

Visions of the Mockingbird

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I am sure many of us recall the classic Harper Lee novel of racial injustice *To Kill a Mockingbird*, or at least the 1962 movie of the same name, where the wonderful Gregory Peck played the principled protagonist, Atticus Finch, to perfection. Peck's portrayal of this honorable character who fought to defend a black man against a falsely accused crime, in a time when white and black were divided by more than physical segregation and there was simply no hope of winning, set the stage for many an earnest human rights lawyer to come. One critic described Peck's character as "the most enduring fictional image of racial heroism".¹

To Kill a Mockingbird is one of my all time favorite books and movies, especially now I am a lawyer, and probably even more so since I have been working for NAAJA. The compelling message of misplaced prejudice based on the ignorance and narrow-mindedness of the Deep South highlighted to me from a very young age the destructive nature of racism and racial injustice. Hatred and fear of a person purely for the colour of their skin was never a concept I was able to come to terms with: not as a teenager, and certainly not now.

For me, some of the most powerful images from the movie are the court scenes, where the young black man Tom Robinson, falsely accused of raping a white woman, sits in a cavernous court room confronted by a white judge, with white lawyer, white prosecutor, a white jury, and largely white spectators. The only small exception, the only faces that are in any way familiar to him, are the faces of the black crowd allowed to sit upstairs and behind Tom in the 'coloured balcony'; where he, of course, cannot see them. This was segregation at its most effective, not only separating black from white geographically, but also the removal of all sense of identity and hope, and the deliberate placement within a foreign and intimidating situation.

Never have I been more reminded of these scenes than on my recent journey to Alyangula on Groote Eylandt to attend bush court.

This was my first time at bush court, which ran for 2 ½ days. On the first day of sittings the list was seven pages long, consisting of 62 matters. That's 62 matters, **62 clients** to be seen in **one** day between **two** lawyers. Not to mention the six clients in remand that also had to be seen. So that's

34 clients per lawyer, each client to be interviewed and their story heard and have their charges explained, often in a language that is not their first.

Then of course, it's time for court. The day started around 8am and finished around 6pm, with a few minutes to grab some lunch, which meant the two NAAJA lawyers in attendance had around 15 minutes per client, inclusive of client interview *and* court time. This was the same whether the client was charged with a minor traffic offence, or a more serious offence such as aggravated assault.

But, back to the *Mockingbird*. As I sat in the little court house at Alyangula, I was overwhelmed by the scene before me. The Aboriginal clients sat at the bar table, surrounded by his or her white lawyer, white police, white prosecutors, white magistrate, white court officer, white corrections officer, white witness assistance officer, in a town they don't actually live in (most of the Aboriginal people on this day lived in Angurugu, about 20km from Alyangula), listening to a language many of them didn't fully understand. The only familiar faces were those of the Aboriginal people watching, who sit behind the client and out of direct view. If they were



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lucky, and if he was available, the one interpreter we had available for us would be sitting next to him or her to assist.

Don't get me wrong, I am not suggesting anyone on this day was falsely accused, or had been mistreated by anyone, or that there was malevolent racism at play. But just imagine yourself for one minute, surrounded by unfamiliar faces with which you can not identify, not really understanding what was going on, not really understanding the language, not really understanding why you were there in the first place, and certainly not understanding the sentence that is handed down. Despite the fact that all the clients were Aboriginal; as mentioned earlier court is held in Alyangula where very few Aboriginal people live, rather than the predominantly Aboriginal communities of Angurugu or Umbakumba. There is no public bus service or other transport system from the communities to Alyangula, and often clients have to walk the 20 plus kilometres just to get to court if no alternative transport is available.

Many of the proceedings before the court were of minor traffic matters which could probably have been adequately dealt with by an on the spot fine, rather than haul these people into court one after the other after the other.

One particular matter that struck me was the charge of 'failure to carry safety equipment'. This was a charge against an Aboriginal man who had been fishing in his

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dinghy, by himself, for recreational purposes. The safety equipment in question? He did not have a bottle of water on board. For this he was charged and brought before the court.

Along with images of *Mockingbird*, I thought back to the colonial and convict television mini-series that were prevalent in the Eighties, where convicts were sentenced to be transported to Australia for stealing a loaf of bread, or a lace hanky. It seemed at times, completely absurd, like this was the Eylandt that time forgot. Or, that basic human rights forgot, at the very least.

For the clients, the day is very confusing. As mentioned, the NAAJA lawyers simply don't have adequate time to spend with each client to fully explain what is going on. There is certainly no time after sentencing to follow up with the client to clarify what just happened, as each lawyer must move on to the next client, and the next, and the next. Clients walk away bamboozled and confused, wondering what on earth all this whitefella law is about.

I could just see it on their faces:

I took my aunty to the shop because she said I had to.

My car was unregistered.

There was nowhere for me to get it registered.

Now I had to go to court and I got a fine, (or worse, jail).

What just happened to me?

NAAJA lawyers work tirelessly for their clients, and on this occasion I was very fortunate to be accompanied by outgoing NAAJA Principal Legal Officer Glen Dooley and Nhulunbuy Criminal Solicitor Ben Grimes; both very Peck-esque in their manner, and both very committed to the task at hand, as are all the staff within this organisation.

Often the work is done in less than desirable conditions, for example, on Groote Eylandt NAAJA shares facilities with another office next door, including toilet and kitchen facilities. What this means in practicality is that a lawyer can be



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sitting in the office interviewing a client and someone from the office next door comes in to make a cup of coffee.

Client confidentiality?

What's that!

Sometimes lawyers on circuit sleep on mattresses on the floor. On one occasion on this trip we came back from a bite to eat and found some of the staff from next door in our office having a meeting! So it's off to sit under a tree to interview clients, while others wait. And wait. And wait. (There is of course no waiting room). Luckily it wasn't actually raining on this day!

Try as they might, the lawyers just cannot split themselves in two, four, eight as they need to. Until either further funding is made available for more lawyers to be available on circuit, or less charges are laid for matters that could be more appropriately dealt with by way of a fine, the situation will not change and the people will continue to walk

away not understanding the system or the sentence, committing the same offence again because they don't understand why it was an offence in the first place or certainly not the seriousness of it, and be back before the court on the next sittings.

As a Young Lawyer, I found this complete lack of understanding of our legal system by an entire group of people very confronting.

As a Young Lawyer in a first world country like Australia, I found it very disturbing.

As a new Community Legal Education Lawyer, I think I found a course of action. From my observations while on circuit, it was clear to me that time was needed to be spent with the people, on the ground, talking, answering questions, and explaining this confusing system of whitefella law. It is no wonder to me that Aboriginal people are over represented in the justice and corrections system,

because so many simply don't understand it. Bush court is like a bewildering circus that comes to town once a month and then disappears again. No one can really appreciate the feeling of confusion and utter hopelessness that our clients feel as we come in and turn their lives upside down and then leave again.

As I left the Eylandt, the words of Atticus Finch rang in my ears:

*"You never really understand a person until you consider things from his point of view, until you climb into his skin and walk around in it."*² ●

Footnotes:

1. Crespino, Joseph (Summer 2000). "The Strange Career of Atticus Finch". *Southern Cultures* (University,
2. Lee, Harper, *To Kill a Mockingbird*, New York City: Grand Central Publishing (1960), p33

Roll over your CPD Points from one year to another...

Did you know that you have the opportunity to earn points this year which you can put towards the following year?

As you all know the CPD year runs from 1st April- 31 March. This is to allow practitioners plenty of time to get their declarations in order before they are due to renew their Practising Certificates prior to expiry at the end of June. If you have an excess of CPD points you can roll over anything from the period of January- March to the next CPD year.

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