

Literary Theories, Legal Texts and Discourse

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Abstract

The knowledge acquired from literary studies can be applied by scholars in other disciplines because they are encapsulated with philosophical, didactic, sociological, anthropological, psychological, intellectual and metaphysical ideologies, to mention a few. Prolific writers through various literary genres present issues that are centred on the foregoing with a view to reconstructing dysfunctional thoughts, unhelpful behavioural patterns and emotional turbulence of individuals in society. They are conscious of the fact that literary works to a large extent are true reflections of the symbolic world. However, for better understanding of such imaginative works, relevant literary theories must be applied by scholars whose task is to constructively criticize the literary productions. In this study, the authors attempt to explore the relevance of the application of theoretical approaches to legal texts (private or public) and discourse in society. It was discovered that like literary theories, there are legal theoretical orientations that help legal experts in better understanding and analysis of legal documents, arguments and judicial opinions. Some the theories that will receive attention in this research include deconstruction, new criticism, formalism, feminism, Marxism, psychoanalytic theory and post-colonialism. A review of scholarly works revealed that the foregoing have significant influence on legal studies and practice in society.

Keywords: Law, literary, theories, society, legal

Introduction

There is absolutely no society without norms, principles, rules and regulation guiding the general conducts of people. The thoughts, behaviours and perceptions of the people must be shaped by these rules and regulations. Also the mode of governance of people is determined by norms which are enshrined in the constitution whether written or unwritten as determined by the people. These regulations are lawful and they must be obeyed by everyone. While certain laws are enacted to regulate the actions of individuals, there are some that focus on the state and its citizens. The legal practice and administration of justice is however paramount in society in order to foster sanctity and harmonious co-existence among the citizens and the organs of the state. Olaoba (2002:11) encourages “the existence of a legal system which is fundamental to the maintenance of peace and harmony so that life will be meaningful and worth living.” The scholar observes that “in an atmosphere of concord, orderliness prevails and development becomes an achievable goal. Certainly, in such an atmosphere, freedom and equity will predominate.” The knowledge acquired from literary studies can be applied in other disciplines because such imaginative works are encapsulated with philosophical, didactic, sociological, anthropological, psychological and metaphysical ideologies. These shall also be beneficial to legal profession and studies by students as they strive to promote peace, justice and equity in families, organizations and society at large.

Literary writers through various the genres of literature express their personal thoughts, emotions, perceptions, beliefs, and also show that they are abreast of happenings in their society. They have been able to show through their works that literature to large extent is the true reflection of the symbolic world. In affirming the utilitarian functions of literature in contemporary society, Jeyifo (1992:353) asserts that “literature has been an extraordinarily influential institution in postcolonial Africa, and African writers have been prominent in the struggles to build modern democratic societies on the ruins of the colonial state and against the brutalities of the many dictatorial post-independence regimes of the continent.” For better understanding of any of the imaginative works such as the poetry, prose and drama, certain literary theories must be applied by scholars whose task is to constructively criticize the literary productions. In this study, the researchers attempt to explore the relevance of some modern theoretical approaches to literary works and those of legal theories, texts and jurisprudence in society. The concept of jurisprudence implies the philosophy, legal studies and judicial pronouncements that are based on the interpretations of the law regulating the actions of every citizen of the state. This shall illuminate the entire discourse in this study.

Literary History, Criticism and Theory

Literary history refers to how literature was *taught* and *studied* from the late 19th century till date as an academic discipline. Griffith (2002) notes that “prior to the 20th century, the investigation of the nature and value of literature had had a long and distinguished history, beginning with Plato and Aristotle and continuing into modern times with such figures as Sir Philip Sidney, John Dryden, Samuel Johnson, William Wordsworth, Samuel Taylor Coleridge, and Matthew Arnold. But their investigations focused primarily on evaluation, not interpretation.” In response to the foregoing, Abrams (2009:61) states that “literary criticism, is the overall term for studies concerned with defining, classifying, analyzing, interpreting and evaluating works of literature. On the other hand, literary theory is the theory that guide those that criticize people’s work(s).” This is the general principles, rules and guides that define or foreground literature. It is a lens or mirror through which readers can view a literary text. This opinion indicates that a single literary text can be critically examined from different perspectives using various analytical tools which in this case are the literary theories and by extension the legal theories.

Criticism as a conceptual framework refers to a formal discourse or a critical composition. In relation to literary studies, it is the analysis, evaluation, explanation, description or judgement of works of literature as clearly stated by Abrams (2009:61) above. It also means the application of a critical theory to a particular literary text. Rawlinson (1971:2) observes that;

Literary criticism can be no more than a reasoned account of the effect produced upon the critic by the book he is criticizing; criticism can never be a science; it is, in the first place, much too personal, and in the second, it is concerned with values that science ignores. The touchstone is emotion, not reason. We judge a work of art by its effect on our sincere and vital emotion, and nothing else.

The knowledge of literary criticism thus can help to judge the merits and faults of critical/literary works. The relevance of literary studies to legal discipline cannot be overemphasized because in the submission of Seaton (1999:479), “Literature has the potential to broaden and deepen the individual's understanding of ethics, politics, and human relations in general.” In advancing his submission, the scholar states that, “literature remains an important source of insight for all those interested in questions of morality and justice, a class that surely includes most lawyers, judges, and law professors” (480).

The discourse of literary texts should be foregrounded by relevant literary (critical) theories for better understanding of the subject matter, the language, structure and forms

of the work. According to Eagleton (1996) that, "*Theory* is the body of ideas and methods used in the practical reading of literature." It implies *a body of rules or principles that are employed to appraise literary works* (poetry, prose or drama) and such principles or hypothesis (assumptions) are laid down to guide a particular body of knowledge. To Jonathan Culler (1999), literary theory is "the systematic account of the nature of literature and of the methods for analyzing it." It helps readers to understand literary works better through educating, stimulating, explaining and entertaining of literary students. It also enables us know different ways of understanding and responding to literary texts. In the view of McCarthy (1982:135-136), "Critical theory is doubly reflective: it is self-conscious of its origins in the historical development of society, and it is self-conscious of its role in the further development of society. This double reflexivity distinguishes it not only from the objectivism of the exact sciences but from the self-sufficiency of traditional philosophy." In the opinion of Eagleton (2008:viii), "Literary theory is a kind of meta-discourse. Rather than figuring as one way of speaking about literature among others, it adopts a critical stance to other forms of critical analysis."

Studies have shown that literary theories have been applied to textual analysis in arts and humanities and also by other disciplines. It enables readers examine a literary materials carefully and think deeply before deriving at a particular meaning. A certain text can be explored critically using different theoretical approaches by a critic and emerge with multiple interpretations and meanings in the end. By implication, literary theories are microscopic tools which readers use to view texts for better understanding. In buttressing the foregoing, Rivkin and Ryan (2004:3) state that literature "is not a window for looking at sociological themes or philosophic ideas or biographical information; rather, it is a mural or wall painting, something with a palpability of its own which arrests the eye and merits study." The scholars in their own view regard literature as artistic and creative works of imagination whose products often captivate the interest of readers. In the same vein, Rivkin and Ryan argue further that, "The manipulation of representational devices may create a semblance of reality and allow one to have the impression of gazing through glass, but it is the devices alone that produce that impression, and they alone are what makes literature literary" (3). Having examined the concept of literary history, theories and criticism, there is therefore the need to explore the relevance of the literary theories vis-à-vis the legal theories to the study and practice of law in society.

Literary Theories and Legal Profession

The application of literary theories cut across several disciplines with numerous utilitarian functions which are also worthy of mentioning in this study. For instance, the research conducted by Held (1980:105) reveals that literary theory "covers a wide range of academic disciplines and can be applied to any field of knowledge. Examples; education theory,

design theory, design practice, architecture, psychology etc. It does not simply try to understand the nature of social world but try to change it." Modern literary theories and criticism could perform various functions when applied to literary works being study by legal experts and researchers: they will help readers to identify and understand various methods of examining specific literary works; acquire skills on how to interpret literary texts of various genres; become aware of both present and past literary works; they help to provide reader insight into different artistic works being studied; view things from different perspectives; improve in their production of literary works; and also offer readers various ways of understanding literary texts and applying the knowledge contained in the texts in their daily lives. This will enhance the study of law since the discipline has legal theories that are similar to those of the critical theories. In corroborating the foregoing, Fard (2016:331) submits that:

literary criticism supports the development of critical thinking skills. It encourages you to identify your own reading habits and to explore beyond their boundaries. It can also give you a sense of confidence and responsibility about developing your own critical standards and judgments and not having to surrender your opinion to other's interpretations. It sharpens your general interpretive, analytic, and evaluative skills. And it improves your ability to make a good argument by encouraging the habit of backing up your opinions with reasons and textual evidence.

While explaining the relevance of the literary theories to legal studies, Munger (1984:261) states that; "Legal scholarship tends to use theories and research from other disciplines in a result-oriented way, rather than as tools for inquiry about the behavior of the legal system. In the more elite schools, the scholarly research that is produced tends to borrow ideas, constructs, and information from other disciplines, but such materials are inevitably used to support legal argument." The knowledge acquired from the study of practical criticism will enhance legal profession since it is a technique for advancing close reading skills in literature. It was introduced by Ivor Armstrong Richards in 1929 and it has influenced other literary criticism such as New Criticism, Formalism, Post-Structuralism, Semiotics, Deconstruction, and so on. *Practical Criticism* as a literary method of explicating texts, aims at increasing readers' analytic skills, by focusing on actual reading of literary texts of all genres. In this technique of criticism, Richards deconstruct the tradition of evaluating literary texts based on historical and psychological background of authors, subject matter, socio-cultural and political factors, to mention a few, but focuses on close reading or analysis of a text in isolation. For instance, legal texts such as Wills, Deeds,

Contracts, Conventions, Constitutions, and so on, require critical study and interpretation to avoid confusion and conflicts.

Intrinsic Criticism focuses on formal elements of the literary text only. The text is seen as self-contained, self-sufficient and self-defining. It is organic since meanings of individual words, sounds, and rhythms, to mention a few, are inter-related and dependent. The literary texts are understood through close reading or careful study of its language. In essence, their focus on the reader during this form of literary analysis should be on form and structure, stanzas, language, style or techniques employed by the writers in conveying their subjects to reader. Moreso, the literary texts should be explored in isolation without recourse to contextualization. The fictional characters in the texts, subject matter, dramatic personae and poet-persona or speakers in the poetic writings should be focus of discourse. Points of view employed by the literary writers and the rhythms, images, symbols, contrasts, and so on, which add aesthetic values to the works may also enhance the understanding and interpretation of legal documents or texts. The process of conveying messages which is the medium of expression shall contribute to the writing of legal texts by judges and lawyers before and after legal proceedings. The intrinsic criticisms include New Criticism, Russian Formalism, Semiotics, Structuralism, Post-Structuralism and Deconstruction, to mention a few.

The extrinsic criticism which is also known as Platonic criticism focuses on the literary texts as evidence for author's biography, historical, political and psychological factors, social environment, religion and other contexts. Unlike the intrinsic criticism that explores the internal elements of the literary works, this form of critical study is centred on content, thematic preoccupations, subject matter, message conveyed, and external information. The texts are contextual based, shifting their primary focus from textual analysis to context of usage. There are (auto)biographical details and so the author's life is considered importance during textual analysis. Apart from the author's information, the extrinsic critics also examined the inclusion of external details like the socio-cultural, religious, economic and political. Reference is also made to the psychological influence that motivated the literary production under critical appraisal. The literary theories that fall under this form of criticism include the psychoanalytic theory, marxist theory and criticism, postcolonial theory, archetypal criticism, feminist criticism and cultural materialism, among others. The profound knowledge of extrinsic criticism will foster the study and practice of law in society because the latter requires allusion, citation of relevant valid cases, judgements, arguments of legal counsels (both prosecuting and defence) and the judges who presided over past cases that serve as precedent to subsequent decisions from competent courts of jurisdiction.

Forms of Literary Theories and Legal Studies

The foregoing discourse has already shown that there are various literary theories which can be applied to literary works. However, a few of such theoretical approaches shall be discussed in this study and they include formalism, new criticism, deconstruction, feminist theory, psychoanalytic, postcolonial and Marxist theories. We shall explore these critical approaches in consonance with the legal theories and studies in order to underscore how the former enhance the understanding of the latter and improve professionalism in society. The legal theories that correlate with the literary theoretical approaches include legal formalism, legal feminism, postcolonial legal theory, marxist legal theory, psychoanalytic legal theory and deconstruction. The relevance of the above literary theories to legal studies and practice shall be the thematic discourse of this research. Munger (1984:259) observes that, "Legal education, even in its elitist mold, is the business of training lawyers; this means that law schools specialize in training people to "think like a lawyer," i.e., to take a position (usually with the interests of a "client" in mind), to develop a well-conceived and tight argument backed up with legal decisions that persuasively substantiate the validity of one's argument." In corroborating the foregoing, Munger (1984:261) asserts that;

Various types of presentation of legal arguments may be thought of along a continuum from conventional legal arguments substantiated by cases/precedents to arguments (usually scholarship) incorporating ideas from other disciplines. Incorporation of social science findings, constructs, or theories is, from the vantage point of doctrinal method, simply another form of evidence to support conclusions already grounded in existing legal doctrine (261).

The feminist theory together with the feminist legal theoretical approach will enable legal practitioners and students gain insight into the oppression, exploitation and injustice among others which women are being subjected to in society. For instance, Feminist approach can be adopted to foreground literary texts such as John Pepper Clark's *The Wives Revolt* and Chimamanda Adichie's *Purple Hibiscus*.

New Criticism

This stresses a close reading of the text itself. It confines itself to careful scrutiny of the literary text alone and the formal structures (intrinsic elements) of paradox, ambiguity, and so on. The historical, social, cultural, political, economic and the writer's biographical details are irrelevant. It focuses on the language of the text itself- the images, symbols, irony, similes, metaphors, paradox, rhythm, rhyme, meter, setting, point of view, plot, diction, and techniques. All these are called formal elements of language because they form or shape the literary work. The approach is also called Objective Criticism, focusing on the

text's own formal elements. Since the text is independent, no reference should be made to the external world, social and literary history. This will encourage legal experts focus on the language, form and structure of legal documents or texts either private or public.

Russian Formalism

This theoretical approach is closely related to the New Criticism in terms of form and language. Formalist movement makes the study of literature an autonomous and specific discipline to shift attention from the poet to the poem itself. It focuses on the intrinsic elements (structure, form, language, style, imagery, tone and poetic devices of literary texts but excludes the sources and genesis of particular works, author's biography, history, politics, philosophy, and so on, from the literary analysis. Formalists pay attention to poetic language rather than the content (or themes). According to Dunmade (2017:185), "Formalism evokes the idea of criticism focused solely on form rather than content of a literary work but this idea is not wholly true and has long been dispelled". Similarly, Rivkin and Ryan (2004:9) acknowledged the findings of Eichenbaum (2004) which state that "The Formalists have long "freed themselves from the traditional correlation of 'form-content' and from the conception of form as an outer cover or as a vessel into which a liquid (the content) is poured." In spite of the foregoing, the study of formal elements of literature is still being done by researchers. They uphold the view of the formalists that there should be primary focus on literariness not the author of the work; basic elements of the texts that are literary in nature are analyzed. In fact, the formalists critically emphasize differences between literary language and non-literary or ordinary language. It focuses on only the language of the texts and exclude the historical, cultural, political, religious, socio-economic and biographical details of the authors. From the legal formalist perspective, Weinrib (2010:324) reveals that;

Formalism is a theory of legal justification. As a theory of justification, formalism considers law to be not merely a collection of posited norms or an exercise of official power, but a social arrangement responsive to moral argument. As a theory of legal justification, formalism focuses on the phenomena most expressive of the juridical aspect of our social lives: on legally significant interactions between parties and on the role of courts in resolving the consequent controversies.

Oral or written legal texts must be presented structurally, logically and coherently, and all these depend on the power of communication and creative ingenuity of writers. Presiding judges and legal counsels must express themselves clearly and professionally with the legalese language which all parties must comprehend. The researcher further states that;

Thus, formalism's project is to elucidate the forms of moral argument appropriate to adjudication among interacting parties. The basic unit of formalist analysis is the legal relationship. Law connects one person to another through the ensemble of concepts, principles, and processes that come into play when a legal claim is asserted. If, for instance, the claim is for breach of a contract, the legal relationship between the parties is defined by the doctrines and concepts of contract law and by its accompanying procedures of adjudication. Or if the claim concerns a nonconsensual harm, the legal relationship of the injurer and victim is composed of the norms, concepts, and institutions of tort law (324).

Literary works especially the poetic forms are of great importance to legal practitioners and students because according to Boulton's (139–40) findings, "Many poets have favourite images that recur in their poems. Shelley's works are full of friendly snakes, the sea and the sky; the poems of Donne, more earthly and more rational, are full of images drawn from science and theology. Wordsworth has a powerful favourite symbol of some solitary figure in impressive natural surroundings." The major focus of formalist critics is basically on formal elements that are contained in the literary texts which have been regarded as self-contained. These images will activate the imagination of judges and lawyers, subject them to critical thinking, rationality and broadening of knowledge. Fard (2016: 334) asserts that "Formalistic critics believe that all information essential to the interpretation of a work must be found within the work itself; there is no need to bring in outside information about the history, politics, or society of the time, or about the author's life. Formalistic critics spend much time analyzing irony, paradox, imagery, and metaphor. They are also interested in the work's setting, characters, symbols, and point of view." All these will improve the communication skills of legal actors in society.

Deconstruction

This theoretical approach is also known as post-structuralism because it focuses on the structure of literary texts. According to Balkin (2010:362), "Deconstruction does not show that all texts are meaningless, but rather that they are overflowing with multiple and often conflicting meanings. Similarly, deconstruction does not claim that concepts have no boundaries, but that their boundaries can be parsed in many different ways as they are inserted into new contexts of judgment." The researcher also notes that, "Critical legal scholars were originally attracted to deconstruction for three reasons which are highlighted as follows; (a) First, because deconstruction claimed that meanings were inherently unstable, it seemed to buttress the thesis that legal decision making was indeterminate. (b) Second, because deconstruction discovered instability and indeterminacy everywhere, it seemed to support the notion that social structures were

contingent and social meanings malleable and fluid. (c) Third, because deconstruction seemed to show that all texts undermined their own logic and had multiple meanings that conflicted with each other, deconstruction could be used for the purpose of “trashing” – that is, showing that particular legal doctrines or legal arguments were fundamentally incoherent.” (363-4). The above submission implies that legal decisions or judgements are not accurately determined as they vary. They are however neatly and logically fused into one another, characterized with inconsistency, flexibility and subjected to change according to laid down principles. Balkin (2010:363) acknowledged Balkin (1990) who asserts that “although people use deconstructive analyses to show that particular decisions and arguments lack normative coherence, deconstruction does not show that all legal decisions are incoherent. Deconstructive arguments do not necessarily destroy conceptual oppositions or conceptual distinctions. Rather, they tend to show that conceptual oppositions can be reinterpreted as a form of nested opposition.” In the view of Balkin (1987:744), legal experts such as judges, defence and prosecuting counsels, and so on, should apply the knowledge of deconstruction as a literary theory. The scholar asserts that;

Lawyers should be interested in deconstructive techniques for at least three reasons. First, deconstruction provides a method for critiquing existing legal doctrines; in particular, a deconstructive reading can show how arguments offered to support a particular rule undermine themselves, and instead, support an opposite rule. Second, deconstructive techniques can show how doctrinal arguments are informed by and disguise ideological thinking. This can be of value not only to the lawyer who seeks to reform existing institutions, but also to the legal philosopher and the legal historian. Third, deconstructive techniques offer both a new kind of interpretive strategy and a critique of conventional interpretations of legal texts.

Apart from the above significance of deconstruction, it should be clearly stated that, “The purpose of the deconstruction is not to establish that any interpretation of a text is acceptable, but that the yearning for originary meaning in the simple theory of interpretation is incomplete and cannot serve as a foundation for interpretation” (Balkin, 1987:785). The knowledge of this literary theory will provide further insight into the variations that characterize judicial pronouncements and arguments in the court of law. With this legal practitioners will appreciate the various interpretative techniques and conventional ways of analyzing legal documents or texts in their discharge of duties.

Psychoanalytic Theory

This literary theory is traceable to Sigmund Freud's practice of psychoanalysis. Freud (1856-1930) employed this literary approach in the analysis of literature to show how the human mind works. It analysis characters' actions and motivations based on the assumption that all actions are influenced by the unconscious mind which contains repressed desires, horrible experiences and even from childhood to present. Thus, through literature, the psychological and emotional conflicts influencing the (negative) behavioural patterns of characters within the text will be identified.

Psychoanalytic criticism can be applied in several ways. First, the theory is applied to study the psyche of an author; critics believe that the unconscious mind of the author is revealed in his critical works. Devardhi (2009:438) submits that psychoanalytic theory when applied to "a literary text gives us a profound understanding of the unconsciousness of the author and in the study of characters and their actions in a literary text, and at the same time provides us with a thorough understanding of the nature of man in general." Secondly, this critical theory is used to analyse the motives, desires and psychic conflicts of the characters of a literary work. Thirdly, the theoretical framework is suitable for the interpretation of relationship between the literary text and the reader. By implication, it is applied to examine the psychological effects of literary texts on the reader. Moreso, it is introduced into textual analysis in order to find out the creative process of certain literary works; what inspired the author, the fictional characters and their effects on readers.

The psychoanalytic theory focuses on the unconscious mind of characters and the motivating factors that are responsible for their thoughts, negative feelings, deviant behavioural patterns or antisocial personality disorders in society. With the knowledge of psychoanalytic theory and its application to literary texts, legal students and practitioners should be able to study the emotions and behaviour of clients (plaintiffs and defendants) in relation to the evidence tendered before the court of law. Besides, judges would be able to constitute investigation panel consisting of psychologists to find out the cause(s) of certain actions of clients that resulted in the crimes they have committed and also suggest how to prevent reoccurrence in society. Evidences of imaginative works that portray characters that require psychoanalysis abound in the literary world. Some of these include Chinua Achebe's "Madman", *Things Fall Apart* and *Arrow of God*, Ayi Kwei Armah's *Fragments*, Festus Iyayi's *Violence*, Elechi Amadi's *The Concubine*, Nawal El Sadawi's *Woman at Point Zero*, Mariama Ba's *So Long a Letter*, and Isidore Okpewho's *The Victims*, to mention a few. In dramatic works, the underlying motivations responsible for the actions of certain characters could be explored in T. S. Eliot's *Murder in the Cathedral*, Arthur Miller's *Death of a Salesman*, Stephen Kekeghe's *Pond of Leeches*, John Pepper Clark's *The Wives's Revolt*, and so on. In the genre of poetry, there are still works that centre on crimes, punishments,

injustice, and exploitation of the downtrodden, to mention a few. Some of the poems include Oswald Mbuyiseni Mtshali's "Nightfall in Soweto" and "Just a Passerby", Kwesi Brew's "The Executioner's Dream", Okigbo's Mother Idoto, Wole Soyinka's "Procession-Hanging Day", Niyi Osundare's "Sule Chase", Tanure Ojaide's "An Owl Wakes Us", among others. There are numerous literary texts focus on legal matters which can strengthen legal actors to discharge their duties effectively in society.

Postcolonial Theory

This literary theory emerged in the late 19th century and gave respite to the formally colonized nations. Colonialism could be defined as the capitalistic and exploitative method adopted by a stronger and powerful nation (colonizer) to govern a weaker and less-privileged nation (colonized). Post-colonialism is thus a literary theory that focuses on works produced by writers from the former colonies known as colonized nations. In the view of Awelewa and Aluko (2021:223), Post-colonial theory or criticism connotes "a system of academic studies associated with different fields of human endeavours that questions the impact of colonial rule and its legacies." This assertion is corroborated with the study of Young (2003:4) which notes that postcolonial theory implies the "politics and philosophy of activism that contests the disparity (between western and non-western cultures/people), and so continues in a way the anti-colonial struggles of the past." In the opinion of Chennells (1999:110), postcolonial theory and criticism is mainly "concerned with the worlds which colonialism in its multiple manifestations, confused, disfigured and distorted, reconfigured and finally transformed." The researcher further reveals that "the effects of colonialization are felt from the moment of the first impact." Such effects are evident in literary productions of writers from various nations that were formerly colonized. Ironically, the elimination of the colonizers did not terminate the political imbalance, economic instability, insecurity and ethno-religious conflicts, to mention a few that characterized every former colonies especially those from the African continent.

Legal experts should be conversant with the significance of Postcolonial Literature in order to address issues that occur before and after independence in former colonized countries of the world. Some of the relevance of such literatures are not farfetched. Some of the literary works recreate past experiences of the colonized nations and the knowledge of such literary productions will help legal practitioners to critically identify the origin of the problems in post-independence society and also provides legal framework that will help in correcting the problems recreated in artistic works. All literary productions from former colonies of the world are relevance to this theoretical approach since the texts may contain issues of hybridity, colonialism, imperialism, migration, discrimination, anti-colonialism, Otherness, Orientalism, and so on. Literary texts that explore the aftermaths of colonialism abound in societies. Such works will definitely help legal experts and learners to

psychologically reflect on the aftermaths of colonization and comparatively enacted laws, rules and regulations that will enthrone discipline and the zeal for economic growth and development of society. Without mincing words, there are large number of literary texts that expose the oddities (flaws) of colonial ideology while others help to discover the extent of recoveries after colonialism. All these will add value to the study of legal studies in societies as people with interest in social transformation and protection of human rights and rule of law will constantly examine such artistic works critically and constructively.

Moreso, the knowledge that is acquired from the study of Postcolonial Literatures, prose, poetry and dramatic works, will foster the drafting of legal documents that will correct the distorted images of Africa continent and its people. This affirms the opinion shared by Kehinde and Mbipom (2011:62) that, "African literature constantly reflects an attempt at narrating the African experience, the struggles associated with imperialism and its relics of denigration and opposition which seem to remain visible features of post-independence African." It is worthy of note that some literary works are satirical with characters, institutions, social vices, events and so on, ridiculously portrayed for the primary aim of correction. Such texts may satirize disillusionment in postcolonial society especially in the areas of corruption, ethnic identity, abuse of power, impunity, leadership failure, inequality, oppression and marginalization, to mention a few. Some of the literary productions that portray the above subjects include Chinua Achebe's *Anthills of the Savannah*, Helon Habila's *Waiting for an Angel*, Niyi Osundare's *The State Visit*, Stephen Kekeghe's *Pond of Leeches*, Althol Frugard's *Sizwe Bansi is Dead*, Ngugi Wa Thiong'O and Micere Mugo's *The Trial of Dedan Kimathi*, Wole Soyinka's *The Trial of Brother Jero* and Olu Obafemi's *The Wheel*, among others.

Feminism/Gender Criticism

The feminist movement began in Europe and America in the nineteenth century when women became conscious of their oppression and marginalization and took steps to redress this oppression. Hooks (2015:xii) notes that "feminism is a movement to end sexism, sexist exploitation, and oppression. The movement is triggered by the awareness that the women have equal right with men." Ibeku (2015:427) defines the concept as "women-oriented and concentrates on issues that concerns women. It is a literary movement that tends to bring about a change in the society especially on how women are treated; it tries to discourage discrimination and humiliation on women; it focuses its attention on emancipation of women." It is worthy of note that feminist movement is anchored on the socio-cultural orientation of male dominance. It is obvious that women have been over the years subjugated and this perpetual condition has made most womenfolk consider themselves psychologically as inferior to their male counterpart in society.

In view of the above, NOUN (2014:261) affirms that “the inferior position long occupied by women in patriarchal society has been culturally, not biologically produced.” This assertion is supported by NOUN (2014:260-261) which observes that “the belief that men are superior to women has been used to justify and maintain the male monopoly of positions of economic, political, and social power, in other words, to keep women powerless by denying them the educational means of acquiring economic, political, and social power.” In corroborating the foregoing, Abdul, *et al* (2011:6) state that “the culture of patriarchy, male chauvinism and anarchy has undermined the rights of women and the outcome of this is the exploitation and marginalization of women in the affairs of development both at the private and public spheres.” Mobolanle (2008:5-6) in her research notes that, “whether as a theory, a social movement or a political movement, feminism focuses on women’s experiences and highlights various forms of oppression which the female gender is subjected to in the society.”

The above views are affirmed by Dagunduro and Adenugba, (2020:23) who also acknowledged Aina (1998) whose findings reveal that “within post-1960s feminism to refer to the methodical coordination of male supremacy and female subordination. Women have always lived under the domination of men as a lower group and have endured marginalization. They were considered inferior to the male folks through a combination of gender-based culture and traditional practices in favour of men.” In response to the foregoing, Fwangyil (2011:262) states that the purpose of the women struggle is to “liberate themselves from male oppression and dominance and also to better their lot in the society, women have tended to organize themselves into socio-political groups...through this process, they strive towards emancipating themselves and ensuring the attainment of equal social status and access to opportunities with the men.” Feminists argue that women’s oppression is based on sexuality-men and women’s biological differences. In a nutshell, Feminists; agitate for equal rights, opportunities and privilege for both men and women; argue that there should be equal social, economic and political rights for men and women; seek to eliminate barriers to equal social, political, religious and economic opportunities for women; condemn the notion of women as inferior, worthless, less intelligent, voiceless, less privileged, second class citizens and appendages, to mention a few; deconstruct the notion of women as embodiments while men are dominant citizens/characters as could be found in works of male authors. Feminism has spread across the world with different strands or labels which are worthy of mention in this study.

Liberal Feminists, for instance, struggle to achieve equal opportunities for both men and women in society. Feminist critics argue that issues concerning women should be carefully addressed. They agitate for equal legal, political, economic and social rights and opportunities for women. Several literary texts especially prose and dramatic works

convey subject matter that focus on the struggle for equal rights and opportunities for both males and females in societies. Sometimes such struggle could be unhealthy and result in assault and batteries of women and also untimely death of spouses. The agitations for women liberation are beginning to have both negative and positive impact on most families in the past decades. For instance, Bungaro (2006:67) observes that, "Family relationships in African post-colonial societies manifest a growing level of tension, conflict and stress as a result of new opportunities, new interests and new dilemmas created by increasing gender and class stratification across Africa, but especially across generations of Africa." The struggle has however yielded positive results as the primordial era of regarding women as appendage, inferior and second class citizen in society that is mainly dominated by men has been faulted by both male and female scholars, human rights activists and political leaders, to mention a few. All these have been recreated in literary productions of some African writers and they will illuminate the study of law and provide insight into the pitiable and suppressive condition of women in patriarchal society.

Another strand of Feminism is the radical approach that views motherhood as a limiting imposition on women and so it is determined to overthrow patriarchy as a way to end female oppression, subjugation and exploitation in society. It condemns sex classed system and male domination. Radical feminists argue that the oppression of women is based on gender so they challenge male dominance and promote homosexuality-since marriage is an institution of oppression. The feminists support radical ways to end oppression of women in society. Literary works that contain these violent revolutionary approach to overthrow patriarchal structure also abound in various generic forms and such narratives would doubtlessly enhance the understanding of legal practice and interpretations in society.

Apart from the radical feminist movement, there is the Lesbianism which condemns heterosexuality as being compulsory for all women. This form of feminism promotes sexual relationship among women which is alien to African worldview. Lesbian feminists argue that heterosexual intercourse encourages the oppression of women and support male supremacy. They also maintained that economic, political and sexual cooperation among women is better than male-female relationship. Therefore, to end women oppression, a woman should engage in sexuality with other women. The practice of lesbianism and gay marriage is un-African and so most societies condemn African ladies who indulge in such sexual relationships which they believe shall contaminate cultural norms, principles and standards inherited from past generations. Although literary works that focus on lesbianism and gay marriage are not common in African literatures, the knowledge of this form of feminism derived from the few available literary texts will be helpful to legal studies and practice. In society where lesbianism is prohibited, literary

productions that interrogate such practice will provide knowledge about the causes and activities of lesbian characters in the symbolic world. There is also the Humanist feminism that argues that the oppression of women is not based on class and race but it is universal. That is, the oppression, exploitation and subjugation of women is gender based but not racial nor class distinction. This strand of feminism will enable legal experts especially the womenfolk realize that the oppression of the females in societies is tied to the socio construct of gender instead of racism and social stratification. This can be identified in some literary works whose knowledge will be beneficial to those having interest in legal profession.

Also worthy of note among the feminist strands is the Marxist Feminism. This literary perspective like the Marxist theory of Karl Marx and Friederich Engels focuses on the exploitation of the working class (peasants/proletariat) by the oppressive capitalist middle class, and advocates for the overthrow of the middle class-oppressors. It focuses on the economic and cultural importance of domestic work of women in patriarchal society. Marxist feminists therefore, focus on class and gender oppression, material and economic subjugation of women. Two basic concepts are predominant in feminism and these are dominance and marginalization which are also captured in Oriaku's (2012:130) opinion of feminism. According to the scholar, Feminism implies "an attitude as well as a movement both of which are informed by a notion of male dominance of society and a concomitant marginalisation of women." In the early literary works, African females were initially portrayed as voiceless and naïve because of the patriarchal subjugation in society. They were silent victims of oppression and marginalization until in recent years when they engaged in gender discourse. Studies have shown that in the past decades, African female writers engaged in creative writing, critical (literary) theory and criticism. The following are some famous African female writers and their countries of origin; Nigerian Writers: Zaynab Alkali, Buchi Emecheta, Ifeoma Okoye, Zulu Sofola, Tess Onwueme, Chimamanda Ngozi Adichie, Helen Oyeyemi, Akachi Ezeigbo; South African Writers: Bessie Head; Senegalese Writers: Mariama Ba; Sudanese Writers: Nawal El Sadawi; Ghanaian Writers: Ama Atta Aidoo, Efua Suherland; Kenyan Writers: Micere Mugo and Ngugi Wa Thiong'O, to mention a few.

Marxist Criticism

This literary approach evolves from the philosophies of Karl Marx and Friederich Engels. It focuses on the exploitation of the working class (peasants/proletariat) by the oppressive capitalist middle class, and advocates for the overthrow of the middle class-oppressors. The research carried out by Oriaku (2012:130) reveals that "Marxist schemas identify oppressors and the oppressed, the privileged and the underprivileged, the bourgeoisie and the proletariat, master and servant, the victimiser and the victim." In advancing his

argument, the scholar posits that the (marxist) feminists adopt the above “categories and ascribe to the male segment of society the unenviable classifications of oppressors, privileged, bourgeoisie, master and victimiser; the woman is the underprivileged and disadvantage person, the victim of perennial social injustice” (131). In the area of Marxist Theory of Law, Hunt (2010:351) posits that; “Marxism is a rigorously sociological theory in that its general focus of attention is on social relations. Law is a specific form of social relation. It is certainly not a “thing,” nor is it reducible to a set of institutions.” According to the scholar;

Marxism’s central concerns are: (1) to explain the relations of subordination or domination that characterize particular historical epochs; (2) to account for the persistence and reproduction of these relations; and (3) to identify the conditions for ending these relations and realizing emancipated social relations. The method and content of a Marxist theory of law will necessarily be concerned to explore the role of law in these three areas (353).

In application, legal experts should concentrate on and acquire knowledge from literary works that portray the difficulties and miserable plights of the poor, masses, downtrodden, and peasants as they struggle against the working class capitalists. They should focus on strong proletarian elements (characters) and their combative dimensions in literary works. Marxist writers identify and interrogate elements of economic exploitation, alienation, injustice, marginalization, deprivation, and so on. A critical study and analysis of literary productions that focus on Marxist features would greatly enhance legal practitioners and students as this will expose them to both social classes-the oppressor (bourgeoisie) and the oppressed (proletariat). The research of Marx (1973:265) reveals that “Society does not consist of individuals, but expresses the sum of interrelations, the relations within which these individuals stand ... To be a slave, to be a citizen are social characteristics, relations between human beings A & B. Human being A, as such, is not a slave. He is a slave in and through society.” The findings of Marx (1971:21) show that Marx’s imagery of base and superstructure distinguishes between “the economic structure of society,” which forms the base or “real foundation,” “on which rises a legal and political superstructure and to which correspond definite forms of social consciousness.” The scholar further notes that “Law is assigned to the “superstructure” which “reflects” the “base” or “economic structure.” Thus it is the economic structure that determines or has causal priority in determining the character and content of the law (and all other features of the superstructure).” Hunt (2010:353) acknowledged Williams (1977:83–9) whose study reveals that;

The base–superstructure thesis is problematic in a number of respects. The notion of base–superstructure is a metaphor; it seeks to advance our understanding of social relations by importing an analogy which involves imagery derived from thinking about society as if it were a building or a construction project. The base – superstructure metaphor runs the risk of committing Marxism to an “economic determinism” – the objection to which is that it proposes a causal law (analogous to classical scientific laws) that asserts the causal priority of the economic base over all other dimensions of social life.

The research conducted by Iorapuu (2006:110) reveals that, “the political happenings and manipulations of women between 1999 and 2003 infuriated many women of the political class. Strong female civil activists that ventured into politics were methodically played out of the race.” The research of conducted by Hunt (2010:359) therefore affirms that “a Marxist approach to law will be concerned, on the one hand, with characteristically jurisprudential issues but will also be concerned about the potential contributions of legal strategies to achieving effective political strategies for the social movements that reflect the Marxist political and ethical commitment to the poor and the oppressed.” This legal theory together with the characteristics of the Marxist theory will illuminate the discipline of law as the legal characters will be exposed to the exploitation, and suppression of peasants, (the downtrodden) by the oppressors in society.

Conclusion

Legal experts require the knowledge of literature and various literary theories in order to enhance their understanding of experiences contained in materials presented before them. With the ideas derived from the literary (critical) theoretical approaches, they can evaluate, analyse and interpret legal documents, and also respond confidently to controversial issues. In this study, we found that there are legal theories which legal practitioners can apply to their discourse. The theoretical perspectives discussed here include those that are related in terms of principles and ideologies to new criticism, Russian formalism, deconstruction, postcolonialism, psychoanalytic theory, Marxist and feminist theories and criticism. The profound knowledge and application of the foregoing and other relevant theories will enhance the study and practice of law in society.

References

- Abrams, M. H. 2009. A glossary of literary terms (Ninth Ed.) United State: Wadsworth Cengage Learning. Coring, P., Hawthorn, J. and Mitchell, D (2001). Studying Literature (2nd edition), New York, U.S.A: Bloomsbury.

- Abdul, M. M., Adeleke, O., Adeyeye, O., Babalola, A., Eyo, E., Ibrahim, M. T., Voke-Ighoroje, M. and Onose, M. 2011. Analysis of the history, organisations and challenges of feminism in Nigeria. Empowerment and Leadership in Development Projects. Spanish Agency for International Development Cooperation (AECID).
- Aina, I. O. 1998. Women, culture and society. Nigerian women in society and development, Amadu, S. and Adetanwa, A. (Eds). Ibadan: Dokun Publishing House.
- Awelewa, A. O. and Aluko, R. O. South Africa's Law and Athol Frugard's *Sizwe Bansi is Dead*. *Ife Journal of Languages and Literatures*, Volume 7, Number 1, p. 221-235, 2021.
- Balkin, J. M. 1990. Nested oppositions. *Yale Law Journal* 99:1669.
- Balkin, J. M. 1987. Deconstructive Practice and Legal Theory. *The Yale Law Journal*, Vol. 96: 743-786.
- Boulton, M. 1981. *The Anatomy of Poetry*. London: Routledge and Kegan Paul.
- Bungaro, M. 2006. Mothering daughters and the other side of the story Amma Darko, Ama Ata Aidoo and Nozipo Marraire." *African Literature Today*, Vol. 25, pp. 67-81.
- Chennells, A. 1999. Essential diversity: Post-colonial theory and African literature. *Brno Studies in English* 25.
- Dagunduro, A. and Adenugba, A. 2020. Failure to meet up to expectation: examining women's Activist Groups in the post-Colonial Period in Nigeria. *Open Cultural Studies*, 4: 23-35.
- Devardhi, J. 2009. Application of Freudian concept to the explication of literary texts: a case study of Walter Whitman's "The Sleepers". *African Research Review*, Vol. 3.1, pp.436-450.
- Dunmade, O. I. 2017. Ritual form and mythologization of death in Wole Soyinka's 'Procession'. *TYDSKRIF VIR LETTERKUNDE*, 54 (1).
- Eagleton, T. 2008. *Literary theory: an introduction*. Oxford, UK: Blackwell Publishing.
- Eagleton, T. 1996. *Literary theory: an introduction*, Second Edition. Minneapolis: The University of Minnesota Press.
- Eichenbaum, B. 2004. "The formal method." *literary theory: an anthology*. 2nd Edition. Eds. Julie Rivkin and Michael Rayan. Oxford: Blackwell, 9-14.
- Fard, S. F. 2016. A short introduction to literary criticism. *International Journal of Humanities and Cultural Studies*. <http://www.ijhcs.com/index.php/ijhcs/index>
- Fwangyil, G. A. 2011. A reformist-feminist approach to Chimamanda Ngozi Adichie's *Purple Hibiscus*. *An international Multi-Disciplinary Journal*, Ethiopia, Vol 5(3), Serial. No. 20.
- Griffith, K. 2002. *Writing essays about literature: (a guide and style sheet)*. Thompson Heinle Incorporation.
- Held, D. 1980. *Introduction to critical theory*: California: University of California.
- Hooks, B. 2015. *Feminism is for everybody: passionate politics*. New York: Routledge Taylor and Francis Group.

- Hunt, A. 2010. Marxist Theory of Law. In Dennis Patterson (Ed). A Companion to Philosophy of Law and Legal Theory, 2nd Ed. London: Blackwell Publishing Ltd.
- Ibeku, I. A. 2015. Adichie's *Purple Hibiscus* and the issue of feminism in African novel. *Journal of Literature and Art Studies*, Vol 5, No. 6, pp. 426-437.
- Iorapuu, T. 2006. "Woman's voice a democratic imperative in Nigeria's polity: negotiating space through transformative theatre and voter education." In *Women Theatre and Politics*, Ibadan: Saniez Publishers.
- Kehinde, A. and Mbipom, J. M. 2011. Discovery, assertion and self-realization in recent Nigerian migrant feminist fiction: the example of Sefi Atta's *Everything Good Will Come*. *African Nebula*, Issue 3, pp. 62.
- Kirszner, L. G. and Mandell, S. R. 2001. Literature reading, reacting, writing (Fourth Edition). US, America: Harcourt College Publishers.
- Marx, K. 1973. Grundrisse: introduction to the critique of political economy. Harmondsworth: Penguin.
- Mobolanle, E. S. 2008. *Feminism and gender discourse: the African experience*. Sagamu: Asaba Publications.
- Munger, F. W. 1984. Critical Legal Studies versus Critical Legal Theory: A Comment on Method. *New York Law School*, 6 Law & Pol'y 257.
- National Open University of Nigeria. 2014. *Literary theory and criticism*. Abuja: National Open University of Nigeria.
- Olaoba, O. B. 2002. An introduction to African legal culture. Ibadan: Hope Publications.
- Oriaku, R. 2012. Education and consciousness-raising for social emancipation in selected African women's fiction: In Oriaku, R. And Odeunmi, A. (Eds), *IBADAN Journal of English Studies*, Vol. 8.
- Marx, K. 1971. A contribution to the critique of political economy, M. Dobb (Ed). London: Lawrence and Wishart.
- Patterson, D. (Ed). 2010. A companion to philosophy of law and legal theory, 2nd Ed. London: Blackwell Publishing Ltd.
- Rawlinson, D. H. 1971. The practices of criticism Kanpur: Cambridge University Press.
- Weinrib, E. J. 2010. "Legal feminism." In Dennis Patterson (Ed). A Companion to Philosophy of Law and Legal Theory, 2nd Ed. London: Blackwell Publishing Ltd.
- Williams, R. 1977. Marxism and literature. Oxford: Oxford University Press.
- Rivkin, J. and Michael, R. 2004. Introduction: formalisms. *Literary Theory: An Anthology*. 2nd Edition. Julie Rivkin and Michael Ryan (Eds). Oxford: Blackwell, 3-6.
- Young, R. 2003. *Postcolonialism: a very short introduction*. Oxford: Oxford University Press.