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Source: *Harvard Law Review*, Mar., 2004, Vol. 117, No. 5 (Mar., 2004), pp. 1682-1702

Published by: The Harvard Law Review Association

Stable URL: <https://www.jstor.org/stable/4093264>

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BEING ATTICUS FINCH: THE PROFESSIONAL ROLE OF EMPATHY IN *TO KILL A MOCKINGBIRD*

In the ongoing debate over the appropriate standards for legal professionalism, critical attention has tended to focus on the age-old dialogue between those who defend the traditional position of lawyers as morally neutral agents of their clients and those who advocate a more activist role. This dialogue has expanded and developed in myriad directions, including one that stresses *empathy* as a key attribute of true professionalism. Lending support to the pro-empathy school is a sector of the law and literature movement that focuses on narrative literature as a means of improving the moral character of the law and the lives of lawyers. Narrative criticism of the law is predicated on the capacity of narrative to reveal voices that would otherwise be suppressed or ignored under the supposed impartiality of the law and to elicit feelings of empathy for those voices. This Note concentrates on the role of empathy by considering Harper Lee's *To Kill a Mockingbird*,¹ a well-known novel that has influenced many lawyers' professional ideals through its ability to arouse empathy.

This Note contends that the book merits critical reexamination, not because it fails to live up to the empathetic ideal that its canonical status suggests, but because its treatment of empathy, particularly in relation to the opposing principle of professional *detachment*, is more complex than it may initially seem. The narrative's mediation between empathy and detachment is shaped by the larger arc of *ritual* that spans the entire novel. Ritual offers a way of bringing empathy successfully into one's professional conduct and of drawing the line between the professional and personal spheres: the professional can and does intersect fruitfully with the personal, not by dint of the mere ability to empathize, but through the rigorous channeling of empathetic feelings into ritual forms. Reinterpreted in this manner, *To Kill a Mockingbird* may have new implications for the discourse of professional responsibility.

I. NARRATIVE CRITICISM AND THE SCHOOL OF EMPATHY

The classic image of the legal professional, somewhat simplified, is that of the attorney who acts, within the bounds of the law, as a zealous advocate of his or her client's interests, regardless of the moral outcome or impact on others.² This model has come under consider-

¹ HARPER LEE, *TO KILL A MOCKINGBIRD* (Warner Books 1982) (1960).

² See Richard Wasserstrom, *Lawyers as Professionals: Some Moral Issues*, 5 HUM. RTS. 1 (1975), reprinted in ANDREW L. KAUFMAN & DAVID B. WILKINS, *PROBLEMS IN PROFESSIONAL RESPONSIBILITY FOR A CHANGING PROFESSION* 7 (4th ed. 2002) ("Once a

able critical scrutiny within the last thirty years. Tension has arisen principally between the traditional view of the lawyer as properly non-judgmental of, and not accountable for, the morality of any course pursued in the client's interests,³ and a wide swath of opposing views that call for a more morally activist role.⁴

Underlying this tension is another, less clearly delineated one that defines the moral dimension of professionalism in terms of its emotional subtext: the ideal of self-willed detachment from the consequences of one's professional advocacy versus the opposing ideal of open-minded empathy.⁵ There is no absolute correlation between moral neutrality and emotional detachment on the one hand, or moral activism and empathy on the other. On the contrary, one defense of nonjudgmental advocacy is that it is the lawyer's professional duty to

lawyer represents a client, the lawyer has a duty to make his or her expertise fully available in the realization of the end sought by the client, irrespective, for the most part, of the moral worth [to] which the end will be put or the character of the client who seeks to utilize it." Wasserstrom goes on to critique the moral implications of this professional model, which he identifies as based primarily on artificial "role-differentiated behavior." *See id.*; *see also* Mark Neal Aaronson, *Be Just to One Another: Preliminary Thoughts on Civility, Moral Character, and Professionalism*, 8 ST. THOMAS L. REV. 113, 129 (1995) ("Lawyers are expected to act on behalf of their clients to the very limits permitted by law. A hard line is drawn between one's role responsibilities as a lawyer and other obligations and commitments."); *cf.* ALAN H. GOLDMAN, *THE MORAL FOUNDATIONS OF PROFESSIONAL ETHICS* 2-8 (1980) (noting that strong role differentiation exacts a moral price).

³ *See, e.g.*, MONROE H. FREEDMAN, *LAWYERS' ETHICS IN AN ADVERSARY SYSTEM* 9-24 (1975).

⁴ *See, e.g.*, DAVID LUBAN, *LAWYERS AND JUSTICE: AN ETHICAL STUDY* 154-62 (1988); William H. Simon, *Ethical Discretion in Lawyering*, 101 HARV. L. REV. 1083, 1083-84 (1988). For a more complex breakdown of this polarity, *see* THOMAS L. SHAFFER & ROBERT F. COCHRAN, JR., *LAWYERS, CLIENTS, AND MORAL RESPONSIBILITY* 5-54 (1994). Shaffer and Cochran posit four possible moral models for legal representation: the lawyer as "godfather" (the lawyer exercises total control and acts with ruthless singlemindedness to secure the client's victory), as "hired gun" (the client has full control and autonomy, to which the lawyer defers), as "guru" (the client defers to the lawyer's presumably superior moral assessment), and as "friend" (the lawyer engages in moral discourse with the client to help the client attain the most appropriate resolution and the general goal of "client goodness"). *See id.* Shaffer and Cochran strongly advocate the fourth choice, the lawyer as friend. This model is distinct from Charles Fried's characterization of the lawyer as a "limited-purpose friend." *See* Charles Fried, *The Lawyer as Friend: The Moral Foundations of the Lawyer-Client Relation*, 85 YALE L.J. 1060, 1071 (1976).

⁵ *See, e.g.*, Lynne Henderson, *Legality and Empathy*, 85 MICH. L. REV. 1574, 1574-77 (1987); Martha Minow, *Lawyering for Human Dignity*, 11 AM. U. J. GENDER SOC. POL'Y & L. 143, 157 (2002) ("[W]e should . . . work to bridge any sense of distance from the client and align ourselves with the client's hopes and dreams. Those who lawyer for the marginalized must chiefly remember to connect, to come to the aid of others, to act." (footnotes omitted)). *But see* Richard Delgado, *Rodrigo's Eleventh Chronicle: Empathy and False Empathy*, 84 CAL. L. REV. 61, 70-71 (1996) (critiquing empathy as a form of self-deceived hubris); John A. Powell, *As Justice Requires/Permits: The Delimitation of Harmful Speech in a Democratic Society*, 16 LAW & INEQ. 97, 111 (1998) (discussing the "uneasy relation between empathy and the law").

adopt the client's perspective,⁶ no matter how morally reprehensible it might appear to the lawyer personally. But this argument presents a basic problem that no champion of empathy has yet fully resolved: whether a lawyer, for purely professional purposes, should control and direct empathy — turn it on at will, more or less — toward his client (and away from other parties involved), or whether he should be directed by empathetic emotions that arise naturally.

Closely associated with this increasing attention to empathy is the rise of narrative criticism and legal storytelling. The perceived need for narrative in legal scholarship has generally been understood to reflect a growing sense that “legal argument and decision rely on the selective rendition of events in narrative form,” but that “in this very selectivity, legal argument represses competing stories” while “legal decision making purports to achieve impartiality by applying rules that abstract away the very particularities of human experience that narrative emphasizes,” thus rendering law “morally obtuse.”⁷ Hence the expanding role of narrative offers the promise of curing the deficiencies of formal law through highlighting alternative, less dominant voices and perspectives.⁸ More pertinently, it does so through the mechanism of empathy, because narrative often achieves its desired effects by appealing directly to readers' ability to identify emotionally and psychologically with the viewpoint expressed.⁹ This deployment of empathetic narratives has garnered its own share of criticism¹⁰ but con-

⁶ See, e.g., ROBERT M. BASTRESS & JOSEPH D. HARBAUGH, INTERVIEWING, COUNSELING, AND NEGOTIATING: SKILLS FOR EFFECTIVE REPRESENTATION 130 (1990), cited in SHAFFER & COCHRAN, *supra* note 4, at 19–20. But see Stephen Ellman, *Empathy and Approval*, 43 HASTINGS L.J. 991, 993 (1992), cited in SHAFFER & COCHRAN, *supra* note 4, at 20 (critiquing BASTRESS & HARBAUGH, *supra*, and suggesting a difference between a lawyer's empathy for and approval of a client).

⁷ GUYORA BINDER & ROBERT WEISBERG, LITERARY CRITICISMS OF THE LAW 201 (2000).

⁸ See Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2413–14 (1989).

⁹ See Carrie Menkel-Meadow, *Telling Stories in School: Using Case Studies and Stories To Teach Legal Ethics*, 69 FORDHAM L. REV. 787, 792 (2000) (“By bringing vividness and inducing ‘feelings,’ stories and cases are meant to make us feel more directly implicated in what we read and understand. ‘Feeling with’ a character in a story or case allows us . . . to empathize or sympathize . . .”).

¹⁰ See, e.g., BINDER & WEISBERG, *supra* note 7, at 236–61; RICHARD A. POSNER, LAW AND LITERATURE 345–57 (rev. ed. 1998). Interestingly, Richard Delgado, one of the pioneers of narrative criticism of the law, is also one of the harshest critics of empathy as a general motivational force for lawyers. He describes the “empathetic fallacy” as a counterpart to the literary concept of the “pathetic fallacy” — both of which are rooted in the idea that “we can surmount our limitations of time, place and culture, can transcend our own situatedness.” RICHARD DELGADO & JEAN STEFANCIC, MUST WE DEFEND NAZIS? 72 (1997), cited in Powell, *supra* note 5, at 112 n.62; see also Delgado, *supra* note 5, at 69–71. Presumably Delgado finds in narratives of the “other” a way of combating this type of false empathy. See Delgado, *supra* note 8, at

tinues to flourish nonetheless.¹¹

Within this burgeoning area of scholarship, both scholars and practitioners employ legal narratives in a variety of ways. In clinical and classroom settings, a popular practice is to introduce “real-life” stories from the field or to construct hypothetical stories as ethical or critical exercises;¹² another is to use fiction “to explore the dimensions of lawyers’ choices, both at the micro-level of a particular choice in legal practice and in the larger sense of how to ‘live a good life’ as a lawyer and as a human being.”¹³ *To Kill a Mockingbird*, as well as the equally beloved 1962 film adaptation starring Gregory Peck, occupies a peculiarly iconic status as the exemplar for both of these inquiries. The book has inspired much more legal scholarship than literary criticism,¹⁴ most frequently in relation to legal professionalism and its goals.¹⁵ Dissenting voices have not been lacking,¹⁶ with attacks coming primarily from readers who find fault with the book’s elitist and paternalistic attitude toward women and minorities.¹⁷ While such criticisms may cast doubt on whether the novel constitutes a truly empathetic narrative, there has not been much study focusing directly on the role of empathy within the narrative itself. The narrative may well be biased and consequently limited in its capacity to evoke empathy for all of its marginalized subjects, but few have denied that its enduring power among lawyers and law students lies in its appeal to deep-lying empathetic impulses. Whether or to what extent the narrative itself advocates empathy as a professional service has never been seriously explored.

2439 (“Listening to stories makes the adjustment to further stories easier; one acquires the ability to see the world through others’ eyes.” (footnote omitted)). But see Richard Delgado & Jean Stefancic, *Norms and Narratives: Can Judges Avoid Serious Moral Error?*, 69 TEX. L. REV. 1929, 1933 (1991) (questioning the capacity of even a “well-written, deeply felt counternarrative” to “save a judge” from making a decision that will later be reviled by other judges).

¹¹ See Menkel-Meadow, *supra* note 9, at 787.

¹² See *id.* at 798.

¹³ *Id.* (footnote omitted).

¹⁴ See CLAUDIA DURST JOHNSON, *TO KILL A MOCKINGBIRD: THREATENING BOUNDARIES* 20 (1994), cited in Rob Atkinson, *Liberating Lawyers: Divergent Parallels in Intruder in the Dust and To Kill a Mockingbird*, 49 DUKE L.J. 601, 605 n.12 (1999).

¹⁵ See, e.g., MIKE PAPANTONIO, *IN SEARCH OF ATTICUS FINCH: A MOTIVATIONAL BOOK FOR LAWYERS* (1996); THOMAS L. SHAFFER, *AMERICAN LEGAL ETHICS: TEXT, READINGS, AND DISCUSSION TOPICS* 3–57 (1985) (discussing the model of the gentleman-lawyer as embodied by the character of Atticus Finch).

¹⁶ See, e.g., Atkinson, *supra* note 14, at 604–10 (arguing for the replacement of *To Kill a Mockingbird* as the primary handbook for would-be lawyers with Faulkner’s *Intruder in the Dust*). Atkinson’s searching and lengthy critique of *To Kill a Mockingbird*’s “father-knows-best” ethics is the best and most substantial recent analysis of the novel from the perspective of the legal profession. For a cross-section of other critiques of the novel, see *id.* at 605 n.13.

¹⁷ See *id.*

II. EMPATHY AND DETACHMENT IN *TO KILL A MOCKINGBIRD*A. *Empathy*

In a characteristic episode, Atticus Finch, the central character and moral conscience of the novel,¹⁸ imparts to his daughter, Scout, a “simple trick” for getting along with others: “You never really understand a person until you consider things from his point of view” — that is, “until you climb into his skin and walk around in it.”¹⁹

This definition of empathy is quite likely the lasting impression most readers take away from *To Kill a Mockingbird* and the character of Atticus Finch. But the novel does not in fact treat empathy as an unmixed blessing. Far from placing an absolute premium on empathy as a virtue or even a skill, the narrative often portrays undistilled appeals to or expressions of empathy as disempowering, even incapacitating.

In Scout’s first-grade class, a new teacher’s attempt to appeal to her students’ emotions and imaginations (through, for example, reading stories) results in a complete breakdown of all semblance of disciplinary order.²⁰ The teacher cries and thereby wins most of the students’ sympathies, but not their true understanding. She also proves to be completely ineffectual as a teacher, a fact thrown into sharp relief by Scout’s unimpressed — indeed, outright injured — response, and by the appearance of the redoubtable, unsentimental sixth-grade teacher Miss Blount, whose mere “shadow” quickly restores order in the classroom.²¹

Additionally, the defiant exit of Burris Ewell, class outcast,²² foreshadows a dark truth that is never quite submerged by the warmth of the novel as a whole: that the Ewells, who occupy the very bottom of the town’s social order, mark where empathy falls short or derives from self-deception.²³ Bob Ewell, Scout learns, can hunt and fish out of season, and his children do not have to go to school after the first day. These transgressions are permitted primarily out of expediency, but also, Atticus suggests, at least partly out of a vague collective sen-

¹⁸ However, Scout (the narrator), Jem (her brother), and even seemingly more marginal characters such as Tom Robinson and Boo Radley may also plausibly vie for that title.

¹⁹ LEE, *supra* note 1, at 34.

²⁰ See *id.* at 21–27.

²¹ See *id.* at 26.

²² See *id.* at 30–33.

²³ Other critics have remarked that the Ewells are the one class of persons (with perhaps a narrowly drawn exception for Mayella Ewell, the accuser) for whom Atticus Finch lacks empathy: Atticus’s empathy, for all his intention “to love everybody,” *id.* at 113, is limited to “people like ourselves,” *id.* — a more amorphous class than most give him credit for, but one to which the Ewells emphatically do not belong. See, e.g., Atkinson, *supra* note 14, at 665–73.

timent of empathy for the children: “[W]hen a man spends his relief checks on green whiskey his children have a way of crying from hunger pains. I don’t know of any landowner around here who begrudges those children any game their father can hit.”²⁴ When Scout protests, “Mr. Ewell shouldn’t do that,” Atticus retorts, “Of course he shouldn’t, but he’ll never change his ways. Are you going to take out your disapproval on his children?”²⁵

The danger illustrated here is that well-meaning but blinkered attempts at empathy (which indeed may not be empathy at all, so much as paternalistic pity²⁶) may lead a man such as Ewell to believe he can break other, and greater, laws with impunity — as in fact he does. Moreover, false empathy — the delusion that one understands others’ feelings and motivations — can render one blind to reality. After the conviction of Atticus’s black client Tom Robinson, whose trial forms the crux of the novel, Ewell, the prosecution’s star witness, insults and threatens Atticus to his face, causing his family deep concern.²⁷ Atticus, however, figures that he does not need to worry, based on his knowledge of the man’s character:

“[S]ee if you can stand in Bob Ewell’s shoes a minute. I destroyed his last shred of credibility at that trial The man had to have some kind of comeback, his kind always does. So if spitting in my face and threatening me saved Mayella Ewell one extra beating, that’s something I’ll gladly take. He had to take it out on somebody and I’d rather it be me than that houseful of children”²⁸

Here again, Atticus’s attitude smacks of willful blindness and patronizing pity; the words “his kind” starkly reveal that he feels no true empathy for Bob Ewell — cannot really “stand in [his] shoes.” Similarly, when Atticus’s sister asks why Ewell should harbor a grudge against him, he replies:

“I think I understand It might be because he knows in his heart that very few people in Maycomb really believed his and Mayella’s yarns. He thought he’d be a hero, but all he got for his pain was . . . okay, we’ll convict this Negro but get back to your dump. He’s had his fling with about everybody now, so he ought to be satisfied. He’ll settle down when the weather changes.”²⁹

Atticus is more tentative here, but he has still badly misjudged Ewell’s nature, as he involuntarily acknowledges at the end of the novel when he discovers that the man nearly murdered his children: “I can’t con-

²⁴ LEE, *supra* note 1, at 35.

²⁵ *Id.*

²⁶ Cf. Delgado, *supra* note 5; Powell, *supra* note 5, at 113 (suggesting that what Delgado is targeting for criticism is “a semiconscious falseness masquerading as empathy”).

²⁷ See LEE, *supra* note 1, at 220.

²⁸ *Id.* at 221.

²⁹ *Id.* at 253.

ceive of a man who'd — ."³⁰ The unfinished admission underscores the total failure of Atticus's admittedly rather perfunctory efforts at empathy toward the Ewells. He may feel sorry for them, but he never successfully got inside their skin and walked around. Yet he presumed all along that he had been able to do so.

The book's other notable example of empathy in a professional context is the reaction of Scout's friend Dill to the cross-examination of Tom Robinson. Deeply upset by the prosecutor's racist insinuations and intonations, Dill breaks into tears and is forced to leave the courtroom:³¹ "I don't care one speck [if he is 'just a Negro']. . . . Hasn't anybody got any business talkin' like that — it just makes me sick."³² His emotions are probably shared by the reader, yet in the larger view, the appropriateness of his reaction is doubtful at best. The lesson Dill takes away is that when he becomes more mature, he won't need to cry; crying is a weakness, albeit a human and understandable one.³³ By implication, uncontrolled empathy may cause one to recoil from reality and its frequent ugliness and may prove a liability rather than an asset in a professional setting.

B. Detachment

For many lawyers and would-be lawyers, Atticus Finch represents the classic model of how to pursue a career and raise a family (as a single parent, no less) with grace and integrity. Even the most ambitious professional might well respond to the sentimental appeal of the ideal Atticus embodies. Yet the most striking aspect of Atticus's professional and parental personas alike is not his honesty, nor his tenderness, but rather his seemingly unflappable posture of cool, reasoned detachment.³⁴ The adjective that the narrative most frequently employs to describe him in both roles is "dry." At Tom Robinson's trial, he "dryly" cuts short potentially prejudicial testimony;³⁵ "[w]ith his infinite capacity for calming turbulent seas, he could make a rape case as

³⁰ *Id.* at 272.

³¹ *Id.* at 201.

³² *Id.* at 202.

³³ Curiously, Scout's response to Dill's tears is to try to convey a sense of the necessary ritual of which such vindictiveness is a part, and in turn to struggle to define what makes Atticus's ritual different. See *infra* pp. 1695–96.

³⁴ Scout's first description of Atticus, from her perspective as a child, is that he treated her and her brother with "courteous detachment." LEE, *supra* note 1, at 10.

³⁵ Sheriff Tate, quizzed by Atticus on whether there were finger marks "all around" Mayella Ewell's throat, replies, "Yes, sir, she had a small throat, anybody could'a reached around it with — ." *Id.* at 171. Atticus cuts him off "dryly" by reminding him to "[j]ust answer the question yes or no, please, Sheriff." *Id.* Tate was about to say that anybody — that is, even Tom Robinson — could have gripped Mayella's throat with one hand, an observation obviously not in the interest of Atticus's client.

dry as a sermon";³⁶ when he is about to break Mayella Ewell on the stand, he speaks in an "arid, detached professional voice";³⁷ and post-trial, his unblinking, one-line reply to Bob Ewell's threats elicits a neighbor's admiring comment that "you had to hand it to Atticus Finch, he could be right dry sometimes."³⁸ Similarly, whenever he disciplines either of his children, he delivers no high words or blows, but simply outwits them and thereby derives a dry, detached amusement from the process.³⁹ Even his kisses, Scout recalls, are dry.⁴⁰

This form of detachment is not indicative of any lack of feeling. Much of Atticus's speech and conduct, in fact, suggests great reserves of feeling; dry he might be, but cold the reader is instinctively certain he is not. Indeed, a close examination of how Atticus handles his professional and personal affairs reveals a peculiarly fluid relation between his detachment and his empathy, which he carefully controls and uses to be an effective lawyer and parent. In explaining Tom Robinson's case to his children, especially Scout, Atticus repeatedly emphasizes three points: first, the case is a personal one that he feels an almost religious call to take; second, whatever derogatory comments they hear, his children should hold their heads high and keep their tempers in check; and third, no matter what happens, the people in the community are still "our friends."⁴¹

These points are in deep tension with one another, a tension that threatens not only the children but the entire town of Maycomb. They also encapsulate the delicate balancing act by which Atticus mediates the professional and the personal and reconciles the claims of empathy with the tactical advantages of detachment and discipline. He accomplishes this balance through the mechanism of *ritual*.

³⁶ *Id.* at 171–72.

³⁷ *Id.* at 187.

³⁸ *Id.* at 220.

³⁹ *See id.* at 54.

⁴⁰ *Id.* at 130.

⁴¹ *See id.* at 81, 93, 109. Some critics have commented unfavorably that Atticus's feeling of obligation to take on Tom Robinson's case springs not from any genuine feeling for Tom Robinson the man, or for his family or community, but from Atticus's own personal conscience and gentleman's sense of *noblesse oblige*. *See, e.g.,* Atkinson, *supra* note 14, at 638–40. This critique would suggest that none of Atticus's actions are in any way motivated by true empathy — a perfectly plausible argument, though this Note seeks to show that something more complicated is occurring.

III. RITUAL IN *TO KILL A MOCKINGBIRD*: WHERE EMPATHY AND DETACHMENT INTERSECT

To Kill a Mockingbird is steeped in ritual.⁴² Much of it seems at first glance to be no more than the prosaic, though evocative, markers of Scout's childhood in Maycomb, Alabama, especially her summers with Dill and her older brother, Jem: the little plays they enact,⁴³ the midmorning lemonade,⁴⁴ the cakes baked by their neighbor Miss Maudie,⁴⁵ the mysterious practices, seen and unseen, of the Radleys,⁴⁶ the arrival of Dill at the beginning of each summer.⁴⁷ Indeed, the ritual of daily routine shapes how Scout remembers this phase of her life, including her memory of her father: his coming home from work, his reading to himself and with her, his trips to serve as a state legislator, even his gestures and expressions in crisis situations.

The larger implications of these routines as rituals, however, only gradually emerge. The paradox of ritual is that it is at once laden with symbolic significance and so ingrained, through repeated performance, in an individual's or society's behavioral patterns that its meaning can be easily attenuated or even forgotten by its participants. Ritual thus carries connotations of both meaningfulness and mindlessness, and perhaps for this very reason it has the capacity to function, in a professional context, as an effective though tenuous mediating force between the opposing pulls of empathy and detachment. So long as the imprint of meaning remains somehow intact, the power of following a scripted code of behavior can make that meaning easier to bear and to confront when necessary. In a professional situation with a potentially personal impact, ritual does not necessarily suppress empathy but may serve to internalize and channel it into a controlled, constructive form. Thus modulated, empathy is less likely to overwhelm the individual to the point of obstructing the fulfillment of his or her duties. It becomes instead a source of inner strength that supports and gives meaning to the

⁴² The term "ritual," for the purposes of this Note, refers to a prescribed, regularly repeated sequence of behavior that usually conveys some greater purpose or meaning, rather than a specifically religious or occult practice. Even this definition may be interpreting too generously as ritual some patterns that are merely mundane *routines* serving none other than practical, immediate functions. See PHILIP FISHER, *STILL THE NEW WORLD* 93–96 (1999) (distinguishing between "tasks" and "rituals"). However, any reading of *To Kill a Mockingbird* reveals a closed community very much defined by the patterns and rhythms of both its work and social rituals. As argued in Part IV of this Note, absent some governing, unifying force generally imposed by religious or social mores, even the smallest, most trivial routine practices can acquire ritualistic significance.

⁴³ See LEE, *supra* note 1, at 40–41, 43–45.

⁴⁴ See *id.* at 43.

⁴⁵ See *id.* at 47 ("[E]very time she baked, she made a big cake and three little ones, and she would call across the street. . . . Our promptness was always rewarded.")

⁴⁶ See *id.* at 13–17.

⁴⁷ See *id.* at 118 ("With him, life was routine; without him, life was unbearable.")

outward form of restraint and detachment, while guarding against degeneration into the hollowness of indifference.

This, at least, is what Atticus Finch teaches his children, both by his own example and through his efforts to discipline them. The Tom Robinson case, the crucible of the novel, both highlights and tests this code of ritualization, from which Atticus departs at certain crucial moments, with mixed results. In the end, there is a return to ritual. But the narrative ultimately leaves ambiguous whether the occasional break — the exception made for exceptional cases — is valid and necessary to reinforce the meaning of the ritual, or merely a well-intentioned but futile attempt to evade it.

A. *Mrs. Dubose*

From the first rumblings of the Robinson case, the mantra Atticus instills in his children is “hold your head high and keep those fists down. No matter what anybody says to you, don’t you let ’em get your goat.”⁴⁸ This, the reader may infer, is how Atticus himself deals with the situation as a professional; it also reflects how he reacts as a person. He gives a perfect illustration of this strategy in his interactions with Mrs. Henry Lafayette Dubose, the man-eating invalid neighbor who shouts insults at the Finches from her porch:

Jem . . . had decreed that we must run as far as the post office corner each evening to meet Atticus coming from work. Countless evenings Atticus would find Jem furious at something Mrs. Dubose had said when we went by.

“Easy does it, son,” Atticus would say. “She’s an old lady and she’s ill. You just hold your head high and be a gentleman. Whatever she says to you, it’s your job not to let her make you mad.”

. . . When the three of us came to her house, Atticus would sweep off his hat, wave gallantly to her and say, “Good evening, Mrs. Dubose! You look like a picture this evening.”

. . . He would tell her the courthouse news, and would say he hoped with all his heart she’d have a good day tomorrow. He would return his hat to his head, swing me to his shoulders in her very presence, and we would go home in the twilight.⁴⁹

Atticus’s courtesy is, in fact, a kind of ritual, which in one sense steals him — and, by extension, his children — against taunts and threats, no matter how ugly or incendiary. The lesson, distilled, is not to lose one’s cool, and to remain detached, unaffected, and unfailingly po-

⁴⁸ *Id.* at 80.

⁴⁹ *Id.* at 104–05.

lite.⁵⁰ Yet in another sense, it is not the denial of feeling that Atticus is advocating through the ritual of gentlemanly self-control that becomes the pervading ritual of the book.⁵¹ Rather, at the heart of Atticus's courtesy is the empathetic impulse, the same sentiment that moved him to tell Scout to climb into another person's skin and walk around in it. Mrs. Dubose is an old lady, and ill; she is deserving of compassion before anger.

At first the import of Atticus's instruction is lost on the children. Jem appears to understand it better than Scout, but he absorbs only the letter, not the spirit. Perhaps unsurprisingly, it is Jem, not Scout, who rebels one day when Mrs. Dubose gibes them about their father's "lawing for niggers" and declares him "no better than the niggers and trash he works for."⁵² Something inside Jem snaps, and he destroys Mrs. Dubose's prized flowerbed,⁵³ even though moments before, he had reminded his sister, "Don't pay any attention to her, just hold your head high and be a gentleman."⁵⁴

Scout later wonders "exactly . . . what made him break the bonds of 'You just be a gentleman, son,' and the phase of self-conscious rectitude he had recently entered."⁵⁵ It is not an impulse Jem can articulate clearly, but it swiftly produces punishment: he must apologize to Mrs. Dubose, and in due course, she instructs him to come read to her every day.⁵⁶ As Jem departs to face Mrs. Dubose, Scout observes: "Atticus picked up the *Mobile Press* and sat down in the rocking chair For the life of me, I did not understand how he could sit there in cold blood and read a newspaper when his only son stood an excellent chance of being murdered"⁵⁷ Atticus is not one to break rituals easily, even one as mundane as his evening reading, and to Scout his impassivity looks at first like studied detachment, incomprehensible "cold blood" toward his own son. But she climbs into his lap anyway, and on questioning him gets the oblique yet telling response that "when you and Jem are grown, maybe you'll look back on [the Tom Robinson case] with some compassion and some feeling that I didn't let you down."⁵⁸ It is the first clue that the outward ritual, drummed into the children's consciousness, of keeping their heads high is not

⁵⁰ Cf. Aaronson, *supra* note 2, at 116 ("[T]he inability of lawyers to conduct themselves in a reasonable fashion has less to do with a lack of good manners . . . [than] with not having the strength of character needed to exercise self-discipline when making practical or ethical choices.").

⁵¹ Cf. SHAFFER, *supra* note 15, at 32.

⁵² LEE, *supra* note 1, at 106.

⁵³ *Id.* at 107.

⁵⁴ *Id.* at 106 (internal quotation marks omitted).

⁵⁵ *Id.*

⁵⁶ *Id.* at 108-10.

⁵⁷ *Id.* at 108.

⁵⁸ *Id.* at 109.

about self-containment for its own sake but is at its core an expression of compassion.

The meaning of the new ritual Atticus imposes upon them — the daily visit to Mrs. Dubose — is similarly obscure at first. The children dread this ritual but somehow endure it, as Jem reads *Ivanhoe* to Mrs. Dubose and both children observe up close, with a kind of horrified fascination, the physical ravages of her illness.⁵⁹ They also endure more insults from her (in response to which Jem “cultivate[s] an expression of polite and detached interest”⁶⁰) and notice that the clock whose alarm signals their liberation rings a little later every day.⁶¹

Months later, when they have long since completed their obligations to Mrs. Dubose, Jem and Scout discover that she was dying all along and that the reading ritual was part of her attempt to break herself of her morphine addiction.⁶² They learn that the real significance of the ritual was not merely cultivating the detachment of self-discipline, but also learning about courage expressed through suffering and perseverance. Atticus explains that even if Jem had done nothing to deserve punishment, “I’d have made you go read to her anyway. It may have been some distraction. . . . I wanted you to see what real courage is. . . . It’s when you know you’re licked before you begin but you begin anyway and you see it through no matter what.”⁶³

The description is, of course, prophetic of Atticus’s own quest for justice for his client, Tom Robinson, but it also sheds a new light on the ritual that until then the children have merely taken as a matter of course. To hold one’s head high and keep one’s temper, to be a “gentleman,” is not to quash feeling but to open oneself up to seeing and feeling as others do. The ritualization of Atticus’s form of “courteous detachment” may act to contain empathy, but it may also contain empathy in another sense: ritual can be a *vessel* of empathy and its best, most effective means of expression.

B. *The Robinson Case*

The foregoing observations about ritual, empathy, and detachment have a direct connection to discussions of legal professionalism. While this Note argues that the described pattern is not merely a thematic peculiarity of *To Kill a Mockingbird*, but is relevant to the larger debate among lawyers, the first step is to show how it translates from the personal to the professional context within the narrative. The role of

⁵⁹ *Id.* at 111–12.

⁶⁰ *Id.* at 114.

⁶¹ *Id.* at 113.

⁶² *Id.* at 115.

⁶³ *Id.* at 115–16.

ritual in the latter context becomes more salient, but also more complicated, as the book sharpens its focus on the Robinson trial.

For the most part, Atticus as lawyer conforms to certain rituals intended to provide the best service to his client — even if he does not always like doing so.

[Atticus's] first two clients were the last two persons hanged in the Maycomb County jail. Atticus had urged them to accept the state's generosity in allowing them to plead Guilty to second-degree murder and escape with their lives, but . . . [t]hey persisted in pleading Not Guilty to first-degree murder, so there was nothing much Atticus could do for his clients except be present at their departure, an occasion that was probably the beginning of my father's profound distaste for the practice of criminal law.⁶⁴

Criminal law, with its attendant ritualized code of duties and expectations (like the “unsullied Code of Alabama” that resides in his office⁶⁵) holds little inspiration for Atticus, who follows its demands with no sign of enthusiasm. Nonetheless, he has unquestionably attained a high level of skill in it, as is apparent even to the less practiced eyes of his own children. At the trial of Tom Robinson, both Atticus's standard rituals — professional practices punctiliously observed for the purpose of winning his client's case — and his innate impulses against those rituals are clearly on display, particularly when he begins his cross-examination of Robinson's alleged victim, Mayella Ewell:

Atticus got up grinning but instead of walking to the witness stand, he opened his coat and hooked his thumbs in his vest, then he walked slowly across the room to the windows. He looked out, but didn't seem especially interested in what he saw, then he turned and strolled back to the witness stand. From long years of experience, I could tell he was trying to come to a decision about something.

“Miss Mayella,” he said, smiling, “I won't try to scare you for a while, not yet. Let's just get acquainted. How old are you?”

“Said I was nineteen, said it to the judge yonder.” Mayella jerked her head resentfully at the bench.

“So you did, so you did, ma'am. You'll have to bear with me, Miss Mayella, I'm getting along and can't remember as well as I used to.”

. . . She was looking at him furiously.⁶⁶

What Mayella finds infuriating is the fact that Atticus is speaking to her politely, calling her “ma'am” and “Miss Mayella” — a courtesy to which she is patently unaccustomed and that she interprets as supercilious mockery. Judge Taylor explains, “That's just Mr. Finch's way We've done business in this court for years and years, and Mr.

⁶⁴ *Id.* at 9.

⁶⁵ *Id.*

⁶⁶ *Id.* at 183–84.

Finch is always courteous to everybody. He's not trying to mock you, he's trying to be polite. That's just his way."⁶⁷

This curious little interaction suggests the peculiarly double-edged nature of Atticus's code of courtesy, which continues the lesson he has been attempting to teach Jem and Scout. He is friendly and polite to a fault, but Mayella is right to be suspicious: as his cross-examination of her soon reveals, his affability is also part of his professional technique. It is intended to disarm her, to put her off her guard, so as to help him extract with canny precision the information he wants from her and to pounce at the appropriate moment of vulnerability. As Scout remarks later, when he is pounding relentlessly away at Mayella's story, "Atticus's memory had suddenly become accurate," for all his prior disclaimers.⁶⁸ Nor does he shrink from pointing out that Mayella is making her story up as she goes along or from asking her the ugly questions.⁶⁹ This is the art of cross-examination, as Atticus has perfected it: without cruelty, but also without mercy, though cloaked in his ritual courtesy. It is equally evident that he does not in the least enjoy performing this ritual, at least not when the subject is a victim who touches his compassion. When he lets her go, having completed his destruction of her testimony, "he looked like his stomach hurt,"⁷⁰ leading to Scout's conclusion that "[s]omehow, Atticus had hit her hard in a way that was not clear to me, but it gave him no pleasure to do so."⁷¹

Yet it would be a mistake to characterize Atticus's conformance to the ritual of the cross-examination as the necessary professional evil of suppressing his empathetic impulses. His courtroom ritual is different, after all, because it is clothed in courtesy, and this courtesy is more than just an empty show. When Dill protests the prosecutor's much more abrasive style, Scout tries to explain: "They do 'em all that way, most lawyers," except Atticus, who is "the same in the courtroom as he is on the public streets."⁷² The phrase echoes one coined by the Finches' neighbor and friend, Miss Maudie, earlier in the novel: "Atticus Finch is the same in his *house* as he is on the public streets."⁷³ Semiconsciously or subconsciously, Scout is making the connection that Atticus's conduct, both at work and in the personal sphere, is governed by a similar, if not the same, ritual: the "courteous detachment"

⁶⁷ *Id.* at 184 (internal quotation marks omitted).

⁶⁸ *Id.* at 187.

⁶⁹ *See id.* at 189 ("You're becoming suddenly clear on this point. A while ago you couldn't remember too well, could you?"; "You're a strong girl, what were you doing all the time, just standing there?"; "[W]hy didn't you run?" (internal quotation marks omitted)).

⁷⁰ *Id.* at 190.

⁷¹ *Id.* at 191.

⁷² *Id.* at 202.

⁷³ *Id.* at 50 (emphasis added).

with which he treats his children and everyone else. And even here, as in the case of Mrs. Dubose, ritual does not repress empathy but rather opens up certain controlled channels for it, which in this case Atticus tries to turn into a direct conduit to the emotions of the jury. In his interrogation of Mayella Ewell, Atticus induces her to tell the jury (and spectators) what they need to know by treating her with courtesy. But in so doing he is also attempting, for his audience as well as himself, his usual empathetic technique of getting into another person's skin and walking around in it. As Scout recounts:

Slowly but surely I began to see the pattern of Atticus's questions[.] . . . Atticus was quietly building up before the jury a picture of the Ewells' home life. The jury learned . . . [that] their relief check was far from enough to feed the family, and there was strong suspicion that Papa drank it up anyway . . . ; the weather was seldom cold enough to require shoes, but when it was, you could make dandy ones from strips of old tires; the family hauled its water in buckets from a spring that ran out at one end of the dump . . .⁷⁴

Here again a suggestion of false empathy, or pity, intrudes, yet the fact remains that Atticus is doing his best — through the use of narrative, no less — to draw out what it must be like to *be* Mayella Ewell, to live like her and to see the world through her eyes.⁷⁵ And paradoxically, the only way in which he can and does accomplish this, as both a lawyer and a person, is through his ritualized code of gentlemanly detachment.

But at certain critical moments in the case, Atticus breaks with ritual. When Tom Robinson is transferred to the local jail the night before his trial, stirring up expectations of a mob lynching, Atticus decides to stand guard over his cell:

Jem and I were settling down to a routine evening, when Atticus did something that interested us: he came to the living-room carrying a long electrical extension cord. There was a light bulb on the end.

"I'm going out for a while," he said. "You folks'll be in bed when I come back, so I'll say good night now."

With that, he put his hat on and went out the back door.

"He's takin' the car," said Jem.

Our father had a few peculiarities: one was . . . that he liked to walk. . . .

Later on, I bade my aunt and brother good night and was well into a book when I heard Jem rattling around in his room. His go-to-bed noises

⁷⁴ *Id.* at 185.

⁷⁵ Although he is acting in his client's interest, Atticus's larger purpose seems to include making the jury understand what happened from both Mayella's and Tom's perspectives.

were so familiar to me that I knocked on his door: "Why ain't you going to bed?"

"I'm goin' downtown for a while."⁷⁶

What began as a seemingly minor disruption of Atticus's nightly ritual, triggering in turn an alteration of his children's rituals, quickly takes on a much greater and more terrible significance, expanding into a challenge of a greater, life-governing ritual. The children trace Atticus's path to find him sitting in front of the jail, reading the newspaper by the light he brought, but it is not long before the anticipated threat materializes.⁷⁷ Atticus stands up to the men who come for Robinson and appears prepared to defend him physically, even at the risk of his own life. It may be debatable whether he is really *breaking* with any kind of professional ritual at this point, but he is certainly going beyond the conventional call of duty, primarily because this is no ordinary case. While the incident never culminates in physical conflict, there is no denying that Atticus might have been forced to violate his professional (and personal) ritualized detachment to protect Tom.

The real ritual-breaker in this situation, however, is Scout's direct appeal to the mob's empathetic feelings. Looking for a familiar face, she recognizes the father of a school friend, Walter Cunningham, and begins asking him about his son.⁷⁸ As Atticus puts it, "[Y]ou children last night made Walter Cunningham stand in my shoes for a minute. That was enough."⁷⁹

Perhaps recalling this success, Atticus later breaks with ritual at an even more crucial moment, his closing at the end of the trial:

Atticus paused, then he did something he didn't ordinarily do. He unhitched his watch and chain and placed them on the table, saying, "With the court's permission —"

Judge Taylor nodded, and then Atticus did something I never saw him do before or since, in public or in private: he unbuttoned his vest, unbuttoned his collar, loosened his tie, and took off his coat. He never loosened a scrap of his clothing until he undressed at bedtime, and to Jem and me, this was the equivalent of him standing before us stark naked. We exchanged horrified glances.

. . . .

"Gentlemen," he said. Jem and I again looked at each other: Atticus might have said, "Scout." His voice had lost its aridity, its detachment,

⁷⁶ LEE, *supra* note 1, at 150–51.

⁷⁷ *Id.* at 153–54.

⁷⁸ *Id.* at 155–56.

⁷⁹ *Id.* at 160.

and he was talking to the jury as if they were folks on the post office corner.⁸⁰

Were it not for his children's reaction, one might guess that this move is a stratagem to win over the jury, and indeed at some level it surely is just that. Yet it is also momentous because plainly Atticus is doing something professionally that he does not ordinarily, if ever, do. He is abandoning ritual in a specific way, beyond merely removing articles of clothing: he has set aside his "arid professional detachment" to appeal directly to the hearts and emotions of the jury. He is, in other words, letting empathy out of the bottle — perhaps because he feels, as with Scout's routing of the lynch mob, that this is the only way he can possibly win them over. What is significant, of course, is that on this occasion, the attempt fails. His eloquent plea may keep the jury out for a few hours, but the verdict is no less inevitable for its delay. As Scout later puts it, "in the secret courts of men's hearts Atticus had no case. Tom was a dead man the minute Mayella Ewell opened her mouth and screamed."⁸¹

Significantly, immediately after the trial is over and Tom Robinson is declared guilty, the children find Atticus "standing under the street light looking as though nothing had happened: his vest was buttoned, his collar and tie were neatly in place, his watch-chain glistened, he was his impassive self again."⁸² Although he uncharacteristically lets slip a hint of bitter frustration — "They've done it before and they did it tonight and they'll do it again and when they do it — seems that only children weep"⁸³ — the next morning he "rose at his usual ungodly hour and was in the livingroom behind the *Mobile Register* when we stumbled in."⁸⁴ It is back to ritual or business as usual, though not in the sense of denial of what happened: Atticus spends the next several days with an ear tuned to both of his children as they struggle to understand the trial's outcome, answering their queries and explaining the nature of prejudice with, as always, courteous detachment rather than sharp indignation.⁸⁵ It is as if this is the only way he knows to keep doing his job, to see himself and his family through a difficult time.

Perhaps reflecting the subtle learning process that has been ongoing throughout the novel, the children find themselves, along with the rest of Maycomb, returning to their own rituals — with differences: "There was a big cake and two little ones on Miss Maudie's kitchen table.

⁸⁰ *Id.* at 205.

⁸¹ *Id.* at 244.

⁸² *Id.* at 215.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *See id.* at 222–25.

There should have been three little ones. . . . But we understood when she cut from the big cake and gave the slice to Jem.”⁸⁶ They are, after all, growing up, and the trial has made them grow up much faster. It has also caused them to reassess their emotional responses toward the people they thought they knew, and their control mechanisms over those emotions. Still digesting the town’s overwhelmingly biased response to Tom Robinson’s trial (and Atticus’s role in it) and confronted with the fact that its residents are nonetheless “content to re-elect him to the state legislature that year, as usual,” Scout “came to the conclusion that people were just peculiar, . . . withdrew from them, and never thought about them until I was forced to.”⁸⁷ Jem, too, undergoes a similar though perhaps more intensely internalized process. When he unexpectedly explodes after Scout tells him about the racism of one of their schoolteachers and why it disturbed her,⁸⁸ Atticus explains:

Jem was trying hard to forget something, but what he was really doing was storing it away for a while, until enough time passed. Then he would be able to think about it and sort things out. When he was able to think about it, Jem would be himself again.⁸⁹

Sure enough, “[b]y the end of October, our lives had become the familiar routine of school, play, study. Jem seemed to have put out of his mind whatever it was he wanted to forget, and our classmates mercifully let us forget our father’s eccentricities.”⁹⁰

Of course, no one has really forgotten anything. What actually seems to be occurring is a form of the ritual Atticus has been trying to inculcate in the children since the beginning of the summer: the regulation — but not eradication — of empathetic emotion through the outward form of poise and good manners. On the day when Tom Robinson is shot seventeen times at the state prison, Scout and the other principal women in the story are hosting a missionary tea.⁹¹ Hearing the grim news, Atticus’s sister Alexandra breaks down momentarily, while Scout finds herself shaking uncontrollably.⁹² Miss Maudie alone remains unbroken and rallies the other two to carry on:

“Stop that shaking,” commanded Miss Maudie, and I stopped. “Get up, Alexandra, we’ve left ’em long enough.”

Aunt Alexandra rose and smoothed the various whalebone ridges along her hips. She took her handkerchief from her belt and wiped her nose. She patted her hair and said, “Do I show it?”

⁸⁶ *Id.* at 217.

⁸⁷ *Id.* at 246.

⁸⁸ *See id.* at 249–50.

⁸⁹ *Id.* at 250.

⁹⁰ *Id.* at 253.

⁹¹ *See id.* at 237–38.

⁹² *Id.* at 239.

“Not a sign,” said Miss Maudie. “Are you together again, Jean Louise?”

“Yes ma’am.”

“Then let’s join the ladies,” she said grimly.⁹³

They do so, never betraying a sign of what happened. Even Scout hands around a tray of cookies “[w]ith my best company manners After all, if Aunty could be a lady at a time like this, so could I.”⁹⁴ Far from letting her imagination run wild with what it must have been like to be gunned down like Tom, Scout draws strength from the ladies’ equivalent of Atticus’s admonition to “hold your head high and be a gentleman.” And in this very act, she feels for the first time an empathetic connection to her aunt: the ritual allows her to see the situation (and its demands) from her aunt’s perspective. It is not the erasing of empathy, then, but merely its control that this ritualized self-possession affords.

This incident suggests that Atticus’s teaching by example has not been in vain and that his particular brand of ritualization emerges as the best way of negotiating empathy in both the professional and the personal context. There may occasionally be reason to depart from this ritualized polite detachment in favor of a straight shot to the empathetic heart. Yet such a release is neither a regular nor even a necessarily successful *modus operandi*, given the risk it incurs of emotional burnout and disillusionment. In the end, one is left with a sense that this kind of ritual is what makes life supportable and what permits the professional man or woman to be morally consistent at work, at home, and on the public street.

IV. IMPLICATIONS FOR THE LEGAL PROFESSION

Up to this point, this Note has discussed ritual in *To Kill a Mockingbird* primarily in terms of a more or less specific example: a certain type of studied, courteous level-headedness that does not derive from elimination of feeling, but rather embodies a more effective expression of it. It is a form of detachment that paradoxically enables positive, more focused empathy through a conscious, controlled exercise of putting oneself in another’s shoes. Notwithstanding its limitations — its blind spots and its slippery slope into paternalism or false empathy — Atticus’s code at least suggests a way of bridging the gap between the professional and the personal, the false dichotomy between supposedly “professional” detachment and the principle of empathy. However, the questions this analysis has yet to answer are, first, whether the ritual it

⁹³ *Id.* at 239–40.

⁹⁴ *Id.* at 240.

identifies is simply a version of the code of the gentleman-lawyer⁹⁵ or the principle of civility,⁹⁶ and second, if it is something more, what makes it work.

The answer to the first question is that in Atticus's hands, the ritual becomes a "gentlemanly" code, but the larger significance is the process of ritualization rather than the substantive form it takes — which goes to the second query. Atticus ritualizes empathy in the sense that he disciplines it into certain regulated forms that in due course become second nature, almost a matter of habit. Yet the habit transcends mere routine because at its heart lies the instinct of empathy that gives it meaning. The code of good manners and self-restraint need not be the only means by which empathy is ritualized: it is just the one that works, by and large, for Atticus.

In fact, despite its striking moments of failure, most starkly with regard to the Ewells, the code works so well within Harper Lee's narrative that it raises the question of what other, potentially better types of ritualized empathy, practically speaking, are possible in the practice of law. This Note does not pretend to hold the answer. It merely suggests that *some* form of personal ritualization — whether it is adopting Atticus's brand of (semi)detached civility, or subjecting every professional decision to a specific, searching series of questions, or mandating a certain amount of pro bono work per year — may be the only viable way to keep empathy at once contained within the demands of professionalism and employed in its service. This is so partly because, as in *To Kill a Mockingbird*, empathy, when given free rein, can hamper one's professional effectiveness without replacing it with anything more constructive than a solipsistic and bathetic kind of catharsis. But it is also because work, particularly professional work, lends itself so naturally to ritualization. Long hours of work become inextricably bound up in repeated behavioral patterns and rhythms that may feel like mere routine but can easily become ritual. For a professional, the transmutation of routine into ritual is, or should be, a point of particular emphasis, because the very meaning of what it is to be a professional is defined by some sense of a governing code or responsibility that confers an extra significance upon even the most automatic components of the daily grind.⁹⁷ But the only effective way to do this is

⁹⁵ See SHAFFER, *supra* note 15, at 32.

⁹⁶ See Aaronson, *supra* note 2, at 116–19.

⁹⁷ See Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 911 (1999). Professor Schiltz writes: [B]ecause your life as a lawyer will be filled with the mundane, whether you practice law ethically will depend not upon how you resolve the one or two dramatic ethical dilemmas that you will confront during your entire career, but upon the hundreds of little things that you will do, almost unthinkingly, each and every day.

not simply to fall unthinkingly into certain patterns and habits (as the Radleys and others in *Maycomb* do) but to instill a conscious meaning into some aspect of those patterns and habits.

That one of those meanings should be empathy, others have already argued extensively.⁹⁸ This Note identifies a point that is less often emphasized but no less compelling: that to make empathy a kind of ritual in one's work is also to bridge the artificial divide so often imposed between one's "professional" and "personal" self, to reconcile the two without dissolving either. In other words, ritualized empathy makes a personal emotion professional, and vice versa. This is not, however, to say that empathy should always be tightly controlled; there may come a time, as there did for Atticus Finch, when one feels compelled to break the ritual and let empathy have full sway.

Because practicing law ethically will depend primarily upon the hundreds of little things that you will do almost unthinkingly every day, it will not depend much upon your thinking.

Id. at 911. This Note argues, in a sense, just the opposite.

⁹⁸ See generally Henderson, *supra* note 5 (arguing that empathy is descriptively and normatively important to legal discourse).