

Monroe Freedman Was Right About Atticus Finch—and Harper Lee

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On February 3, the world learned that Harper Lee’s second book would be published this year. This news must certainly have piqued the curiosity of noted law professor and ethicist Monroe Freedman, who had long been interested in the character of Atticus Finch, and had written extensively and controversially about him.

This month, *Go Set a Watchman*, set in the 1950s and actually written before *To Kill a Mockingbird*, was published to both great acclaim and considerable controversy. The “new” Atticus of *Watchman* is a Klan supporter, a racist, and anything but a hero to his daughter, now in her 20s. Of all those who examined *Mockingbird* and Atticus over the years, Freedman would have been the person least surprised by the “new Atticus.” For over 20 years, he’d [argued strongly](#) that Atticus was never the hero most of us saw. And presciently, he suggested that Harper Lee herself, even in *Mockingbird*, shared his view.

Sadly, three weeks after the February announcement, Freedman passed away at age 86. But he would have reveled in the fact that he was right—not so much about Atticus, for he was quite certain of that—but about Harper Lee herself.

The original controversy about the publication of *Go Set a Watchman* focused on whether Lee actually wanted the volume published at all. The February announcement was accompanied by a statement attributed to the author herself, in which she said her close friend and lawyer Tonja Carter re-discovered the manuscript, and that Lee decided to publish it after “a handful of people I trust ... considered it worthy.”

That controversy has largely abated, but Lee’s statement made it clear that *Watchman* was written before *Mockingbird*. After she submitted *Watchman*, Lee wrote, “my editor, who was taken by the flashbacks to Scout’s childhood, persuaded me to write a novel from the point of view of the young Scout. I was a first-time writer, so I did as I was told.” *Mockingbird* was the result.

A mini *Mockingbird* plot refresher might simply say that in a small Alabama town in the mid-1930s, Atticus Finch takes on the representation of Tom Robinson, a black man wrongly accused of raping a white woman, defends him vigorously, but loses. Robinson is sentenced to prison, where he is soon shot to death in the prison yard. *To Kill a Mockingbird* became an iconic novel of racial tolerance, and Atticus Finch also became an icon, helped considerably by a movie that came out within two years of the novel, starring the always honorable and upstanding Gregory Peck, who won an Oscar.

In fact, much of the narrative of both book and movie centers on the relationship of Atticus and his two children, his son Jem and daughter Scout. It’s generally accepted that Scout is based on the young Harper Lee, while Atticus is based on Lee’s father, attorney A.C. Lee. “Finch,” in fact, was a family name on Lee’s mother’s side. The movie simplified and to an extent sanitized the Atticus character. And it helped install the novel as a paean to justice, courage, and equality, required reading in schools across the nation.

In 1992, Monroe Freedman wrote two articles [in *Legal Times*](#) in which he debunked the Atticus-as-hero myth. Freedman didn’t trash Atticus. He extolled Atticus’ efforts to defend Tom Robinson and admired his courage in putting himself at risk in front of a lynch mob. But Freedman derided Finch for being a Southern “gentleman” who otherwise accepted all the rules of the segregated south: segregated restaurants, water fountains and buses, and “a park that may well have a sign announcing ‘No Dogs or Colored Allowed.’” Freedman was equally derisive of Atticus’ view on women, noting that Scout, “at least as intelligent as his son, Jem,” is being brought up to “become some gentleman’s lady.”

The reaction to Freedman’s article was swift, strong, and almost universally negative. To most, Freedman’s article was, as Harvard Law professor Randall Kennedy, author of numerous books on race in America, wrote last week, “dismissed ... as the ravings of a curmudgeon.” “There isn’t a sacred cow in the world Monroe Freedman doesn’t enjoy taking on,” Thomas Shaffer, a Notre Dame law professor who had *Mockingbird* on his required reading list, told *The New York Times* in 1992.

Since the Atticus of *Watchman* was revealed, several people have noted that Freedman’s take on Atticus, as Kennedy put it, “has now been largely ratified by none other than his creator, Harper Lee herself.” The Atticus of *Watchman* defends racist propaganda, opposes integration that

would bring “Negroes by the carload in our schools and churches”, and sees blacks as “still in their childhood as a people.” In his 1992 piece, Freedman saw the clues: “Atticus Finch instructs his children that the Ku Klux Klan is ‘a political organization more than anything,’” and that “the leader of the lynch mob is ‘basically a good man’ who ‘just has his blind spots.’”

Freedman wrote a 1994 Alabama Law Review article to respond to his critics, including those who accused him of “chronological snobbery,” or using his modern Northern liberal view to evaluate 1930s Southern behavior:

Throughout his relatively comfortable and pleasant life in Maycomb, Atticus Finch knows about the grinding, ever-present humiliation and degradation of the black people of Maycomb; he tolerates it; and sometimes he even trivializes and condones it [I]t's all adding up," he recognizes, "and one of these days we're going to pay the bill for it." But he hopes that the struggle for justice won't come during his children's lifetimes. For Finch, the Civil Rights Movement of the 1960s is inevitable, but decades too soon.

But it is not Freedman's spot-on criticism of Atticus that strikes me most today. It's that he had divined that Harper Lee herself never saw *Mockingbird's* Atticus as the hero the public lionized. Put another way, based on his reading of *Mockingbird*, Freedman anticipated the Atticus of *Watchman*.

In his 1994 article, Freedman noted that several of Lee's white characters were "able to see that the oppression of Blacks is morally wrong." He then quoted the compelling lines Lee wrote for one of those characters: "Cry about the simple hell people give other people—without even thinking. Cry about the hell white people give colored folks, without even stopping to think that they're people, too." But this man is not Atticus; it is Dolphus Raymond, who pretends to be a drunk so his views on racial equality—and his black mistress and children—don't arouse too much ire among the townfolk.

Finally, in describing Tom Robinson's death in a hail of bullets as Tom supposedly tried to escape from prison, Lee, Freedman argued, showed her true colors:

"You can believe this improbable story, as Finch purports to do. But I believe (and Harper Lee appears to believe) that Tom Robinson was goaded into a desperate, futile run for the fence on the threat of being shot where he stood [I]f Finch averts his eyes from the truth, Scout faces it straight on. 'Tom was a dead man,' she realizes, 'the minute Mayella Ewell opened her mouth and screamed.'" (Emphasis mine.)

Monroe Freedman was no curmudgeon, but he was certainly a contrarian. After all, his *Legal Times* column was called “Cases and Controversies.” He never backed down from an argument and started a fair number himself. One began with what may be the most important law review article on ethics ever written, “The Three Hardest Questions,” 64 Michigan Law Review 1469 (1966). There, for the first time but not the last, Freedman argued that if necessary, the criminal defense lawyer should put on perjured testimony rather than refuse to do so. Warren Burger, then Chief Judge of the D.C. Circuit, was so shocked he attempted to bring bar proceedings against

Freedman. They failed. Freedman wore that failed effort like a badge of honor, trumpeting it often in print.

Finally and ironically, and despite his reputation, the one word that all “Monrovians” who learned legal ethics at his knee, myself included, would agree on to describe Monroe Freedman is “gentleman.”

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