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Summer 2010

# Atticus Finch: Christian or Civic Hero - A Response to Professor McMillian

Judy M. Cornett, *University of Tennessee College of Law*

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# ATTICUS FINCH: CHRISTIAN OR CIVIC HERO? A RESPONSE TO PROFESSOR MCMILLIAN

JUDY M. CORNETT\*

If you roast a sacred cow in the public square, expect a riot. And a riot is just what resulted, figuratively speaking, when Malcolm Gladwell asserted that Atticus Finch does not deserve the name of “hero.”<sup>1</sup> In his now-infamous essay in *The New Yorker* entitled *The Courthouse Ring: Atticus Finch and the limits of Southern liberalism*, Gladwell debunked the notion that Atticus is a “civil-rights hero” by pointing out that he tolerates racists and that he connives with Sheriff Heck Tate in covering up Boo Radley’s guilt.<sup>2</sup> He also impugned Atticus’s lawyering skills—and his ethics—by accusing him of defending Tom Robinson merely by encouraging the jury “to swap one of their prejudices for another.”<sup>3</sup>

While not the first revisionist account of Atticus Finch’s heroic stature—legal ethicists Monroe Freedman and Steven Lubet have previously criticized Atticus in articles aimed at a legal audience<sup>4</sup>—Gladwell’s attack was the first to address a general audience,<sup>5</sup> and it benefitted from the renown he had earned from his recent literary successes. In short, the *New Yorker* essay was widely read and taken seriously.<sup>6</sup> Some

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\* Associate Professor, University of Tennessee College of Law. I would like to thank Alan Jackson, Editor in Chief of the *Tennessee Law Review*, for inviting me to respond to Professor McMillian’s article. I would also like to thank Professor McMillian for his contributions to our scholarly exchange. This response was presented as part of a faculty forum at the University of Tennessee College of Law in July 2010, and I would like to thank my colleagues for their comments and suggestions. I am especially indebted to Dwight Aarons, Carol Parker, and Nancy Cook for specific comments on a draft of this response, and to Fran Ansley and Jim Sessions for readings on Christianity and structural reform.

1. See generally Isaac Chotiner, *What is Malcolm Gladwell Talking About?*, THE NEW REPUBLIC (Aug. 4, 2009, 3:52 PM), <http://www.tnr.com/blog/the-plank/what-malcolm-gladwell-talking-about> (calling Gladwell’s essay “confusing and maddening”).

2. See Malcolm Gladwell, *The Courthouse Ring: Atticus Finch and the limits of Southern liberalism*, THE NEW YORKER, Aug. 10, 2009, at 27, 32.

3. *Id.* at 32.

4. See generally Monroe H. Freedman, *Atticus Finch—Right and Wrong*, 45 ALA. L. REV. 473 (1994); Steven Lubet, *Reconstructing Atticus Finch*, 97 MICH. L. REV. 1339 (1999); Monroe Freedman, *Atticus Finch, Esq., R.I.P.*, LEGAL TIMES, Feb. 20, 1992, at 20; Monroe Freedman, *Finch: The Lawyer Mythologized*, LEGAL TIMES, May 8, 1992, at 25.

5. See Lance McMillian, *Atticus Finch as Racial Accommodator: Answering Malcolm Gladwell’s Critique*, 77 TENN. L. REV. 701, 702–703 (2010). See generally Gladwell, *supra* note 2 (criticizing Atticus Finch for using an accommodating approach to racial inequities).

6. According to Gladwell, his writing may have been taken too seriously. He recently addressed his critics:

lawyers resented Gladwell's article because Atticus is their hero.<sup>7</sup> Others questioned the article's portrayal of "Southern liberalism."<sup>8</sup> Still other commentators decried the regional bias embodied in Gladwell's analysis.<sup>9</sup>

One of the most thoughtful responses to Gladwell's article is Professor Lance McMillian's article, *Atticus Finch as Racial Accommodator*.<sup>10</sup> Professor McMillian defends Atticus by asserting that he is, first and foremost, a Christian.<sup>11</sup> As McMillian puts it, "To understand Atticus, one must first understand Jesus and his teaching."<sup>12</sup> From this perspective, the aspects of Atticus's character and behavior that Gladwell critiques are actually positive attributes.<sup>13</sup> Thus, Atticus's tolerance, his refusal to hate even Hitler, and his willingness to respect those who hold abhorrent views do not mark him as a passive enabler of racism but as a humble follower of Jesus who obeys his Master's injunction to "[l]ove your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you."<sup>14</sup>

For most readers, McMillian's conclusion will come as a surprise. Few scholars and, I'm confident, few general readers would classify Atticus as a unique Christian hero.<sup>15</sup> The very word "Christian" has become a charged

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Nothing frustrates me more than someone who reads something of mine or anyone else's and says, angrily, "I don't buy it." Why are they angry? Good writing does not succeed or fail on the strength of its ability to persuade. . . . It succeeds or fails on the strength of its ability to engage you, to make you think, to give you a glimpse into someone else's head—even if in the end you conclude that someone else's head is not a place you'd really like to be.

MALCOLM GLADWELL, *WHAT THE DOG SAW* xv (2009).

7. See Bill Haltom, *The Trial of Atticus*, TENN. B. J., Oct. 2009, at 34.

8. Sam Candler, *The Courthouse Ring: Atticus Finch and the Limits of Southern Liberalism (from The New Yorker magazine)*, GOOD FAITH AND THE COMMON GOOD (Aug. 29, 2009, 2:50 PM), <http://goodfaithandthecommongood.blogspot.com/2009/08/courthouse-ring-atticus-finch-and.html> ("I sometimes wear the title 'southern liberal' myself, and I am sometimes proud of it."). Interestingly, neither Gladwell nor Candler define this term.

9. Rheta Grimsley Johnson, *Atticus Finch: A Southern Scoundrel*, KNOXVILLE NEWS-SENTINEL, Aug. 30, 2009, at 53 ("Them's fightin' words, Yankee."); Warwick Sabin, *Publisher's Note: The Atticus Finch Complex: Why is It under Attack?* THE OXFORD AMERICAN, Aug. 2009, at 13 (Gladwell's article exemplifies a "continuing national obsession with Southern backwardness"); Glynn Wilson, *The New York Ring*, THE LOCUST FORK NEWS-J. (Aug. 8, 2009, 1:36 PM), <http://blog.locustfork.net/2009/08/the-new-york-ring> (accusing Gladwell of "New Yorkerism").

10. See generally McMillian, *supra* note 5.

11. See *id.* at 703.

12. *Id.*

13. See generally *id.*

14. *Matthew 5:44* (King James Version) [hereinafter KJV].

15. For example, at a July 2010 University of Tennessee College of Law faculty forum, faculty attendees who brainstormed words associated with Atticus Finch did not generate the word "Christian." Judy M. Cornett, Faculty Forum at the University of

term in contemporary American civic discourse.<sup>16</sup> Far too often, the word is preceded by the adjectives “evangelical” or “fundamentalist.” To be called a “Christian” in today’s American civic discourse sometimes implies, unfortunately, a parochial exclusivity that seems totally at odds with the urbane civic-mindedness of Atticus Finch.<sup>17</sup>

To his credit, Professor McMillian defines what he means by “authentic Christianity.”<sup>18</sup> Christians, he explains, follow Jesus’s instructions to “(a) love their enemies, (b) refrain from judging others, (c) recognize their own sinfulness, and (d) treat people the same way they want others to treat them.”<sup>19</sup> However valid this definition may be from a theological standpoint, it does help McMillian answer the bulk of Gladwell’s charges. One of the challenges of responding to Gladwell’s critique is that it is multifarious, and one of the virtues of McMillian’s article is that he does a good job of summarizing Gladwell’s criticisms.

Gladwell first establishes a dichotomy between two Americans of the 1950’s: “Big Jim” Folsom, populist governor of Alabama between 1947–1951 and again from 1955–1959, and Thurgood Marshall, general counsel for the NAACP, who successfully argued *Brown v. Board of Education* (*Brown I*), before the U.S. Supreme Court.<sup>20</sup> In this dichotomy, Folsom represents the “hearts and minds” approach to social change because he professed that everyone is alike but took no concrete steps to change the

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Tennessee College of Law (July 7, 2010).

16. See generally SARA DIAMOND, *SPIRITUAL WARFARE: THE POLITICS OF THE CHRISTIAN RIGHT* 5–9 (1989) (discussing the politicization of religion).

17. For an example of the ambivalent responses to the “evangelical” and “fundamentalist,” see BRUCE BAWER, *STEALING JESUS: HOW FUNDAMENTALISM BETRAYS CHRISTIANITY* 1–3 (1997) (recounting encounter with stranger who asks, “Are you a Christian?”) Of course, negative associations with the word “Christian” also accrue to types of Christianity other than “fundamentalist” or “evangelical.” For example, author Ann Rice, a convert to Catholicism, posted the following entry on her social networking page in July 2010:

For those who care, and I understand if you don't: Today I quit being a Christian. I'm out. I remain committed to Christ as always but not to being 'Christian' or to being part of Christianity. It's simply impossible for me to 'belong' to this quarrelsome, hostile, disputatious, and deservedly infamous group. For ten years, I've tried. I've failed. I'm an outsider. My conscience will allow nothing else.

Writer Anne Rice: ‘Today I Quit Being A Christian,’ NAT’L PUB. RADIO (Aug. 2, 2010), <http://www.npr.org/templates/story/story.php?storyId=128930526>.

18. McMillian, *supra* note 5, at 708.

19. *Id.* at 709. Of course, this definition of “Christian” would not necessarily be accepted by theologians, or by all those who call themselves “Christians.”

20. See Gladwell, *supra* note 2, at 26–27. Later, Marshall became the first African-American Justice of the U.S. Supreme Court, appointed in 1967 by President Lyndon Johnson.

Jim Crow laws,<sup>21</sup> while Marshall represents the "structural" approach because he invoked coercive legal action to change racist institutions.<sup>22</sup> Gladwell aligns Atticus with the "hearts and minds" approach, because in Gladwell's view, Atticus engages in what McMillian aptly calls "quasi-appeasement. Atticus wants things to change, but he is unwilling to disturb the peace of the town to see that change materialize."<sup>23</sup>

For Gladwell, one of the most powerful scenes in the novel indicts Atticus.<sup>24</sup> As Atticus leaves the courthouse after the jury returns its guilty verdict, the African-American spectators in the balcony rise in tribute to him.<sup>25</sup> As Gladwell sees it, "If Finch were a civil-rights hero, he would be brimming with rage at the unjust verdict. But he isn't. He's not Thurgood Marshall looking for racial salvation through the law."<sup>26</sup> Certainly, Gladwell is right to peg this scene as important to understanding Atticus Finch, but not because Atticus is not brimming with rage. How would a lawyer—Atticus Finch or Thurgood Marshall—show rage? One has to wonder whether Gladwell thinks Thurgood Marshall would have done anything other than walk quietly out of the courtroom after the Robinson verdict. Thurgood Marshall was a *heroic* lawyer, but he was first a *lawyer*. Whatever rage he felt at the racism embodied in American society and the American legal system was channeled into his use of the tools provided by the law itself. True, Marshall filed landmark lawsuits and argued in front of the U.S. Supreme Court.<sup>27</sup> Atticus merely tried a case in a local court before a local judge. Perhaps Atticus could have challenged the exclusion of blacks from the jury, as another civil rights hero, Constance Baker Motley, did (unsuccessfully) in 1965, in *Swain v. Alabama*.<sup>28</sup> Instead, Atticus's approach is simply to treat individual black people with respect.<sup>29</sup>

This comparison between Atticus Finch and Thurgood Marshall marks the crucial fault line of Gladwell's article: the value of the "hearts and minds" approach versus the "structural" approach. Which approach will most effectively change society for the better—treating individual African-Americans with respect or filing a lawsuit to ensure that they can attend public schools alongside white persons? Gladwell clearly comes down on

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21. See *id.* at 26–28.

22. See *id.* at 27.

23. McMillian, *supra* note 5, at 704.

24. See Gladwell, *supra* note 2, at 27.

25. *Id.*; see also HARPER LEE, *TO KILL A MOCKINGBIRD* 224 (J. B. Lippincott Co. ed. 1960).

26. Gladwell, *supra* note 2, at 27.

27. See generally *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954) (argued by Thurgood Marshall).

28. *Swain v. Alabama*, 380 U.S. 202, 202 (1965).

29. See generally LEE, *supra* note 25.

the side of structural change, discounting the power of interpersonal interactions to affect fundamental social structures.<sup>30</sup>

Professor McMillian disagrees.<sup>31</sup> He perspicaciously analyzes Gladwell's aversion to the "hearts and minds" approach. First, McMillian notes that Gladwell sees it as "the equivalent of taking a baseball bat to a gunfight."<sup>32</sup> The example of respectful and egalitarian behavior by one person in the oppressor group carries little punch when confronted with the force of what Atticus calls the "time-honored code" of race relations in the states of the Old South.<sup>33</sup> Second, and I think more importantly, he notes that Gladwell finds it distasteful that, "to change the attitudes of the community from within means freely associating with and participating in the community at its basest level—the segregated courthouse, the segregated restaurants, etc."<sup>34</sup> Gladwell's attitude is not quite the same as Monroe Freedman's horror that Atticus would continue to count Walter Cunningham as a friend after he appears in the lynch mob.<sup>35</sup> Instead, as McMillian points out, Gladwell's attitude seems to be pharisaical:

And it came to pass, that, as Jesus sat at meat in his house, many publicans and sinners sat also together with Jesus and his disciples: for there were many, and they followed him. And when the scribes and Pharisees saw him eat with publicans and sinners, they said unto his disciples, How is it that he eateth and drinketh with publicans and sinners? When Jesus heard it, he saith unto them, They that are whole have no need of the physician, but they that are sick: I came not to call the righteous, but sinners to repentance.<sup>36</sup>

Or, to put it in terms some commentators have used, Gladwell's squeamishness about Maycomb County's race relations may reflect the outsider's prejudice against the South generally.<sup>37</sup>

As McMillian rightly points out, a change of heart and a change in the law are not mutually exclusive, but mutually supportive.<sup>38</sup> Former President Jimmy Carter would agree. In his memoir, *An Hour Before Daylight: Memories of a Rural Boyhood*, Carter, a contemporary of Harper Lee, celebrates his parents, Earl and Lillian Carter, as civil rights heroes.<sup>39</sup> Neither was a lawyer; his father was a prosperous farmer and his mother

30. See generally Gladwell, *supra* note 2.

31. See generally McMillian, *supra* note 5.

32. *Id.*

33. See LEE, *supra* note 25, at 216.

34. McMillian, *supra* note 5, at 716.

35. See Freedman, *Atticus Finch—Right and Wrong*, *supra* note 4, at 476–77.

36. Mark 2:15–17 (KJV).

37. See Johnson, *supra* note 9 ("Atticus is suspect. Atticus is, after all, a Southerner.").

38. See McMillian, *supra* note 5, at 717.

39. See JIMMY CARTER, *AN HOUR BEFORE DAYLIGHT: MEMORIES OF A RURAL BOYHOOD* (2001).



was a nurse.<sup>40</sup> Both treated African-Americans with respect, usually staying within the confines of the Jim Crow code, but sometimes straying from it.<sup>41</sup> For example, the most prominent member of the Carters' community around Plains, Georgia, was Bishop William Decker Johnson, an African-American.<sup>42</sup> Here is how Carter describes his father's interaction with the Bishop:

Bishop Johnson was certainly aware of the racial customs of the day, but he did not consider it appropriate to comply with all of them. It was understood, for instance, that he would not come to our front door when he wished to talk to my father—but neither would he deign to come to the back. After ascertaining through a messenger that we were at home, he would arrive in his chauffeured black Packard or Cadillac, park in our front yard, and sound the horn. My father would go outside to the automobile for a conversation, while Bishop Johnson either stayed in the car or came out so the two men could stand together under the shade of a large magnolia tree.<sup>43</sup>

What would Gladwell make of Carter's memory of the two men "talking and laughing together"<sup>44</sup> in the front yard? Although Earl Carter served in the Georgia state legislature, like Atticus Finch, he never introduced a desegregation bill.<sup>45</sup> Like Atticus, Earl Carter used the "hearts and minds" approach. As Lillian Carter told her son in later life,

Jimmy, one thing bothers me. Reporters have criticized your daddy lately about not being for racial integration. What they don't recognize is that he died in 1953, when there was no such thing as integration and nobody had ever heard of Martin Luther King or any civil rights movement. Your daddy always rejected all the racist organizations that degraded or persecuted black people, and both races always knew him to be fair and helpful. I was real controversial in the community sometimes, but he supported everything I did to help black people and to treat them well.<sup>46</sup>

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40. *See id.* at 110–11.

41. *Id.* at 19–23.

42. *See id.* at 21.

43. *Id.* at 23.

44. *Id.*

45. *See* E. STANLY GODBOLD, JIMMY AND ROSALYNN CARTER: THE GEORGIA YEARS, 1924–1974 72 (2010) (discussing the segregationist agenda Earl Carter pursued while in the Georgia legislature); LEE, *supra* note 25, at 126 (telling Atticus Finch's story); Freedman, *Atticus Finch—Right and Wrong*, *supra* note 4, at 481 (asking "Could he not introduce one bill to mitigate the evils of segregation?").

46. CARTER, *supra* note 39, at 269. Of course, this is not to say that Lillian Carter's complaints of a historical criticism are valid, or any more valid than complaints of ahistoricism directed at Gladwell.

The ahistoricism of her husband's critics that bothered Lillian Carter also bothers Gladwell's critics: "There is an absurdity and an intellectual arrogance when a historian uses moral standards established and prevalent in one age to retrospectively judge a person or a people of an earlier age."<sup>47</sup> Likewise, McMillian points out the absurdity of equating a Depression-era lawyer with a 1950s politician.<sup>48</sup> Big Jim Folsom's attitude toward blacks tells us nothing about the character of Atticus Finch. McMillian also notes that, because environment plays such a large role in an individual's attitudes and beliefs—as Gladwell himself demonstrated in his book *Blink: The Power of Thinking without Thinking*—no one can ever know what he would have believed or how he would have acted in an earlier age.<sup>49</sup> Thus, Gladwell's critique is unfair in one sense because it applies both 1950s and contemporary standards to a man living in the 1930s.<sup>50</sup>

But in another sense, it is fair to judge Atticus by today's standards because people today view him as heroic.<sup>51</sup> If he is a "hero,"<sup>52</sup> then he must adhere to values and principles that are still admirable and worthy of emulation. Either Atticus is a hero for his time and place only—and maybe not even that, in Gladwell's view—or he is a hero for our time as well. By characterizing Atticus as a Christian hero, it is clear that McMillian sees Atticus as a hero for all time because Jesus's teachings are seen as transcending history. To invoke the name of Jesus or the appellation of Christian is to invoke a set of universal values. Traditional Christianity does not see itself as historically bounded. Thus, while criticizing the ahistorical nature of Gladwell's critique, McMillian engages in a type of ahistoricism by claiming for Atticus a set of virtues that transcend time and space.

Professor McMillian identifies three qualities that make Atticus heroic.<sup>53</sup> First, Atticus's willingness to defend Robinson from the lynch mob "demonstrates his courage and willingness to engage."<sup>54</sup> This act of "obvious bravery" indicates Atticus's commitment to the Robinson case and, commentators generally agree, goes far beyond the duty of any appointed criminal defense lawyer.<sup>55</sup>

47. Harry F. Tepker, *The Dean Takes His Stand: Julien Monnet's 1912 Harvard Law Review Article Denouncing Oklahoma's Discriminatory Grandfather Clause*, 62 OKLA. L. REV. 427, 447 (2010).

48. See McMillian, *supra* note 5, at 718 n.60.

49. See MALCOLM GLADWELL, *BLINK: THE POWER OF THINKING WITHOUT THINKING* 84 (2005) (discussing lessons to be learned from racial implicit association tests).

50. See McMillian, *supra* note 5.

51. See *id.* at 701.

52. See generally WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE UNABRIDGED 1060 (Phillip Babcock Cove et al. eds., G. & C. Merriam Co. 1961) (defining a "hero" as "a man admired for his achievements and noble qualities and considered a model or ideal").

53. See McMillian, *supra* note 5, at 705, 715, 719–20.

54. *Id.* at 705.

55. *Id.*; see also Freedman, *Atticus Finch—Right and Wrong*, *supra* note 4, at 482.

Second, McMillian asserts that in his closing argument Atticus “strike[s] at the heart of the Jim Crow South” by arguing that (1) racism is “evil,” (2) all men are created equal, and (3) the jury should use its power to act as a “great leveler” of the differences between whites and blacks.<sup>56</sup> However, few of Atticus’s critics see his closing argument as a blow against racism. True, Atticus did not confront the jury with its own racism as Clarence Darrow did to the Detroit jury in the Henry Sweet case in 1925,<sup>57</sup> but still, he framed his argument in explicitly racial terms and articulated a few of the racist presumptions that underlay the prosecution.<sup>58</sup>

While noting that Atticus’s closing argument is relevant to assessing Gladwell’s charge that he defended Robinson poorly, McMillian does not directly address Gladwell’s primary point that Atticus used a “blame the victim” defense that relied on asking the jury “to swap one of their prejudices for another.”<sup>59</sup> McMillian seems to accept Gladwell’s critique, at least generally, when he suggests that “[p]erhaps Finch’s attitude regarding poor whites, which serves as the basis for Lubet and Gladwell’s critique that Atticus suffers from class bias, is just such an example [of Atticus’s knowledge of his own sinfulness.]”<sup>60</sup> True, the novel does reify class structure, with Atticus, Aunt Alexandra, and Jem all opining about the social hierarchy in Maycomb County.<sup>61</sup> Only Scout dissents: “I think there’s just one kind of folks. Folks.”<sup>62</sup> But the kind of hierarchy on display in the novel, in which race and social class clash, was a reality in the Depression-era South.<sup>63</sup> As Jimmy Carter notes about the community around Plains, Georgia, in the 1930s,

I recall a few instances when disreputable whites had to appeal to the larger community to confirm their racial superiority by siding with them in a dispute, but their very need to do so confirmed their own low social status. For those who were lazy or dishonest, or had repulsive personal habits, “white trash” was a greater insult than any epithet based on race.<sup>64</sup>

Presumably, for Professor McMillian, this recognition of class distinctions, as described by President Carter, is un-Christian; and it is true that Jesus, like God, was no respecter of persons.<sup>65</sup> But class distinctions in

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56. See LEE, *supra* note 25, at 217–18; McMillian, *supra* note 5, at 715.

57. Clarence Darrow, *Closing Argument of Clarence Darrow in the Case of People v. Henry Sweet*, reprinted in JERRY J. PHILLIPS & JUDY M. CORNETT, *SOUND AND SENSE: A TEXT ON LAW AND LITERATURE* 3, 3–33 (2003).

58. See LEE, *supra* note 25, at 216–18.

59. Gladwell, *supra* note 2, at 32.

60. McMillian, *supra* note 5, at 712 n.40.

61. LEE, *supra* note 25, at 239–40.

62. *Id.* at 240.

63. CARTER, *supra* note 39, at 20.

64. *Id.* at 20.

65. See *Romans* 2:11 (KJV).

the novel—or at least the distinction between the Ewells and the neighboring African-Americans<sup>66</sup>—serve as a proxy for merit. Scout interrupts her narration of Bob Ewell's testimony to contrast the living conditions of the Ewells with that of the African-American community.<sup>67</sup> While the Ewells glean food from the dump, the homes of the black families are fragrant with the smells of frying chicken and bacon.<sup>68</sup> The African-Americans' "neat and snug" cabins contrast with the Ewells' house, cobbled together of scrap lumber and metal.<sup>69</sup> Throughout the novel, respectable folks "do the best with what they have," but Bob Ewell drinks up the family's government relief checks.<sup>70</sup> Because social class in America is supposed to be fluid—our national mythos tells us that we can "make good" no matter what social class we are born into—the rigid social classifications in Harper Lee's Maycomb County seem backward and oppressive. But McMillian fails to address the question whether it is a sin for an "authentic" Christian to recognize Jim Crow-era social strata, especially since they seem to derive in part from personal merit.

Finally, Professor McMillian argues, Atticus is a hero because he has exerted a positive influence on the novel's readers.<sup>71</sup> Just as "Finch's character inspired a moral change in those that observed it" within the novel,<sup>72</sup> so "[i]n real life, the character of Atticus Finch made a meaningful contribution to the cause of equality."<sup>73</sup> In a bit of hyperbole, perhaps, McMillian asserts that "on the question of changing racial attitudes for the better, Atticus Finch may be a literary character without equal."<sup>74</sup> In other words, Atticus is heroic because he inspires people to believe more fully in racial equality. As McMillian points out, survey data shows that the novel *To Kill a Mockingbird* has influenced many readers.<sup>75</sup> The hoopla surrounding this year's fiftieth anniversary of the publication of the

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66. See LEE, *supra* note 25, at 181–82.

67. See *id.* at 181.

68. *Id.* at 182.

69. *Id.*

70. *Id.* at 194.

71. See McMillian, *supra* note 5, at 719–20.

72. *Id.* at 719. Specifically, McMillian points to Finch's "'feeling' . . . that [the members of the would-be lynch mob] left the jail that night with considerable respect for the Finches.'" *Id.* (quoting LEE, *supra* note 5, at 235).

73. McMillian, *supra* note 5, at 720.

74. *Id.* at 703. See CLAUDIA DURST JOHNSON, *TO KILL A MOCKINGBIRD: THREATENING BOUNDARIES* 14, 20–21 (1994) (noting dearth of literary criticism of the novel and noting "since its publication in 1960, the novel has appeared on secondary school reading lists as often as any book in English"); Nancy L. Cook, *A Call to Affirmative Action for Fiction's Heroes of Color, or How Hawkeye, Huck, and Atticus Foil the Work of Antiracism*, 11 CORNELL J.L. & PUB. POL'Y 603, 622 (2002) (noting examples of "the profound influence of [Atticus Finch] on the national legal psyche").

75. See McMillian, *supra* note 5, at 719 n.63.

novel<sup>76</sup>—as well as the reaction to Gladwell’s article<sup>77</sup>—testifies to the novel’s continuing influence.

Reminding ourselves that it is the influence of a *novel* that we are considering should remind us that the power of literature over our lives is usually one of individual internal change, rather than social change.<sup>78</sup> To borrow Gladwell’s dichotomy, novels reside on the “hearts and minds” axis, not the “structural change” axis.<sup>79</sup> A novel typically exists in a one-on-one relationship with its reader.<sup>80</sup> In contemporary America, novels are consumed in private; any reaction readers have to a novel occurs in their own hearts and minds. Atticus Finch can become a hero to a reader because that reader has an interpersonal encounter with him and is privy to his daughter’s adoring perspective on his character and actions.<sup>81</sup> No one can legislate that we admire Atticus Finch; if we do admire him, it is because Harper Lee has touched something within us.<sup>82</sup>

But this idea of a reverence for the protagonist still begs the question posed by Gladwell: *Should* we admire Atticus Finch? Professor McMillian believes that Atticus is worthy of admiration. In his words, “In Atticus, we see the promise and possibility of ourselves at our moral best. . . . We care deeply about Atticus because he represents our deepest ideals.”<sup>83</sup> According to Professor Nancy Cook, however, this “we” has a perniciously white bias.<sup>84</sup> In her article *A Call to Affirmative Action for Fiction’s Heroes of Color, or How Hawkeye, Huck, and Atticus Foil the Work of Antiracism*,<sup>85</sup> Cook states that an effect of the novel is that it “perpetuate[s] racial inequality not only by privileging the white hero but also by doing so in a manner that facilitates the internalization of white superiority.”<sup>86</sup> In other words, the novel’s portrayal of Atticus Finch paradoxically challenges whites to recognize the injustice of racial subordination while serving as an anodyne to the pain and guilt engendered by that recognition. Because *To*

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76. See Johnson, *supra* note 9.

77. See McMillian, *supra* note 5 (analyzing Gladwell’s article *The Courthouse Ring*).

78. I am indebted to my colleagues Don Leatherman and Dwight Aarons for this insight. Of course, internal change is often a prelude to social change.

79. Gladwell, *supra* note 2, at 27–28.

80. See Alastair Harper, *Should We Care about Book Reviews?*, THE GUARDIAN BOOKS BLOG (Jun. 12, 2008 1:56 BST), <http://www.guardian.co.uk/books/booksblog/2008/jun/12/shouldwecareaboutbookreviews>

81. See generally LEE, *supra* note 25 (the novel is narrated by Atticus’s daughter, Scout).

82. Thus, to the extent that Gladwell doubts whether the “hearts and minds” approach motivates social change, he likely would also be skeptical that individual reformation as a result of reading the novel can result in social change.

83. See McMillian, *supra* note 5, at 721.

84. See Cook, *supra* note 74, at 623.

85. See *id.* at 603.

86. *Id.* at 612.

*Kill a Mockingbird* is primarily a novel taught to high schoolers,<sup>87</sup> we must be concerned with its effects because of its enormous influence. Indeed, Cook emphasizes that the power of storytelling gives novels tremendous influence over their readers: “heroic tales, a subcategory of myths, make a deep and lasting impression on the subconscious and particularly on the minds of adolescents.”<sup>88</sup>

Cook reminds us that Atticus’s heroism consists of championing a subordinated individual whose subordination has been imposed by the very system that privileges Atticus.<sup>89</sup> There is no doubt that those who benefit from society’s privileges—like Lillian and Earl Carter and Atticus Finch—are complicit in the power structures that sustain it. Even though a progressive member of the privileged group might be ahead of the curve in defying oppressive norms—like Earl Carter’s meeting with Bishop Decker in his front yard,<sup>90</sup> or Atticus Finch’s zealous defense of his black client—whites should not overestimate the effect their efforts have on the social structure or congratulate themselves too heartily on their enlightened example. The specter of white self-congratulation for opposing a system they created looms as a danger of idolizing Atticus Finch.

The balcony scene at the end of the trial is maddening because the African-American spectators rise in tribute to Atticus instead of burning down the courthouse.<sup>91</sup> Like Atticus, they don’t brim with rage at the unjust verdict.<sup>92</sup> Presumably, Gladwell believes that the victims of racial prejudice and the injustices it spawned pay homage to a man who is a part of the power structure—the “courthouse ring”—that keeps them subordinated. But, as Nancy Cook points out, “Atticus is the representative of white racial consciousness; as a redeemer, he represents the hope of both the black race and the white race.”<sup>93</sup>

87. See JOHNSON, *supra* note 74, at 14, 20–21 (noting dearth of literary criticism of the novel and noting that “since its publication in 1960, the novel has appeared on secondary school reading lists as often as any book in English”). One effect of the novel is that it influences young readers to become lawyers. See, e.g., Jason Long, *Finding Finch*, *DICTA*, Nov. 2009, at 19 (“Many of us who decided to become lawyers did so because of our idealization of Atticus Finch. . . . I have had two heroes in my life: my father and Atticus Finch. I don’t expect I will ever fully live up to either of them, but I continue trying.”).

88. Cook, *supra* note 74, at 612.

89. See *id.* at 626 (noting analogy to *Huckleberry Finn* and writing that “the satisfactory outcome of Jim’s quest for freedom must be attributed to the benevolence of the very people whose inhumanity first made it necessary.” Huck Finn, the white hero, is portrayed as rescuing the black victim from an enslaved condition that has been imposed by white society.”).

90. See CARTER, *supra* note 39, at 23.

91. See Gladwell, *supra* note 2, at 27.

92. See LEE, *supra* note 25, at 224. However, Mrs. Merriweather noted that some blacks were “dissatisfied . . . they grumbled all next day after that trial.” *Id.* at 244–45.

93. Cook, *supra* note 74, at 624.

This "white savior" motif has become common in popular depictions of the civil rights struggles of the 1960s,<sup>94</sup> and Atticus may be the prototypical white savior.<sup>95</sup> The problem with idealizing the white savior is that it simply reinforces white empowerment, the same sort of white empowerment that resulted in the oppression which is now being resisted. The white savior motif deprives African-Americans of agency.

The white savior motif has been recognized by critics who have characterized Atticus as a Christ figure, a man of exemplary virtue who sacrifices himself in order to save others, and there is support in the novel for this view of Atticus. For example, discussing the Robinson case with his brother Jack, Atticus says, "You know, I'd hoped to get through life without a case of this kind, but John Taylor pointed at me and said, 'You're It.' [Jack responds,] 'Let this cup pass from you, eh?'"<sup>96</sup> This exchange echoes Jesus's words in the Garden of Gethsemane: "O my Father, if it be possible, let this cup pass from me: nevertheless not as I will, but as thou wilt."<sup>97</sup> But Professor McMillian does not argue that Atticus is a Christ figure; instead, he argues, Atticus is merely a *follower* of Jesus, a Christian.

It almost seems easier to accept Atticus as a type of Christ than as a Christian. Of course, Atticus is a Christian by culture; the Christian religion and its various Protestant denominations pervade the novel.<sup>98</sup> We learn that Atticus's ancestor, Simon Finch, "called himself a Methodist"<sup>99</sup> and that the Finch family still attends the Methodist church.<sup>100</sup> But nowhere does Atticus himself attribute his actions to his faith. Nor does our narrator, Scout. On the only occasion when we hear Atticus declare his faith, it is faith in the legal system: "I'm no idealist to believe firmly in the integrity of our courts and in the jury system—that is no ideal to me, it is a living, working reality."<sup>101</sup>

Indeed, the evidence adduced by Professor McMillian to support his thesis is scant. The first is the epigraph to the article, Miss Maudie Atkinson's declaration to Scout that "[w]e're so rarely called on to be Christians, but when we are, we've got men like Atticus to go for us."<sup>102</sup>

94. See, e.g., *GHOSTS OF MISSISSIPPI* (Columbia Pictures 1996).

95. It is interesting that the black community also shows its gratitude to Atticus with food offerings. See LEE, *supra* note 25, at 226. In the Old Testament, food was offered to God. See *Genesis* 4:3 (KJV). The offerings made to Atticus, therefore, can be read as symbolic idolization of Atticus by the black community.

96. LEE, *supra* note 25, at 97.

97. *Matthew* 26:39 (KJV).

98. See generally Thomas L. Shaffer, *Growing Up Good in Maycomb*, 45 ALA. L. REV. 531 (1994) (discussing Christianity in Maycomb).

99. LEE, *supra* note 25, at 9.

100. See *id.* at 51, 100 (noting that Jem asks Atticus if he is "going out" for the Methodists in the game of touch football between the Methodists and the Baptists, and that Scout observes to Miss Maudie, a Baptist, that "we can't have communion with you all").

101. *Id.* at 218.

102. McMillian, *supra* note 5, at 701 (quoting LEE, *supra* note 25, at 228).

Second only to Atticus himself, Miss Maudie is an authoritative speaker within the novel, sharing Atticus's distinct urbane ethos. Because her words carry weight, her phrasing here is curious. Her "we" appears to embrace the entire community (or, at least, the entire right-thinking community), but her image of Atticus "going for" the Christians implies not just a standing-in-front-of, but a standing-apart-from, the "we" and "us" who are Christians. Echoing this isolation is the fact that Atticus always sits by himself in church.<sup>103</sup>

The second bit of evidence adduced by Professor McMillian is Atticus's explanation to Scout of why he has taken Tom Robinson's case: "This case, Tom Robinson's case, is something that goes to the essence of a man's conscience—Scout, I couldn't go to church and worship God if I didn't try to help that man."<sup>104</sup> Here, Atticus does link his defense of Robinson with his worship of God, suggesting that if he failed to do his duty, he would have a burden on his conscience.<sup>105</sup> Without a clear conscience, Atticus implies, he cannot worship God. From this statement, McMillian deduces that Atticus "view[s] the cause of Tom Robinson as a divine charge."<sup>106</sup> But it seems quite a leap to convert Judge Taylor's appointment of Atticus to defend Robinson—with the concomitant ethical duties resulting from that role—into a "divine charge" to defend him.

This conflation of the civic with the religious is, perhaps, what makes the idea of Atticus Finch as a Christian hero difficult to accept. To argue that Atticus's actions derive from his Christian faith is to implicitly assert that a non-Christian would not act so virtuously. It is to claim Atticus's virtues for the Christian religion, and the Christian religion alone. In fairness, Professor McMillian does not explicitly assert that Christianity has an exclusive claim to the virtues espoused by Jesus, but using Jesus's teachings as an explanation for Atticus's actions strongly implies this.<sup>107</sup> Asserting that Christianity is a motivating force for Atticus's actions, instead of just the cultural background to them, endangers the pure civic realm as an arena of virtue apart from any particular religious faith, or any religious faith at all. Although many readers who idealize Atticus may be Christians, or at least cultural Christians, I doubt that many readers, especially lawyers, have viewed the Christian faith as a necessary concomitant to heroic action. By virtue of being a lawyer-hero, Atticus Finch has been a civic hero.

It may be objected that Americans have other civic heroes who are also motivated by Christian faith, and Professor McMillian invokes the most

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103. See LEE, *supra* note 25, at 158; see also Cook, *supra* note 74, at 623–24 (noting that Atticus "stands apart from his small-town neighbors," exemplifying the "isolation" of the archetypal American hero).

104. LEE, *supra* note 25, at 113.

105. See *id.*

106. McMillian, *supra* note 5, at 708.

107. See *id.*



obvious of these: Dr. Martin Luther King, Jr.<sup>108</sup> Pointing out that King also espoused the teachings of Jesus exemplified by Atticus, McMillian contrasts King with Malcolm X, who advocated structural reform, and aligns Atticus with King in opposition to Malcolm X.<sup>109</sup> Dr. King was a Christian, but he was an avowed Christian, who pastored a church and invoked Christian doctrine explicitly as he advocated for civil rights.<sup>110</sup> Of course, he also exemplifies the way in which avowedly Christian virtues can also be viewed as purely civic virtues; non-Christians can see Dr. King as a hero because the virtues he espoused are also valued apart from their Christian association.<sup>111</sup>

The relationship between Christianity and civic virtue is a complex topic, one that implicates America's heritage of religious freedom and tolerance.<sup>112</sup> McMillian does not attempt to explore these larger issues, but he seems to implicitly associate the teachings of Jesus with the "hearts and minds" approach as defined by Gladwell. In other words, for McMillian, Atticus's Christian faith is consistent with changing society through individual reformation rather than structural reform. But adhering to Jesus's teaching does not necessarily rule out the pursuit of structural reform, as Dr. King's career demonstrates.<sup>113</sup> Following the teachings of Jesus can mean treating all persons with respect and zealously defending a black man, as Atticus Finch did, or it can mean trying to disrupt segregation by sit-ins, demonstrations, and legislative advocacy, as Dr. King did.<sup>114</sup> Thus, to call Atticus Finch a Christian hero is not to pretermitt the critique that he should have been more bent on structural reform.

Professor McMillian's incisive and thought-provoking analysis of Atticus Finch is not a complete answer to Gladwell's critique, but it does correct some of Gladwell's misconceptions and provides a coherent framework within which to evaluate Atticus's status as hero. Ultimately, however, the test for the persuasiveness of the article may be this: Can we

108. See *id.* at 710.

109. See *id.* at 720.

110. See D. R. Whitt, *With Righteousness in his Suitcase: Reflections on the Ministry of Dr. Martin Luther King, Jr.*, 54 VILL. L. REV. 421, 431 (2009).

111. See *id.*

112. See Christopher L. Eisgruber & Lawrence G. Sager, *Unthinking Religious Freedom*, 74 TEX. L. REV. 577, 608 (1996); Timothy L. Hall, *Religion and Civic Virtue: A Justification of Free Exercise*, 67 TUL. L. REV. 87, 106–12 (1992).

113. See generally WILLIAM K. TABB, ED., *CHURCHES IN STRUGGLE: LIBERATION THEOLOGIES AND SOCIAL CHANGE IN NORTH AMERICAN* (1986) (collecting essays).

114. Or, in present day terms, it can mean fighting to abolish mountaintop removal mining and other environmental horrors. See generally LINDQUIST-ENVTL. APPALACHIAN FELLOWSHIP, at <http://oak.cats.ohiou.edu/~sp134601/leaf/index.html> ("LEAF is a Christian fellowship of Tennesseans whose faith leads them to take action for Tennessee's environment. Concern for God's Creation is not a matter of being liberal or conservative, a Republican or a Democrat. We believe people of faith can look beyond such distinctions and do the Lord's work together.").

imagine Atticus Finch as an atheist? If we can, then Atticus's Christianity becomes less of a faith and more of an ethos, an ethos available to anyone who acts in the civic realm, and Atticus retains his place in popular culture not as a Christian hero, but as a civic hero.

