

Total possible points: 100; 20% of final grade

A1 Rhetorical Analysis of a Legal Text

Overview: Throughout our first unit we covered quite a bit of material. From Bitzer's "Rhetorical Situation" to the Toulmin and Rogerian Methods of Argument Analysis. We have also reviewed key historical moments and the legal consequences of those moments. Before we move forward you will evaluate a law-based text, that we read and watched in class, and apply what you have learned. You will evaluate Atticus Finch's Closing Argument in the Case Against Tom Robinson from *To Kill a Mockingbird*. Although we watched the argument in class, your analysis should come from the words themselves, not from Gregory Peck's delivery of them. For this reason, relying primarily on the reading will likely help most. I have included a copy of the text on page 2 of this prompt.

Lawyers must construct arguments within the world of a rhetorical discipline with a multitude of audiences and factors in mind. The law is also often portrayed in works of fiction. Through an evaluation of this creative work you can analyze each of the factors we covered together, think of how the situation (and writing and rhetoric) may have changed if the case was argued today, and think of how you may use these applications and evaluation methods going forward.

Your analysis should 4-5 pages total, recommendations for length of each section are offered for guidance below. It is up to you how you divide your words, but you may not go over 1500 words total. Your application should be the most developed part of this assignment. Please use citations and direct quotations, when needed, as evidence to support your work. Your analysis should include the following:

1. An analysis of Bitzer's rhetorical situation applied to Atticus' closing. Please cite both the novel and Bitzer's key components (exigence, audience and constraints). Is Atticus' rhetorical audience the same as his general audience? Why or why not? Next, please think of Harper Lee (the author of this book) what were her exigence, audience and constraints? (500 words; 25% of grade)

2. A Toulmin based analysis of the closing. Please define each of the five key components and apply them here (claim, grounds, warrant, backing, rebuttal). (250 words; 10% of grade)
3. Please briefly summarize a Rogerian type of argument analysis. What do you look for and what did you find here? (250 words; 10% of grade)
4. Interpretation and Application: After you have completed each of the analysis sections, please write an argument of your own. (500 words; 50% of grade) Address the following:
 - a. Was Atticus' speech effective? If so, why? If not, why not? We know the outcome of his case. How does knowing that impact your interpretation of the rhetorical situation? Would the situation be different if this case was argued today? How so? How does an understanding of the rhetorical situation surrounding an argument impact every lawyer's case? How will you use it to impact yours in the future?
 - b. Was Atticus' use of the Toulmin method impactful and effective? How could you use the Toulmin method in arguments of your own?
 - c. Rogerian argument is a less traditional approach to argument that, as we have discussed in class, can have significant pros and cons? What did you think of Atticus' attempt to convince the jury through this style of argument and how could this be applied not only to your legal work in the future but to your life and everyday writings and conversations?
 - d. Out of all the methods we discussed what are the most helpful to remember going forward? Why? Take your time here. Think about your definition of justice from the beginning of the semester. What type of analysis and type of arguments could help you best reach justice when evaluating situations going forward?
5. Structure/Organization: The remaining 5% of your grade will go to structure and organization of your work. However, as we have discussed, if you fail to use clear and concise language or organize your work properly you will likely be unable to meet the higher-level concerns of this assignment well.

TEXT OF ATTICUS' CLOSING IN THE CASE OF TOM ROBINSON

"Gentlemen," he was saying, "I shall be brief, but I would like to use my remaining time with you to remind you that this case is not a difficult one, it requires no minute sifting of complicated facts, but it does require you to be sure beyond all reasonable doubt as to the guilt of the defendant. To begin with, this case should never have come to trial. This case is as simple as black and white.

"The state has not produced one iota of medical evidence to the effect that the crime Tom Robinson is charged with ever took place. It has relied instead upon the testimony of two witnesses whose evidence has not only been called into serious question on cross-examination but has been flatly contradicted by the defendant. The defendant is not guilty, but somebody in this courtroom is.

"I have nothing but pity in my heart for the chief witness for the state, but my pity does not extend so far as to her putting a man's life at stake, which she has done in an effort to get rid of her own guilt.

"I say guilt, gentlemen, because it was guilt that motivated her. She has committed no crime, she has merely broken a rigid and time-honored code of our society, a code so severe that whoever breaks it is hounded from our midst as unfit to live with. She is the victim of cruel poverty and ignorance, but I cannot pity her: she is white. She knew full well the enormity of her offense, but because her desires were stronger than the code she was breaking, she persisted in breaking it. She persisted, and her subsequent reaction is something that all of us have known at one time or another. She did something every child has done—she tried to put the evidence of her offense away from her. But in this case she was no child hiding stolen contraband: she struck out at her victim—of necessity she must put him away from her—he must be removed from her presence, from this world. She must destroy the evidence of her offense.

"What was the evidence of her offense? Tom Robinson, a human being. She must put Tom Robinson away from her. Tom Robinson was her daily reminder of what she did. What did she do? She tempted a Negro.

"She was white, and she tempted a Negro. She did something that in our society is unspeakable: she kissed a black man. Not an old Uncle, but a strong young Negro man. No code mattered to her before she broke it, but it came crashing down on her afterwards.

"Her father saw it, and the defendant has testified as to his remarks. What did her father do? We don't know, but there is circumstantial evidence to indicate that Mayella Ewell was beaten savagely by someone who led almost exclusively with his left. We do know in part what Mr. Ewell did: he did what any God-fearing, persevering, respectable white man would do under the circumstances—he swore out a warrant, no doubt signing it with his left hand, and Tom Robinson now sits before you, having taken the oath with the only good hand he possesses—his right hand.

"And so a quiet, respectable, humble Negro who had the unmitigated temerity to 'feel sorry' for a white woman has had to put his word against two white people's. I need not remind you of their appearance and conduct on the stand—you saw them for yourselves. The witnesses for the state, with the exception

of the sheriff of Maycomb County, have presented themselves to you gentlemen, to this court, in the cynical confidence that their testimony would not be doubted, confident that you gentlemen would go along with them on the assumption—the evil assumption—that all Negroes lie, that all Negroes are basically immoral beings, that all Negro men are not to be trusted around our women, an assumption one associates with minds of their calibre.

“Which, gentlemen, we know is in itself a lie as black as Tom Robinson’s skin, a lie I do not have to point out to you. You know the truth, and the truth is this: some Negroes lie, some Negroes are immoral, some Negro men are not to be trusted around women—black or white. But this is a truth that applies to the human race and to no particular race of men. There is not a person in this courtroom who has never told a lie, who has never done an immoral thing, and there is no man living who has never looked upon a woman without desire.”

Atticus paused and took out his handkerchief. Then he took off his glasses and wiped them, and we saw another “first”: we had never seen him sweat—he was one of those men whose faces never perspired, but now it was shining tan.

“One more thing, gentlemen, before I quit. Thomas Jefferson once said that all men are created equal, a phrase that the Yankees and the distaff side of the Executive branch in Washington are fond of hurling at us. There is a tendency in this year of grace, 1935, for certain people to use this phrase out of context, to satisfy all conditions. The most ridiculous example I can think of is that the people who run public education promote the stupid and idle along with the industrious—because all men are created equal, educators will gravely tell you, the children left behind suffer terrible feelings of inferiority. We know all men are not created equal in the sense some people would have us believe—some people are smarter than others, some people have more opportunity because they’re born with it, some men make more money than others, some ladies make better cakes than others—some people are born gifted beyond the normal scope of most men.

“But there is one way in this country in which all men are created equal—there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court. It can be the Supreme Court of the United States or the humblest J.P. court in the land, or this honorable court which you serve. Our courts have their faults, as does any human institution, but in this country our courts are the great levellers, and in our courts all men are created equal.

“I’m no idealist to believe firmly in the integrity of our courts and in the jury system—that is no ideal to me, it is a living, working reality. Gentlemen, a court is no better than each man of you sitting before me on this jury. A court is only as sound as its jury, and a jury is only as sound as the men who make it up. I am confident that you gentlemen will review without passion the evidence you have heard, come to a decision, and restore this defendant to his family. In the name of God, do your duty.”