

## READING AROUND THE LAW: SENTIMENTAL CONSTRUCT AND *CRY, THE BELOVED COUNTRY*

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Alan Paton's 1948 secondary-classroom mainstay *Cry, the Beloved Country* might seem like an unlikely focus for an essay on the law-and-literature movement, itself something of a retrograde subject. But this is more broadly an essay about the risks and possibilities of sentimental reading, and Paton's novel is an ideal case study in the formal reductivism that has often guided both its reception and cross-disciplinary work. Beginning in its American heyday in the 1980s, the law-and-literature 'movement' (really more of a loosely defined community of ideals) has fetishised fiction as a one-dimensional fountain of empathy or understanding, a trend made timely by the recent wave of scholarship on emotions in literary criticism.<sup>1</sup> The perennial popularity and critical suspicion of *Cry, the Beloved Country* similarly reinforce the isolation of content from form, attributing the novel's failure or success almost entirely to its problematic liberal humanist vision. By reverting to a deceptively simple focus on law in literature to consider its role in the circulatory model that *Cry, the Beloved Country* advances, I both demonstrate how law might still enrich fiction rather than the more common reverse, and claim a place for form in accounting for the novel's enduring appeal.

### **That 'More Amorphous' Something: Law-and-Literature's One-Way Street**

In her well-known 2005 essay 'Law, Literature and the Vanishing Real: On the Future of an Interdisciplinary Illusion', Julie Stone Peters breaks the law-and-literature movement down into three broad stages of humanism, hermeneutics and narrative (444). While she goes on to trace some broad objectives around which this 'movement' might cohere, she ultimately fails to define an interdisciplinary project in any but the vaguest terms of humanism and social reform. 'The proliferation of essays over the past five years or so looking back at law and literature as a phenomenon', Peters observes, 'might be taken as a sign that we are moving beyond it as a cognizable interdisciplinary formation... signifying law and literature's transformation into something bigger and

necessarily more amorphous' (451). Peters urges both disciplines toward a larger whole and out of their tug-of-war between poles of enlightenment (literary theory versus legal praxis; feeling in literature versus rationality in the law). Yet such calls for law or literature to break free of disciplinary stereotypes threaten an already tenuous partnership: the scope of possible inquiries quickly expands so far as to render any overarching 'movement' arbitrary.

Then why not dispense with law-and-literature altogether in favour of some more relevant new project, we might ask? At what point does this transformation into something bigger, more amorphous, signal the exhaustion of the original paradigm? The answer, for many who have taken up the question, has been a plug for literature's unique capacity to enrich and humanise the law. In his idiosyncratic reflection on the law-and-literature enterprise, Michael Pantazakos asks 'why [is there] an ostensibly ineluctable aversion among attorneys to the notion that the humanities can make a unique contribution to the practice of law?' (34). By this account, the movement fails not so much as a result of its intrinsic limitations, but because it has not gained the traction it deserves outside of its knowing inner circle. This argument is misleading, as it hints at the historical contingencies of law-and-literature's development but fails to interrogate the universalising claims that may have contributed to its failure. Jack M. Balkin and Sanford Levinson bemoan that 'Lawyers have become key players in an ever-expanding globalising technocracy—and contemporary law schools have tended to turn, not to comparative literature, but to economics and rational-actor methodologies' (111). So on the one hand scholars acknowledge, even insist on, the fact that the legal profession has evolved throughout the twentieth century. And yet, paradoxically, this motivates an appeal to the humanities' timeless powers of sensitivity and redemption. Law has changed for the worse as *it* moves with the times, but the recipe for subverting this change through humanist good will appears to have held steady in some kind of social and disciplinary vacuum.

The dangers of upholding literary 'timelessness' through content alone are made abundantly clear by hostile readings of *Cry, the Beloved Country*. Before turning in this direction, however, I would like to dwell a bit longer on the problematic nature of law-and-literature's one-way street. Though charges of reductivism have most often been levelled by law-and-literature scholars on the law end of things—Jane Baron, for example, decries the movement's frequent depiction of law as 'a more or less empty domain composed mainly of rules' (1061)—there is room to press this accusation further. In fact, law-and-literature practitioners in the humanities go as far in reducing literary studies to an easy catalyst

for moral understanding, robbing it of technical properties that might complicate or negate a purely hermeneutic approach. Reviewing many contributions to the movement from literary critics, it would be easy to forget literature's own struggle for formal autonomy over significant swathes of the twentieth century. It is worth quoting from Martha Nussbaum's *Poetic Justice* at some length to illustrate this point, given the frequency with which others appeal to Nussbaum as a spokesperson for the movement and for emotional approaches to literary criticism more generally:

Literary works typically invite their readers to put themselves in the place of people of many different kinds and to take on their experiences.... They promote identification and sympathy...one may be told many things about people in one's own society and yet keep that knowledge at a distance. Literary works that promote identification and emotional reaction cut through those self-protective stratagems, requiring us to see and to respond to many things that may be difficult to confront. (5–6)

In this estimation, literature has no more formal complexity than is necessary to facilitate a therapy-session-cum-role-playing game, 'confronting' our distance from others through one-to-one exchange. It hinges on a crude mimesis: we take it for granted that the experiences we 'take on' can be directly transposed from experiences that we encounter through diegetic mediation; that this act of 'taking on' is valuable in and of itself and that empathy *with* anything at all always leads to empathy being *used* in productive directions. With a conception of literature so simultaneously narrow and vague, it is no wonder that the accompanying conception of law is so rigidly circumscribed in compensation.

Though other approaches to law-and-literature are more nuanced than Nussbaum's, there is a widespread tendency to subjugate the reader's participation in formal construction *of* content to engagement *with* content that is somehow pre-formed. This effectively upends most major high theoretical interventions into literature's interaction with society: the *de*-naturalising emphasis of Russian Formalist 'estrangement'—a concept with many afterlives that Caryl Emerson summarises as the promotion of 'acts of distance over acts of identification' (637)—gives way to identification as an ethical end in itself.<sup>2</sup> And so while I am not refuting the ethical potential of literature, I am arguing that what we are after is a *sui generis* balancing of

hermeneutic and poetic considerations that might find a place among many other factors in an evolving perception of reality. This aim necessarily contradicts the assumption that literature's benefit is in the emotions it arouses, which are bound to pre-existing sympathies rather than disruptive of them. Settling on a uniform definition for 'literature' at all, or for that matter for the law-and-literature movement in its many-tentacled quixotism, is likewise a risk to less socially reifying types of reading. I hesitate therefore to endorse fiction (or the humanities) as a catch-all antidote to law's crisis of soul, even as I insist on the continued relevance of the law-and-literature pairing in some more limited form.

### **Frozen in Timeliness: The Unshakeable Essence of South African Fiction**

*Cry, the Beloved Country* is undoubtedly the poster text for how South African literature has been essentialised in its international reception, exemplifying as it does what Andrew van der Vlies calls the 'hypercanonical' (73), or what Rita Barnard elaborates as 'a sort of second-tier canonicity, or even a second-tier hypercanonicity' for works that '[have] earned a secure, but not very advanced pedagogical niche' (87). In other words, *Cry, the Beloved Country* is canonised mainly for its popular and pedagogical appeal, both of which have long been rooted in its (controversial) message of 'Christian humanism, trusteeship and reconciliation' (Van der Vlies 72). As one educator put it in an obscure but representative article from 1990 entitled 'South African Literature: A Global Lesson in One Country', the novel's near monopoly on South African fiction in American secondary curricula occludes rather than advances the true 'richness and complexity of South Africa's literature' (Mossman 41-42).

Owing to this categorisation of *Cry, the Beloved Country* as simple, didactic, middle-brow fiction, it is an object of scholarly inquiry almost exclusively in the realm of literary history and material culture. 'Scholars in [this] field are sometimes criticized...for concerning themselves with the materiality of text to the exclusion of a work's narrative strategies', Van der Vlies volunteers, 'with the space of position-taking *by* texts, rather than position-taking *in* texts' (9). And in fact, though the novel has been widely upheld as the quintessential example of South African literature's global import—it is at once a timely engagement with 'the condition of blacks, the relations between the white minority and the black majority, etc.' (Hogan 206) and '[satisfies] an array of ever-

changing context— and period—specific desires’ (Van der Vlies 72)—it has received little by way of serious formal attention. Paton ends up criticised for the very same reasons that his work is held up as morally exemplary: his ‘sophomoric poetry’, while perhaps noble in vision, does not fit the paradigm of nuanced psychological realism that many Western critics demand (Mossman 42). As Andrew Foley notes, the novel in this regard ‘has been ill served even by sympathetic commentators who have tended to highlight and laud the novel’s simplicity, spirituality and universality’ (63).

The current high—critical dismissal of what Nadine Gordimer calls the ‘most influential South African novel ever written’ (Van der Vlies 72)—the almost total privileging of its historical resonance over any additional explanations for what Van der Vlies admits to having found an ‘immensely moving’ novel even despite his political misgivings (71)—invariably concerns the sentimentalism which has made it so widely palatable in the first place.<sup>3</sup> It is, as confirmed by its 2003 inclusion in the Oprah Book Club per Rita Barnard’s analysis, the type of work suited to the ‘emotional and deeply personal reading strategies of middle—brow audiences’ (86). This emotional impact of the novel outside South Africa also seems rooted in timeliness, in its gut—wrenching portrayal of *real* injustice in a *real* place *as* we are reading about it: ‘open your mind and heart to South Africa’, Oprah beckons on her website. Yet paradoxically, the illusory nature of this mimesis begs alternative explanations for the novel’s staying power. This is driven home in Rita Barnard’s summary of South Africa’s symbolic frozenness, which she borrows persuasively from other scholars and which bears quoting at some length:

It is often said, and with good reason, that the U.S. reception of South African literature is ahistorical. In his account of three Hollywood anti—apartheid films of the 1980s...Loren Kruger has suggested...that the U.S. reception has relied on the reification of a particular moment in a national allegory, even on a single image, which is made to signify ‘South Africa’.... Now foreign observers tend to be stuck in 1994, with the image of Mandela being sworn in as leader of what Jeremy Cronin has sardonically called the ‘winning nation’. (89)

Fiction is thus valued primarily for its emotional impact, but it is an impact that is yoked to a false perception of historical

contemporaneousness. This does much to account for the two poles at which *Cry, the Beloved Country* is typically read: for emotional gratification by ‘middle–brow’ audiences, or for insight into textual history by academics. In other words, we either read for emotional uplift or we read to excavate socio–historical artifacts, thinking a lot about textual reception across various audiences but very little about enduring aspects of the text itself. Once again, literature finds itself at the lesser end of a hyphen: it is an unadulterated catalyst for either tears or empirical knowledge, only one step beyond its role as ‘humaniser’ in the law–and–literature formula.

On what other basis, then, might we evaluate an ostensibly straightforward, didactic novel like *Cry, the Beloved Country*? Is it possible or conscionable to see a text perceived in such social–documentary terms through something approaching a formalist lens (Van der Vlies 77)? J.M. Coetzee gestures toward an alternative means of discussing this fraught work: in summarising Paton’s characters as ‘ethical rather than psychological beings’, he places the *Cry, the Beloved Country* outside of the realist genre, and thus outside of a need to see its socio–political origins reflected in the particulars of its ongoing reception (*Stranger Shores* 266). Yet, though he does not shy away from the novel’s far–reaching emotional impact, pronouncing its escape from sentimentality ‘only by the sheer power of its sentiment’, Coetzee also does not venture alternative ways of accounting for *Cry, the Beloved Country*’s emotional longevity as he *does* see it (262). While 1988’s *White Writing* offers pointed insight into Paton’s ‘marking’ the intonations of one language in another, and thus into how these non–psychological (often racially problematic) characters are developed, it stops short of examining their complex and in some sense ‘timeless’ structural function. As Van der Vlies notes, *Cry, the Beloved Country*...seems eminently well placed for an even longer afterlife’ (99).

Njabulo S. Ndebele goes further to fill the void left by psychological realism in his famous analysis of the ‘spectacular’ in black South African literature, which he defines as ‘a highly dramatic, highly demonstrative form of literary representation’ (37) with ‘little attempt to delve into intricacies of motive or social process’ (39). While Ndebele is speaking particularly of the formal constraints faced by black South African writers in protest fiction, often ‘denounced as unartistic, crude, and too political’, his point is broadly relevant to discussing the literary merit of a work outside its original context (44). When he writes that literature of spectacle is ‘demonstrative, preferring exteriority to interiority’ and that it ‘provokes identification through recognition and feeling rather than through observation and analytical thought’ he might

easily be summarising Coetzee's and other critics' misgivings about *Cry, the Beloved Country* (46). But while Ndebele advocates for a turn away from the spectral and toward a more nuanced and adaptable realism of ordinary lives, Paton's novel survives across decades and continents despite or even because of its spectral qualities. Either way, we are left with no choice but to read crudely 'for the message', be it the too-limited one of protest fiction or the problematically 'universal' alternative of *Cry, the Beloved Country*.

While this is not necessarily invalid, we find ourselves back in the essentialist and socially complacent bind of the law-and-literature movement: as Jane B. Baron puts it, 'a disconcerting aspect of the moral uplift project [within law-and-literature] is that it almost demands that works of literature be read, like fables, for their "message"' (1070). But what if we attempted a sentimental reading in a more rigid sense, using the emotional power that *Cry, the Beloved Country* has been long and widely praised for as a platform for investigating the modes of interaction it models? In particular, a reading of law's role in *Cry, the Beloved Country* might act as a limited corrective, both to law-and-literature's simplification of the way literature impacts society (as a happenstance source of moral or political messages to which form is incidental), and to readings of the novel that view its staying power as a matter of content alone. I do not mean to indicate that literature's social and historical conditions are unimportant, but that there is also room to consider the complex, idiosyncratic and more literally 'timeless' forms of contact and circulation that a 'spectral' novel might model. In doing so, we recover literature's capacity to enact, rather than merely instruct.

### **Contact Across Distance: Re-Contextualising *Cry, the Beloved Country***

It is surprising considering the ease with which 'sentimentality' has been thrown around as a critical indictment of *Cry, the Beloved Country* that it has not been a subject of more rigorous work on sentimentalism more properly speaking. I would suggest that Margaret Cohen's recent model of 'sentimental communities' (rather than simply sentimental content) is relevant in more ways than one. While her argument is most directly addressed to sentimentalism as a literary-historical phenomenon of the eighteenth and early nineteenth centuries, she stipulates popular relevance among its generic qualifications: 'Though sentimental discourse fell from prestige around the middle of the nineteenth century', Cohen acknowledges, 'it has had an active afterlife in mass culture,

where it has been used in a range of media genre popular with vast audiences' (106–7). Given the unrelenting media presence of *Cry, the Beloved Country*—Van der Vlies notes film, musical and dramatic adaptations as recently as 1995, 1992 and 2003—it seems high time to consider the novel's 'universal themes' in these terms (96–97).

If we consider, for example, Paton's seemingly clumsy and transparent use of 'the letter' as a key sentimentalist device, it represents a conflation of empathy and distance—an emphasis on models of collective response rather than on the *content* of that response—that may figure into *Cry, the Beloved Country*'s resonance across massive geographic, social and historical distances.<sup>4</sup> A closer look at a passage in Chapter 2, when Kumalo receives a letter that sets his journey to Johannesburg in motion, reveals the possibility of reading the novel in terms of the model of circulation and interactivity that it suggests: 'Kumalo looked at the letter', we read, 'It was dirty, especially about the stamp. It had been in many hands, no doubt' (6). The archetypal realist implications of this are mundane to say the least, no doubt getting at a general social condition through the experiences of a particular character. As I have argued up to this point, however, *Cry, the Beloved Country* works largely outside of this realist paradigm, and the transparency of Paton's technique here plays into something more like the 'spectral' of Ndebele's description.

A bit further down the same page, we read that Kumalo 'turned the letter over, but there was nothing to show from whom it came', and still further that 'there was nothing in the touch of it to tell from whom it might be' (6–7). Though the letter is later attributed to Theophilus Msimangu, we might read its drawn-out introduction as an invitation to prioritise communication over character, or the *form* of this contact over its source. In addition to *seeing* the letter itself, we are offered considerable information about its appearance, texture and effect on others (8). Kumalo's history is not at issue so much as the history of the letter is, effectively focusing the reader's attention on the power of a communicative object to disrupt the relative stagnancy of the novel's first chapter. We are drawn into the novel's re-constitution and acceleration in narrative momentum at the same time as its characters are, denaturalising our perception of the world we thought we knew in Chapter 1 and forcing our attention to the structural minutiae of Kumalo's emotional journey.<sup>5</sup>

Yet important moments of emotional impact in *Cry, the Beloved Country* are rarely shown but rather 'told' in relatively generic terms, a counter-intuitive observation about a novel many have felt to be 'wrought with high poetic compassion' (Van der Vlies 74). We read

flatly, for example, that ‘Jarvis sat, deeply moved’, and *not* about more vibrant or idiosyncratic ways in which his emotion is made manifest or even how it is provoked (209). Instead, we are re-directed to the actual *text* that has ‘moved’ Jarvis, disrupted from a submersive reading experience and left to graft our own responses to the letter onto the empty vessel of the fictional agent. Rather than see such vague characterisation as merely unskilled prose, we might see this as an example of sentimentalism’s ‘completely opposing relation to realism’, an invitation to consider instead the multi-layered dynamics of communication and response (Cohen 108). ‘As a result of the spectator’s distance from sentimental conflict’, Cohen writes, ‘he or she not only is engrossed in its outcome but can debate its construction and significance’. The manifold historical treatments of *Cry, the Beloved Country* provide copious insights into how the novel has been read, but very little into the textual mechanics of why.

Extending this reading to include law’s place in *Cry, the Beloved Country*’s larger circulatory model thus has a two-fold objective: 1) to understand law as it is embedded within the novel as something that is, like literature, constructed in historically contingent but *nonetheless transposable* ways, and 2) to move beyond this understanding to evaluate the extra-legal or even anti-legal modes of social action and circulation that are staged in the text, a more incisive challenge to legal hegemony than ‘empathy’ writ large in work on law-and-literature. The grounds for such a re-focusing are plentiful: the chapter immediately before that of the novel’s main trial is, tellingly, the one from which I have drawn the example of Jarvis’ (and reader’s) response to his dead son’s manuscript, and is rich in rapid dialogue between racially and socially disparate characters—an aspect of the novel that was, incidentally, cut from its *Reader’s Digest* version in the 1950s (Van der Vlies 89–90). The ensuing trial, in its departure from this focus on sentimental-communicative device and reader response, develops law not so much as a defined, authoritative if contrary agent but as an egregious lapse in the multi-layered interactions enacted by the rest of the novel.

The scene in which Kumalo’s son is to be tried for murder, the most concentrated representation of law within the text, begins by introducing a nameless agent who is literally removed from everyone else. ‘At the head of the Court is a high seat where the Judge sits’, we read, ‘Down below it is a table for officers of the Court, and to the left and to the right of the table are other seats’ (212). Tellingly, we enter the scene not through the exchange between prosecutor and defendant that follows and that plays a key role in advancing the plot of the novel, but through

introduction to an agent (the judge) who has no direct role in the interactive network forged by surrounding chapters. The judge embodies law not so much as an impartial agent but as the absence of one: while the ‘you’ of the reader has until this point been implicitly engaged through the interchange of empathy and spectatorship—by interpreting *as* characters interpret, rather than through them—narration in the trial scene is reduced to a single dimension of direct address. ‘You may not smoke in this Court, you may not whisper or speak or laugh’, we are advised. ‘This is in honour of the Judge, and of the things behind the Judge’ (ibid).

There are no communicative, ‘sentimental’ devices here to catalyse the creation of narrative networks among agents in the novel *or* among its disparate readership(s), and the work of interpolating personal response into a generic one (such as Jarvis’ reaction to his son’s manuscript) has been made irrelevant. The ‘you’ of the reader is now so tightly circumscribed as to forfeit its open-ended invitation to ‘identify’ with characters, in this sense a more over-determined reflection of the agent (the judge, and by extension the law) it is being instructed to heed. Excisions from this and other courtroom scenes in a *Reader’s Digest* version of the novel, as Van der Vlies notes, ‘render Paton’s emphasis on the importance of the rule of law considerably less qualified than in the original text, which highlights, not entirely unintentionally, the precarious inscrutability of the court’ (91). I suggest that this ‘inscrutability’—importantly distinct from merely an unflattering or objectionable depiction—of the judge and law also indicates a reduction in structural complexity, robbing readers not only of the opportunity to identify and emote but also of the constructive inference previously encouraged. Cohen reminds us that ‘Today, we are used to thinking of pity as narcotic if not totalitarian, shutting down the critical faculties’, when in this case pity for Jarvis or Kumalo demands considerably more involvement with the text than the removed, unemotional alternative of the law (113).

That is to say that when dialogue is re-introduced, it is dramatically pared down from its former dynamism. Whereas previous exchanges occurred between multiple agents at various levels of involvement (also demanding direct interpretive work of the reader by including the textual object), exchanges between the defendant and representatives of the law are so limited as to inaccurately represent what we emotionally ‘know’ to be the truth of the situation. The back-and-forth between prosecutor and defendant, far from inviting the reflective synthesis of two agents through a common focal point, is an exercise in narrative undoing. Without means of expressing qualified or at least non-binary versions of

innocence and guilt, the defendant (Kumalo's son) is repeatedly lulled into silence. Consider the following, representative excerpt from his cross-examination:

—Why did you choose this day?

—Because Johannes said that no one would be in the house.

—This same Johannes Pafuri who is charged with me now.

—And so you chose this time of half-past one?

—That is so.

—Was it not a bad time to choose? White people come home to eat at this time.

*But the accused makes no answer.* (214, emphasis added)

As his words are repeated and re-configured by the prosecutor, the defendant becomes unwilling to construct any claim at all. It is critical to note, though, that this does not in turn paint a more in-depth portrait of either the prosecutor or the law that he represents. It is not one voice silenced by another's gain, and law does not participate in *either* social or narrative construction so much as it polices its impossibility. 'The Judge does not make the Law', Paton writes, 'It is the People that make the Law. Therefore if a Law is unjust, and if the Judge judges according to the Law, that is justice, even if it is not just' (213). For this reason, it makes sense that reading law in *Cry, the Beloved Country* is most revealing of what it leaves out: the structures through which people (and texts) connect and develop.

## Conclusion

A tendency to 'read for the message' haunts both the law-and-literature movement and criticism of Alan Paton's *Cry, the Beloved Country*. I have highlighted some ways in which both literature in general and this novel in particular are reduced to essential versions of more complex constructs, while advocating that attention to 'sentimental' form might complement the robust body of scholarship on its historical trajectories. While much fiction stands to enrich our understanding of law's blind spots or limitations, the alternative that it provides is as much one of structural as of thematic difference. This is a modest but perennially timely argument: in occasionally bracketing our understanding of

literature as reflective of historical origin and reception, we open ourselves to reading for more interactive models of form and circulation. This, perhaps more than tears or timeliness, carves an enduring niche for literature—and literary studies—that is beyond the reach of law or easy lessons.

## NOTES

<sup>1</sup> See Robinson, for example, or the forthcoming special issue of *Symploke* on ‘Emotions’ that asks whether we are ‘returning to an aesthetics of feelings’ <<http://www.symploke.org/>>.

<sup>2</sup> See Holquist and Kliger.

<sup>3</sup> As Van der Vlies notes, ‘reading Paton’s novel as a tale with universal appeal and application marginalized the novel’s undeniable critique of institutionalized racial discrimination, no matter how retrograde Paton’s representations of black characters would, in themselves, be regarded by some more radical readers’ (75).

<sup>4</sup> See among many examples Dobson or Buhks.

<sup>5</sup> Journeying, it goes without saying, is also a well-worn sentimentalist device. See Braudy and Fulweiler, again among many examples.

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