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TO KILL A LAWYER-HERO: ATTICUS FINCH IN THE LAW SCHOOL CLASSROOM

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Andrea Sarti: Unhappy the land that has no heroes...
Galileo: No. Unhappy the land that needs a hero.

Life of Galileo, Bertolt Brecht²

ABSTRACT

This article addresses the well-known lawyer character from Harper Lee's novel and subsequent film, *To Kill a Mockingbird*. For years, legal scholars have rhapsodized about Atticus Finch as the ultimate "lawyer-hero" and role model for aspiring attorneys, with little dissent. When Lee's literary executor published an early draft version of the novel entitled *Go Set a Watchman* in 2015, many readers were shocked to encounter an Atticus Finch who was an apologist for segregation and the leader of a White Citizens Council chapter. This article reflects on evolving views of Finch as lawyer-hero, examining how he plays in the contemporary law school classroom. This article argues that, regardless of *Go Set a Watchman*, law professors should be teaching Atticus Finch critically given the unacknowledged white privilege embedded in *To Kill a Mockingbird*. Yet how can we critique Finch and still nurture students' interest in and admiration of social justice lawyering, embodied for some in the mythic lawyer-hero? This article proposes techniques to dismantle the heroic construct surrounding Atticus Finch, shifting the focus from fictional images of the socially-engaged lawyer to students' own professional aspirations.

INTRODUCTION

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Outlaw heroes and anti-heroes notwithstanding, the concept of the hero—an individual (typically male) who transcends or supersedes the norm to protect others or achieve extraordinary tasks—retains its power in film and television. The figure of the hero often implicates the law, as heroes are exceptions who extend existing boundaries beyond the accepted social order.³ The seemingly inexhaustible superhero genre presents the extra-legal quality of the heroic in strong relief, positing a universe in which the law’s failure or inadequacy calls for a supplement.⁴

Cinematic lawyer-heroes thus have an overdetermined resonance, suggesting at once a character who, in his lawyer mode, works within the confines of existing laws, but who goes beyond the law in his hero mode. Films take a range of approaches to this tension. A handful of films present lawyers as heroic through their affiliation with a just legal system. Many more films depict the lawyer going outside of the legal system to acquit justice.⁵ In both instances, the relationship between the lawyer character and society is essential to the narrative’s depiction of the law.

THE LAWYER-HERO IN TWO ACTS: TO KILL A MOCKINGBIRD vs. GO SET A WATCHMAN

Atticus Finch of *To Kill a Mockingbird*⁶ (“TKAM”) has historically been hailed as a “true” literary and cinematic lawyer-hero: one whose heroism stays within the confines of positive law.⁷ However, the 2015 publication of *Go Set a Watchman*⁸ (“GSAW”), purportedly

³ Gladstone Yearwood, *The Hero in Black Film*, 5 WIDE ANGLE 42 (1983). See also Todd McGowan, *The Exceptional Darkness of the Dark Knight*, 51 JUMP CUT: A REV. OF CONTEMP. MEDIA (2009).

⁴ McGowan, *supra* note 3.

⁵ Steve Greenfield, *Hero or Villain? Cinematic Lawyers and the Delivery of Justice*, 28 J. OF L. & SOC’Y 25, 34-35 (2001).

⁶ HARPER LEE, *TO KILL A MOCKINGBIRD* (McIntosh and Otis, Inc. 1960) [hereinafter LEE, TKAM].

⁷ Though, ironically, he is unable to achieve justice within the law for the wrongly accused Tom Robinson. Finch may be one of the few cinematic heroes who is celebrated for his failure rather than his success.

⁸ HARPER LEE, *GO SET A WATCHMAN* (HarperCollins 2015) [hereinafter LEE, GSAW].

Harper Lee’s “Second Act” for Atticus Finch, touched off a pop cultural skirmish over the status of this heretofore (largely) unchallenged fictional hero.⁹

While *GSAW* is more a dated literary artifact than fully fleshed-out novel,¹⁰ the uproar around its publication lends a contemporary vogue to the Atticus-Industrial Complex.¹¹ *GSAW* plants the mid-century heroism of this quintessential lawyer-hero into the sometimes hypersensitive scrum over identity narratives that fuel many of our pop cultural discussions on social media.

GSAW depicts 1950s-era Atticus¹² as no friend of civil rights for African-Americans, heading up a White Citizens Council chapter and arguing for segregation. These revelations come about as Scout returns home from New York City, revisiting her small town Southern roots and finding them (spoiler alert) tainted by racism.

⁹ There have been a few high-profile critiques of Atticus Finch. In his notorious takedown, Monroe Freedman critiqued the limited nature of Atticus Finch’s pro bono work in the context of real-life, public interest legal work. See Monroe Freedman, *Atticus Finch, Esq., R.I.P.*, LEGAL TIMES (Feb. 24, 1992), http://pdfserver.amlaw.com/nlj/legal_times_atticusfinch_19920224.pdf. See also Monroe Freedman, Finch: The Lawyer Mythologized, LEGAL TIMES, May 18, 1992; Malcolm Gladwell, *The Courthouse Ring: Atticus Finch and the Limits of Southern Liberalism*, THE NEW YORKER (Aug. 10 & 17, 2009), <https://www.newyorker.com/magazine/2009/08/10/the-courthouse-ring> (asserting Finch should not be confused with “Thurgood Marshall looking for racial salvation through the law.”).

¹⁰ *GSAW* is perhaps best understood as a publishing stunt. One has only to read the first few chapters to see that this “early version” of *TKAM* is barely even a finished draft, much less a novel. *GSAW* lacks the full character and plot development and polished writing of *TKAM* (and it contains sections that survived almost verbatim in *TKAM*). The suspicious and baldly opportunistic circumstances of its publishing (by Lee’s lawyer and now literary executor, spurred by Rupert Murdoch-owned HarperCollins press, while Lee lay deaf, blind, and dying in a nursing home) further reinforces that *GSAW* does not hold up as a novel, much less as Lee’s considered reevaluation of Finch. See Adam Gopnik, *Sweet Home Alabama*, THE NEW YORKER (July 27, 2015), <https://www.newyorker.com/magazine/2015/07/27/sweet-home-alabama>. See also Serge F. Kovalski & Alexandra Alter, *Harper Lee’s Will, Unsealed, Only Adds More Mystery to Her Life*, N.Y. TIMES (Feb. 27, 2018), <https://www.nytimes.com/2018/02/27/books/harper-lee-will.html>. *GSAW*’s lack of literary heft makes it all the more fascinating that readers feel compelled to equate it with *TKAM*, again demonstrating the transcendent power of the Atticus narrative. Ultimately, reader reaction to *GSAW* is by far the most compelling thing about it.

¹¹ Legal scholars are perhaps the biggest purveyors of the Atticus myth, filling law reviews with his august presence. A search for “Atticus Finch” in Westlaw’s law reviews and legal publications filter returns over 1,000 results.

¹² The reader will, I hope, forgive me for getting on a first-name basis with Atticus so abruptly. It is testimony to Atticus’ ubiquity that calling him by any other name seems superfluous.

Whereas in *TKAM*, Atticus was wont to issue inspirational maxims like “[y]ou never really understand a person until you consider things from his point of view . . . until you climb into his skin and walk around in it,”¹³ Atticus 2.0 asks: “Do you want Negroes by the carload in our schools and churches and theaters? Do you want them in our world? . . . Do you want your children going to a school that’s been dragged down to accomodate Negro children?”¹⁴ The former champion of the wrongly-accused Tom Robinson in *TKAM* observes in *GSAW*: “I’d like very much to be left alone to manage my own affairs . . . I’d like for my state to be left alone to keep house without advice from the NAACP, which knows next to nothing about its business and cares less.”¹⁵

As in *TKAM*, we see through the eyes of a child, albeit a grown up one reminiscing—the adult Scout. Scout’s shock at the revelations about Atticus shows her naiveté about race in society; Harper Lee does not imbue her with the foreknowledge that *any* Southern white lawyer in the state legislature during the Jim Crow era would be complicit with *de jure* as well as *de facto* segregation.

The publication of this discarded-manuscript-cast-as-novel predictably led the reading public to reevaluate Atticus. Many readers took to social media to express sadness, and even outrage, about the “loss” of Atticus (some without even having read the book). “Feeling devastated. Got to the spoiler in #GoSetAWatchman. Atticus, please explain to Scout & I why we feel our worlds are crumbling?!” tweeted @Sanchez_SouLove.¹⁶ This tweet aptly expresses the effectiveness of both *TKAM* and *GSAW*’s situation of the reader

¹³ LEE, *TKAM*, *supra* note 6, at 33.

¹⁴ LEE, *GSAW*, *supra* note 8, at 245-46.

¹⁵ LEE, *GSAW*, *supra* note 8, at 245.

¹⁶ Peter John Holloway (@Sanchez_SouLove), TWITTER (Feb. 25, 2016, 4:51 AM), https://twitter.com/Sanchez_SouLove/status/702838275149570049.

with child/adult Scout, whose anxieties about the lost Atticus are mirrored in real life readers' complaints.¹⁷ "Midway through #gosetawatchman & Lee seems fixing to take a big steaming shit on Atticus Finch. I'll dig her up myself. [angry face emoji]," tweeted @pursuingpages.¹⁸ Twitter user @teach_smith adopted a more philosophical tone: "I was forewarned about #Atticus & as a result #GoSetAWatchman was thought provoking without ruining #TKAM."¹⁹

Likewise, a handful of legal scholars and practitioners who had previously praised Atticus entered the fray to reevaluate him in light of *GSAW*. Bill Haltom, for example, who had earlier praised Atticus' heroism,²⁰ returned in 2015 to confess his difficulty reading the new Atticus. Ultimately, Haltom finds a way to accept him: "It appears that like so many of us, Atticus was a bundle of contradictions, and he was influenced by his culture and his times."²¹ In a revealing identification with the fictional character, Haltom notes: "I want to be remembered for my best days, not my bad ones."²² Despite *GSAW*, Haltom essentially reasserts the conclusion of his 2009 article: "Atticus is and always will be my hero."²³

Professor Robert E. Atkinson, Jr. brings an interpretive weight to his treatment of Finch beyond the typical "fanboy" law journal pieces. His 1999 article compared *TKAM* to

¹⁷ *See id.*

¹⁸ Sara @pursuingpages, TWITTER (June 18, 2016, 9:33 AM), <https://twitter.com/pursuingpages/status/744206455222460416>.

¹⁹ Daniel Smith (@teach_smith), TWITTER (May 30, 2016, 10:26 AM), https://twitter.com/teach_smith/status/737274007452569602.

²⁰ "Here's my verdict: Atticus was, is, and will always be a hero." Bill Haltom, *But Seriously Folks: The Trial of Atticus*, 45 TENN. B.J. 34, 35 (2009).

²¹ Bill Haltom, *Why Atticus Is Still My Hero*, BILL HALTOM (July 15, 2015), <http://www.billhaltom.com/bills-blog/why-atticus-is-still-my-hero/>.

²² *Id.*

²³ *Id.* See Talmage Boston, *Who Was Atticus Finch?*, 73 TEX. B. J. 484 (2010). *See also* Talmage Boston, *Cracking the Code on Harper Lee: Atticus Through Mockingbird and Watchman*, 78 TEX. B.J. 624 (2015) (reaffirming follow-up to *Who Was Atticus Finch?*).

William Faulkner's *Intruder in the Dust*, arguing that the sentimentality and unrecognized noblesse oblige of *TKAM* made it a less-than-exemplary ethical tale.²⁴ But while Atkinson's take on *GSAW* Atticus is nuanced, he ultimately chooses resignation: "In 1960, on the eve of the Civil Rights movement and the Great Society, [Harper Lee] gave us a little girl's heroic Depression-era daddy, with the hope that he would lead us through that most fraught of decades. Now we know she knew, and carefully kept from all of us, what some of us came to suspect: Atticus and his ilk would join, not the demonstration marches and sit-in strikes of the Dr. King and his allies, but the massive resistance movement of the filibustering Southern Congressional delegation and their local counterparts."²⁵

While Atkinson is right to read *GSAW* as the matured vision of child-Scout liberating herself from the idealized father, his assimilation of politics into mere Oedipal drama sidesteps the broader social context motivating the recuperation of Atticus. "What we find [in *GSAW*], I'm afraid, is both good news and bad To the good, Atticus is not the racist that recent rumor would make him; allowances made for time and place, he is as much a moderate in the late 1950s as he was in the early 1930s. And he is still Scout's loving father, Maycomb's most conscientious citizen."²⁶ While it's important to situate the work within its historical moment, the very fact that Harper Lee/Scout could critique 1950's-era Atticus belies any simple acceptance of Atticus as a "conscientious citizen." Though Atkinson's take

²⁴ Robert E. Atkinson, Jr., *Liberating Lawyers: Divergent Parallels in Intruder in the Dust and To Kill a Mockingbird*, 49 DUKE L.J. 601 (1999).

²⁵ Robert E. Atkinson, Jr., *Growing Up With Scout and Atticus: Getting From To Kill a Mockingbird Through Go Set a Watchman*, 65 DUKE L.J. 95, 124 (2016).

²⁶ *Id.* at 96.

is far more complex than the above-cited articles,²⁷ like them, it seems informed by an attachment to the figure of Atticus.²⁸

Despite the foregoing cited articles, it would be a mistake to assume that Atticus Finch has undergone widespread (if limited) reevaluation in legal scholarship since the publication of *GSAW*. In fact, many continue to cite Atticus as a noble, heroic lawyer-hero without even mentioning the *GSAW* controversy, much less accounting for it.²⁹ The power of *TKAM*-Atticus remains strong.

MEET THE NEW BOSS, SAME AS THE OLD BOSS: PRE-*GSAW* DISCONTENTS

I have probably taught *TKAM* more in-depth than most law school professors since I teach an “Images of Law in Film” seminar, which examines cinematic narratives of law, lawyers, and society.³⁰ Long before the publication of *GSAW*, I have been among the

²⁷ See Haltom, *supra* note 20.

²⁸ There may be some relevance to the fact that at least Haltom and Boston write from a Southern white male middle-aged position. While we should avoid making knee-jerk assumptions about the impact of socioeconomic background on beliefs and affinities, Atticus Finch would unavoidably represent something specific to a Southern white male “baby boomer” lawyer. Finch could be a redemptive figure for such lawyers, who, in some contexts, might be immediately stereotyped as inherently racist in comparison to their Northern counterparts. After I gave a talk on this article, a white male lawyer shared with me that when he was growing up in the South, Atticus Finch was important to him because he represented a rare image of masculinity that was not embedded in sports or other physical achievements. The figure of Atticus allowed this lawyer to imagine a life where being a man was consistent with being an intellectual and a professional. (This sentiment is echoed in a biographical note from Bill Haltom’s website: “I had two heroes that to my knowledge never rode a horse or shot an outlaw. And instead of carrying bats, they toted briefcases.” Bill Haltom, *Who’s Bill?*, www.billhaltom.com/whos-bill/).

²⁹ See e.g., Patrick Trey Brady, *The Celluloid Advocate: The Evolution of the Twentieth Century Cinematic Lawyer*, 27 S. CAL. INTERDISC. L. J. 165 (2017); Jonathan A. Rapping, *Public Defenders: The Vanguard of Redemption*, 15 OHIO ST. J. CRIM. L. 193 (2017); Wood R. Foster, Jr., *How ‘Trial Lawyer’ Became an Oxymoron*, 91 WIS. LAW. 3 (2018); Stephen Henderson, *Daredevil: Legal (and Moral?) Vigilante*, 15 OHIO ST. J. CRIM. L. 133 (2017); Arnold Johnson, *Conspiracy Theory?: The Ethical Paradox of ‘Big is Bad’*, 50 CREIGHTON L. REV. 757 (2017).

³⁰ While there are vast similarities between the book and the film version, I focus mostly here on the film, the screenplay for which Harper Lee praised as “one of the best translations of a book to film ever made.” Gina Bellafante, *Harper Lee, Gregarious for a Day*, THE N.Y. TIMES (Jan. 30, 2006), <http://www.nytimes.com/2006/01/30/books/30lee.html>.

handful of observers and scholars who question (or outright reject) the Atticus legend.³¹ My concerns with the *TKAM* narrative are as follows:³²

1. *TKAM* suppresses Atticus' unavoidable complicity in constructing racial discrimination as a white lawyer and former legislator in 1930's Jim Crow South;
2. *TKAM* valorizes what amounts to noblesse oblige, presenting Atticus as the ultimate white savior (humble, yet distinctly upper-class) and imputing racism to the "white trash" townspeople and jury;³³
3. *TKAM* marginalizes and infantilizes its African-American characters, depicting them only in passing or as almost childlike (Tom Robinson);³⁴
4. *TKAM* focuses on the radical individual as hero, essentially invisibilizing social movements that existed both during the 1930s, when the novel takes place, and the 1960s, when it was published;³⁵

³¹ Laura Marsh, *These Scholars Have Been Pointing Out Atticus Finch's Racism for Years*, NEW REPUBLIC (July 14, 2015), <https://newrepublic.com/article/122295/these-scholars-have-been-pointing-out-atticus-finchs-racism-years>. See also Scott Timberg, *Atticus Finch Was Never a Hero: This Book Taught White People How to Talk About Race, and it Did So Badly*, SALON (July 15, 2015), https://www.salon.com/2015/07/15/atticus_finch_was_never_a_hero_this_book_taught_white_people_how_to_talk_about_race_and_it_did_so_badly/.

³² See Cynthia D. Bond, *Laws of Race/Laws of Representation: The Construction of Race and Law in Contemporary American Film*, 11 TEX. REV. ENT. & SPORTS L. 219 (2010), for a more complete discussion of the film.

³³ See Atkinson, *supra* note 24, for an excellent discussion of class narratives in *TKAM*.

³⁴ Calpurnia, Finch's maid, is the exception that proves the rule. We see a fair amount of her in the course of her domestic duties, but she is never depicted as part of a larger African-American community.

³⁵ This critique is certainly not unique to the film version of *TKAM*, which follows the conventional model of mainstream Hollywood films, imputing heroism to individuals (usually men), acting mostly alone.

5. *TKAM* exists within a pop culture and film environment that devalues the stories of some³⁶ and over-emphasizes the stories of others (i.e., white male hetero-normative protagonists).

Add these concerns to *GSAW*'s revelation and an obvious question arises: is Atticus Finch still worth teaching? Might not it be better to simply abandon this narrative or replace it with stories of more evolved and diverse lawyer-heroes, either fictional or real?³⁷

While I revive this question every year, I continue to find value in keeping *TKAM* on the syllabus. First, many law students are strongly connected to the *TKAM* narrative. While law review literature suggests that *TKAM* was once a primary pop cultural motivator³⁸ for students attending law school, it probably has less influence nowadays. Yet many do still read the book version in middle school or high school. And there are still students who come to law school with an affinity for Atticus, or who were inspired to attend law school by *TKAM*.³⁹

³⁶ Is this changing? Maybe. Recent debates and social media protests have more pointedly critiqued Hollywood's deeply entrenched focus on white male protagonists. See *Oscar nominees discuss diversity in Hollywood amid the #OscarsSoWhite backlash*, L.A. TIMES (Feb. 25, 2016), <http://www.latimes.com/la-et-oscars-so-white-reaction-htmlstory.html>. Certainly, a spate of recent films bode well for a more inclusive Hollywood in terms of race and gender. But it remains to be seen how long-lasting this change will be or whether we will look back on it as a trend not unlike the briefly ascendant wave of black male film directors in the late 1980s-1990s. See Steve Rose, *Black films matter - how African American cinema fought back against Hollywood*, THE GUARDIAN (Oct. 13, 2016), <https://www.theguardian.com/film/2016/oct/13/do-the-right-thing-how-black-cinema-rose-again>.

³⁷ In my 2011 article, Bond, *supra* note 32, at 256 n. 293, I noted the unfortunate absence of a fiction film about Thurgood Marshall's early career as a champion of wrongly accused African-American defendants throughout the U.S. Often traveling to the South, Marshall risked his life to do the work for which fictional Atticus takes credit. Thankfully, in 2017, we finally have part of that story in Reginald Hudlin's *MARSHALL* (Chestnut Ridge Productions 2017).

³⁸ See, e.g., *supra* notes 20-21, 23.

³⁹ Thane Rosenbaum argues (albeit without real proof) that Finch remains a crucial inspiration for today's law student. Thane Rosenbaum, *Atticus Finch Is My Law Students' Hero: We need him more than ever*, SLATE (Feb. 9, 2015), http://www.slate.com/articles/news_and_politics/jurisprudence/2015/02/atticus_finch_hero_worship_law_students_love_to_kill_a_mockingbird_anticipate.html. Nowadays, it is not uncommon to encounter law students who were more inspired to attend law school by *LEGALLY BLONDE* (MGM 2001) than *TO KILL A MOCKINGBIRD*. And many students consume television shows like *Suits* (Hypnotic 2011) or *How to Get Away*

Atticus' broad and persistent appeal is evident in, for example, the numerous posters and images—so-called “word porn”—memorializing his quotable aphorisms.⁴⁰ In addition, a surprising number of people today continue to name their children “Atticus” in his honor.⁴¹

Social media also reveals that Atticus adulation is still very much with us, often expressed in traditional hero-worship mode. The Center for Fiction (@Center4Fiction) tweets: “So far, #atticusfinch is winning our literary election by a landslide! Which fictional character would you elect president . . . ?”⁴² Atticus even inspires romance: “That moment when you read #ToKillAMockingbird and become besotted with #AtticusFinch”⁴³; “REMINDER: it is perfectly normal to develop a crush on a fictional character. Don't be afraid of your feelings. #atticusfinch #dreamy[.]”⁴⁴

It is no coincidence that Atticus frequently pops up on social media around Father's Day. “Can I just say my dad is a replica of #AtticusFinch too good to be real? [] #ToKillAMockingbird,” tweets @Afroz_Zzzzzzz.⁴⁵ “Atticus Finch will be forever the symbol of Fathers Day[,]” asserts @nonaanshari.⁴⁶ Consistent with the frequent “in real life”

With Murder (Shondaland 2014), less perhaps for inspiration than for a tough look at the darker side of lawyering and law school.

⁴⁰ See, e.g., Frannie Jackson, *8 Inspiring Quotes from To Kill a Mockingbird's Atticus Finch*, PASTE, (Feb. 3, 2015), <https://www.pastemagazine.com/blogs/lists/2015/02/eight-inspiring-quotes-from-to-kill-a-mockingbirds-atticus-finch.html>.

⁴¹ A baby-naming website reported that “Atticus” was the top choice boy's name for 2017. Pamela Redmond Satran, *There's a new most-popular baby name for boys, and it may surprise you*, TODAY (Nov. 28, 2017), <https://www.today.com/parents/new-most-popular-baby-name-boys-may-surprise-you-t119379>.

⁴² Center for Fiction (@Center4Fiction), TWITTER (Aug. 9, 2016, 11:18 AM), <https://twitter.com/Center4Fiction/status/763031822020345856>.

⁴³ Sonica (@RaptObserver), TWITTER (July 12, 2016, 8:14 AM), <https://twitter.com/RaptObserver/status/752838531840610304>.

⁴⁴ Amber Hastings (@hastingsmhs), TWITTER (May 24, 2016, 6:59 PM), <https://twitter.com/hastingsmhs/status/735243803347419140>.

⁴⁵ Nourin (@Afroz_Zzzzzzz), TWITTER (Aug. 4, 2016, 5:40 PM), https://twitter.com/Afroz_Zzzzzzz/status/761315976121954304.

⁴⁶ Anshari Rahmi (@nonaanshari), TWITTER (June 19, 2016, 9:39 AM), <https://twitter.com/nonaanshari/status/744524933485707264>.

(“IRL”) quality of discourse around Atticus, some even tweet a shout-out to Atticus “himself”: “happy fathers day 2 atticus finch. truest dad[,]” says @aceremus.⁴⁷

Atticus as “Good Father” is not only key to his appeal, but to *TKAM*’s plot as well as its legal story. The fantasy of Atticus as “Best. Dad. Ever.” is perhaps most purely exemplified by the final scene of the film in which Jem and Scout have returned home after being accosted by Bad Father Bob Ewell, whom next-door neighbor Boo Radley has killed.⁴⁸ As Atticus sits at the bedside of the injured Jem with Scout folded in his arms, her adult voiceover reassures us: “He would be there all night, and he would be there when Jem waked up in the morning.”⁴⁹

This image of Atticus as omniscient father and totalizing comfort is very seductive. The power of this scene is such that it makes us forget that Atticus failed to protect his children from Ewell, just as he ultimately could not save Tom. In this final scene, we are returned to the romance of the infallible father. Rather than acknowledging the limitations of Atticus’ paternalism, the film papers over his inevitable, human shortcomings, adopting the stance of a naïve child who clings to a heroic fantasy father.

TKAM makes explicit the connection between Atticus’ role as father and his role as lawyer. In explaining his reasons for taking Tom Robinson’s case, Atticus tells Scout: “[I]f I didn’t [defend Tom Robinson] I couldn’t hold my head up in town; I couldn’t even tell you or Jem not to do something again.”⁵⁰ Thus, to be a good father, Atticus must be a good lawyer. *TKAM* is at its core a coming-of-age tale that situates maturity within the failures of

⁴⁷ studëre sophia (@aceremus), TWITTER (June 21, 2015, 5:20 PM), <https://twitter.com/aceremus/status/612731753233534976>.

⁴⁸ *TO KILL A MOCKINGBIRD* (Universal Pictures 1962).

⁴⁹ *Id.*

⁵⁰ *Id.*

law. Jem and Scout are initiated into the adult-world through the prejudice and tragedy of the Robinson case, which initially parallels, but ultimately displaces, the tragedy of the Radley home next door.

The attachment to Atticus as father fantasy may be even more profound for law students due to the nature of legal study and the overall law school environment. As legal realist Jerome Frank famously noted, if you are drawn to the law, you probably have Daddy issues:

[M]ost men are at times the victims of the childish desire for complete serenity They [thus] revert . . . to childish longings, which they attempt to satisfy by “the rediscovery of father,” . . . The Law can easily be made to play an important part in the attempted rediscovery of the father. For, functionally, the law apparently resembles the Father-as-Judge.⁵¹

Frank assailed contemporary laypeople’s fear of uncertainty and change in law, equating it to a psychological dependence on the infallible father narrative. Frank argued that clinging to certainty in the law was to cling to a childish need for absolute security, which inhibits social progress. Certainly, Atticus is merely one entry in a relatively unbroken chain of cultural texts, existing before and after Frank, which imbricate law in the figure of the father.⁵²

Every law school has its particularities, but it’s beyond debate that the institutional authority that law schools wield remains deeply hierarchical, if not explicitly patriarchal. The majority of law school professors are male.⁵³ More significantly, the overall structure of law

⁵¹ JEROME FRANK, *LAW AND THE MODERN MIND* 20-21 (Transaction Publishers, 2009).

⁵² Austin Sarat provides one of the most accessible analyses of this chain of texts (e.g. THE BIBLE, Freud’s analysis of dreamwork, etc.). Austin Sarat, *Imagining the Law of the Father: Loss, Dread, and Mourning in “The Sweet Hereafter”*, 34 *LAW & SOC’Y REV.* 3 (2000). Sarat extended the same analysis to the film *12 ANGRY MEN* (Orion-Nova Productions 1957). Austin Sarat, *Fathers in Law: Violence and Reason in 12 Angry Men*, 82 *CHI. KENT L. REV.* 863 (2007).

⁵³ Meera E. Deo, Maria Woodruff & Rican Vue, *Paint by Number? How the Race and Gender of Law School Faculty Affect the First-Year Curriculum*, 29:1 *CHICANA/O-LATINA/O L. REV.* 1, 9 (2010) (citing the AALS Statistical Report on Law Faculty, which found that 88% of full professors are white males, while 72% of associate professors are white males).

school pedagogy retains a paternalistic hierarchy. While law school is technically a graduate school, it lacks the peer-like collegiality students experience with professors in many other graduate programs.⁵⁴ Instead, a distinct divide between expert-professor and beginner-student is maintained within a largely formal environment. And even though law is a deeply literary and interpretive practice, traditional law schools tend to follow a “black letter law” approach to pedagogy, evading the kind of self-reflection on context and pedagogical methods more common in, say, a humanities department graduate program.

Thus, it may be especially productive in a law school environment to examine our attachment to the dream of benevolent patriarchy that Atticus represents. In addition, Atticus’ patriarchy is frequently expressed as pedagogy, making it even more resonant in law school. Throughout the film, we see Atticus lecturing the children (especially Scout), instructing them on the ways of the world through wise sayings and hypotheticals. In fact, one could easily read Atticus as overly intellectual, moralizing, and aloof (not unlike many law professors), rather than as the loving, perfect father he’s frequently held out to be. Atticus, then, is the law in pedagogy: the longed-for wise father (professor) who will guide his children (students) through the daunting world of law and the sorrows of injustice. *TKAM*’s yearning for absolute certainty, exemplified in the final scene discussed above, expresses itself as an eternal child-like dependence on the fiction of the immutability of law and the father. The very fact of students’ attachment to Atticus makes him worth teaching, even if some may be uncomfortable when pushed to consider him critically.

⁵⁴ Again, law schools and their programs vary, so there are exceptions. For example, law school clinics are often an environment where students work alongside professors in something like a peer relationship.

Another reason to teach *TKAM* in the context of a film course is that, experientially, it is a gorgeous, captivating film. It draws viewers in with its lush and evocative black and white cinematography, its moving Elmer Bernstein score, and its compelling cast. Its stylistic techniques are the cinematic embodiment of nostalgia. Thus, as mere cinema, *TKAM* has great power for many viewers, including me. I too feel the power of the film's aesthetic and the pull of the idealized father figure, while simultaneously knowing that the film clings to the White Savior Frankian father. I don't teach the film so much *despite of* my own deep ambivalence about it, but rather *because* of it.⁵⁵

But my main motivation in teaching *TKAM* is that many students respond to it as a film about the importance of social justice lawyering. Even students that do not see themselves pursuing public interest law frequently see Atticus as a model of selflessness and socially conscious legal practice. While I don't endorse the white savior heroism that lurks at the core of *TKAM*, I do want to encourage students to think about law as a social practice that impacts lives. Specifically, in the midst of learning rules and skills, I hope students will ask themselves what they want to contribute to the world through lawyering. And again, since Atticus is often a charged figure for students, he can be an effective conduit for discussing law as social practice.

TEACHING & RE-TEACHING ATTICUS FINCH

So if we accept that Atticus still has something to teach us, how can we teach him without simply reproducing unreflective hero worship? While my law in film seminar provides the time to unpack possibilities not available in many law school classrooms, even paying the

⁵⁵ I am open with students about my ambivalence when I teach *TKAM*. For me, it is possible to teach *TKAM* respecting the film's power as cinema, while simultaneously exposing the narrative machinations of that power in its framing of the great white father/savior.

briefest attention to the broader contexts surrounding the Atticus myth can sharpen the effectiveness of this pedagogical tool.

Despite the literary limitations of *GSAW*, it may be useful for opening up the discussion about Atticus' less than admirable beliefs and broader political context. Students have the intractable habit of appearing to get younger and younger every year, and increasingly they won't know the history depicted in the book, nor the circumstances of its publication. In that context, *GSAW* can play a useful role in revealing what Atkinson's "[Southern] moderate in the late 1950s"⁵⁶ might have looked like. However, the value of *GSAW* may depend on how it fares in middle and high school curricula requirements.⁵⁷ If students don't read *GSAW* before law school, it won't provide context for *TKAM* once the flurry surrounding its publication fully fades from memory.⁵⁸

One obvious way to create a critical context for Atticus is by bringing in real life stories. For example, I frequently reference Thurgood Marshall's criminal trial work as a NAACP lawyer—a commitment to defending black criminal defendants in Jim Crow

⁵⁶ Atkinson, *supra* note 24, at 96. The scheduled Broadway production of a play version of *To Kill a Mockingbird*, written by Aaron Sorkin, aims to bring *TKAM* Atticus into direct contact with *GSAW* Atticus, "present[ing] him as a man who begins the drama as a naïve apologist for the racial status quo, a depiction at odds with his purely heroic image in [*TKAM*]." Alexandra Alter & Michael Paulson, *Harper Lee's Estate Sues Over Broadway Version of 'Mockingbird'*, N.Y. TIMES (Mar. 14, 2018), <https://www.nytimes.com/2018/03/14/theater/harper-lee-estate-lawsuit-broadway-mockingbird.html>. As of this writing, that plan is in jeopardy due to objections from Lee's estate, the executor of which authorized the publication of *GSAW* in 2015.

⁵⁷ The non-profit organization Facing History and Ourselves has created materials to encourage teachers to teach *GSAW* when they teach *TKAM*. *Bring Go Set a Watchman to Your Classroom*, FACING HISTORY AND OURSELVES, <https://www.facinghistory.org/mockingbird/videos-and-activities-classroom/go-set-a-watchman> (last visited June 10, 2018). In addition, a brief survey of secondary school teaching resources suggests that teachers are grappling with teaching both texts, see e.g. Tracee Orman, *Go Set a Watchman Lesson Plan*, GradeSaver, <https://www.gradesaver.com/go-set-a-watchman/lesson-plan/1/reading-assignment> (last visited June 10, 2018); *Go Set A Watchman By Harper Lee Close Reading Compare/Contrast*, Teacher Pay Teachers, <https://www.teacherspayteachers.com/Product/Go-Set-A-Watchman-By-Harper-Lee-Close-Reading-Compare-Contrast-1956489> (last visited June 10, 2018).

⁵⁸ Of course, one can still use *GSAW* when teaching *TKAM* by assigning relevant portions or reading them aloud in class, even if students have not read it coming into law school.

courtsthat greatly surpasses Atticus Finch's. This comparison is especially helpful as pro-Atticus students often defend him as simply a "product of his times," without perhaps realizing that there were activists and lawyers fighting for African-American civil rights during the 1930s.

Another real-life context I share with the students is Bryan Stevenson's account⁵⁹ of modern-day Monroeville, Alabama, the real-life model for Atticus' Maycomb, birthplace and erstwhile home of Harper Lee. Stevenson recounts Monroeville's pride for its literary hero; its monuments and events celebrating Lee. Yet the evils that *TKAM* reveals continue to subject black citizens like Walter McMillian, one of Stevenson's first clients, to unequal justice similar to that experienced by fictional Tom Robinson. The story of Walter McMillian (which, like Tom's, involved deep-seated biases against interracial relationships), can be a useful rejoinder to the frequent dismissal of Tom's wrongful prosecution as a relic from "the bad old days." And of course, Stevenson's career is a better model of dedication to socially-conscious lawyering than Atticus'.

Yet, while real-life examples can help to ground fiction, I want students to take the narratives they are exposed to in films seriously, critically analyzing them on their own terms. And while film fictions are obviously not real life, they play a role in constructing and reflecting attitudes about policy and law in society. Mainstream films frequently represent

⁵⁹ BRYAN STEVENSON, *JUST MERCY: A STORY OF RACE AND REDEMPTION* 23-25 (Spiegel & Grau, 2014). Ironically, but predictably, Stevenson has been compared to Atticus by at least one commentator, law novelist, John Grisham: "Not since Atticus Finch has a fearless and committed lawyer made such a difference in the American South." *The Book*, BRYAN STEVENSON, *JUST MERCY* (last visited May 15, 2018), <http://bryanstevenson.com/the-book/>.

ideologies that reinforce normative and socially conservative views, while obscuring their own implicit values.⁶⁰

Thus, rather than simply dismissing *TKAM* as “unrealistic” or “incomplete,” I surround *TKAM* on the syllabus with films that come closer to showing the complex interconnections between law and race. So, for example, alongside *TKAM* I may teach *American Violet*,⁶¹ a fiction film based on an actual incident in Texas involving racial profiling in police drug raids of public housing. *American Violet* poses an excellent counterpoint to *TKAM* as it shows the far more reluctant (and thus realistic) heroism of white Southern lawyer Sam Conroy (played by Bill Patton), who takes the plaintiff’s Section 1983 case only after coming to grips with his own past complicity in racial violence in his childhood hometown. As noted above, *Marshall* gives us a mainstream Hollywood lawyer-hero story to counterbalance the white savior heroism of *TKAM*. I also teach *Fruitvale Station*,⁶² a fictionalization of the Oscar Grant killing by San Francisco BART police. In addition, documentaries like *The House I Live In*⁶³ and *Let the Fire Burn*⁶⁴ show how racial bias can work systematically, if seemingly invisibly, in law. Bringing in films that reveal the complexity of law’s construction of race can help both complicate and decenter the white lawyer savior, providing important breadth to the vision of the lawyer hero.

FROM LAWYER-HEROES TO STUDENT-LAWYERS: VALUES CLARIFICATION IN THE LAW SCHOOL CLASSROOM

⁶⁰ ROBERT B. RAY, *A CERTAIN TENDENCY OF THE HOLLYWOOD CINEMA* 67-69 (Princeton Univ., 1985).

⁶¹ *AMERICAN VIOLET* (Image Entertainment 2008).

⁶² *FRUITVALE STATION* (Significant Productions 2013).

⁶³ *THE HOUSE I LIVE IN* (Charlotte Street Films 2012).

⁶⁴ *LET THE FIRE BURN* (Jason Osder & The George Washington University 2013).

One of the most important tools I use in teaching *TKAM* is an in-class “values clarification” exercise that asks the students to explore their own connections to law as a social practice. Values clarification was an educational theory and teaching innovation initiated in the 1960s, inspired by educational theorist Louis E. Raths’ work in the 1940s and 1950s.⁶⁵ Raths pioneered the notion that to effectively teach students, teachers must be mindful of students’ affective and emotional responses to educational methods, rather than simply focusing on conveying content.⁶⁶ The goal was to deepen engagement with course material by helping students reflect upon what they actually value and act on in the world beyond the classroom.

“Values clarification” had a brief pedagogical vogue in the late 1960s-1970s, especially on the elementary and secondary school level, but has since dropped out of use.⁶⁷ The concept of more student-centered teaching is no longer radical, but in an educational setting like law school, where “[c]ontent and skills dominate classroom lessons and value-laden choices . . . are absent”⁶⁸ and where “clarifying discussions [about values] never arise and the value-choices get swallowed by both teachers and students,”⁶⁹ reflection on values is sorely needed.

⁶⁵ See LOUIS E. RATHS, MERRILL HARMON, AND SIDNEY B. SIMON, *VALUES AND TEACHING* (1966).

⁶⁶ *Id.*

⁶⁷ For an informal history of the values clarification approach, see Larry Cuban, *Whatever Happened To Values Clarification?*, LARRY CUBAN ON SCH. REFORM AND CLASSROOM PRAC. (Oct. 4, 2017), <https://larrycuban.wordpress.com/2017/10/04/whatever-happened-to-values-clarification/>. Values clarification techniques are also now sometimes used as a therapeutic tool in psychological counseling. Dan Mager, *Values Can Be a Conduit to Recovery*, PSYCHOLOGY TODAY (July 27, 2017), <https://www.psychologytoday.com/blog/some-assembly-required/201707/values-can-be-conduit-recovery>.

⁶⁸ Cuban, *supra* note 67.

⁶⁹ Cuban, *supra* note 67.

First published in 1972, *Values Clarification: A Handbook of Practical Strategies for Teachers and Students*⁷⁰ includes a range of activities and exercises designed to stimulate in-class conversation on contested social and ideological issues and help students recognize their own values and behaviors around those issues.

The values clarification approach, taken from Rath, posits seven stages of valuing:

PRIZING one's beliefs and behaviors

1. prizing and cherishing
2. publicly affirming, when appropriate

CHOOSING one's beliefs and behaviors

3. choosing from alternatives
4. choosing after consideration of consequences
5. choosing freely

ACTING on one's beliefs

6. acting Incorporating the belief into actual behavior;
7. acting with a pattern, consistency and repetition.⁷¹

The goal of this approach is not to “instill any particular set of values. Rather the goal of the values-clarification approach is to help students utilize the . . . processes of valuing in their own lives.”⁷²

This rubric provides a concrete and schematic way to talk about essentially psychological, personal, or social processes, and thus fits well into law school's pedagogical

⁷⁰ SIMON B. SIDNEY, LELAND W. HOWE & HOWARD KIRSCHENBAUM, *Values Clarification: A Handbook of Practical Strategies for Teachers and Students* (2009).

⁷¹ *Id.* at 19.

⁷² *Id.* Some have criticized the Values Clarification approach because of this “neutrality,” arguing that teachers have the responsibility to instill certain values in students.

emphasis on “elements” and “tests.” Much of law school teaching is singularly focused on the case method and “black letter” content, limiting in-class exercises to explicitly legal hypotheticals or research and writing problems. However, these approaches need not exclude each other; values clarification exercises can be created to tie in with “subject matter and skill learning so as to advance both the search for knowledge and the search for values.”

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In teaching the law in film seminar, I adapt and revise values clarification exercises from the handbook,⁷⁴ using a few throughout the semester when appropriate. Part of my goal in using these exercises is to help students situate the messages and implicit “policy arguments” contained in films within the context of their own values and beliefs, and within larger debates about the role of lawyers in society. The exercises also spur lively classroom discussions and get students thinking about the expectations and desires that surround becoming a lawyer.

The particular values clarification exercise I use when teaching *TKAM* is called a “Values Grid.”⁷⁵ The goal behind using the Values Grid is to “driv[e] home the point that few of our beliefs or actions fit all seven of the valuing process.”⁷⁶ Particularly, I am interested in getting students to examine whether they are actually acting on the values they profess—the third stage of valuing.

⁷³ *Id.* at 21.

⁷⁴ See SIDNEY, HOWE, & KIRSCHENBAUM, *supra* note 70.

⁷⁵ SIDNEY, HOWE, & KIRSCHENBAUM, *supra* note 70, at 35.

⁷⁶ SIDNEY, HOWE, & KIRSCHENBAUM, *supra* note 70, at 35.

For this exercise, each student is given a handout that contains a grid laying out some of the seven steps of valuing. While the handbook recommends having students choose “hot topics” or issues from current events, I instead ask students to list one to three social issues or problems that they care about. I tell them that it can be a banal problem (one of my students once listed an issue with the public transit system), or larger social issues (e.g. climate change, gun control, etc.). Given the maturity of my students, I choose to limit the grid to the valuing steps that I think are key for adults to reflect on—publically affirming and acting on beliefs. I also add a step, asking what additional actions the respondent thinks they need to take regarding the issue:

Issue/Injustice	Publicly affirmed it?	Acted on your belief? If so, how?	Acted repeatedly?	Other things Like to do or If so, what?

Students fill in their issues in the left-hand column and then go through each of the selected stages of the valuing process, analyzing their actions. They also flesh out their activities regarding their chosen issues.

While I am politically progressive, I try to avoid framing the issues that could be put in the grid in terms of “progressive” social justice values or movements. Instead, I make the question more general –e.g. “what problems in the world do you care about and think need fixing?”–so that the exercise is inclusive of a range of political beliefs.

Students fill out their Values Grid after our discussion of *TKAM* (which inevitably addresses the place of Atticus as heroic “social justice warrior”). Then students are asked to volunteer their answers.⁷⁷ Class discussion thus turns from fictional images of socially-engaged lawyering to the student’s real-life interests and practices.

In discussion, students bring up a range of concerns, some legal and some extra-legal. Some students may share more banal interests (e.g. everyday complaints), but even that brings up the opportunity to examine what actions, if any, the student is taking to address their issue. If they aren’t acting on their beliefs, we can discuss why they think that is, and so on.

The goal of the Values Grid is to shift focus from heroic idealization of the “white savior” lawyer to the students’ own actions and beliefs. And examining the stages of valuing invites students to self-assess their actual commitment to socially-engaged lawyering, rather than merely reflexively romanticizing the heroic lawyer figure. The exercise is also useful for students who are not particularly focused on socially conscious lawyering, inviting them to

⁷⁷ Students are never required to share their values clarification responses in class discussion, nor are the assignments handed in or graded. I do the exercises along with them and share my own responses with the class when appropriate.

query the values implicit in their positions. Hopefully, the exercise stimulates all students to reflect on law as a social practice connected to beliefs and values.

Finally, another positive benefit of the Values Grid exercise is that it makes space in the classroom for students to share their own work and practices—e.g. in law school externships or extra-curricular activities—and learn from their colleagues’ approach. Typically, these sessions are some of the more respectful, professionally-poised interactions I have witnessed between students in a law school classroom. The discussion allows students to model a professional life that engages their beliefs and interests, rather than merely debating hypotheticals in the aloof “devil’s advocate” style so beloved in law schools.

Thus, rather than engaging in a critique of Atticus that produces only his fictional corpse, this exercise supports the values of socially conscious lawyering that some students see in Atticus. Crucial to the shift away from Atticus as hero is the cultivation of students as not only highly-skilled lawyers, but as self-aware social actors.

CONCLUSION

When President Obama gave his final speech as President in 2017, he cautioned, “If our democracy is to work in this increasingly diverse nation, each one of us must try to heed the advice of one of the great characters in American fiction, Atticus Finch, who said, ‘You never really understand a person until you consider things from his point of view...until you climb into his skin and walk around in it.’”⁷⁸ While it certainly wasn’t the first time a public figure had cited Atticus as aspirational, the reference was notable coming as it did after the discontents of *GS&W*.

⁷⁸ *Read the Full Transcript of President Obama’s Farewell Speech*, LA TIMES (Jan. 10, 2017) <http://www.latimes.com/politics/la-pol-obama-farewell-speech-transcript-20170110-story.html>.

Obama expands upon the concept of diversity he suggests is implicit in *TKAM*—Atticus’ maxim: “For blacks and other minorities, [Atticus’ maxim] means tying our own struggles for justice to the challenges that a lot of people in this country face—the refugee, the immigrant, the rural poor, the transgender American”⁷⁹ And, in a telling reference to the 2016 presidential election results, Obama includes in this vision of diversity “the middle-aged white man who from the outside may seem like he’s got all the advantages, but who’s seen his world upended by economic, cultural, and technological change.”⁸⁰

Obama’s inclusion of “the middle-aged white man” in the vision of American diversity reveals the brilliance of the rhetorical gambit to cite Atticus post-*GSAW*. Rather than merely rehashing the former wisdom of the white savior as if it is immutable, Obama conflates him with the Trump-voting middle-aged white man. This conflation recognizes the fallen (*GSAW*) Atticus—the fallen white man—while showing deference to his former “glory.”

Obama is applying Atticus’ dictum to Atticus *himself*, and asking us to do the same. By extension, he is asking us to apply that dictum to Trump voters. “We” (e.g. Americans who are Left-liberal, socio-politically marginalized, etc.), Obama suggests, need to now empathize with the struggles of the historically dominant group, which he casts as an “other” under Atticus’ dictum. This call for compassion for the failures of white patriarchy, though certainly consistent with Obama’s overall rhetorical style, was an extraordinary gesture in the context of Left-liberal rage and confusion after Trump’s election.

⁷⁹ *Id.*

⁸⁰ *Id.*

One could certainly read Obama's revival of *TKAM*-Atticus as mere centrist nostalgia for white savior heroes. But Obama deftly employs the earlier Atticus *because* of, not *despite* of, his post-*GSAW* tarnish. Obama implicitly recognizes *GSAW*-Atticus as the failed hero for our times; someone whose prior value has been called into question by later transgressions. What Obama rescues from this tension, interestingly, is not lapsed heroes themselves, but the notion of acceptance and compassion for Americans who may have biases and prejudices associated with their privilege. On the eve of Trump's inauguration, Obama cast tolerance as a political position that all Americans need to occupy.

While there is nothing new about the rise and fall of heroes, we live in a time of intense media scrutiny of celebrities and politicians falling from grace for their less than heroic personal lives and beliefs.⁸¹ *GSAW*-Atticus, already nascent in *TKAM* for some readers, newly on the scene for others, is the 21st century Atticus. *GSAW*-Atticus represents the deflation of the hopelessly over-inflated hero, now revealed as prone to the prejudices and blindness of his time and, as Obama suggests, our time as well. What we might best hope to emerge from these tumults is the relinquishment of our attachment to the notion of heroes and a renewed appreciation for the power of collectives to effect positive change.

⁸¹ See, e.g. Jacob Shelton, *The Worst Falls From Grace of 2017*, RANKER (2017) <https://www.ranker.com/list/worst-celebrity-falls-from-grace-2017/jacob-shelton>.