derrida's argument that philosophy is a species of literature that can be extended to theology and scriptures as well as a species of literature which allows us to argue that principles grounding legal structures - if not the concrete details of laws - too are literary constructions. We can also read laws as literary texts. From ancient Greek and Chinese to far Eastern or Indian legal texts couched in literary format to Bible and the Quran which enunciate some laws for the believing communities, we do find laws couched in literary language and that partly

explains ceaseless efforts throughout history to interpret them from various perspectives. Traditions have been usually quite flexible. Muslim feminists have exploited ambiguity and polysemy in scriptural text to argue for more liberal interpretation of the law. The paper explored strategies in certain key texts of feminists that explain away the problematic terms so that a space is created for feminist interpretation

Jameela Nishat, feminist poet and writer examined the connection between Muslim Personal Law and Deccani Women literature. According to her literature is critical to understanding law because it teaches a certain way of thinking. It also helps to examine the law from a humanistic and women's perspective.

Law and literature inter-relate as modes of representation and as strategies for engaging with social problems. Soghra Humayun Mirza from the organization Bazamb-Khawateen-Deccan, questioned the inequalities and restrictions over mobility and education that existed in Indian Muslim Personal Laws through literature. Shakeena Begum Khumar wrote about the practice of marrying young girls to older men through her poetry raising the issue of early marriage and responsibility of parents towards their daughters. It has not been only women writing and publishing, but there have also been men who have encouraged women to write. One of the Maulvis in his writing emphasized how women writers are better than men.

It was not just middle class woman who published what they faced but women belonging to privileged classes also who penned down their experiences in spite of restrictions placed on them from society. Despite the differences of opinion regarding strategies to empower women they agreed on the common agenda of education of women. Incidents have shown that it is not only women who have spoken against issues like talaq and polygamy but men have supported their voices. She concluded by stressing on the role of literature in creating empathy and helping us understand the gender discrimination in Muslim Personal Law which facilitates in finding the possible

ways to question the system.

Volga's paper on *The Hindu Code Bill - A battle fought through literature* discussed the heated debates around the Hindu Code Bill echoed in the Telugu Literature of the period. This bill was drafted by the upper castes; while the remaining sections of society were unaware of the legality of the act. However many Telugu stories and novels focusing on the issues of family and marriage discussed issues raised in the Hindu Code Bill. These literary discussions influenced the middle classes who began to oppose the bill while another section felt it should be made more radical. The conservative section was headed by Visvanadha Satyanarayana and the radical section by Chalam.



Chalam has written extensively about the oppression of women in the family and reproductive rights in his novel *Stree* and *Maidanam*, way back in the 1920s. All the leading characters in his novel are women who have rebelled against the institution of the family. In his novel *Maidanam* the female protagonist Rajeshwari leaves the safety of the family and elopes with a Muslim asserting her right to choice and sexual freedom. It was also groundbreaking as it was the first Telugu novel to debate pregnancy and women's rejection of motherhood.

Visvanadha Satyanarayana's novel *Cheliyali Katta* was a response to Chalam's novel where he juxtaposed liberation from oppression in the family to the liberation of the next world, where he warns that even if you enjoy life in this world the lack of someone to perform your last rites and ensure your safe passage into the next will bring you the suffering of hell. In *Veyyi Padagalu*, Vishvanadha introduces critical arguments against divorce laws, widow remarriage and women's education. He argues that the very changes that Chalam advocates through women's struggle in the family would destroy the social fabric of society. Adavi Bapi Raju was another writer who rejected Chalam's ideas about women's freedom and opposed the Hindu Code Bill. Not only the bill but also the All India Women's Conference that was pushing for these reforms were severely criticized.

Volga said that when three novels – *Veyyi Padagalu*, *Narayana Rao* and *Maidanam* went up for a competition set up by the Andhra University, *Veyyi Padagalu* won the first prize whereas *Maidanam* raised heated discussion. Men made sure that women did not read Chalam's novels while women read them secretly.

In her conclusion she flagged the relevance of debates around the Hindu Code Bill, which was fittingly captured and presented in the literary discourse of that period. The significance of literature for the common people, in examining the social fabric and intricacies of law was also emphasized.



## Discussions focused on the issue of censorship and Islamic feminism



**Suneetha Rani:** Commentaries on scriptures should become part of the literature and like Ambedkar's discussion on scriptures, should be read as literature.

**Deepa Dhanraj:** What is the difference between "Muslim" feminist and "Islamic" feminist?

**Hameedah Nayeem:** Islamic feminists engage with clergy in redefining the Shariat and theological discourses on scriptures; whereas Muslim feminists question problems and take up issues directly rather than engaging with the clergy.

According to her the Shariat keeps changing but the fundamentals of law remain constant.

**Kalpna Kannabiran:** There is an understated historical bias in understanding the Islamic and Muslim feminist standpoint. Theoretical positions are reduced to physical and visible markers. For example low age at marriage and high incidence of bigamy among Hindus

is hardly addressed. The way in which we draw a relationship between law, literature and theology shapes the way we approach and respond to it. She also said that all the three speakers have brought out the relationship and debates about equality and inequality rooted in culture based on religion.

*Nabin Mundu:* What are the remedies available in law to address the alienation of land due to inter-caste marriages among Adivasis? Of particular concern is the urban migration of Adivasi girls and their exploitation by non- Adivasis.

*Vasanth Kannabiran:* Chair of the session, noted that the regressive policies of the state deny the guarded tongue the right to speak. Interrogating scriptures and religious texts are censored despite the freedom to engage and mould it according to the context. She also asked how one would forge new ways to build theory and break out of the oppression women undergo in the garb of religion.







## Session II: Speaking To Rights and the Constitution

Chair: Saroop Dhruv

D Nagasaila, Advocate Madras High Court presented a paper on *Law, Language, Culture and the Rights Discourse*. She examined the everyday dialectics of language and culture with law, legal institutions and decision-making. According to her it remains a moot point as to whether the process of justice delivery in the courts is a neutral, value-free, fact based and an unbiased affair. What is not taken into consideration is that the seemingly neutral legal interpretative process is actually affected by the social and political world view and mind set of the judge, the legal culture of the court system, the social background of the issues concerned and the nature of the actual legal conflict adjudicated upon. It is axiomatic that where the legal challenge is one which covers issue of social differentiation, community divides, identity conflicts, gender discrimination, sexuality challenges and minority issues, the more is the impact of world views, mindsets, values, ethics and court culture. The dialectical relationship between court language, court culture and the legal process is highlighted by the manner in which lawyers address courts. The term “My Lord” is not a plaintive form of address; embedded into those two words is a form of subordination, in which the judge is the superior person demanding supplication and obedience from counsels, with the Bar implicitly accepting such a construction. Breaking this norm invites serious consequences both for the advocate and the litigant. She spoke of a few instances when the rights of the litigants have been jeopardized.



Drawing from the meaning of the term `neethi arasar' (a literal translation of the English `Law Lord' or `Justice Kings') and not `neethi-pati' meaning simply `judges' she examined how judges identify themselves as the co-sharers of state power, status and authority rather than upholders of constitutional rights. She concluded by focusing on the need to redefine, re-appropriate the words "For the people, by the people, and of the people" and democratization of the judiciary.

A.M.Yazdani, a journalist by profession presented a paper titled *Protest Literature: the Genesis of a Future Constitution*. He mapped the law and literature movement in USA during the 1970's that believed literary works provided an insight into the nature of law which would have otherwise been neglected if laws were in isolation. In the Indian context, especially in the state of Andhra Pradesh there was significant contribution to Telugu revolutionary literature by Maha Kavi SriSri, KV Rama Reddy and Kodavatiganti Kutumba Rao, to extend support the Srikakulam armed struggle by tribals.



Employing a Marxian perspective in order to understand the relationship between law and literature he stated that though the superstructure is primarily, determined by the base, after a reasonable growth the former will also influence the latter. This means law and literature not only reflect society but also act as catalytic agents in bringing social change. In the mutual effect of the process of upward and downward motion, from base to superstructure and vice versa, we will have two kinds of law and literature. We can term them as law and literature of the people and the ruling class. They are antagonistic to each other as they represent two opposite classes of society and have to be studied separately. The law of the ruling class can best understood through the story of Raja Satyahaschandra. While the law and literature of the people is creatively depicted in Bhushanam's 1973 novel Kondagali. The novel depicts the struggle for survival and miseries of tribal folks due the nationalization of forests under the Indian Forest Act - 1953 and it chronicles people's resistance against the Forest Act. Kondagali is the first ever novel produced by the Revolutionary



Writer's Association that was founded in 1970. The novel holds the credit of illustrating the backdrop of historical Srikakulam Armed Struggle for the first time. It was also the first ever novel banned by the Government of Andhra Pradesh after its formation in 1956.

Social movements have been successful in bringing the necessary changes in the legal system like the feminist movement in India led to the enactment of the Protection of Women from Domestic Violence Act, 2006 (PWDVA) and the Dalit movement led to the enactment

of the Scheduled Caste and Tribes (Prevention of Atrocities) Act, 1989. He concluded with Shelley's statement that poets are the unacknowledged legislators of the world. The term

poet includes political writers, intellectuals, painters and public speakers like Thomas Paine, William Godwin and Voltaire.

## Discussion points after the presentation focused on the disempowering process of access to justice among Adivasi Communities.

*Nabin Mundu:* Adivasis usually have a non-Adivasis lawyer to handle their cases. These lawyers have a distorted perspective of development and in some cases in spite of a favourable order there is alienation of their land from Adivasis. Constitutional guarantees or progressive legislations like the Forest Rights Act 2006 have been unable to protect the interests of Adivasi groups.

*Kalpana Kannabiran:* Resistance movements have had a direct impact on the Constitution. Languages used in the court room and by the journalists translate to form everyday literature.

*Usha Raman:* There was commonality between the two presentations; the process outside the courtroom enables legal process within courtroom. Language of the court is derived from everyday literature.

*Suneetha Rani:* Most protest movements turn into revolution because they do not find space in the Constitution.

*Saroop Dhruv:* The chair of the session said that the legal system is turning fascist. In a repressive state how do we assert our rights? The state of Gujarat has disregarded legal rights with the establishment of SEZ and other developmental projects. How do we guarantee fundamental rights and human rights in such a situation?





# Performing The Relationship Between Law and Literature I: Vidya Rao

Thumri performance by Vidya Rao opened out the relationship between law and literature to a creative exploration that was captivating. Vidya Rao said that the Thumri was a classical vocal music form of North India and spoke about the manner in which the Thumri repertoire was presented and the text that has undergone a lot of change and that it has become restrained and subtle with time. To understand Thumri one has to understand the *nayika* and the manner in which the *nayika* addresses her beloved. The first rendition by Vidya Rao was about the *nayika* and the various forms in which she addresses her beloved.

Girls were married when they were seven or eight and they remained with their parents until they attained puberty. It was only after the *gauna* ceremony was over she could go on to live with her husband. In her next recital Vidya Rao presented a composition about the longing of a young girl for her husband who wants him to take her as she is a grown woman now and not a child anymore.

Vidya Rao discussed and performed a particular Thumri that could have been sung during 1857. The *nayika* in this song mentions the increasing presence of the British soldiers on the streets requests her beloved to come back as soon as he can. She sang a soul stirring rendition of Meera Bai's poetry which highlighted Meera Bai's admiration for her guru who was a *chamar* and the pity she felt for the king her husband.

Vidya Rao mentioned that many Thumri's refer to the presence of the *kotwal* or the East India Company. One such song which she sang was about young wife pleading her husband not to get carried away with the beauty of another woman whom he could meet in course of his employment with the company. Vidya Rao kept the audience enthralled with her renditions and interpretations of these compositions





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Day II

## Session III: Performing Rights and Justice

Chair: Volga

Sumangala Damodaran presented a paper titled *Expressing Equality through Performance*. She has been working on the musical legacy of Indian People's Theatre Association (IPTA) and has been collecting, archiving, analyzing the music of this relatively unknown tradition that existed in the 1940's and 1950's. Using examples from poetry and music she explained their association with the struggle and demands for rights. This imaginary has been adopted significantly into the Bombay cinema; however mainstream films did not include the most radical lines that were part of the repertoire.

Her presentation was on the creation of a radical cultural impulse in the first half of the twentieth century that focused on the ideas of equality and emancipation, on establishing the legitimacy of a new subject, the common man, and his right to be accepted as a human being. This was articulated in the form of a political movement and was also influenced by historical events like the Great Depression, the success of the Russian revolution, which presented ideas of an alternative economic and political system not seen before. The outbreak of First World War and 2nd World War looming over the horizon in 1930s marked the growth of fascism that was challenging the success of capitalism substantially. These historical conjunctures gave rise to a radical impulse, which recognized common people as legitimate subjects of history, and influenced art to a very large extent. The common man

or 'aam aadmi' we talk about today is not an illegitimate entity because the very idea of actually presenting a common man in his or her everyday life as a subject of art came up as a significant idea during the movements for emancipation of slaves for equality and freedom.

This radical impulse in fact lays the ground for alternate views on nationalism and unique views on internationalism and both allow a link up of ideas about the people who are collective, ordinary and legitimate constituents of that whole. The imagining of the unique and new collectivities involving ordinary people also translated into struggles and demands for rights.

In her conclusion she stressed on the power of the artistic image that continues to be perceived as a threat to the establishment.

Sushama Deshpande, a renowned theatre artist presented her experiences with reference to her work in Maharashtra especially with Marathi theatre and arts. According to her, law is an important technique that can be used to promote progressive justice. Literature offers a similar opportunity because people are changed by what they read and by what they write, as they can be by all creative arts. Both law and literature can be instruments to preserve the status quo or to promote repression. Referring to *Sukhant*, a mainstream movie, she said that literature can also sensitize people about the law. It informed her about the law regarding mercy killings in India. Similarly the play on the life of Aruna Shanbag on sexual assault and plea for euthanasia was a theatrical intervention on law. Relationship of law and literature can be drawn from the Child Marriage Restraint Act, which was also called the Sharda bill and the Marathi play *Sharda* that is based on the Child Marriage Restraint Act which critically examined the practice of marrying young girls to adult men and widowers. She said that literature can also educate law students about human conditions.

Referring to Censorship in theatre she said that in Maharashtra censorship certificate is a must for any performance. This is also the case in Gujarat. She narrated her experiences of lobbying and issuing certificates for several theatre performances after she became a member of the Censor Board.

Expanding on the repressive role of rightwing groups like Bajrangdal and Sambhaji Brigade in restricting freedom of speech and expression she said that James Laine's book *Shivaji: Hindu King in Islamic India* was strongly opposed in Maharashtra and the Bhandarkar Institute where James had undertaken his research was also vandalized. Similarly a play titled *Maruti ani Champagne* faced the wrath of Hindu right organizations who felt offended by the title which mentions a god (Maruti, another name for Hanuman) in the same breath as alcohol. In order to ensure screening through quick censorship the play was re christened *Makadachya Haati Champagne*.



She has also directed and written plays for female sex workers, the latest being *Gharwali*. The play portrays the situation of female sex workers in society, speaks about their rights and position of law regarding Female Sex workers. The women wanted to reach out to society using the medium of theatre. She concluded that working with female sex workers of Sangli has been an enriching experience and shows how law can be understood through theatre.

Saroop Dhruv, a poet and writer presented a paper titled Chain around the Pen and Bars on the Curtain. She highlighted the manner in which freedom of speech and expression has been curtailed by the state despite the Constitution guaranteeing these rights to its citizens. The archaic Dramatic Performance Act 1876 passed by the British to restrict voices of protest is being imposed on

writers, poets and artists in Gujarat even today. The Act was challenged in the Allahabad High Court in 1956 and in 1958 in Punjab. All provisions that were constitutional were re-imposed save a few. However in the state of Gujarat and Maharashtra this Act was enhanced by the Bombay Police Act 1951 which controlled public performances by introducing prior permission.

Flagging the relevance of law as an important instrument of public policy she said that it should be our endeavor to maintain true democracy and freedom. While laws like the Dramatic Performance Act 1876 curtail such expression.

State censorship on literature, in the state of Gujarat was orchestrated by the British, banning novels like *Bhaththi* and *Atmakatha Vol II*. *Nevu Varsh Part 1* was banned as it described the armed struggle of 1857, even today part one cannot be published. They were told how could they praise violence in the land of Bapu?

She spoke of censorship of tele-plays in the vernacular channels of Doordarshan which was not applicable to private channels. Telecasting of *Jivavano Adhikar* and *Rajparivartan* were stopped in 1986 and 1987 respectively. These plays were produced by the Samavedan Sanskrutik Manch a known leftist group. The group to which Dhruv belongs has ignored state censorship, and continues to have open air performances by way of street plays or full length plays. Plays that address political issues or present radical views are branded as anti-Gujarat and are censored by the state.

Speaking about protests against pre-censorship and the Dramatic Performances Act she said that there have been protests against the state's Censorship Committee in 1984 for censoring the play on *The Life and Time of Bhagat Singh*. With the overwhelming support of intellectuals and activists in Gujarat and other states, the Gujarat government was compelled to make a few changes. Now a Script Reading Committee has been appointed but pre-censorship continues. In 2004 '*Suno Nadhi Kya Kaheti Hai*' a play about the city beautification scheme and other developmental projects, was banned. But the play was staged in the city of Hyderabad by Shaheen. She concluded her talk by saying that it is the repressive nature of these laws that inspires writers and activists to protest and achieve freedom of speech and expression.





Discussions after the presentation focused on the idea of interrogating the self and freedom of speech.

*Paromita Vohra:* The idea of interrogating the self which began in the 1940's and was influenced by the social reform in India.

*Vidya Rao:* The song Mehangai Dayan from Peepli Live was released during recession. The BJP made this song their slogan and infused it in their campaign.



*Saroop Dhruv:* we need to fight against routine censorship and repressive laws through our literary work thereby reinforcing freedom of speech and expression





## Session IV: Recovering Lost Literary Heritages: Exploring Free Speech

Chair: Deepa Dhanraj

Nabin Mundu, Editor of Mundari Magazine presented a paper on the *Future of Mundari Language*. He presented an historical overview about the Mundari settlement in India. The mundas settled in India about 60 thousand years ago. Many mundas were driven out of the indo-gangetic plains to the forests and settled in the Chotanagpur areas as mentioned in the ancient literature of Chotanagpur.

Speaking about the relationship between language and identity, he said that there is constant struggle to preserve the Mundari language that is spoken by the mundus residing in Jharkhand, Odisha and West Bengal and also mentioned the efforts of Father John Hoffman the author of *Encyclopedia Mundarica* in finding Greek, German, Latin equivalents to some Mundari words. Haka (mundari) =hook in English. Mohen-jo-daro is the Mundari name of *Moe-Jo-Daru* where *Moe* means bud, *Jo* means fruit and *Daru* means tree. Harappa is the English versions of the mundari word *Horo-Rappa* basically meaning the cremation ground. He gave examples of certain areas in Delhi that have come from mundari names for instance the place Mehrauli has an equivalent Mundari name *Mahra-Uli*. *Mahra* means Shepherds and *Uli* means mango.

As editor of Mundari magazine he spoke about publication of newsletters, which is an effort to preserve the Mundari language. He mentioned a few newspapers in Mundari that were published earlier but had to be discontinued due to financial difficulties.

Referring to Article 350-A of the Indian Constitution that provides for preservation and education of the children belonging to the minority groups in their mother tongue, he said that creation of the state of Jharkhand and sixty years of non-implementation of this article has severely impacted tribal students access to education and other related entitlements. Initially the Bihar government passed a resolution in 1953 stating that children of the minority groups will be educated in their mother tongue and printed reading material but no teachers were appointed. There are approximately 30 tribal languages in Jharkhand which might face the similar fate of inadequate implementation and lack of political will. In his conclusion he stressed on the implementation of Article 350-A which is critical in ensuring protection and promotion of the tribal languages, especially Mundari and will also act as a channel to assert their rights and fight for social justice.

Vidya Rao, speaking about the Thumri repertoire which is known for its sweetness, delicacy and grace, she said the very style of singing Thumri is called bol banao. This technique is used by the singers to tease out a range of meanings from the simple poetry. The bol bant ki Thumri focuses on the rhythm. The Thumri repertoire developed with the changes in the economic, social and legislative changes of the country. The two issues that she looked into was the self censorship of the various Thumri repertoires' and the cases fought by them.



All India Radio had an unspoken rule disallowing public broadcasting by any artist whose life was a public scandal. Most thumri singer's lives were public and perceived as scandalous. But the lives of the audience and music lovers were equally controversial. However thumri singers wanted some kind legitimacy and recognition as they wanted to be seen as beyond mere kothewalis and depended on AIR for recognition. But the policy of AIR was either the thumri singers stopped their peshwa or were able to produce a marriage certificate. Many got their marriage certificates

made and while many others decided to forgo the opportunity to sing for AIR. Anwari Bai and many other thumri singers refused to follow the dictates of AIR and refused to perform for them.

In the 1920's the repertoire changed, it was brought closer to the manner in which khayal was sung. Thumri was sung by the courtesans to entice to dance as Vidya Rao put "*thumak ke rijhane ke liye ankhone me ankhen daal ke gaane wali cheez thi Thumri*". Thumri performance was part of melas and dargas. Later it was disallowed as it was seen as polluting the minds of young boys and the sanitization of Thumri began. The style of singing changed and the singers gave seated performances. It was slow and the text also changed considerably. From being overt it became subtle. The speaker gave the example of a thumri sung by Rasoolan

Bai “*phool gaendwa na maro lagat karejwa mein chot*”. The earlier version sung sometime in the 1935’s was sung as “*phool gaendwa na maro lagat jobanwa (breast) mein chot*”. The singers censored the words to have greater acceptance among people.

Vidya Rao said that Thumri bandhishes (compositions) had references to Kotwal, the *gora saab* and the court. She said cases were filed by the thumri singers on grounds of cheating, breach of contract and against several instances of violence perpetrated against them. She elucidated a few of them. In the 1940’s when the entire tradition fell into disrepute the thumri singers wanted to learn music from well known khayal (a form of Hindustani music) singers.

Training under a singer of repute was an expensive affair and courtesans in most cases could not afford such expenses. There was one such case when the courtesan after payment of a hefty fee went to court to enforce her right to a proper taleem from Rajab Ali khan Saab. The thumri singer lost the case when she went to court claiming breach of contract. The courtesans lost most court cases filed by them. There are reports on the courtesans like in the case of Janki Bai who was also known as *chhappan churi* as her face was slashed 56 times by a spurned man. That did not stop her from being a singing sensation. Such attacks were a common happening those days. Few singers married lawyers who would protect them and be their benevolent benefactor.

Akkineni Kutumba Rao, a writer and film maker spoke about literature and labour laws with reference to ‘*Maalapalli*’ a Telugu novel written by Laxmi Narayana in 1920s. He said Telugu literature since the beginning of the late nineteenth century has discussed social and political issues, portrayed lives of the workers and the common man and stressed on the significance of the social reform movements. He said that literature was instrumental in creating awareness on the struggles of the agricultural labourers, Dalits and factory workers.

The novel *Maalapalli* focuses on the right of workers to form unions, organize for better conditions of life and work. The novel also draws from the factory laws which have laid down minimum work hours, right to form unions, education for children, and compensation during the course of employment and retirement benefits. The novel also speaks of distribution of wealth between the haves and the have not’s. A series of bans was imposed on the novel because it portrayed the situation of the landless labourers and suggested unionizing and organizing of workers as the only way out.

The progressive literary movement in Andhra Pradesh saw many writers and poets writing on issues of bonded labour and exploitation of agricultural workers. Raavi Shastry’s *Aaru Saara Kathalu* reveals the hypocrisy of the upper classes, *Kondagaali*, written by Bhushanam after the Srikakulam Armed Struggle spoke about the exploitation of Dalits.

Mahakavi Sri Sri’s Mahaprasthanam urged workers to march towards Maro Prapancham (Another world) – the socialist world. According to Sri Sri ‘there is nothing that can equal



the beauty of labour'. Using the tools of labour as subject matter of poetry he projected human dignity, agency and strength of workers.

Referring to caste based violence, structural adjustment Akkineni Kutumba Rao said that *Swaraajyam* a novel he wrote in 1981 addressed the issues of oppression, discrimination and exploitation faced by the Dalits in Andhra and their subsequent migration to urban areas. The massacre of Dalits in Karamchedu sowed the seeds for the Dalit movement. In his other novel *Karmika Geetham*, published in 1987 Akkineni Kutumba Rao addressed the issues of non- implementation of labour laws in the industrial sectors.

His conclusion focused on the emerging contradiction and destruction of labour and livelihood relations due to globalization since the 1990's that has resulted in winding up of many industries, retrenchment of workers, lack of unions in many sectors like the BPO industry and difference in wages. These issues will provide a new area for Telugu literature to focus on.

## Discussion preceding lunch focussed on the future of local dialects of Adivasis communities and the connection with constitutional guarantees and the law.

*Kalpna Kannabiran:* The relationship between the marginal voices and the law has come out very strongly in the two presentations. Like Mundari in Jharkhand, many Adivasis communities in Andhra Pradesh converse in Telugu and do not speak their dialect.

*Nabin Mundu:* when asked about the members of the Mundari communities have migrated to Assam the connections between Mundari's in Assam and Jharkhand he said that those who have migrated to Assam are employed in the tea gardens and they continue to speak Mundari whereas those mundas who stayed back in Jharkhand do not speak the language any more. Speaking about the advancement of Mundari language, he shared that at present there are 60 Mundari writers who are helping promote Mundari but the lack of political will and government support are major barriers.

*Suneetha Rani:* While several universities have been offering courses in Santali, Mundari was not being included in the university curriculum.

*Nabin Mundu:* The Department Of Tribal and Regional Languages established in 1980 under the aegis of Ranchi University offers taught courses for nine languages (five major tribal languages and four regional languages). There has been regular demand for inclusion of Mundari, Santhali, Kharia, Oraon and Ho but nothing much has been done about it. Substantial efforts should be made to preserve, protect and promote these local languages, else they will degenerate and the future generations will have no knowledge of the past nor access to literature and readings that are storehouses of the literary and cultural narratives of the community.



*Vasanth Kannabiran:* An added problem was that the younger generation are losing interest in their mother tongue; and a few can either read or write the language.





## Session V: Literary Responses to Legal Developments

Chair: Kalpana Kannabiran

Suneetha Rani presented a paper titled *Interface Between Law, Literature And Gender Studies Teaching Women's Texts in a Literature Classroom*. She shared her experiences as a teacher and examined the pedagogic issues related to the interface of Law, Literature and Gender Studies. She said that while English Literature departments claim to be centres of interdisciplinary studies and though teaching Literature demands an interdisciplinary knowledge and approach, one of the subjects that has been kept out is law. Several women writers have in their work highlighted discriminatory practices in terms of gender or race which are either ignored or made mentioned in passing, without any expertise. While teaching a course New Literatures in English she discussed a poem written by Saeeda Gazdar "Twelfth of February, 1983" which deals with discriminatory laws of evidence in Pakistan. Demonstrations were organized by the women's movement in Pakistan protesting against the law of evidence which equated two women's evidence to one man's evidence. One of the students inquired about the current position of the law of evidence in Pakistan. She had no knowledge of the current position due to lack of legal expertise. This set her thinking about the interrelations between law and literature in India. Seventeen years of teaching experience has taught her that academics include activism. She said that while the field of law and literature is frequently heard about, the field of literature and the law are not given relevance and no courses being offered on this topic currently.



Referring to the article *Convergences: Law, Literature, and Feminism* by Judith Resnik and Carolyn Heilbrun, published in 1990, one a professor of law and the other of literature pointed out that many of courses on law and literature have no component on feminism and that they ignored women's voices; she said that this is crux of her paper. The absence of women's voices can be applied to literature as well. Literature confines itself to an analysis of aesthetic qualities, and any serious representation and review will be considered propaganda, movement literature, protest literature hence unfit for intellectual discourse.

The author in the abovementioned article states that '*the work of feminist theory-in both law and literature-is to examine how both disciplines continue to assume that women are irrelevant or that their role is to be the object of male desire, to recover the other traditions-women who have written, spoken, acted, claimed and judged....*'. Realities of women's lives are central to feminist description, analysis, and theory such an epistemological approach will benefit by paying attention to the component of law as well. Not only the component of law but the also the methodology and approaches of law to literature and gender studies. She also referred to Manjula Padmanabhan's play *Harvest and Lights Out* that raises crucial issues of law. Referring to anecdotal narratives and autobiographies that raise significant questions by way of reclaiming the past, reconstructing the past about how they were raped, ill-treated she asked what happens to these documents, are they admitted as evidence in courts?

She also shared her personal experiences of deposing before the court in a case of domestic violence of her cousin. The drama that unfolded in the courtroom reminded her of a fictional piece and inequitable access to justice. According to her there is a strict framework of expression in the courtroom which is often molded due to fear of contempt. She concluded her session by flagging the issue of inaccessibility of our laws, failure to comprehend legal processes, the nexus between lawyers and the challenges faced by the common man to claim rights.



U. Sudhakar presented a paper titled *Raavi Shastry's Aaru Saaraa Kathalu: an Early Critique of the Failing Legal System*. The paper discussed the period between 1857 to 1947 where lawyers played an important role in understanding the colonial judicial system and using it to serve their interests and elevate their social standing. Uppala Lakshmana Rao in his *Atadu-Aame* (He and She), wrote about successful barristers who were able to use the colonial judicial system for their benefit. There were others who chose to become law breakers and jail birds and defenders of political activism. Lawyers have been able to administer justice to the elite in the society

while the marginalized and the oppressed are struggling to assert their rights. He went to discuss how *Kanyasulkam* a classic Telugu play written by Gurazada Apparao dealt with social issues.

When prohibition was imposed in Andhra Pradesh post independence, *Raavi Shastry's Aaru Saaru Kathalu* a set of six stories exposed the dark labyrinths of deceit within which the elements of law enforcement interacted. If the legal system and the world of violators of prohibition can be thought of as two separate islands, they were joined in this anthology by

Raavi Shastry. It also focused on the nexus between criminals, lawyers and law enforcement officers. Raavi Shastry projected the victims of systemic injustice and exploitation. He was sympathetic and non judgmental towards victims and facilitators. He was totally unsympathetic towards the power centers and the whole force behind these operations.

The speaker also pointed out that the middle class has moved away from mass movements. Raavi Shastry's *Aaru Saaru Kathalu* reexamined the legal system and those who remain outside the purview of the welfare state and also to declare that the emperor has no clothes.

Sam Gundimeda, in his paper *Caste, Political Power and the State of Democracy In India: An Analysis of the Film Leader and beyond* discussed the manner in which caste continues to influence political power and democracy in India.

Juxtaposing the Karamchedu massacre, which took place in 17th July 1985 in Karamchedu village in Prakasam district in coastal Andhra with the analysis of a Telugu film, 'Leader' the paper reflected upon the strategies used by the upper castes to commit atrocities against the marginalized sections and dominate them in both social and political arenas.

The paper picks up three aspects from the film and relates it to the real situations. These aspects are: acquiring and legitimating political power by the upper castes and the question of caste and justice to the marginalized.

The first aspect draws attention to how caste and family backgrounds become important in acquiring political power and the role of specific families in keeping the marginalized away from the seat of political power and demolishing the aspirations of common people from acquiring political power, and thus removing them successfully from the democratic process.

The second aspect points out to the concentration of political power in the hands of few and caste based discrimination by the upper castes. The third aspect gives emphasis to the manner in which the upper castes negate the constitution in the name of justice to the marginalized.

He raised questions on whether the justification of allowing political representation of the victims from the marginalized communities in the upper caste based political parties absolved the upper castes from their brutal acts of murder and rape. In his conclusion he raised the question of representation and suggested that though it is a good gesture it is not sufficient condition for forgiveness. Seeking forgiveness for all the atrocities committed by the victimizers is critical for strengthening personnel relationships and reconciliation, for lasting peace.

## Discussions focused on fiction, fact and court processes

**Kalpna Kannabiran:** The two presentations brought the troubling similarity between fiction and factual account of courts and the law. Sam Gundimeda's presentation brought



out the comparison of the massacre with the movie *leader* and has raised the next step of questions that with a skewed political process and justice system the efforts to remedy the wrong only leads to further distortions in delivery of justice. The Constitution comes back to focus with Sam Gundimeda's presentation while the negation of the Constitution is evident in Sudhakar's presentation which focuses on the post constitutional era and Suneetha's presentation. Like in all processes of truth and reconciliation what is the route to restoration and recuperation. How does one deal with the pain and anger and move to restoration and recuperation for the individual or collective harm caused? These practices are deeply engendered and how do victims move beyond violence and create space for forgiveness. Ravi Shastry's stories depict how gender is central to the accounts of violence because gender is centrally about masculinity and the exclusions of women.

**Nagasaila:** Commenting on Suneeta Rani's presentation said that the process of cross examination is to impeach the credibility of the witness and it is in those instances that the lawyer poses yes and no questions. There is scope to provide an elaborate answer in courts but unfortunately the public prosecutors do not inform the prosecution witness about it.

The courtroom situation portrayed in Ravi Shastry's stories is similar to the situation today. The reference to lawyers as hyenas is apt. Elaborating on caste based violence in Tamil Nadu she spoke about 'Melavalavu Massacre'. Melavalavu near Melur in Madurai district is a reserved constituency for Dalit. The panchayat president who was a dalit was beheaded the day before he was to resume office. The entire process of keeping the accused behind bars was a herculean task. The irony was the accused were acquitted of charges under the SC/ST atrocities Act. The judge opined that the murder was on account of an election dispute and not a caste dispute to fall under the SC/ ST Act.

**Volga:** In Chalam's novel *Papam Nachaalamma*, the protagonist sells illicit liquor and is a female sex worker. When questioned by the policeman about her selling illicit liquor and doing sex work, Nachaalamma says that 'everyone in this world is selling something, the doctor, lawyer, teacher sell their skills, body, mind. Whether I sell liquor or my body why should one justify sale of body, mind or skill and classify it as moral or immoral'. Chalam choose three secular titles Maya, Papam and Nyayam and three spiritual titles



**Kalpna Kannabiran:** Law is constitutive of society, relationships and interactions. Colonialism is also about law. Similarly when we speak on kinship in social anthropology we never speak of family law, but these conversations are important and required. The relations within the court are only masculine. The court is exclusionary in practice and in rhetoric. In any form of representation in courts as a lawyer the environment is hostile and they have to make a series of negotiation.



# Performing The Relationship Between Law And Literature II: Sumangala Damodaran

Sumangala Damodaran's rendition of protest songs interspersed with commentary traced the connections between resistance and law. *Kinu Phol Dassan Dhuk Dard Saiyon* was sung by *Swatantrata Prakash* in a peasant rally in Lahore in 1940 to express solidarity with those suffering in Bengal because of the famine. This Heer, a traditional Punjabi Ballad was written by Sheila Bhatia tells the story of a poor Bengali peasant girl whose family was wiped out during the Bengal famine.

Sumangala Damodaran sang this song in two distinct singing styles of the Heer.

The other protest song which she sang was *Suno Hind Ke Rehne Waalon* which was also about the Bengal famine.

During the Tebhaga movement in Bengal in 1946 the peasants demanded two thirds of the share of the crop from the landlords. *Aar koto kaal* which Sumangala Damodaran sang was about a young pregnant peasant girl who was killed by the landlords and her blood spilled all over the grain. *Pachapananthathe*, a love song sung to a green parakeet by a young girl asking the bird to sing to her in her fields was so famous that Medini, who came to be known as the Green Parakeet sang this song every time there was a union meeting. Sumangala Damodaran said she learnt to sing this song from Medini herself.

One of IPTA's most popular songs was *Din Khoon Ke Hamaare* which she rendered was composed in the memory of the hundreds of people who were gunned down at Jallianwala Bagh in Amritsar. *Jaane Waale Sipahi Se Poochho*, written and composed by Makhdoom Mohiuddin during World War II, was about meaninglessness of war and violence.

Sumangala Damodaran said that PARCHAM, a Delhi based choir, sang the song in the Delhi University in 1984 when violent attacks against the Sikh community took place after the assassination of Indira Gandhi, and that she has performed this rendition in numerous contexts ranging from the war in Iraq to communal riots, having the power to move the masses every time. The last song she sang was *Jhoom Jhoom Ke*, a vibrant rendition that celebrates transformation and liberation from oppression.







Day III

## Session VI: Law, Regulations and Different Spaces of Literature

Chair: Sushama Deshpande

Paromita Vohra presented a paper titled *Love and Kisses: Dispatches between Cinema and the Law*. She spoke about the interplay between law and law related discussions, by tracing the shifting representations of love in the Bombay cinema which seem to be marked by the kiss on screen and social narratives of moral panic or scandal. The kiss has been mentioned in Vedic Sanskrit texts dating back to 1500 BC, but representations of the same are not very common in Indian art including popular art. However with the advent of cinema, we see a fair number of images of kissing.

She spoke about the themes that changed during the 1930's from mythological narratives to representing contemporary contexts. The enactment of the Hindu laws on Marriage, Succession, Minority and Guardianship, Adoptions and Maintenance and the Special Marriages Act became the center for deliberations between law and art and it translated to Bombay cinema as well. Films were made on themes like inter-caste marriages and narratives that were realistic. With the codification of personal laws, it took away the Hindu man's right to polygamy and not the Muslim man's, the subject of film's made during the period were based on ideas of marriage by choice and marriage across lines.

According to the Cinematograph Act, 1952 censor boards were set up which certified films. The kiss resurfaced in 1969 and got embroiled under a whole new discussion with the debate

over censorship under the Khosla Committee Report. The report asked for an independent and autonomous board of film censors and added that "kissing or nudity can't be banned unless a court of law judges it obscene." Cinematograph Act of 1952 was amended in 1975. With the promulgation of Emergency the Act was repealed and the 1952 Act was reinforced.

By the 1969's new kind of narrative which allowed the kiss to play out in other domain. That was the narrative of the scandal. Many of these scandals were subject to lawsuits under the obscenity laws. Obscenity laws are dealt by the Indian Penal Code. These scandals were played out by the media, they have been the focus of debates around codification in an associative way and social mores were constantly discussed too. She said the kiss is a symbol that makes love visible. It encompasses all libidinal energies that push towards creativity. Art is opposed to the more defined articulations inherent to the form of law.

Usha Raman presented a paper titled *Speaking to still: Regulating Voices on the Web*. She began her presentation by flagging few comments that emerged during previous sessions. From the first day's presentation about the relationship between faith, scripture and literature the question that emerged was: can literature escape the framework of an ideology or a religion that dominates the cultural or intellectual landscape of its origin? Can it then be ever truly free of the shadow of legislative philosophies that govern spaces of communicative exchange? According to her the strength of the institution of literature, its imaginative or transformative power, is not affected by individual failures such as book bans or censorship of content. She reiterated what one speaker had rightly said that literature continues to push the limits of the possible and point us to the future.

She went on to define literature as primary literature as the creative intellectual or imaginative expression and secondary literature created by the discourse stimulated by primary literature. There are also contextual literatures, literatures of identity and community building—exercises in defining the self and the other. All these serve to build a literature that is equally important as the primary literature. When such expressions are placed on the Internet, it takes on an existence that bridges time and space, unfixed and fluid, blurring boundaries between creator and user, between author and reader.



In this digital age with visibility to marginal voices through platforms like blogs; building of dynamic communities through forums like twitter, face book and knowledge hubs like Wikipedia that are multilayered and polysemic, they might not be literature in the conventional sense but it is a literature that occupies a new space, forming a new text that can be read by an ever widening audience in ways as yet not recognizably commercialized. The web offers a democratic space for exploration and expression but efforts have been made by governments to regulate and control. It is important to see the web both as a social space and as a technology, in terms of a series of binary oppositions like freedom and control, real and virtual and so on. These binaries may be equally problematic in the daily world but in the online world it offers relative invisibility and anonymity to vulnerable groups, it holds the possibility of a reconfiguration of experience, expression and processes of society building that we may not yet recognize—and therefore may not yet have the intellectual



apparatuses to control. This has not of course prevented mechanisms of control from being invented and implemented, as we have seen in the recent past. She spoke about three forms of regulation on the web - technical and commercial restrictions which are imposed on the web to prevent the dissemination of material and there is self censorship which is practiced. She concluded her presentation by stressing on the opportunity that web offers in redefining discourses and exploring their movements in new ways.

Vasanth Kannabiran and Lakshmi Vivek presented a paper titled *Balancing Lives*, an analysis of Rohinton Mistry's *A Fine Balance*. The backdrop of the novel was the dark-hour of Indian democracy - the Emergency. The prologue describes a train that is bloated and bursting at the seams with passengers hanging perilously out of the doors, threatening to burst like a distended bubble. The train symbolizes the sense of alienation that the people packed in it feel. Perhaps, also indicating that the power of the State is precariously perched, swinging side to side as if trying to find its balance. And, then the train stops, because there is a dead body on the track. The common word then, was that you could set your watch by the trains, *always on time*, during the Emergency - but the utter despair of the subjects of the State can always interrupt that efficiency. The focus of the novel is the social reality of India the Hindu 'untouchables', Muslims and the Parsis.

Between the first train ride and the final encounter, there is a journey filled with woe and horror that etches India that is Bharat, and at no point does the horror disgust you to the point of putting down the book. Delicately ironic, filled with compassion, humour and wry insight, Mistry strikes a fine balance transforming what, in less masterly hands would be disgusting and pitiful, into a brilliant analysis of the playing out of power and the role of the State. From Partition to the final decades of the last century, Mistry takes us through the living horror of the dispossession and despair of the marginalized. He vividly describes the communities living in rural areas, the injustice committed towards the marginalized communities in the cities like slum dwellers, beggars, war lords, middle men among whom the two central characters of this novel, Ishvar and Omprakash, find themselves with.

The concept of oppression has five faces - exploitation, marginalization, powerlessness, cultural imperialism and violence. The book also discusses in detail the structure of relationships in our caste ridden society, the gender inequalities the women faced and caste based brutalities that was perpetrated on them. The dispossessed are beaten, tortured, maimed and killed for trivial offences. How is power and punishment deployed through the assumed support of people and through a consensuality that is the result of sheer helplessness and violence that maintains series of people at the margins driving them to silent desperation? What is the relationship between the State, power and social classes?



Power is then, not a quality attached to a class 'in-itself' understood as a collection of agents, but depends on and springs from a relational system of material places occupied by particular agents. The Constitution prohibits discrimination on grounds of religion, race, caste, sex or place of birth, both by the State and by its citizens under Article 15. Article 17 forbids the practice of *untouchability* in any form. The marginalized, displaced and the dispossessed were always at the mercy of the so called elite in our society – a fact we need to recognize and take notice of.

State power can only be understood as the power of certain (dominant) classes – that is to say the place of these classes in a power- relation to other (dominated) ones.

Discussions focused on Rohinton Mistry's novel, digital age and the limits of free speech in the age of new media

*Paromita Vohra:* The novel based on the city of Bombay depicts social realism. The city and the space are always shown as a failing approach rather than a right based approach. Mistry uses the logic of noir-art because only the character of the beggar master has agency. Unlike the law which recognizes the legitimate son, the beggar master is the illegitimate one. He symbolizes crime and has complete acceptance of the dark world which negates the agency of the state. The beggar master represents the fixer and there is a complete interface between middle class and the state, which could be an interesting parallel to draw from.

*Kalpana Kannabiran:* Is new media is able to push the limits of free speech more than traditional forms are able to. Usha Raman said that in contemporary times we use the term digital migrants and digital natives. Most present in this room would be categorized as digital migrants. In terms of pushing the limits of free speech the answer should come from the digital natives but they are limited by our ideas of what is right and wrong in terms of free speech. There is constant possibility of interaction but the responsibility lies on the user to find these discourses. The Centre for Internet and Society does a lot of work on new media but there vocabulary and interaction is different from the digital natives, like herself. Answers have to come from new consciousness who have grown up interacting on the web as to whether new media can push the limits of free speech.

*Hameedah Nayeem:* While Facebook and other social networking forums provide space for free speech and invisible association there have been instances where youth as young as 16 years old have been arrested under Public Safety Act due to resistance movements on face book.

*Antara Dev Sen:* Quoting the example of cyber rape said that we cannot avoid responsibility because of invisibility.

*Kalpana Kannabiran:* Asked about the relationship between invisibility and anonymity.

*Usha Raman:* These two terms are different where Invisibility is when the person wants to be unseen and unidentified. Anonymity is when you fear your identity will be revealed and this gives the power to create fear of the unknown.







## Session VII: Fiction, Law and the “Alleged Novel”

Chair: Jameela Nishat

Antara Dev Sen, Editor Little Magazine, presented a paper titled *Ways of Seeing: Storytelling and the Law*. She said that cultural narratives shape our social values and many of these cultural norms justify injustices based on caste, religion, and gender. Our cultural leanings however slight are often reflected in court judgments. Referring to the infamous case of Priyadarshini Mattoo who was raped and killed by Santosh a top cop’s son she said that in 2006, the High Court found him guilty and sentenced him to death and shortly thereafter, the Supreme Court commuted his death sentence to life imprisonment. The Court believed that because the murderer had meanwhile married and become “the father of a girl child” he deserved to live. Centuries of prejudice gives social sanction to many heinous crimes in the name of tradition. These are strengthened when cultural narratives remain unchallenged. The mitigating factors are determined by social, cultural and political causes. The views of the majority influence political action and law succumbs to it. It moves away from the constitutional guarantee of justice for all, undermining our democratic rights and freedoms. While discussing the Graham Staines’s case she said legal processes are becoming victims of public sentiments and swayed by religious prejudices and cultural stereotypes. Justice according to her is not blind anymore it can frown at the disempowered and wink at the powerful.

Patriarchal notions of honour, dishonor and injustices on women whether in terms of caste, religion and gender are justified in the name of cultural norms, which are strengthened by

stories. These stories form our cultural narrative that shapes our social values. Literature also puts forth tales of human condition which mould our concept of right or wrong and traditionally help us understand complicated human situations and enhance ethical part of law. But what we see now is that it seems to affect law in other ways like in the Ram Janmabhoomi /Babri Masjid case the judgment was based on faith, rather than law.

The spirit of intellectual dissent flourishes in contemporary literature as well, in spite of increasing religious intolerance and a growing culture of social censorship. Many of the retellings are from a Leftist, feminist or Dalit perspective. These include, Volga's retelling of tales from Ramayana, Nabneeta Dev Sen's retelling of the same epic which critique patriarchal values and cultural chauvinism. She concluded by saying that we could use cultural narratives both old and new to fight injustices in the society for literature can bring about changes in our perception something which lawmakers cannot.

Kalpna Kannabiran presented a paper titled *Facts, Fiction and Exceptional Law of Emergency: based on A Case of Exploding Mangoes* by Mohammed Hanif and *Jurisprudence of Emergency* by Nasser Hussain. She highlighted three aspects of emergency and its aftermath that are closely linked to the problem of impunity. The first being the supremacy of limitless policing, the second is the continuum between the military and the civil police - in methods, actual control and the guarantee of the law of exception. And the third is corporeal or bodily control that is not just torture but the accomplishment of forms of torture that are factual but extra-ordinary. In the state of exception where the law is the "law of exception", the practices of such law are also within indeterminable realms of exception.

Referring to the supremacy of limitless policing she said that policing is carried out within the boundaries the Criminal Procedure Code whereas the law of exception blurs the boundaries of a criminal case. Her first memory of torture was during the Bhargava Commission. The stories of bodily control are tied to impunity and this is evident in post independent India especially in North East, Chhattisgarh and Kashmir.

Naseer Hussain in *Jurisprudence of Emergency* argues that Martial law rests on the legal maxim *salus populi suprema est lex* or the safety of the people is the supreme law. There was a debate in England on the place and tenability of martial law during the pre colonial period, with it being virtually abandoned in England till its return into the law that governed the colonies. The persistent tendency in early English jurisprudence to banish martial law from the confines of law proper is embodied in the definition of martial law by the Duke of Wellington who said that '*martial law is neither more nor less than the will of the general who commands the army. In fact, martial law is no law at all.*'

There is a second maxim - *inter arma silent leges* or in war law is silent. This explains why there is no judicial or constitutional authority in this situation. War is a state of exception and this is evident in the CEDAW Committee concluding observation that North East is not in a state of armed conflict. Dicey, the well known author on English Constitutional law distinguished between two senses in which martial law is used in English jurisprudence. Under the common law the crown and its servants have the right to repel force by force in the case of invasion, insurrection, riot, or generally of any violent resistance to the law.



It is also used to label a condition where military tribunals supersede the civil judiciary; however this was not acceptable under English law. The states of Chhattisgarh, North East and Kashmir are in situations of martial law but in order to invoke law of emergency it is important to identify pressing dangers. The law of exception by definition is transient and remains lawful only within certain condition i.e. the existence of pressing dangers. This leads to the question that what is the correct amount of force permissible in moments of unrest. To answer this Mohammed Hanif uses storytelling to bring out the horrors of exception.

Mohammed Hanif uses violence as a literary device and this violence is the core preoccupation of law. This violence is apparent in verbal abuse, in the context of martial laws, which is mostly misogynist and patriarchal. Religious bigotry and interlink ages between martial law flattens out diversity and richness. Therefore the conditions of impunity are assumed through the suspension of laws in a state of exception. The role of intelligence is also critical in understanding martial law where the torture chambers are tied to the extra judicial sanction for intelligence. Representing torture and law's violence in writing channels testimony through fiction but there is essentially in fiction the fact of unreality, of imagination. But in the facts of torture as well, we often find the details unimaginable - it is unimaginable, unspeakable violence. And the torture chambers are places that don't resemble the real. She was reminded of accounts of the torture chambers of the special task force that hunted entire villages in search of Veerappan. The location is unknown to this day. All that the suspects remembered a large empty hall brightly lit where they were stripped and chained naked - men and women together, and assaulted in front of each other. But when they were released from there, there was no way of tracking this place. It hangs between the real and the un-imagined.

## The discussions following the presentations were on the art of storytelling.

*Usha Raman:* Stories are important as they allow the imaginative to be articulated. She asked what makes fiction fact and is it easy for society to relegate fiction.

*Vasanth Kannbiran:* In fiction people are distanced from the truth.

*Kalpna Kannbiran:* How to tell the story is important. There is no blanket way to tell a story.

Another participant commenting on judges said that they are victims of their mindset and are strongly influenced by their background.







## Session VIII: Screening of The Advocate

For the closing session the screening of the documentary *The Advocate* was organized at CSD. During the conversations with the Director, Deepa Dhanraj said that the filming for 'The Advocate' started in 2002 and continued till 2004. The documentary was not meant to be an ode to K.G Kannabiran but documentation on the politics in Andhra Pradesh, the struggle for justice that would later enlighten and educate the youth of the state and elsewhere in India. After a lot of persuasion K.G.Kannabiran agreed to film on one condition that the film would not be a biography as he was not interested in self-glorification but would be about his politics, his analysis of law and commentaries on the Constitution.

Referring to the making of the documentary she said that the first part of the filming was crucial editing of the 18 to 22 hours of conversations with K.G. Kannabiran, which later became detailed events that occurred in the past. Second part of the filming did require



testimonies of people who were part of this history to speak for it. The third aspect that was as crucial as the other two was to get Vasanth Kannabiran as someone in the counter position to speak of K.G Kannabiran and throw some light on the grey areas of these events with a sense of insight and knowledge of such realities.

Interview method of film making is often discredited and dismissed so the focus was how to frame these events so that they seemed well sequined and connected. The documentary is

meant for people who are interested in the history of Andhra Pradesh and is a tool for legal education and awareness.



# Panelists

1. T. S. Satyanath, Former Professor of Modern Indian languages at the Delhi University, Title of paper: *On Relationship between Literature and Law in Medieval Indian Literature: Comparative, Typological and Interdisciplinary* was circulated in absentia.
2. Hameedah Nayeem, Professor of English at the University of Kashmir. Title of paper: *Scriptural Law as Literature*
3. Jameela Nishat, Feminist Poet, Writer and the Executive Director of Shaheen Women's Resource and Welfare Association in Hyderabad. Title of paper: *Deccani Women Literature and Muslim Personal Law*.
4. Volga, Feminist Writer and the Executive Chairperson of Asmita Resource Centre for Women in Hyderabad. Title of paper: *The Hindu Code Bill- A battle fought through literature*
5. D. Nagasaila, Advocate, High Court of Madras. Title of paper: *Law, Language, Culture and the Rights Discourse*
6. Ahmad.M.Khan Yazdani Zarrani, Journalist and Output Editor, NTV Hyderabad. Title of paper: *Protest Literature is the Genesis of Future Constitutions*.
7. Sumangala Damodaran, Associate Professor, School of Development Studies, Ambedkar University, New Delhi. Title of paper: *Expressing Equality through Performance*
8. Sushama Deshpande, Theatre artiste based in Maharashtra. Title of paper: *Law and Literature* with specific reference to theatre and films in Maharashtra.
9. Saroop.Y. Dhruv, Poet, playwright, cultural activist and Secretary of DARSHAN. Title of paper: *Chain around the pen and bars on the curtain*
10. Nabin Mundu, Editor and publisher of the literary Mundari Magazine Senra Seteng in Ranchi. Title of paper: *Future of Mundari*
11. Vidya Rao, Thumri-dadra and ghazal singer, publisher of Orient Black Swan, New Delhi. . Title of paper: *On Thumri*
12. Akkineni Kutumba Rao, Writer and film maker. Title of paper: Literature and Labour Laws with reference to 'Maalapalli' a Telugu Novel.
13. K.Suneetha Rani, Associate Professor at the Centre for Women Studies. Title of paper: *Interface between Law, Literature and Gender Studies: Teaching Women's Texts in a Literature Classroom*.
14. U. Sudhakar, Country Manager, DNV Software, Mumbai. Title of paper: *Raavi Shastry's Aaru Saaraa Kathalu: An Early Critique of the Failing Legal System*.
15. Sam Gundimeda, Assistant Professor, Council for Social Development, Hyderabad. Title of paper: *Caste, political power and the state of democracy in India: An Analysis of the film 'Leader' and beyond*.

16. Paromita Vohra, Documentary Filmmaker and writer based in Mumbai. Title of paper: *Love and Kisses: Dispatches between cinema and the Law*
17. Usha Raman, Associate Professor, Department of Communication, University of Hyderabad. Title of paper: Seeking to Still: *regulating voices on the web*
18. Vasanth Kannabiran, feminist poet and founder member of Asmita Resource Center for Women, Hyderabad. Title of paper: *Balancing Lives*
19. Lakshmi Vivek, Programme Associate, Asmita Resource Centre for Women. Title of paper: *Balancing Lives*
20. Antara Dev Sen, Editor The Little Magazine. Title of Paper: *Ways of Seeing: Storytelling and the Law*
21. Kalpana Kannabiran, Director, Council for Social Development Hyderabad and founder member of Asmita Resource Centre for Women. Title of paper: *Facts, Fiction and Exceptional Law of Emergency: based on A Case of Exploding Mangoes by Mohammed Hanif and Jurisprudence of Emergency by Nasser Hussain.*



# Appendix 1 - List of Participants

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# Appendix 2: Press Coverage

## National Seminar on Law and Literature

**Express News Service**

**Hyderabad:** Exploring the complex relationship, a two-day national seminar on law and literature was organised by the Council for Social Development and Chithyala Alimulla Centre for Interdisciplinary Research at Rajendra Nagar here on Saturday. A rare-of-its-kind conference, the inaugural day saw discussions on the ancient form of law governing scriptures and the growth of literature in the light of tribal rights.

"When Tasleem Naaroon was attacked on her visit to Hyderabad, Asmita Resource Centre for Women had filed a petition in the AP High Court. We have engaged in a large amount of work based on the legal system and its impact on literature through censorship. The idea for a seminar like this was born," said the director of CSCD, said. The two-day seminar in honour of civil rights activist and lawyer, K.G. Kannabiran is more in keeping with the spirit of her late father, observes Kalpana Kannabiran.

"He loved literature and his was a prospective ideology. Memorial meetings are retrospective in nature and this conference is an ideal way to pay tribute to him," she said. The idea of Constitution not in sense of the constitutional law but as a derivative of events which adapts itself to the demands for justice forms the core of the discussion.

Though tribal rights activist CK Jaju was missing, the presence of noted poet and writer Saroop Dhanraj, filmmaker Deepa Dhanraj as well as those associated with Asmita, Urdu writer Jeelani Bano and feminist writer Vasanth Kannabiran were present.

## It's easier to censor theatre'

**Hyderabad:** Censorship of theatre, which has been a major issue in the past few years, is being taken up by the Hyderabad State Theatre Society (HSTS) in a seminar on Saturday. The seminar, which is being organised by the HSTS, is being held at the HSTS auditorium, Rajendra Nagar. The seminar is being organised by the HSTS, which is a non-profit organisation. The seminar is being held at the HSTS auditorium, Rajendra Nagar. The seminar is being organised by the HSTS, which is a non-profit organisation.

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## Tribute to K G Kannabiran

**Documentary takes rights activists down the memory lane**

**Hyderabad:** A documentary film titled 'Kannabiran: A Life in Struggle' is being screened at the HSTS auditorium, Rajendra Nagar, on Saturday. The film, which is being directed by the HSTS, is a tribute to the late civil rights activist and lawyer, K.G. Kannabiran. The film is being screened at the HSTS auditorium, Rajendra Nagar. The film is being directed by the HSTS, which is a non-profit organisation.

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