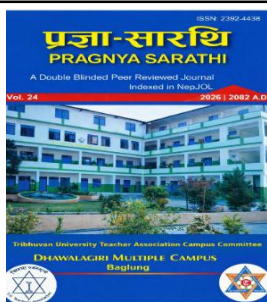


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## Justice Denied: A Rawlsian Reading of *To Kill a Mockingbird*

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### Abstract

This paper explores how justice as fairness fails in *To Kill a Mockingbird* written by American writer Harper Lee as seen from the point of view of John Rawls's theory of justice, bringing the ideas from *The Theory of Justice*. The failure of Rawlsian principles of justice is a challenge to the democratic norms where the social and legal structures play role in victimizing the victims as seen in the character of Tom Robinson who has been accused of raping a girl without any proper evidences. While seeing through Rawls's justice system, the society is to be guided by fairness, impartiality, and equality. However, this is not seen in the trial of Tom Robinson whose fundamental right has been violated as seen in the novel under scrutiny. Class systems and racial prejudices underestimate fair equality of opportunity causing Robinson's death. The justice system substantively serves the people in higher status in the society. The impartial standpoint as imagined by Rawls's "veil of ignorance" is lost in the trial tenure. One character representing Rawls' veil of ignorance is while Atticus Finch with moral integrity, honesty, and rational fairness. His failure to secure justice despite being a lawyer is an outcome of racial tone which highlights Rawls's claim that just outcomes are impossible.

**Keywords:** justice denied, justice as fairness, mockingbird, veil of ignorance

### Introduction

Harper Lee's *To Kill a Mockingbird* (1960), stands as an example of legal injustice in 1930s America. The narrator, a young girl, Scout Finch narrates how the all-white jury convicts him despite clear evidence of his innocence, demonstrating the deep-seated racism and prejudice in Alabama. In this case, a thorough study related to justice issue is required to know how far the justice as fairness is practiced as formulated by John Rawls. He defines justice as fairness, and it should be impartial not just efficiency or happiness. Social rules and structures play a vital role in maintaining justice. The laws, economy, political system, groups, play role in moral behavior. John Rawls brings a model of justice echoing "veil of ignorance," where the stake holders make a just society. He presents justice not as charity, but as fairness and dignity.

In this context, the study seeks how successful the Rawls' justice as fairness is as represented in the novel *To Kill A Mocking Bird* by Harper Lee. It answers if Tom Robinson deserves the punishment as death penalty or the punishment he gets as death sentence exceeds the justice as fairness. The statement on behalf of innocent Tom Robinson, 'Old Mr. Bob Ewell accused him of raping his girl' demands evidences, but they are not found. He is eventually killed being a black Negro. Thus, the justice as fairness is under erasure and this is the key issue in this paper. Rawls mentions that justice is the first virtue of social institutions, as truth is of systems of thought and it is based on equity.

### Literature Review

*To Kill A Mockingbird* after its publication has received good critical remarks especially from racial, legal and cultural perspectives. Stephens (1995) reads the novel bringing the issue of law and code: "Tom Robinson, he argues, has broken no law, but his accuser Mayella Ewell has violated the code by making advances to a black man" (p. 215). Stephens observes the tension in implementing lawful activities. The story is narrated from child's perspective and this also shows how children are innocent of criminal activities: "Although the story is based on the perceptions of Scout during her seventh through ninth years, it is told from the perspective and in the language of the adult Jean Louise, who may well be a lawyer, or at least legally trained, as was the author" (p. 217). The seven-year-old child Scout narrates the story of law and code: "What Scout the child learns and Jean Louise the adult lawyer understands is that the code provides insight into dark passions that operate outside the law" (p. 217). People act outside the law showing the dark side of humans.

Atticus is a white lawyer but he supports victims irrespective of caste and race: "Atticus Finch is the embodiment of the law. He lives within the tradition of classically oriented American lawyers of the nineteenth century who advocated law as a rigorous discipline based on natural law. He stands in contrast with the charismatic lawyer. . . "(Stephens, p. 218). Because of the conflict between law and community code, action surrounding the trial assume misdeed from the side of law.

Similarly, another critic, Downton (1998) states that this book helps students know about racism: "This is a book that can educate children about racism. While reading this book you can see how blacks were treated. The book includes a rape scene, and this is why some schools don't allow" (p.9). The rape scene is absent from

the point of view of alleged critic and this book can be used as a book exposing racism. Watson (2010) also reads the novel raising racial issue to the fullest. He talks about racism and limits of empathy regarding humanity. He has analyzed this from the film of the same novel: "The film porches become stages, providing stage for dramatizing of moral lessons, particularly those sympathetic points of view" (p. 422). The lessons of sympathy and class difference are shown in film's beginning.

In the same way, Schuster (1963) discusses the theme and structure of the novel to communicate how structural construction: "I am dealing here primarily with the elements of theme and structure. A fuller treatment of the novel would undoubtedly settle on a number of issues relating to plot and character, two aspects of the novel that I have slighted in this article" (p 506). The plot and characters are important to uncover themes through close reading. Thus, Schuster's focus is on close reading. He further talks about thematic motifs: "Another process of examination has to do with the discovery and tracing of thematic motifs. In my experience students are too ready to look for the themes" (507). These themes could be read as a signpost for racism. In the same light, Best (2009) reads the panoptical influence. This reading "understand the relationships among people and groups of people. Black children are costntly watched by the white through panopticon methods: every repercussion. The Other is that with which one contrasts oneself. Children like Scout and Jem develop their own personalities and find their places in society by copying the behavior of people in similar social positions, by learning social norms associated with particular socioeconomic classes" (p. 521). The social mechanisms torture the people. These readings have not substantially mentioned if the Rawlian concept of justice denied, delayed and unfulfilled.

### **Method**

The research uses textual analysis as a research method. In this method, the quoting from the relevant paragraph based on primary and secondary sources is done which is a research tool. It is qualitative research based on interpretivism.

### **Discussion**

#### **Justice Theory and Fairness**

Justice theory envisioned and formulated by John Rawls is ground-breaking text that has been widely discussed and used as a key to develop emerging trends of justice principle. Bentley (1973) discusses "Rather, he is trying to produce a set of principles which anyone who has felt the pull of justice (that is, the concept of justice) would acknowledge" (p. 197). He saw problems in fundamental issues of social oppressive frameworks and hierarchies. While acknowledging justice as fairness, he compares this with utilitarianism.

Similarly, Zuckert (1981) further argues that justice as propounded by Rawls has received a great deal of attention. Zuckert suggests that more careful attention needs to be paid to the basic structure of Rawls' logic focusing on moral judgments and criteria of justice he articulates: "his interaction in Rawls' scheme between the theory or explanation and the facts or moral judgments to be explained makes "our

considered moral judgments" absolutely crucial. These moral judgments are the basic facts from which a theory must begin, but they also are brought to bear in the formulation of the theory it" (p. 469). These moral judgments are the bases for truths. He agrees with Rawls that "All social primary goods-liberty and opportunity, income and wealth, and the bases of self-respect-are to distributed equally unless an unequal distribution of any or all of the goods is to the advantage of the least favored" (p. 471). The least group is to be distributed the resources.

Similarly, Nagel, T. (1973) also sheds light on Rawls' justice which for him is "a rich, complicated, and fundamental work. It offers an elaborate set of arguments and provides many issues for discussion. This review will focus on its contribution to the more abstract portions of ethical theory" (p. 220). He believes that Rawls believes that it will be more profitable to investigate the foundations of ethics. He further states:

The justice of institutions depends on their conformity to two principles. The first requires the greatest equal liberty compatible with a like liberty for all. The second (the difference principle) permits only those inequalities in the distribution of primary economic and social advantages that benefit everyone, in particular the worst off. Liberty is prior in the sense that it cannot be sacrificed for economic and social advantages, unless they are so scarce or unequal as to prevent the meaningful exercise of equal liberty until material conditions have improved. (p. 222)

He talks about two principles. The first principle states that everyone should have the same fundamental liberties, as long as these freedoms are compatible with equal liberties for others. The second principle, known as the difference principle, allows inequalities in social and economic benefits only if they improve the situation of all people, especially those who are least advantaged.

### **Failure of Justice as Fairness in *To Kill a Mockingbird***

Justice as fairness indicates a situation where the concerned people are treated with fairness irrespective of class, race, ethnicity and gender. For this, as Rawls thinks, the judge should wear a mask of innocence, typically in his term, a veil of ignorance. While seeing through Rawls's justice system in *To Kill a Mockingbird*, justice weakens before the character, Tom Robinson. The society is less guided by fairness, impartiality, and equality. Class systems and racial prejudices underestimate fair equality of opportunity causing Robinson's death. The justice system substantively serves the high-profile people.

Atticus is restless when he accepts the case of Tom Robinson. He has to go above family and social boundaries to help a black man like Tom Robinson: "Atticus sighed. I'm simply defending a Negro—his name's Tom Robinson. He lives in that little settlement beyond the town dump. He's a member of Calpurnia's church, and Cal knows his family well. She says they're clean-living Folks" (p 9). For Atticus being a white lawyer, it was difficult to help a black man who was accused of raping a girl. In this case, justice was not given to Negro. While talking about justice as fairness, Rawls proposes, "The idea of the original position is to set up a fair procedure so that any principles agreed to will be just. The aim is to use the notion of pure procedural justice as a basis of theory" (p. 118) to share that "Somehow we

must nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage. Now in order to do this I assume that the parties are situated behind a veil of ignorance” (p. 118). It is very obvious. For Negro people, the veil of innocence is a myth: “Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise, laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust” (Rawls, p.3).

Thus, he defending of Tom costs him a lot. He was accusing of raping daughter of Old Mr. Bob Ewell: “Old Mr. Bob Ewell accused him of raping’ his girl an’ had him arrested an’ put in jail” (p.12). Tom was put in jail simply he was accused of raping but the evidences tell some other stories: “For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation” (p. 6).

Tom could not always outstand the accusation. His death is inevitable as justice fails in his community. Thus, he calls Cal to go to the house of Robinson for observation of something wrong: “Cal, Atticus said, I want you to go with me out to Helen Robinson’s house—“What’s the matter?” Aunt Alexandra asked, alarmed by the look on my father’s face. “Tom’s dead” (p. 132). Tom’s death is a result of justice denied. How they killed Robinson is also irrational and crime-based: “They shot him,” said Atticus. “He was running. It was during their exercise period. They said he just broke into a blind raving charge at the fence and started climbing over” (p. 43). The death scene was painful as the police shot him. Justice for him also died. In this context, justice as fairness vanished. In the word of Rawls, “In justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of the social contract. This original position is not, of course, thought of as an actual historical state of affairs, much less as a primitive condition of culture” (p. 11). Justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of the social contract. It is where the justice goes unnoticed and violated, he faced the trial without any serious crime:

To begin with, this case, should never have come to trial. This case is as simple as black and white. The state has not produced one medical evidence to the effect that the crime Tom Robinson is charged with ever took place. It has relied instead upon the testimony of two witnesses whose evidence has not only been called into serious question on cross-examination, but has been flatly contradicted by the defendant. The defendant is not guilty, but somebody in this courtroom is. (p.20)

The case is a result of black and white racial issue. Tom is accused of rape and without any kind of evidences, he is put in trial only to be killed. He can have no excuse. His justice is limited within mythic tradition. It has become a history or bitter past and now as he is going to be killed. Rawls states, “The veil of ignorance makes possible a unanimous choice of a particular conception of justice. Without these limitations on knowledge the bargaining problem of the original position would be hopelessly complicated. Even if theoretically a solution were to exist, we would not,

at present anyway, be able to determine it” (p. 121). However, to practice veil of ignorance, it is very difficult.

Alexandra’s narration further intensifies how murder unjustly takes place. The narration goes like: “Oh yes, the guards called to him to stop. They fired a few shots in the air, then to kill. They got him just as he went over the fence. They said if he’d had two good arms he’d have made it, he was moving that fast. Seventeen bullet holes in him” (p. 24). The rapid fire of gun on him is evidence that the injustice took place leaving no trace where justice can be foregrounded. The brutal killing is senseless kind of sense: “They didn’t have to shoot him that much. Cal, I want you to come out with me and help me tell Helen.” “Yes sir,” she murmured, fumbling at her apron. Miss Maudie went to Calpurnia and untied it” (p. 24). Killing could be done with a single shot, but they killed him mercilessly.

Despite the possible threat, Atticus stood to defend Tom Robinson and prepared the documents: “Atticus was halfway through his speech to the jury. He had evidently pulled some papers from his briefcase that rested beside his chair, because they were on his table. Tom Robinson was toying with them” (p. 20). His proofs are sufficient to justify that Tom was innocent but he was not successful. Then, Tom was accused of crime that deserves death penalty: “...absence of any corroborative evidence, this man was indicted on a capital charge and is now on trial for his life...” (p. 20). Despite the absence of corroborative evidence, Tom was accused of raping a girl and he was killed as punishment. He does not know his vulnerable position in the society. In this context, Rawls states, “It is assumed, then, that the parties do not know certain kinds of particular facts. First of all, no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like” (p. 118), the weak person never knows his limitation, his place in the society, his social status, and fortune as well.

### **Conclusion**

The paper concludes that justice as fairness has been denied to Tom Robinson in *To Kill a Mockingbird* seen through John Rawls’s theory of justice as fairness. The study reveals a big gap between the principles of justice and its reality. The setting of the novel is a racially biased society where we don’t see Rawls’s framework emphasizing liberties and fair equality of opportunity for all the people.

Tom Robinson’s trial within the racial social structure of Maycomb demonstrates how prejudice runs over fairness and reasonable judgment. Legal institutions are also based on prejudices that have not been protecting equal rights for everyone. Rather it reinforces inequality, showing that formal rules made to run the society do not ensure justice as fairness. The social attitudes are unjust and unholy.

Although Atticus Finch as a lawyer stands as a moral man inclined towards Rawlsian fairness, his power or capacity is overshadowed by racial policy. His honesty and integrity are not enough to correct the entire systemic injustice. Thus, justice as fairness fails because of two reasons: due to flawed institutions and social bias, suggesting justice as fairness requires both structural clarity with fairness and moral transformation.

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