

Judge Dennis Davis - Representations of Juries in Film: 12 Angry Men and The Trial of the Chicago 7

- So I think now it's must be, it's two minutes after the asked.

- Yes. We can go.

- So Dennis, yeah, over to you and "12 Angry men". Looking forward to hearing that very famous presentation. Thanks.

- And thank you. And hello to everybody. Morning, afternoon, and evening.

- [Wendy] Yes and hello from me too.

- I should just make one comment before I start, which is I forgot last week to thank Lauren, without whom this would never happen. Lauren, thank you very much for your stoic patience with my inability to do anything technological. I want to start, if I may, before we deal with "12 Angry Men", to answer a question that came up in the discussion that I had with you with regard to "Kill a Mockingbird" last week. It is amazes me, I know that Trudy's often said this and I wanted to on record as well, that when I do presentations, I'm sure with everybody else has the same situation. The feedback one gets, the emails are just extraordinarily thoughtful and people, thinking about the issues. And indeed my particular project this evening, as it was last week in the first part of our journey, was essentially to just stimulate conversation about important films in the framing of the way in which we think of law, through film.

And to cut a long story short, I got the following email, I'm sure she doesn't mind me mentioning it's from Tony. And Tony, you asked you made a comment and I want to read what you had to say 'cause I thought it was so important you said, would this movie be acceptable in the world of today? You were referring of course to "Kill a Mockingbird". And you then went on to say it is something that is widely discussed in our circle of friends. And for some, myself included, there's a lack of understanding as to why there are a group in the black community that feel the movie itself as racist elements. I can in hypothesis say to you, there's a lot of academic literature on recent times, which precisely supports that description. Not all view, but the description of that position. However, today when you mentioned lovely, gentle wise, Atticus in his white suit I'd insight, perhaps it's the notion that here we are again, the great white shining knight, saving the day.

Not one strong black voice really heard throughout the movie. And so I feel, yes, the movie does still illustrate a form of racial bias and it's not about working together like so many did in our struggle against Apartheid. And you'd be interested in my thoughts. It's a very interesting quest. Strangely enough, maybe not so strangely enough. It's a question that essentially Jeremy Rosen brought up in a slightly different context last night in which he was talking not obviously the fascinating question of Torah and God, which is a fabulous topic. But the point about it was

he was saying that you can't look at things necessarily always from the vantage point of today. That one, to a considerable extent has to accept the context in which a particular work of art was produced. And he mentioned Shakespeare, Mr. God, and without over egging the pudding in this connection, let me say that I think it's correct to say that a film like "To Kill a Mockingbird" has to be assessed within the context in which it was produced, even though we now view it through the, or should view it, let I say through the prism of our own context. And what that means is that whilst I still think and would want to argue that the Atticus Finch character in the film would portrays the image of a human rights lawyer, or at least this a lawyer who believed that everyone has to have justice and is prepared to take the difficult trying case against the will of the majority in this case of the small town in which he lived.

That is a commendable position and it's certainly one which has been indelibly inscribed in the image of what a human rights lawyer is. It is true at the same time that the film has troubling elements attached to it. The idea of the white voice speaks on behalf of black people and that blacks don't have a voice themselves. Well we've paid enormous price for that practise, both here and in your part of the world, in America and elsewhere. And so therefore you right to ask the question. It does seem to me so and it's interesting that in one of the pieces which essentially indirectly, you alluded to when you said that black critics of raised the issues that you've just mentioned to me with regard to "Kill a Mockingbird". It is true that one of the more perceptive commentators said in South Africa, and this is not a South African lawyer, but writing about country that she knows about being South African. She said in South Africa it is true that some of the great human rights lawyers actually as it were, protested against those phenomena, the segregated courts, the racist nature of the legal system in all sorts of ways, notwithstanding that they represented heroically, represented accused all over the show. And to some extent to them, to a large degree, we should be indebted to the fact that we held onto a tradition of the root of law which we are seeking to transform now into a society based on freedom, equality, and dignity as the Constitution says. Unfortunately, of course this is a very difficult journey and we've had many, many downs and perhaps more downs than ups this regard.

But I do think that you can debate these particular issues of to "Kill a Mockingbird" in that way. And I'm thankful for you for asking the question because it seems to me it's exactly the kind of question that I'd have loved to in an active seminar to engage with you and others, Mr. God. And I'm sorry for taking almost 10 minutes of our session to deal with this, but I thought it was too important to question to let go. Now, if last week I was discussing the idea of the image of the lawyer the lawyer who essentially is involved in representing unpopular causes, Gregory Peck playing Atticus Finch and Clarence, the Clarence Darrow character, Henry Drummond played by Spencer Tracy. Those cases, those films position ourselves in a position our thinking of what a lawyer who's both ethical and in a sense heroic is all about. And these are the way in which film, therefore to some extent shapes our perception of what the lawyer should be in this regard is extremely powerfully reinforced through the medium of Phil.

And one could go on about this, but I won't at the moment, although I'm hopeful that we will do some more sessions in which I can amplify in all sorts of these issues through some other Phils.

But I do want to, and by the way, for those of who are interested, there is a book which talks about film in law called *Oopsie called "Reel Justice". The Courtroom goes to the Movies* by Paul Bergman and Michael Azimo when I met Michael Azimo is delight to see somebody else who really loved law and Foreman. He's written a description of all sorts of cases and we could spend years talking about some of these, but some of them are rather important. But that was the idea of my first lecture in dealing with how do you actually see the heroic lawyer. I want now to move to an equally important conception. And that is what about the jury system.

Now in South Africa, we basically abolished the jury system in 1969. If my memory says it had already not had much effect earlier in that, and of course today we have no juries. And as somebody who sat in many, many criminal trials in my red robes, the case, our cases were set as were heard by the judged and two assessors who were generally lawyers, ex magistrates or attorneys advocates, people somewhat experienced in criminal law and who would hear the case. So we don't, we have not had a jury system for a very long time. The jury system on the other hand has been very central, some large extent in Britain and even more so in the United States of America. And I want to choose a "12 Angry Men" because it does show the jury in a particular way. Now it shows the jury, I want to argue in a very positive light. It seeks to put it in the best possible light if you wish, if you want to use that expression or it I suppose from Ronald Dworkin, the great legal philosopher. It is interesting that as I was preparing this lecture to discuss this issue with you, my thought went back to my own inaugural lecture, which is a very long time ago now, in which I had been particularly enamoured by the idea of a jury system for South Africa.

This was of course towards the dying days of the apartheid regime. But what I'm saying is that one was, at that point many of us were thinking in our various ways of what a legal system for a future Democratic South Africa would look like. And in my inaugural lecture, enamoured by the work of the famous social historian EP Thompson, who had had a very important role in the thinking of many of us as we've called ourselves progressive lawyers. He had argued that the jury system was a very vital component of a democratic society being judged by your peers and so aware of the diversity of South African society, but perhaps naively so at the time, flush with the idea that perhaps one day we would have a non-racial, non-sexist South African society as was proclaimed in our constitution. I argued quite firmly in favour of a jury and I got a long letter back from somebody who I really was proud to call a friend, a very, very distinguished judge, John Didcott, who found himself finally on the deservedly so on the constitutional court who said to me, I dunno how understand how you can argue in favour of a jury.

And the reason he said was because juries don't have to give reasons. Judges have to write judgements. If I have to convict you or quit you, I've got to write a reason written judgement in which I set out all of the justifications for the findings and the order to which I arrive, and his argument was that you don't have that here. "12 Angry Men", which is why it's such a classic film in some way answers that. And we are going to see why as we discuss the scenes of this film. And I want you to think about that as we do so. But let me talk first about the film and the nature of the film. It was made in 1957 and it was directed by Sydney Lumet. Now Sydney

Lumet who was actually very young at that time, he was 33, it was his first film and he went on of course to make 43 films, some very important ones, "The Pawnbroker", "Fail Safe", "Serpico", "Dog Day Afternoon", "Network", "The Verdict", "Daniel", "Running on Empty" "Critical Care" just to name a few. And what he had done in this particular film was that he had effectively taken something that was a play and made it into no more than 95 minutes film. That's all it was. 95 minutes. Quite remarkable. And the film is interesting because, and I'm going to show you a series of clips which hopefully will capture this as best I can in the circumstances.

If you look at the film, it's quite remarkable because it starts, and I haven't fortunately got a clip of this. It starts with the shot of a majestic courtroom. And that's itself interesting because the majestic courtroom is an image. It wasn't there in the other two films which we spoke about. 'Cause those were the small towns. But generally you always have a majestic building showing as it were being portrayed with justice and law being portrayed in this rather grand fashion. It then moves immediately into a very boring summation of the case by a judge who looks absolutely bored out of his mind. And you have one single shot of the accused and the entire 92 minutes thereafter takes place in a room, the jury room. And I'm going to make some further comments about this so that you can follow what I'm trying to say. But just to refresh your memory, because it's a classic form which has been shown in psychology classes to show group dynamics have been shown to justify the judiciary, the jury for the reasons I've mentioned.

But just to give you the flavour of it, the accused person is a young Hispanic boy. He's charged with the murder of his father. The jury is then asked to consider its verdict. The 12 jurors in this case have to agree unanimously, which means they either have to vote guilty or not guilty as the case may be. And it seems to be an open shut case that that's how it's sort of presented. That is the defence cannot provide a strong alibi. The witnesses who claimed to heard screams seen the boy running away and even stabbing his father, the knife, which the boy claims to have lost is found near the murder scene. And that's what we know. And then thereafter, the film shifts into the jury room and the brilliance of the film, apart from all of the cinema graphic issues that I want to come to, that I will do after I've shown you the clips, is the nature of the characters. Because the way this works is you are almost the court even out of the courtroom.

You're in this little jury room and everything is intense engagement of the various jurors. And I'm not going to go through all of them, but let me just give you some references to some of the juries, the jurors, because that'll help you when I show you the selected scenes that I've got for you. So Martin Balsam the actor, he's juror one, he's a jury foreman, he's responsible for the organisation decision making takes the votes. But he seems a very kind of simple guy, not really aware of the full complexity of it all. And all he does in relation to anything else is to talk about football Because he's a football coach. Juror three is perhaps the most interesting character of all. And we will see him the great advantage in the clips we're going to show you.

He is played by Lee J. Cobb. He presents himself as a successful self-made businessman. And he seeks to analyse the case by looking at the facts as I've outlined it to you. He's absolutely sure this person should be convicted and it's the only decision. But then he becomes more and

more passionate, more and more emotionally involved in the entire case. And then we find out about him. We find out why, why he is so passionate about the son you hadn't seen for two years. And we see him looking at the photograph of his son. I won't say more. He's the last juror who finally votes that for non-guilty. E.G. Marshall plays the fourth juror. He's a broker. He's a much more arrogant, he's regards himself as more intelligent than the rest of them. And he's perfectly clear and he's the logician and he's ignores any feelings and he never takes off his jacket in the sweaty room. He sort of, as it were, imperturbable character in this regard.

And so he's an interesting character. Juror five is the only one amongst the jurors played by Jack Klugman, who's not Caucasian. He's supposed to be Hispanic, just like the accused boy. And there's quite obviously a focus on his own cultural background in this regard. And then there's juror seven played by Jack Warden. He seems to have no opinion at all about the case. All he is worried about is getting to the baseball game and about the hot weather and there's nothing else about him that seems particularly of significance. And it is these 12 people who are then congregated in this intense little room, which I'll talk about a little bit later. And they now have to make a decision about whether in fact this young boy is going to be found guilty of murder and therefore effectively hanged. And so what I got for you, I want to play you a clip that I managed to find of the 10 most famous scenes. I'm going to then just make a comment and then we'll move to the second clip, which is a longer and more important for my purposes version of the last scene. So Lauren, if we can have the first clip and it's about 10 minutes, I hope you'll watch them all because it's the best I can do. Much better with been to watch the whole film. But I want to take you through this and then we will see where we go.

[CLIP FROM "12 ANGRY MEN" BEGINS:]

- Tanya, you've listened to a long and complex case murder in the first degree. A premeditated murder is the most serious charge tried in our criminal courts. You've listened to the testimony, you've had the law read to you and interpreted as it applies in this case. It's now your duty to sit down and try and separate the facts from the fantasy. One man is dead, another man's life is at stake. If there's a reasonable doubt in your mind as to the guilt of the accused, a reasonable doubt, then you must bring me a verdict of not guilty. If however, there's no reasonable doubt, then you must in good conscience find the accused guilty. However you decide your verdict must be unanimous. In the event that you find the accused guilty, the bench will not entertain a recommendation for mercy. The death sentence is mandatory in this case. Your.

- Verdict charge here and that we vote the accused guilty, we've got to send him to the chair. That's mandatory. I think we know that's well yeah.

- Let's see.

- You swear as well.

- Okay, anyone doesn't want to vote?

- Alright with me?

- No, let's go.

- Okay then just remember that this has to be 12 to nothing either way, that's the law. Okay, are we ready? All those voting guilty please raise your hands. One, two, three, four, five, six, seven, eight, nine, 10, 11. Okay, that's 11 guilty. One is body not guilty. One, right, it's 11 guilty, one not guilty. Well now we know where we are.

- Oh boy, oh boy, I hope boy there's always one.

- Oh, what are we doing now?

- Well, I guess we talk.

- Boy, I hope.

- It's a very unusual knife. I've never seen one like it. Neither had the storekeeper who sold it to the boy. Aren't you asking us to accept a pretty incredible coincidence?

- I'm just seeing a coincidence is possible.

- And I say it's not possible.

- Where did that come from.

- Vote by secret written ballot. I'll abstain. There are 11 votes for guilty. I won't stand alone. We'll take in a guilty verdict to the judge right now. But if anyone votes not guilty, we stay here and talk it out.

- Guilty, guilty, guilty, guilty, guilty, guilty, guilty, guilty, guilty. Not guilty. Guilty.

- This kid is guilty pal. It's as plain as the nose on your face. So why don't we stop wasting our time here. We're going to all get sore throats if we keep it up.

- What difference is make if to get it here at the ballgame. Let's take two pieces of testimony and try to put them together. First the old man in the apartment downstairs, he says he heard the boy say, I'm going to kill you. And a split second later heard a body hit the floor one second later, right?

- [Attendee 1] That's right.

- Second, the woman across the street swore positively. She looked out of the window and saw the killing through the last two cars of a passing elevated train, right? The last two cars.

- [Attendee 2] Well what are you giving us here?

- Now just a minute. We've agreed that it takes 10 seconds for a train to pass a given point. Since the woman saw the killing through the last two cars, we can assume that the body hit the floor just as the train went by. Therefore the train had been roaring by the old man's window a full 10 seconds before the body hit the floor. The old man, according to his own testimony, I'm going to kill you. Body hitting the floor. A split second later would've had here the boy make this statement with the ill roaring past his nose. It's not possible he could have heard it. That's it.

- An ignorant slob. He don't even speak good English.

- He doesn't even speak good English. Mr. Foreman, I'd like to change my vote to not guilty.

- You.

- Come on, speed it up. He walked twice as fast as that.

- Do you want me to walk faster than that? I will. Lock door. Stop.

- [Character 1] Right.

- What's the time.

- Exactly 41 seconds.

- [All] 41.

- Just when I pull the switch. Ever since you walked into this room, you've been acting like a self-appointed public avenger. You want to see this boy die because you personally want not because of the facts. You're a sadist.

- You don't really mean you'll kill me, do you?

- Call out our boat. Let's see who stands where.

- Well that sounds fair to me. Anyone object? Okay, I'll call off your jury numbers. One. Oh, that's me. I can vote guilty. Two.

- Not guilty.

- Number three.
- Guilty.
- Number four.
- Guilty.
- Number five.
- Not guilty.
- Number six.
- Not guilty.
- Number seven.
- Guilty.
- Number eight.
- Not guilty.
- Number nine.
- Not guilty.
- Number 10.
- Guilty.
- Number 11.
- Not guilty.
- Number 12. Number 12.
- Guilty.
- The boat is now six to six.
- Yeah.

- There was this whole business about the stab wound and how it was made. The downward angle of it.

- Don't tell me we're going to start with that again. They've been over it and over it.

- Well I know they did, but I don't go along with it, now the boy was five feet, seven inches tall. His father was six two. That's a difference of seven inches. It's a very awkward thing to stab down into the chest of someone who's more than half a foot taller than you are.

- Give me that and I'll make myself about six or seven inches shorter. Okay.

- It's about right. Maybe a little more.

- Okay, a little more.

- Okay, let's another boat call for just the quickest way of the show of hands. Anyone object. Okay, all us voting not guilty, raise your hands. One, two, three, four, five, six, seven, eight, nine. All those voting guilty, make your hand. One, two, three. Hello votes nine to three in favour of acquittal.

- Now why will you rubbing your nose like that?

- Well look, it's any of your business. I was rubbing it because it bothers me a little bit.

- Oh, I'm sorry. Is it because of your eyeglasses?

- It is. Now I could you get onto something else.

- Your eyeglasses made those two deep impressions and the size of your nose. I hadn't noticed that before. That must be annoying.

- It is very annoying.

- I wouldn't know about that. I've never worn my glasses. 2020.

- Listen, will you come on already with the optometrist bit? The woman who testified that she saw the killing and those same marks on the sides of my nose. You think he's guilty?

- I think he's guilty.

- You?

- No, I'm convinced not guilty.

- What's the matter with you.

- Brought your kids, you work your life out. Not guilty. Not guilty.

- Thanks Lauren. There's a lot that I can say about this and I'm going to, but I want to just play the second clip, which is a little bit of this, and then the final couple of scenes because it seems to me that'll give a flavour, better flavour of exactly everything I want to say the second clip. I'm not sure if this is no, I think that's the same one. It's the next clip.

- You want to hear your .

- It's the next clip.

- I gave you my arguments.

- We're not convinced we want to hear them again. We have as much time as it takes.

- Everything, every single thing that took place in that courtroom. But I mean, everything says he's guilty. What do you think? I'm an idiot or something. Why don't you take that step about the old man, the old man who lived there and heard everything, all this business about the knife. What? 'Cause we found another one exactly like it. The old man saw him right there on the stairs. What's the difference? How many seconds it was. Every single thing. The knife falling through a hole in his pocket. You can't prove he didn't get to the door. Sure you can take all the time hobble around the room, but you can't prove it. And what about this business of the L and the movies? There's a pony dealer. If I ever heard one, I betcha \$5,000 I'd remember the movies I saw. I'm telling you, everything that's going on has been twisted and turned this business with her glasses. How do you know she didn't have 'em on? This woman testified an open court. And what about hearing the kid yell? Ah, I'm telling you, I've got all her facts here. Here. Well, I said that's the whole case. Well, say something. You lousy bunch of bleeding hearts. You're not going to intimidate me. I'm entitled to my opinion. Rodney kids, you work your life out. Not guilty. Not guilty.

- We're ready now.

- What's your name?

- Davis.

- My name's . Well so long. So long.

[END OF CLIP]

- So let me try to pull some of these strands together. Let me start again with the observation I made right at the beginning of my literature the exchange I had with Justice Didcott who said, well juries don't give reasons. This form in many ways is an answer to that. They don't give reasons in the sense that they don't write them down. But why this form is regarded as the quintessential defence of a jury system is because what it's all about, that's which makes it a remarkable piece of cinema, is it's the tension comes from the personality conflict, from the dialogue, from even the body language, which forces each and every one of them to have to debate the issue, confront their own biases.

The Lee J. Cobb character absolutely magnificent seems to me in that role that having to confront the sadness of the fact that he's got this because he sees in the accused his own son tearing up the photograph at the end. In a sense it's a remarkable exhibition of the group dynamic in that if you sit there for long enough as a group of people who are having to actually make a serious decision about the life or death of somebody, it presents it. And I certainly would not argue that all juries are like that. Absolutely, for sure. But as I said to you, if this film, which is a classic, is a filmic representation of how we see juries, it puts it in an extraordinary light. It basically says that there is a process of deliberation. And the way in which Lumet does this is particularly remarkable. Firstly, in 1957 when he made the film, technicolour was the order of the day. He chose to do it in black and white. It's extraordinarily leanly constructed film.

Just think about it. And I can support that particular proposition by referring you to what Lumet himself said about this in really quite remarkable way because he wrote this book called "Making Movies". It's really quite remarkable work actually, if you want to talk about movies. So it's a remarkable piece of work and I want to come back to that. But what he was doing was taking this television play, which had been written by Reginald Rose, makes it into a form and then uses the dynamic of the personalities and the way in which he kind of constrains the entire conversation through the dialogue, through the body language, through the tension between them in a room, in one room on a very hot day and night. And then this is what he himself said about it. He said, in planning the movie, he writes, A lens plot occurred to me to make the room seem smaller. As the story continued, he gradually changed to lenses of longer focal lengths so that the background seemed to close in the characters. And we could see that as it went on and on.

Eventually, when Lee J. Cobb is talking, the camera focuses in a way in which there's no perspective just on the faces of the other jurors. He said, I shot the first third of the film above eye level shot the second third at eye level. If we watched this again, you'd see what I'm talking about. And the third from below eye level in that way, towards the end the seating began to appear not only with the walls closing in, the ceiling was as well, there's a sense of increased claustrophobia. And that basically allowed me to raise the tension in the last part of the film. And then finally in the scene that you see there, suddenly there's the wired lens.

That's when everybody now breathes as he said, because the film, because the resolution has

taken place, it is an utterly remarkable seems to me use of cinemagraphic techniques to get to the achievement that he seeks to vindicate, namely the tension in this little room, which he forms in different ways in order to provide the tension to which I'm speaking. What is also so incredible, of course, is that the only character at that point, the only actor really was famous, was of course Henry Fonda. I can't help but notice that he was wearing a white suit. I know the argument is, well that's what they did in the south, but this wasn't necessarily in the south. And the point I'm making is there is something since the others were all doxys, there is something about the heroic character of Henry Fonda who stands there resolutely as the only juror who's prepared to have the whole matter debated out.

And then the genius of the film is by taking people who portray such different character from those who are totally disinterested to those who see their own lives affected the Lee J. Cobb character to somebody who just like Henry Fonda, who in a way is the jury equivalent of Atticus Finch. That sense is a parallel, but there's absolutely no doubt in my mind that what is so remarkable about this film is the way in which the cinema, the camera is you, observe again, just how it started. A very bored judge droning out instructions to the jury. And then at the end of the film, just the one line which gives it all, what is your name? I have sat with you for an entire day or whatever the period is to discuss the life or death of somebody who we don't know anyway. And I don't even know who you are.

And then they walk away anonymity at all. The idea that these are 12 people from very different backgrounds, don't know each other, have no connection with each other, don't even know what their names are until the very last moment. It's a masterpiece of its own kind. It's not surprising that in 1957 it was made and it's still regarded. It's one of the great films which has ever been made. And it's remarkable that Lumet made it when he was in his early thirties. So what I suppose I'm suggesting to you in my broader analysis of, excuse me, of crime and law is why this is such a remarkably important film for us is because if you really wanted to show a film to people who at the end of the day were, and you wanted to show them the extent to which their image of an institution was sourced in some film, something that had basically been made for a broader market.

This is it. And I know of no other film which combining the cinema and the plot as it were, which actually reproduces that case better than "12 Angry Men". Let me make one or two final remarks about it. Yes, it is true. It's been pointed out to me many times. They're all men. There are no women in the jury room. It's a remarkable product, I suppose, of its own time. And my opening remarks about the observation that Tony made to me with regard to "Kill a Mockingbird" is absolutely true. Does that destroy the effect of the film? No, I wouldn't have thought so I would, I think that of course you have to judge it from a point of view that at that particular point in time, they probably were all male juries. But that doesn't mean that we shouldn't be disturbed by the feature that for so long justice was really administered by men, male orientated justice. And if you argue as I think one has to result of this form, just what the effect of backgrounds have on people, the fact that the Cobb character really at his background, his own tensions with his own trial are so central to that.

So it's a pathetic breakdown at the end then you have to accept that when you put juries in just of men, that's seriously problematic as it is indeed in South African society. We of course in the Apartheid, they were all white men that made it even worse as the case may be. So that really is what I wanted to say about "12 Angry Men". I am not going to discuss ""Chicago Seven"" in full, but I will play 'cause I've got it and going to make a couple of comments. And then I promise you we'll find time to discuss that film and one or two others in great detail. But the reason I wanted to mention "Chicago Seven" is because it circles back to something that I spoke about when I dealt with "Inherit the Wind".

And that is the nature of the political trial because what the "Chicago Seven" was about was a trial that began on the 24th of September, 1969. It lasted for almost six months. It was in fact a signature event of the 1960s. It began and ended almost as the theatre of the absurd. It was a political trial, start to finish and it was a political trial because ultimately the Nixon administration wanted to find these lefties to be guilty of all of the chaos that occurred outside the Democratic convention some months earlier, which of course had given rise to the nomination of Hubert Humphrey and effectively his defeat by Richard Nixon. And then the fact that people like Abby Hoffman and Jerry Rubin and others turned the case into a political trial. And I'm just going to play you the trailer because that's all I'm going to do now. And I'm just going to point out to you why we need to analyse these films and why they become so important in relation to the framing of law in the public imagination.

[CLIP FROM "THE TRIAL OF THE CHICAGO 7" BEGINS:]

- We want to underscore again that we're coming to Chicago peacefully, but whether we're given permits or not, we're coming.
- We are going to Chicago to protest the Vietnam War.
- And there's no place to be right now. But in it.
- We watched for a decade while these rebels without a job tell us how to prosecute a war, is they're going to spend their thirties in a federal facility real time. People say you know Abby, are you concerned about an overreaction from the cops? Holy shit, you all right.
- Are the people ready to make opening arguments.
- At the defence table, Abby Hoffman, Jerry Ruben, Dave Dellinger, Rennie Davis, Lee Weiner, John Froines, Tom Hayden and Bobby Seale. These defendants had a plan and the plan was to incite a riot.
- I called this portion of the trial with friends like these.

- My trials begun without my lawyer.
- The court assumes you are being represented by the Black Panther sitting behind you.
- The riots were started by the Chicago Police Department.
- Sustained.
- Nobody objected.
- Juror six and 11, they're with us. Juror number six and juror number 11, you're dismissed from this jury.
- Can you tell us why? Because this is my courtroom.
- We've dealt with jury tapping. Wire tapping a defendant that was literally gagged.
- Get your hands off me.
- You're the first to suggest that I have discriminated against a black man.
- Then let the record show that I'm the second.
- [Speaker 1] But when we walked in here this morning, they were chanting that the whole world is watching.
- If we leave here without saying anything about why we came in the first place, it'll be heartbreaking. Well, last summer, why did you come to the convention?
- To end the war.
- We're giving them exactly what they want. A stage and an audience. Now you really think there's going to be a big audience? ♪ Here I am ♪
- This is what revolution looks like. Real revolution. We may have to hurt somebody's feelings.
- Is this prosecution politically motivated?
- I'm tired of hearing you.
- It would be impossible for me to care any less what you are tired of. ♪ Here I am ♪
- There will be more .

- [Crowd] Whole world is watching.
- We have to find some courage now.
- [Crowd] Whole world is watching. Whole world is watching.
- How much it gives it worth to you? What's your price?
- To call off the revolution? My life.
- [Crowd] The whole world's watching.

[END OF CLIP]

- I'm almost tempted to say on this that I'm going to make one or two comments why I've put this up. Almost tempted to say that I wished everybody, if we do, we should discuss this form for a whole hour. And it would be wonderful if everybody would watch it again if they haven't on Netflix. And then we'd all have the same text in front of us as it were. 'Cause that would be a fabulous way of trying, at least through Zoom, which we can't do through ordinary contact to actually have a situation where all of us are already absolutely on the same page at the same time. But I just wanted to make three small observations about this because it ties in with what I wanted to say earlier.

This of course is now a film made. Now it's a contemporary film, so it deals in, although the trial was in '68, it deals with a whole range of issues. You'll notice that the jury, of course, both we women and men, and there's some interesting indications of how they manipulate the jury, which essentially shows you that this is a much more reflective piece as it were on the nature of juries than 12 angry men. Secondly, you'll have noticed the Bobby Steele character in the trailer who's basically gagged and handcuffed in the trial.

So that Aaron Sorkin, who directed this film, actually brings right into sharp focus the racist nature of the American legal system at the time and not just at the time. I mean, my goodness, as a result of Black Lives Matter, we should be contemplating all of that now. But I simply suggesting that of course, as you see a contemporary form within a contemporary context, it has a whole range of repertoire that would not have been there in 1957 or 1960 when the two of the three forms that we discussed until now were present.

And then finally there is a debate which just hinted at, in the trailer about a political trial. And here is the classic political trial, and we could talk about this at great length. We spoke the circles back to inherit the wind, which of course Clarence Darrow did turn into a political trial for all of the reasons I had advanced. And here it becomes a political trial because number one, the point I made earlier, the racist attitudes which the judge therefore the system had towards a

black man who was not represented in the case completely outrageously. And that of course is totally true. And then the way in which certain of the accused, particularly Abby Hoffman, who was a very interesting character and who died tragically from an overdose of drugs some years later, how they turned the trial into a political trial.

And what is particularly interesting is the extent to which the lawyer portrayed brilliantly by Mark Rylance, who's really one of my favourite actors, a great British actor that he who's reluctant to acknowledge the political trial come even though he had done much work for the ACLU and political trials throughout his career. William Kunstler, who is the actual lawyer in me, that he himself comes around to acknowledging this. And then finally, which of course focuses enormous attention, something I'd like to talk about is the complete madness of the judge played superbly by Frank Langella. Judge Hoffman, who of course had the same name as Abby Hoffman. One of the pities of this film is there are a whole lot of things that of course Sorkin could have used or didn't.

One of which amused me when I was preparing for this and reading some of the trial records that Hoffman and Ruben would keep on shouting out when the judge gave more and more absurd rulings saying . So this was a trial which was both political and had quite a lot of Jewish element in it the same time. But the only point I want to make about it, which is why I showed you the clip, was because we need to talk at some point about fools like this, which portray the way in which law is politically manipulated unquestionably. And you could compare this in some way to the Rivonia trial. And it would be particularly interesting to compare because in the Rivonia trial, Mr. Mandela undoubtedly realising quite rightly what the legal system was, that he was up against the time, turned the trial into a political trial, turned the trial to a trial of the ideas of the National Party as against his vision of a non-racial society against that very great speech from the doc. And in this film we see a remarkable speech by Abby Hoffman under cross-examination, which is absolutely true to the text of the film the record where he says, we were tried for ideas that we bought across the state.

And so again, here in the year 2021, we have a director concentrating on the nature of a trial, on a political trial. And again, us watching it, we will have views and we will have attitudes to the way in which law is shaped by film. And the only real reason I wanted to suggest this to is clearly when you look at the context of a director filming something in 2021, many of these questions that we spoke about, absence of black voice or in this case black suffering, which unquestioned takes place in a very, very nuanced way, not nuanced to a crude way, but is dealt with as four square and the way in which politics actually intrudes into law is dealt with in a context in which Sorkin clearly was thinking about his own condition under the Trump administration. And so therefore, in conclusion what I wanted to try to discuss with you is the way when we look at films on law, we learn an enormous amount as I hope you realise from my references to LeMay about the techniques that directors use to portray another form of narrative called law and how in turn we are shaped so much by the way in which film portrays law, how we influenced to have our own conceptions of what a legal system is or should be.

So I'll now take questions and I hope that you enjoyed the clips that I showed you. So let me I see there's quite a lot on the track line.

#### Q&A and Comments

Yes, Valerie, in the context of the book and the former black person could not speak up for other black people.

I agree. Question is of course the context now.

Richard, my cousin was Lee J.Cobb, aka Leo Jacoby. He was blacklisted in the very difficult few years during the McCarthy superb actor.

Well that's really interesting. He was absolutely marvellous. I think he in some ways stole the show if you wish.

In terms of that particular regard, "The Mauritanian", Barbara, I have not seen, I think it's a very recent film with Jodie Foster and the wonderful Benedict Cumberbatch. I look forward to seeing it. Yes, it is a true story about Guantanamo and maybe I can get some clips of that and show that too.

Yona and Alfred, I understand the white suit to stand that tie for gentleman, the kind of Saunders of Kentucky fried chicken fame, but whether they could not dress otherwise.

I don't know. I don't think that's so, but certainly in this film, of course it is intriguing that he does wear a white suit.

Dennis, some years ago the old Prose theatre in Laguna Woods, California state, 12 angry jurors were the foreman and several other jurors were women.

Yes, absolutely no reason to do that. Fantastic.

Q: John, do you know how EP Thompson remained a Marx all his life and being a communist would've dealt with the idea of a jury who would've had been 12 individuals thinking their own free will thought reference?

A: Yes I do, because he wrote about that and he was a very interesting, he was not a communist. Yes, he adhered to a Marxist philosophy, but please remember that he left the communist party after the Hungarian uprisings in 1956. And indeed his whole point about a jury was that there was quintessentially democratic institution. And I should say it wasn't so much about ideology, he was worried about, what he thought was that if you had 12 individuals dorned from different backgrounds, you had the most democratic form of justice that you possibly could have. Perhaps he was wrong, but that was his view.

It was originally Rose Valerie who wrote the script, trial by jury says Arlene sounds good on paper. In reality, unconscious and conscious prejudice gets involved, psychologically it's very hard to be anyone to differ. We all like to be part of the majority, even we not admit it. I think trial by judges may be more just by judges or people too in their faults.

I would want to agree entirely with you. Of course. I'm not suggesting for one moment that the jury system doesn't have the faults to which my dear colleague John Didcott actually had referred and I also agree about the biases, but let be honest about it, judges have two and that was why I wanted to just to play a little clip from the "Chicago Seven" as an antidote, even though I haven't discussed it fully. And I apologise for that to show you that in that particular film it's the judge who's a complete lunatic, the jury are regarded totally passively. It is the judge who at the end of the day runs the show in a completely insane fashion. Indeed Judge Hoffman some years later was in fact disbarred because he'd behaved in the way he had. Not in that case, but in other cases.

And I'm now reading Daniel Kahneman's noise and there's some really interesting questions about noise in relation to judgments and judgments of judges, all judges to read their book. But the truth about it is there is no system that isn't without flaws. I think I've mentioned that.

Yes, I agree with that. Yeah. I get complaints about, 'cause I know women, Monty, I accept that I'll take that on the basis as I've tried to articulate all time.

Judas says, I've been in troubled by the fact that the film, which is supposed to be very powerful, meaning had little effect on quality of social justice in that country, despite the end endless anti-racism depiction of the justice through law films that Hollywood has turned out since the beginnings.

That is true. I'm not suggesting for one moment that because you have a liberal framework or framing of law that it actually works. In fact, one of the things about "Chicago Seven" is of course at the end of the day it did take the appeal court to have to set aside the sentences and it does show the way in which there was no social justice at that time that we can show and will can perhaps show films where in fact there is less quality of social justice shown in films themselves. What I think you write about is the extent to which some of these Hollywood films present a very liberal view of law, which may well be, as it were, sanitised to a greater extent than reality bears.

Thank you very much, Robert.

Surely Darrell, it's not true that they're all have to agree that's not guilty. I may think he's guilty, but I also think the prosecution.

Yes, of course that is true. It's not a meaningless scribble. There is a very big difference

between not guilty on the one hand or some countries not proved and being innocent.

Michael, I think they're angry because they all bring in, to some extent their backgrounds into the case. Not all of them are angry, but by the start of the film start of the deliberations, most of them utterly frustrated by Henry Foster and they're angry with Henry Fonder, they're angry with him and they want to get out of there.

Q: To what extent can a judge summary sway the jury?

A: It can, no question. There's a lovely story. Let me share with you before we go about Judge Leopold Greenberg, one of the great South African judges obviously was Jewish when he was a judge in the Transvaal division trying a criminal case. And he had set the, told the jury basically the guy's guilty as hell and they came that he was innocent and I think no, sorry, that he thought was guilty and they all came back and said they found him not guilty. The judge said what? And he said, not guilty by reason of insanity, to which the judge said, you mean all 12 of you? And so sometimes they don't listen to judges.

Have you ever wondered, said Romaine, if you would, could have explored the inner conflict of the fonder character more his belief in suspending judgement seems enough for him. His only conflict seems to be in convincing others.

He's right. Yes. Lumet is using him as just that one individual who has doubt. I have nothing more than that, but that forces the process of deliberation, which is central to the entire play and film, complex financial trials.

Says Newman should be free of judges and juries. I agree. Thank you very much, Susan.

Michael. The name of the director is Sydney Lumet. L-U-M-E-T I pronounce it wrongly, I apologise. L-U-M-E-T.

Gina Gita, the lay magistrate in the UK aims to straddle the consensus of the jury system with the autonomy of the single judge. Reasons do have to be given. It is about the question of reasons, which I think is what John was on about.

Yes, Arlene, I agree they were white and although he was Hispanic in thing and he gets insulted for his language, Steven says, do I think that unanimous jury system based on the amazing principles of justice, always favouring the defendant, one which is that the accused cannot be found guilty of only one member of the son had been.

Beth then I'm not sure whether that's what the son had been, but as opposed to the question, you couldn't sentence somebody to death unless it was unanimous. but the idea in this case is of course if you've got doubts about it, at least some of them have, well, I mean then you've got to ask us if you really there is a benefit because at the end of the day, you've got to prove

beyond a reasonable doubt.

Francis, if you use this form to justify juries, we have to consider the whole outcome depending on one character. Yes, I agree. We can't always depend on that, which is my point, Francis. I don't think they're always, I don't think they're always infallible. Not at all.

Thank you Karine.

Richard says, PBS made a documented '86 in which an actual jury is filmed in the press of deliberation, titled is "Inside the Jury Room", like "12 Angry Men" shows our opinions changed through intense discussion. Thank you very much. I haven't watched that, but it doesn't surprise me.

Yeah, of course. The Vietnam War and Afgan, well, I'm sure Dennis Russell have a lot to say about that later.

Q; Judith, when I say it's true, not everyone listen is Jewish. What did Hoffman mean?

A: He was shouting at the judge. You're an actually disgrace. It's a disgrace that you should behave like this. Think about about what non-Jews are going to think about you. It's really quite remarkable, the actual text. Yeah, Karen, I think it's be wonderful if people watched the film and then we could discuss it. I dunno what happened between Sorkin and Trump.

David, perhaps you could tell me. "Cry Our Beloved Country" is, an important film to do. I agree with you.

Thank you very much to Sarah and Nancy and Debbie. No, he wasn't the same judge as an Ethel and Julius Rosenberg trial.

Thank you very much, Estelle. You did write Jerry, one of the forms that I would like to, again with Sydney Lumet is the verdict and Paul Hoffman is absolutely magnificent in that as the lawyer who finds is that we're almost restoration as a result of one final case.

Thank you very much to all of you. I'm sorry, I said, is there anything else?

Yes, Fanny says, as a certified interpreter in Dutch courts, I've witnessed judges who are quite biassed, not wishing to listen to the speech of the defendant's lawyer. Lucky it doesn't happen often, but as I've someone has already mentioned judges as a human too.

Sandy, I think frankly thank God we've got an appeal system because very often one reads, I've read many records from magistrates and I thought, I dunno what they were smoking, but quite frankly, they weren't reading the law at the time. So I'm not, as I'm somewhat more circumspect

about this.

Anyway, that gets to the end. I will certainly try to do this again. I hope you all enjoyed it. Thank you very much for your attendance.