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To Kill a Mockingbird: A Book Review

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ABSTRACT

This literature review aims to study and analyse the work of Harper lee called to kill a mockingbird. The prevalent themes in this novel are racial inequality, ignorance, rape, innocence, subjectivity, justice. The timeline of the story is set in the 1930's in the fictional town of Maycomb, modelled after the southern town of Alabama which is a pivotal indicative of the rural backward thinking of its populace and double standard. The narrator of the novel is the daughter (jean louse Finch) of the protagonist Atticus Finch. The central focus of the story begins at the courtroom scene, wherein Mr. Finch the criminal defence attorney for Tom Robinson an African American man accused of alleged rape and brutality. The proceedings of the case unfold serious and sensitive subjects that are a shock to the system, and the failure of the broken American justice system is at the heart of this novel.

In this review, the subjects explored would include racism, prejudice, ignorance, criminal with their effects and repercussion on and of law/criminal procedure in intricate detail. Along with which a parallel study will be drawn between the justice system then and now as well as the system in India and America.

Keywords: *Racial inequality, rape, proceedings, criminal procedure, justice system.*

I. INTRODUCTION

Race in the United States criminal justice system refers to the unique experiences and disparities in the United States regarding the policing and prosecuting of various races. There have been different outcomes for different racial groups in convicting and sentencing felons in the United States criminal justice system.

Experts and analysts have debated the relative importance of different factors that have led to these disparities. Minority defendants are charged with crimes requiring a mandatory minimum prison sentence more often, in both relative and absolute terms (depending on the classification of race, mainly in regards to Hispanics), leading to large racial disparities in correctional facilities.

Racial disparities are produced within both the criminal justice system and the juvenile justice system at each point of contact. Some of these disparities are the product of policy decision

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making which has foreseeable racial effects that are either not understood or acknowledged by political leaders. The federal crack cocaine mandatory penalties of the 1980s are a prime example in this regard. Other disparities result from racially biased decision making by practitioners, such as cases of racial profiling by law enforcement officers. In many instances, this decision making may be a function of implicit bias – favouring or disfavouring one racial group over others – revealing the effect of unconscious and unintentional stereotypes.

II. THE 1930'S JUSTICE SYSTEM

The definition of Judiciary is "A branch of government whose task is the authoritative adjudication of controversies over the application of the law in a specific situation". This branch helps the government to be in a high level of local security because it rules justly. Any citizen in any country can rest assured because this system could achieve peace and justice. The opposite was the case in the 1930s, Alabama suffered from depression. During this period the African American community was treated as second class citizens. There were not granted any rights to defend themselves despite being citizens in America. Harper Lee shines light over this issue in her novel *To Kill A Mockingbird*. She mentions that her society suffers from prejudice in everything: in life, education, and in their regime. That regime and the people who work in that said regime are carrying the slogan of justice. The regime is the Judicial system, which aims to spread justice all over the region. Berman keenly observed that the judicial system throughout history has changed thrice. First, it was kingly by king Henry II, who ruled England and Normandy. It was known as the colonial period because the power was concentrated in the hands of the governor appointed by the king. Second, following the American revolution (1775-83) the power of the government was taken over and reduced by the legislative bodies. They also used to remove judges or cancel courts in instances of unpopular decisions. Third in the "formative era of American law" before the civil war (1861-65) until the early 20th century the courts tended to a new type of cases, which were in the field of economic law. Courts, lawyers, and legal scholars reshaped basic legal concepts of property, contracts, corporations, and others (4-15).

In the 1930s the judiciary was hostile towards the new social legislation which called to achieve societal justice. Therefore, in 1930, Alabama saw its biggest trial yet, for nine African American men who were accused of raping two white women on a rail car. The men who were charged with raping the two women might have been innocent, but during the depression they were unable to defend themselves because of the prejudiced system. All the eight were sentenced to a death sentence, except for one because of his minority status. The defence lawyer

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had provided evidence that seven of them were in another car and two of them could not have done the crime because the first one was blind and the second one was too sickly. So how could they commit such a crime? (Johnson 15-16). In the novel *To Kill A Mockingbird* Harper lee spins a similar case with fictional details. The accused was an African American man who was accused of raping a white woman who was poor and from the working class. Mayella the white woman made a false allegation, to conceal the truth. Tom Robinson was a black man accused by Mayella of raping her. Harper Lee mentioned the incident of Scottsboro trials, and that she had seen it when she was a small girl, and she picked Thomas as a character described very well in the judicial system. This system must reveal the facts, the intent of the accused, and the judgment according to law.

Despite the weak system, Atticus defends Thomas although he is a black defendant. In the 1930s, there were black lawyers but they were afraid to do their job because the judicial system was biased towards white people. The goals that Atticus wants to achieve to support the evidence related to Tom, tend towards a fair trial. He encourages the court to let Thomas have a fair trial. He obtains information for the case to show Thomas's innocence. He gives the jury and the judge the evidence that emphasizes the intent of Tom Robinson (What Is A Fair Trial). He shows that the bruises over her face are not from Thomas's right hand because it is useless, and the bruising could have resulted from her father since he is an alcoholic and he has violent tendencies. Also, her father was looking through the window during the commission of the crime and was witness to who was the initiator. Thomas runs away because he is afraid of Ewell who might kill him even if he is innocent. Moreover, Thomas had rights that needed to be taken into consideration to have a fair trial. The defendant is considered innocent until the judicial system proves that he did the crime. Besides, the accused has the right to know what the charges are against him and to confront the witnesses testifying against him. But instead Thomas Robinson prevented exercising his rights and he was considered guilty without having the right to defend himself against this accusation. Instead the jury was treated him as an obvious culprit because he was a black man and Mayella as the obvious victim since she was a white woman.

III. THE JUSTICE SYSTEM NOW

Despite substantial progress in achieving racial justice in American society over the past half-century, racial disparities in the criminal justice system have persisted and worsened in many respects over this period. The reasons for these developments are complex and include broader socioeconomic shifts in society such as the decline of the manufacturing sector, growing

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inequality and its disproportionate effect on communities of colour, policy initiatives with foreseeable consequences for racial disparity, the bias in discretionary decision making, and allocation of resources.

A study that considered 34,794 federal offenders took into account the race, risk assessment, and future arrests of all participating members of the sample. Though the use of the Post-Conviction Risk Assessment (PCRA), which proved to be highly accurate in predicting whether or not whites and blacks would return to prison after being released, showed that recidivism correlates less with race and more with a criminal history.

Other studies suggest that recidivism rates as related to race vary based on state. For example, the Alabama Department of Corrections performed a study where they tracked 2003 releases for 3 years. In that time, 29% of both African American and white males that were released returned to prison, 20% of African American females that were released returned to prison, and 24% of white females returned to prison. The Florida Department of Corrections performed a similar study; they tracked 2001 releases for 5 years. They found that 45% of African American males were reincarcerated and 28% of non-African American males were reincarcerated.

Two main studies analyse the issue of habitual offenders in regards to race. Both were mostly conducted by Western Michigan University professor Charles Crawford. Published in 1998 and 2000, both studies focused on habitual offenders in the state of Florida. Crawford's studies found that black defendants in Florida were significantly more likely to be sentenced as habitual offenders than were whites and that this effect was significantly larger for drug offenses and property crimes of which whites are often the victims.

Examining both individual-level and country-level variables, a new study from 2008 updated and evaluated Crawford's work. It affirmed that sentencing policies are becoming harsher, and habitual offender statutes are currently just another tool that lawmakers use to incarcerate minorities at a higher rate than their white counterparts. The 2008 study concluded that habitual offender statutes can only continue to be used if they are used in a way that completely disregards race and is unbiased.

The competing hypotheses exist regarding why racial/ethnic minorities, especially African Americans, are overrepresented in the criminal justice system compared to their share of the general population. These are the differential offending or differential involvement hypothesis, which proposes that this overrepresentation is a result of African Americans committing more of the crimes that result in criminal justice processing, and the differential selection hypothesis, which proposes that this disproportionality is a result of discrimination by the criminal justice

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system. Piquero (2008) argues that it is difficult, if not impossible, to determine which of these factors is more important than the other.

The criminal justice system in the United States has a very large imbalance in the composition of races, specifically between blacks and whites, incarcerated. Alfred Blumstein states, "Although blacks comprise roughly one-eighth of the population, they represent about one-half of the prison population. Thus, the race-specific incarceration rates are grossly disproportionate." The research was done by Alfred Blumstein and the apparent dis-proportionality raise the problem of injustice within the United States criminal justice system. This injustice is alluded to further, but not directly linked to racial injustice, because black males are the victims of having an incarceration rate twenty-five times higher than that of the total population.

Education may also be a factor that plays into this dis-proportionality. Studies are done from 1965 to 1969 based on administrative data, surveys, and census data showed that 3 percent of whites and 20 percent of blacks served time in prison by their early thirties. Thirty years later in 1999, the risk of incarceration was partially dependent on education with 30 percent of college dropouts and roughly 60 percent of high school dropouts going to prison. Education playing a role in either increasing or decreasing the likelihood of incarceration based upon the education and skill a person possesses.

Further research shows that there have been significant strides into diving deeper to explain why racial/ethnic minorities are incarcerated at a higher rate than then the rest of the population. In a manual by the Sentencing Project, they emphasize four commonly identified causes of racial disparity in the criminal justice system; higher crime rates, inequitable access to resources, legislative decisions, and overt racial bias. “While some claim that minority overrepresentation in the justice system is solely the result of people of colour committing more crime, empirical analyses do not support this claim.” Studies have shown that a variety of factors could explain the racial disparity; “law enforcement practices, crime rates, and punitive sentencing policies.” The level of crime rates shows that minorities commit more crimes but that does not account for crimes that go unreported.

Inequitable access to resources can result in “very different outcomes between middle-class and low-income individuals even though they may share similar behavioural problems.” Communities that have more resources tend to find a different approach to treating behavioural problems that don’t involve the juvenile or criminal justice system. Resources are more available to middle-class parents than to lower-income parents. “The misallocation of resources

within the criminal justice system can compound the disparate experiences of minority defendants as they move through the system."

Legislatures have been enacting the laws that define prohibited behaviour and the penalties for these violations since the very beginning. Many of which have a "disproportionate impact on minority communities." Some areas that have been significant in this regard were the War on Drugs in the '80s that account for a lot of the people of colour that are in prison for the use of crack cocaine. Then there is the Three Strikes Legislation, which assigns "mandatory sentences of life without parole for three times repeat felony offenders." Next, is the Over-reliance on Incarceration, in the last couple of decades punitive laws have begun to pass, increasing the population of prison and jail. Despite lacking evidence that describes prison as the most effective approach to control crime. Lastly, the authors state that "So long as racism exists within society at large, it will be found within the criminal justice system. Racism fuels the overt bias which can show in the language, attitudes, conduct, assumptions, strategies, and policies of criminal justice agencies." Research has shown that there is an overt racial bias in criminal justice decision making. In the way, police interact with the community, how minorities in the courtroom are addressed, as well as how prison officials interact with inmates' family members. People are likely to identify with those who look like them and that does not exempt criminal justice practitioners.

Ulmer's findings suggest that "most disproportionality (particularly in Federal courts) is determined by processes before sentencing, especially sentencing policies that differentially impact minority males." They found that there is a 25-30% unexplained difference between arrest and incarceration and that disproportionality you need to understand the role that prosecutors, judges, and probation and parole officers contribute.

While it will be unfair to say that no reform has been done from back then to now, it is also unfair to state that substantial reform has been made. There's still a huge chasm between the judicial treatment of an African American male in contrast to a white Caucasian American female. And until the justice system is completely blind to the difference between a Blue jay and a mockingbird.

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