

Student_6

Professor N. Villarreal

ENG 1002 102

9 May 2017

Unequal Protection Under the Law

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws,” (US Const. art. XIV, sec. 1). These words, enshrined in the Fourteenth Amendment to the United States Constitution, embody the ideal essence of the American justice system: equal protection under the law. The famous personification of justice often depicts a blindfolded woman with scales in her hand, meant to symbolize the impartial and unbiased administration and enforcement of the law; no matter race, sex, origin, or creed, Lady Justice protects and judges all equally. The Fourteenth Amendment was penned in 1868 to grant full citizenship to the recently-emancipated slaves, who, until the passage of the Thirteenth Amendment, had been treated as property rather than human beings. Through the Fourteenth Amendment, the second of the so-called “Reconstruction Amendments,” African Americans, and all people, for that matter, were guaranteed equal protection under the law. Despite being inaugurated as a part of the highest law of the land, the notion of equal legal protection was often lacking or nonexistent in the postbellum South. This shocking inconsistency between the written law and the widespread practice was captured by Harper Lee in her famed and renowned novel *To Kill a Mockingbird*. The story chronicles a court case in the fictional Maycomb, Alabama in which a black man is wrongfully accused and is denied equal protection under the law. In her

fictional novel *To Kill a Mockingbird*, Harper Lee utilizes the setting and the Tom Robinson storyline to highlight the severe inequality in the legal system experienced by African Americans in the postbellum Deep South.

In her novel *To Kill a Mockingbird*, Lee uses the setting to explore the deep-seeded racism and bigotry prevalent in the early-twentieth century South that harbored and fed an unjust legal system. The novel is set in the fictional town of Maycomb, Alabama in the 1930s, during the devastatingly difficult Great Depression. In the early pages of the novel, Scout Finch describes the general “vibe”, so to speak, of Maycomb:

Maycomb was an old town...[p]eople moved slowly then. They ambled across the square, shuffled in and out of the stores around it, took their time about everything. A day was twenty-four hours long but seemed longer. There was no hurry, for there was nowhere to go, nothing to buy and no money to buy it with, nothing to see outside the boundaries of Maycomb County. (Lee 6)

Scout’s description of Maycomb captures the cultural stagnation that gripped much of the South during that period. The 1930s proved an awkward time for the region; the days of Reconstruction and reform had passed with the horrors of the Civil War fading into recent memory, and the Civil Rights Movement of the 1960s was not yet discernable on the cultural horizon. It was this culture, according to Packard, that southern towns, like the fictional Maycomb, became isolated from the larger culture (152). This isolation forced these towns back onto themselves and facilitated the perpetuation of racist and bigoted ideology. Evidence of this process can be found throughout the novel. As quoted above, Scout described the people of Maycomb of having “nowhere to go” (Lee 6), thus allowing them to become bogged down by their preconceived ideas and biases due to lack of circulation of different ideals, values, etc. Because of this, the vast

majority of Maycomb residents that the reader is introduced to appear to hold, in at least some capacity, racist beliefs or tendencies. Examples can be found throughout the novel, such as Mrs. Dubose's disgust that Atticus is defending Tom Robinson (Lee 135) and the continual racism exhibited by Bob Ewell.

Another aspect of the setting is Jim Crow laws. While not necessarily explicitly mentioned in the novel, one would be remiss not to acknowledge Jim Crow as a looming shadow that covers the entire story. According to resources provided by the Library of Congress, "Jim Crow laws mandating the separation of the races in practically every aspect of public life were systematically instituted in the South beginning in the 1890s. Water fountains, restaurants, theaters, restrooms ... were typically designated... "White Only" and "Colored" ("The Segregation Era"). These laws, which rose from the ashes of the former system of slavery, gave a legal basis to racist ideals and biases held by many Southerners and strove to relegate the now emancipated African Americans back to a level subordinate to that of their white counterparts. These Jim Crow laws, in conjunction with the underlying racial prejudices of many Southern communities, forged a criminal justice system that was gravely unfair and unjust toward African Americans. Through the setting of *To Kill a Mockingbird*, Lee delves into the factors that built this unfair system; through the Tom Robinson storyline, Lee explores the Southern justice system of the period itself.

Lee explores the inequality of the early twentieth-century Southern legal system through the Tom Robinson storyline contained in *To Kill a Mockingbird*. In the story, Tom Robinson is an African American man who lives on the outskirts of Maycomb (Lee 100). Tom is introduced when it is revealed that Atticus was appointed to defend him in case in which Tom is accused of raping Mayella Ewell, the eldest daughter of the local town drunk, Bob Ewell (223). Over the

course of the trial, Atticus provides evidence to suggest that Tom Robinson would be incapable of harming Mayella as she claims he did (due to Tom's injured arm) and that the Ewells are lying about the attack. Despite the solid case built by Atticus, the jury finds Tom guilty of the attack (Lee 282). The Tom Robinson case displays a fundamental breakdown of the justice system; to begin, Tom was arrested solely based on the claim of Mayella that she was attacked by Tom. This is consistent with historical evidence from the period; according to Klarman, "Because most southern white men believed that black males secretly lusted after 'their' women, [the authorities] generally found such rape allegations credible" (382). This idea that black men were inclined to take advantage of white women caused the testimony of the men to be rendered not credible, thus leaving the accused man without a chance to properly defend himself and give his account of the story. Furthermore, despite a great deal of evidence casting reasonable doubt onto the Ewell's claims, the jury finds Tom guilty of the attack (Lee 282). It appears that this verdict was based on factors other than the evidence, i.e. racial prejudices and biases. Through the Tom Robinson storyline, Lee presents a case in which the criminal justice system failed in its mission to ensure equal protection to all citizens, regardless of race. While Tom Robinson's case was fictional, the inequality experienced by African Americans in the early twentieth-century Southern legal system was all too real.

While one might hope that events like the Tom Robinson case depicted by Lee in her novel are purely fictitious, this, sadly, is not the case; the Scottsboro case of 1931 is a historical example of the reality of an unequal justice system in the early twentieth century South. The Scottsboro case, which some scholars theorize served as Lee's inspiration, in part, for the Tom Robinson storyline in *To Kill a Mockingbird*, was arguably one of the most infamous legal cases in American history. The case centered on nine young African American men who were accused

of sexually assaulting two white women aboard a train in Alabama. Around midday on March 25, 1931, law enforcement in Paint Rock, Alabama stopped a freight train on report of several white men being thrown off the train by black vagrants. When the deputies boarded the train, they found nine black youths and two white women stowing aboard a boxcar. Soon after the train had stopped, one of the white women, Ruby Bates, reported to a member of the posse that she and her friend, Victoria Price, had been gang-raped by the black men (Klarman 382). Immediately and without any corroborating evidence, the black youths were arrested and detained; based purely on Bates' testimony, the "Scottsboro boys", as they came to be called, were transported and held in the nearby Scottsboro jail (Klarman 382). Their arrest underscores the first major issue in the Southern legal system of the time: unjustified arrest of African Americans by law enforcement based solely on white testimony. Tom Robinson found himself in a similar situation: he was arrested based on an accusation that he committed a crime, without much evidence and no eyewitnesses (Lee 223, 296). While a claim of sexual assault could very well have been grounds for probable cause to arrest, the arresting officers displayed an almost nonexistent desire to collect evidence or verify the woman's story; rather, they chose to believe the young men had raped the women based on Bates' word alone. According to Klarman, one white Southerner of the period once quipped, "If a white woman is prepared to swear that a Negro either raped or attempted to rape her, we see to it that the Negro is executed" (Klarman 382). Racial norms and biases made the notion of holding a black man's word equal to that of a white woman simply unfathomable; therefore, unable to defend themselves or detail their own account of what had happened, all nine men were hauled away and detained in the Scottsboro jail. News of the Scottsboro boys traveled quickly; by the close of the day, "a crowd of several

hundred people had gathered outside the jail, demanding that the [men] be turned over for lynching” (Klarman 381).

This presents the second major infamy of the Southern legal system: lynching. According to Packard, “lynching means murder, by a mob large or small, of a man or a woman whom the members of the mob believe has committed a criminal act of a grave social wrong” (129). In most cases of this era, lynching was used by mobs as punishment for a breach of Jim Crow etiquette and strict racial norms. As in nearly all lynching cases, the Scottsboro lynch mob sought to dole out their own vigilante justice and deprive the accused of their constitutional right to a fair and speedy trial by jury. Lee incorporates a lynch mob into the Tom Robinson storyline; in the novel, a group of white men, led by Walter Cunningham, attempted to take Tom Robinson by force in order to take justice into their own hands (Lee 202). While lynching was not exclusive to the South, it was particularly gruesome in that region. According to Packard, roughly five thousand people were lynched in the United States between the Civil War and the passage of the Civil Rights Act, with the clear majority of the victims being African American (130). It is evident that lynching was a main enforcement tool of Jim Crow and racial inequality; through lynching, numerous African Americans were deprived of their legal, constitutional rights and, more significantly, their lives, as the victims of prejudiced and racial violence. Despite the odds being stacking against them, the Scottsboro boys did not face the cruelty and inhumanity of the lynch mob. Responding to the request of the sheriff of Scottsboro, Alabama governor B.M. Miller sent the national guard to protect the men from the mob (“The Rise and Fall of Jim Crow”). The governor’s actions guaranteed that the boys would receive trials, but these trials would be far from fair.

Even though the Scottsboro boys received trials by jury, these trials were grossly unfair. To begin, the grand juries that indicted the Scottsboro boys did not have one black juror, nor had any African American served on a grand jury in the county since the Civil War, despite African Americans making up roughly 10% of the local population (Klarman 399). Likewise, the petit juries that heard the boys' trials were completely comprised of white men, many of whom were influenced by the mob of thousands that gathered outside the courthouse (Klarman 385). The absence of African Americans on the juries left the defense attorneys and the black witnesses with the daunting task of convincing all-white juries, that contained men who likely held deep-seeded racial biases and prejudices, of their innocence. Atticus Finch faced this daunting task within the Tom Robinson storyline of *To Kill a Mockingbird*; the jury that convicted Tom Robinson consisted of all white males, many of whom likely held racially biased beliefs (Lee 296). These all-white juries were not isolated instances, nor were they confined to Alabama; According to Starkey, the systematic exclusion of blacks from juries on racist grounds was a staple of the South's criminal justice system well into the mid-twentieth century (43). Furthermore, testimony from several of the witnesses at the Scottsboro trials proved to be inconsistent or even coerced. According to Klarman, one of the doctors that testified later confessed of his fear of telling the truth. "[i]f I testified for those boys, I'd never be able to go back into Jackson County" (Klarman 401). Influenced either by fear of the mobs or their own personal racial biases, unreliable witnesses led to unfair trials and, ultimately, infringement on the Scottsboro boys' rights to equal protection under the law. As one can see from the Scottsboro case, stories like that of Tom Robinson in Lee's novel were all too real. Eight of the nine Scottsboro boys were eventually convicted of the crimes and sentenced to death (Klarman 379). The boys' attorneys had the cases appealed and, after two Supreme Court cases and nearly

twenty years of legal proceedings, the rulings were eventually reversed in their favor (Klarman 379). This does not, however, erase the underlying horror of the whole ordeal: countless African Americans were treated unjustly and had their rights infringed upon by the very legal system that was meant to protect them and uphold their rights.

By weaving a convincing and historically accurate setting and intertwining it with a narrative of a messy court case, Harper Lee uses her classic novel *To Kill a Mockingbird* to showcase the inequality and injustice experienced by African Americans in the post-Reconstruction Southern legal system. Formed primarily by the underlying racism that existed through much of the South and the system of legal segregation known as Jim Crow, the legal system of the South failed to protect their right granted to them by the Fourteenth Amendment: equal protection under the law. Countless African Americans, such as the Scottsboro boys, were treated unjustly under the system, whether it be through arrest without probable cause, the dangers of a lynch mob, or an unfair trial conducted with a biased jury. The promise of equal protection should and must be guaranteed to all people, regardless of their race, sex, origin, creed, or any other demographic/factor; an equal, “blind” legal system is a fundamental right of every citizen. Harper Lee, through her character of Atticus Finch, summed up this noble idea beautifully:

But there is one way in this country in which all men are created equal- there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution gentlemen, is a court. It can be the Supreme Court of the United States or the humblest JP court in the land, or this honourable court which you serve. Our courts have

their faults as does any human institution, but in this country our courts are the great levelers, and in our courts all men are created equal. (Lee 274)

Equality, as Lee so eloquently reminds the reader in her endearing and enduring American classic, is an ideal of the highest order that must continually be sought after. In spite of differences in appearance, education, wealth, or background, each and every human person possesses equal human dignity that must be protected.

Works Cited

- Klarman, Michael J. "Scottsboro." *Marquette Law Review*, vol. 93, no. 2, Winter 2009, pp. 379-432. *Academic Search Complete*, eds.a.ebscohost.com/ehost/detail/detail?vid=31&sid=bb3cde6f-7d05-47c1-8eaa-4c0a2b09c5a8%40sessionmgr4006&hid=4108&bdata=JnNpdGU9ZWhvc3QtbGl2ZQ%3d%3d#db=a9h&AN=52980279. Accessed 25 Apr. 2017.
- Lee, Harper. *To Kill a Mockingbird*. Grand Central Publishing, 1982.
- Packard, Jerrold M. *American Nightmare: The History of Jim Crow*. St. Martin's Press, 2002.
- "The Rise and Fall of Jim Crow." *PBS*, www.pbs.org/wnet/jimcrow/index.html. Accessed 19 Apr. 2017.
- "The Segregation Era (1900–1939)." *Library of Congress*, www.loc.gov/exhibits/civil-rights-act/segregation-era.html. Accessed 22 Apr. 2017.
- Starkey, Brando Simeo. "Criminal Procedure, Jury Discrimination & the Pre-Davis Intent Doctrine: The Seeds of a Weak Equal Protection Clause." *American Journal of Criminal Law*, vol. 38, no. 1, Fall 2010, pp. 1-48. *Academic Search Complete*, ezproxy.ivcc.edu:2522/ehost/detail/detail?vid=3&sid=21ef322e-3d50-4b63-ac3d-43f22a16a26d%40sessionmgr104&bdata=JnNpdGU9ZWhvc3QtbGl2ZQ%3d%3d#AN=60680311&db=a9h. Accessed 7 May 2017.
- US Constitution. Art. XIV, sec. 1. Constitution Center, constitutioncenter.org/media/files/constitution.pdf. Accessed 30 Apr. 2017.