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| |  | | --- | |  |  |  |  |  |  | | --- | --- | --- | --- | | Charmane Sing  Law Student  University of Alberta     |  | | --- | | **Read other reviews:**  [Internet Movie Database](http://www.us.imdb.com/title/tt0056592/)  [All Movie Guide](http://www.allmovie.com/cg/avg.dll?p=avg&sql=1:50165)  [Readers' comments](http://docs.google.com/user_feedback.htm) |       As Bryan Fair has stated, when the presumption of innocence becomes an "empty idea" and racial prejudice is allowed inside the courtroom, the integrity of the criminal justice system fails. | |  | | --- | | **A BLACK AND WHITE FILM**  By Charmane Sing  A child colours her drawing of a bird with a black crayon on a sheet of white paper. A feeling of tranquility fills the air as the child innocently hums to herself. Suddenly, her paper is torn in the middle by an unknown force. The rip was so deep that it destroyed the bird. This was the beginning segment of the film *To Kill a Mockingbird*, a 1960s movie based on Harper Lee's novel.  The story took place in Maycomb, a small town in Southern Alabama, where racial prejudice was prevalent and was a part of everyday life. Scout Finch, the narrator of the story, reflects on an event from her childhood that changed her family's life - the criminal prosecution of Tom Robinson. Tom, a Black man, was alleged to have raped and battered a White woman, Mayella Ewell. Atticus Finch, Scout's father and a respectable lawyer in Maycomb, was appointed to act as Tom's defense counsel.  Not long after accepting his appointment, Atticus and his family were subject to numerous negative remarks by the White community for defending a Black man. The primary person giving Atticus a hard time was Bob Ewell, Mayella's alcoholic father. The treatment Atticus experienced for defending a Black person was not uncommon nor was it unexpected in a time when Black people were regarded as inferior to Whites. This animosity towards the Black community was also carried to Tom's trial and brought the legal system into disrepute.  Tom was never presumed to be innocent throughout his trial. In a criminal proceeding, the fundamental presumption is that the accused is innocent until proven guilty. For Tom, the jury presumed he was guilty before entering the courtroom. The jury's presumption of guilt instead of innocence was not surprising given the intense racial prejudice against Blacks in Maycomb. As Bryan Fair has stated, when the presumption of innocence becomes an "[empty idea](#30j0zll)" and racial prejudice is allowed inside the courtroom, the integrity of the criminal justice system fails. It is almost unnecessary to have a trial when the accused is already presumed to be guilty and has a slim, if any, chance of being able to prove his or her innocence before a biased jury. Tom's trial served no purpose and was more of an entertaining spectacle for the people of Maycomb.  In a system where only Whites control the rules, run the system and decide the ultimate decisions, it is very difficult for a Black person like Tom to be ensured that he would be treated fairly. Fair made this same point when he discussed the legal system as being more than just rules, but "also the people who control and implement them."  It may at first blush raise skepticism and concern for the fairness of the White defendant's trial. This skepticism and lack of trust might arise from fear that Blacks would seek vengeance against Whites for past wrongdoings. This feeling of unfairness and skepticism for most people would only be present in the hypothetical and not in a situation where a Black defendant is to be tried in a White dominated court.  It is interesting that a White dominated judicial system would be seen as being capable of being free from racial prejudice towards a Black accused, whereas a Black dominated system would be seen as being unable to separate racial animosity in their justice system. In my opinion, it is insulting to presume that an all Black system would be incapable of administering a fair trial. This presumption has an underlying belief that Whites are superior because Whites have the ability to put aside their racial bias toward Blacks while Blacks would be unable to put aside their vengeance and hatred toward Whites. It implies that Blacks are uncivilized because if given the chance, they would seek vengeance through a system that was meant to bring order and justice to society.  Although vengeance can be a strong driving force to an unfair trial, it is not the only factor to a tainted trial. It is equally likely that in any system that is controlled by a group of people with a set of strong beliefs, there would be unfairness to other minority groups regardless of who is the dominant group. Therefore, to ensure a fair criminal justice system, neither group should have major control over any steps of the process.  Another factor that should be taken into account is the jury's and the dominant society's personal beliefs and opinions of Blacks. The environment one grew up in can play a powerful role as the ideas and values from the surrounding community are influential to a person's decisions and perspective. As Atticus pointed out in his closing statement, the jury has stereotypical presumptions that all Black people lie and can't be trusted. These beliefs are prejudicial to Tom because members of the jury bring these previously held biases and beliefs with them to court.  Using the trial in the film *Twelve Angry Men* as an example, Lawrence Friedman argues that trials have an "educational function" in which they reinforce a society's norms and bind a society together [(2)](#1fob9te). In other words, when the jury is determining the verdict, they are also collectively reaffirming and reinforcing societal views and norms. Therefore, if the jury accepted Tom's testimony over the Ewell's, it would be a significant shift in societal beliefs that the Whites would not be prepared or willing to accept. By accepting Tom's testimony, it would suggest that Blacks are not liars and perhaps also infer that like the Ewells, Whites are liars and are the ones that should not be trusted. Changing a significant societal belief and stepping over what Friedman calls as defined boundaries will be a shock to the system and will as a result, weaken the order of the society. Hence trials, like Tom's case, are "boundary-maintaining devices [that] help cement social solidarity by redefining and proclaiming the norms."  An instance where the jury cannot find themselves to believe Tom's testimony or willing to change a societal norm is that a White woman would tempt a Black man and that an inferior Black man would "feel sorry" for a White woman. In his article, Friedman also commented a trial to be a "narrative competition" where both sides attempt to persuade the jury to accept their version of the fact. The "arguments presented in trials are often important clues to what stories count as good, or true, or compelling stories, within a particular culture."  Members of the jury would most likely be compelled to believe a story that they want to believe in. In this case, the jury would prefer Mayella's version of the story that an untrustworthy Black man sexually assaulted a White woman. This version would be consistent with the belief that Black men can't be trusted, especially around White women. It is also consistent with the perception that Blacks are undesirable. As Atticus pointed out, if Mayella had desired Tom, she would have broken a code of society by tempting a Black man.  Another explanation to the jury's difficulty in accepting Tom's testimony is based on an interesting relationship discussed in class about Aristotle's theory of pity. Aristotle stated that in order to have sympathy for another person, one must have relative freedom from suffering. As well, one generally feels pity for someone who is their equal or who is inferior to them. When Tom indicated that he felt sympathy for Mayella, he was also stating that Whites are inferior to Blacks or at most, equal to Blacks. Tom's story and expression of his sympathetic feelings towards Mayella sound absurd in a culture that treats Blacks as slaves and servants to the Whites. As a result, a jury with personal racial biases would find Tom's testimony of sympathizing a White woman and Mayella's desire for him to be proof that Blacks are liars.  Had Tom been a White person and gave the same evidence, the jury would have acquitted. A verdict was based entirely on racial bias. Or perhaps, the "skin colour was the final arbiter" in court. If racial bias controls and determines the outcome of a case instead of the truth, the integrity of the legal system is destroyed.  "It is a sin to kill a mockingbird because they don't do anything but sing for us to enjoy."  - Atticus Finch to Scout Finch -  1. Bryan K Fair, "Using Parrots to Kill Mockingbirds: Yet Another Racial Prosecution and Wrongful Conviction in Maycomb", (1994) 45 Alabama Law Review at 417.  2. Lawrence M. Friedman, "Law, Lawyers and Popular Culture", (1989) 98 Yale L. J. at 1594.  Posted November 11, 2003 |   **Would you like to comment on this article? Please submit your comments** [**here.**](http://docs.google.com/submit-comments.htm) |  |  | | --- | | [Top of page](#gjdgxs) |  |  | | --- | | [Home](http://docs.google.com/index.html) | [Silver Screen](http://docs.google.com/silver_screen.htm) | [Small Screen](http://docs.google.com/smallscreen/small_screen.htm) | [News & Views](http://docs.google.com/newsnviews.htm) | | |