

# Documentary on Scottsboro case distorts 1930s struggle against racism in US South

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On March 25, 1931, nine black youth, ranging in age from 13 to 21, were arrested in Alabama on charges of raping two young white women. Thus began the notorious Scottsboro case, a racist frame-up that led to years of trials and legal appeals, along with mass protests in the US and around the world.

The young men—Charlie Weems, Ozie Powell, Clarence Norris, Olen Montgomery, Willie Roberson, Haywood Patterson, Andy and Roy Wright, and Eugene Williams—had been riding a freight train heading north toward Memphis. Other jobless youth were also aboard. After a fight between blacks and whites led to a group of whites being thrown off, a sheriff's posse stopped the train in Paint Rock, Alabama and took the nine black youth into custody, along with two white women, 17-year-old Ruby Bates and 21-year-old Victoria Price.

Taken to the county jail in nearby Scottsboro, the nine were charged with rape. There was no evidence beyond the claims of the women, but a trial began less than two weeks later, on April 6. Within days the defendants had been convicted, with eight sentenced to death.

Racial fears and hysteria revolving around the supposed sexual designs of black men on white women were common at the time. Charges of rape, or even looking at a white woman, often led to lynchings of black men, mostly but not entirely in the states of the old Confederacy. Lynchings reached a peak around 1900 and the first two decades of the twentieth century, but 42 were recorded between 1931 and 1933, the period of the Scottsboro arrests.

Ironically, the trial of the Scottsboro Nine was evidently intended by local authorities to show that due process was followed in Alabama. An armed mob gathered outside the jail when the youth were first arrested, and local officials worked to prevent vigilante action. What followed, however, was a legal lynching. The nine young men had one volunteer lawyer between them, making a mockery of the right to counsel. An atmosphere of racist intimidation and a rush to convict permeated the proceedings.

The attempt to provide a legal veneer to the railroading of the black youth backfired, however, making the victims of this legal lynching far better known than the many others who remained nameless. As word of the trial and convictions circulated, protests took place throughout the country and as far away as Germany, South Africa, France, Spain and the USSR. A campaign against the frame-up was immediately launched by the International Labor Defense (ILD), the legal and defense arm of the US Communist Party.

Scottsboro has been the subject of several major books, including *Stories of Scottsboro: The Rape Case that Shocked 1930s America and Revived the Struggle for Equality* (1994), by Harvard professor James Goodman; *Scottsboro: A Tragedy of the American South* (1969), by Dan T. Carter; and *Scottsboro Boy* (1950), the story of Haywood Patterson, one of the defendants.

Now a documentary film has been made about this important episode in American history. *Scottsboro: An American Tragedy* was nominated for

an Academy Award this past year, and was recently shown on the public broadcasting network throughout the US. Filmmakers Daniel Anker and Barak Goodman say they were inspired by James Goodman's book. Their documentary includes film clips, photos and interviews. Frances McDormand, Stanley Tucci and other actors read from court testimony and press accounts. Noted actor Andre Braugher is the narrator.

Much of this material is extremely valuable. Historians Goodman and Carter, the authors of the above mentioned books on Scottsboro, are interviewed. Film clips show parts of the trials. All the major figures in the case are presented: prosecutors, judges, defense attorneys and witnesses. Also interviewed are townspeople and others who attended the various Scottsboro trials, as well as participants in the struggle to free the defendants, including Lloyd Brown, Mary Licht and Perry Brusk. The film shows protests in different parts of the world, powerfully evoking the events. We are shown how supporters of the Scottsboro defendants mobilized by the ILD braved tear gas in Harlem and police attacks on a rally in Washington DC.

At the same time, the documentary's narration often ignores the facts that it has itself presented.

The film is deeply flawed by its efforts to discredit the role of the Communist Party in the Scottsboro defense.

The filmmakers seem unable or unwilling to acknowledge the objective role of socialists and communists in this struggle. They introduce the role of the CP in a biased fashion, saying that "help [for the defendants] came from the most unlikely of sources." They go on to accuse the ILD of fastening onto the case for "opportunistic" reasons, and they argue that the prominent role of Communists on behalf of the Scottsboro defendants harmed their cause by "enraging" a Southern jury.

The filmmakers do not suggest to whom the defendants and their families should have turned. Should they have petitioned the Republican Party, which had long since become the main tool of big business? Or the Democrats, who rested on an alliance with the Southern segregationists?

There is an unstated premise behind the claim that the activity of socialists harmed the defense, i.e., the view that victims of frame-ups have no choice but to throw themselves on the mercy of the authorities who have victimized them. To their credit, the Communists of the early 1930s rejected this outlook. Mary Licht later related her attempt to convince Mrs. Wright and Mrs. Patterson, the mothers of three of the defendants, to retain the ILD to represent their sons. "We explained that the case of the Scottsboro Nine was not a case that could be won in a Southern court room," Licht said. "We said that a mass protest movement capable of rallying millions of people from around the world was required if there was to be a stay of the execution scheduled for July 10."

The defendants' families chose the ILD over offers from the more conservative National Association for the Advancement of Colored People (NAACP) because they sensed that the ILD would wage a more aggressive struggle, both inside and outside the courtroom.

It is true that by the early 1930s the CP was deeply disoriented by the

Stalinist degeneration of the Russian Revolution and the Third International. This was the “Third Period,” in which Communist Parties throughout the world were commanded to follow an ultra-left course. But the CP was still very much a workers' organization, and it included in its ranks and among its supporters thousands of dedicated fighters for socialism and equality.

Whatever the subsequent decay and betrayals of the Communist Party, the ILD's campaign on behalf of the Scottsboro defendants was motivated by the aim of uniting and defending the working class, and it was a campaign that no other organization at that time was capable of conducting. There was nothing “unlikely” about the role of the ILD. This was the organization that had led the fight to save Sacco and Vanzetti from the electric chair during the 1920s. The ILD was able to defend the “Scottsboro Boys” because it proceeded from an understanding of the class roots of racism and its essential political function as a tool for dividing and weakening the working class.

The case was publicized on this basis, bringing it to millions of people around the world. The glare of publicity was crucial in saving the lives of the defendants. The ILD fought for and obtained a stay of execution in 1931, and this in turn made possible the appeal to the Supreme Court that resulted, in October 1932, in the overturning of the original conviction.

The legal victory in 1932 was only the beginning of the battle. A second trial took place in early 1933 in Decatur, Alabama. The ILD retained the noted New York criminal defense attorney Samuel Leibowitz. Leibowitz was not known for devotion to any political principles, but joined the campaign and was apparently moved by the case. He conducted an aggressive defense, exposing the lies of chief prosecution witness Victoria Price. In addition, Ruby Bates surfaced at the end of the trial to recant her original rape charge. Despite this, the all-white jury voted to convict once again.

The New York attorney, for all of his experience and skill, politically underestimated the forces he was up against. He was stunned by this second conviction, and lashed out at a news conference that is shown in the documentary, with language that expressed a certain bitterness and despair. Interestingly, Leibowitz went on in later decades to a career as a prominent judge and death penalty supporter in New York.

The 1933 convictions were not the end of the struggle. The prosecution's misconduct was so egregious and the verdict was so obviously flawed that the presiding judge, James Horton, threw out the conviction several months later, a principled action that ended his political career. To ensure yet another conviction, Horton was replaced by an openly biased judge for a third trial. The third round of convictions, however, was thrown out once again by the US Supreme Court in February 1935.

Finally, in 1937, faced with a stalemated pattern of trials and convictions that were repeatedly overturned on appeal, the Alabama authorities came to a plea bargain agreement that saw the charges dropped against four of the original defendants. The five others served between 6 and 17 years in prison. Of the original defendants, only Clarence Norris was able to overcome the trauma of his persecution and live to see his complete exoneration. After being paroled in 1946, Norris fled to the North. He ultimately received a pardon from Alabama Governor George Wallace in 1976.

The campaign led by the International Labor Defense had been unable to win the freedom of all of the defendants, but it clearly saved their lives. As the film acknowledges, “the united front” of the prosecution and its supporters in Alabama “began to crack” after years of struggle. The defense campaign led to two landmark Supreme Court decisions, *Powell v. Alabama*, in 1932, which affirmed the right to representation by adequate counsel in a capital case, and *Norris v. Alabama*, in 1935, which overturned the conviction because of the systematic exclusion of blacks from the jury rolls.

These decisions did not take place in a political vacuum. The justices

were forced to take into account the international campaign on behalf of the Scottsboro defendants. There is no doubt that political discussions took place at the highest levels of the government, discussions that found a reflection in the court decisions. This was, by the way, a very conservative Court, so dominated by a right-wing majority that President Franklin Roosevelt briefly and unsuccessfully tried to “pack” the Court by enlarging it in order to secure more favorable decisions on New Deal legislation.

Whatever their conservative predilections, however, the justices had to respond to fears in ruling class circles over the influence the Communist Party was gaining over advanced sections of workers and intellectuals. It is noteworthy in this regard that one of the original accusers, Ruby Bates, was won to the Communist Party. This fact is barely noted in the documentary even though the film goes on to provide a postscript on Victoria Price, who maintained her original story until her death. Bates's action certainly reflected the appeal of socialist ideals to broad layers, and the potential for uniting working people across racial and ethnic lines.

The CP's leadership of the struggle against the Scottsboro frame-up greatly increased its authority, and turned an international spotlight on Jim Crow segregation in the South at a time of enormous social and political struggle. Although the first trial took place before the mass working class radicalization of the 1930s, the Bonus March on Washington DC had already given some sign of the battles to come. And the 1935 decision came in the year following the massive general strikes in Minneapolis, Toledo and San Francisco that anticipated the rise of the industrial unions.

The landmark court decisions thus stand as testaments to the power of the popular mobilization led by the CP on behalf of the Scottsboro defendants. This mass mobilization in turn set a precedent for the civil rights movement of the 1950s and 1960s.

Despite this historical record, the Scottsboro filmmakers declare there were no “heroes” in the Scottsboro case. They claim that protests only alienated the Southern juries, but they neglect to discuss the impact of the worldwide protest on the Supreme Court rulings, whose legal consequences were such that the Alabama authorities were eventually forced to back down. This is inconsistent, to say the least.

“In the end, it was not letters, marches or editorials, but time alone that brought the [Scottsboro] affair to an end.” The “ultimate tragedy,” the narration informs us, is that the defendants were “paraded for everybody's benefit but their own.”

Thus the filmmakers seek to belittle the heroic and historic character of the Scottsboro struggle. To say that time alone brought the case to an end ignores the obvious fact that the defendants would have been executed if not for the sustained political campaign against repeated frame-up convictions. To suggest that these young men were “paraded” by those who fought to save their lives, that the role of the Communist Party in defending them was equivalent to the way in which the authorities paraded them before kangaroo courts, borders on slander.

What is behind this distortion of the Scottsboro case? It very much reflects the decline in political consciousness in recent years. The filmmakers are both 37 years old. They matured in the years of the Reagan administration, which was followed by the collapse of all the old workers organizations, an international phenomenon of which the downfall of the Stalinist bureaucracy in the USSR and Eastern Europe was the sharpest expression.

For more than a decade, the working class has not been on the scene as an organized force of resistance to the onslaught on living standards and democratic rights. These are the circumstances under which a movie on the Scottsboro struggle can glibly assert that the struggle didn't mean anything at all.

This is related as well to another example of the dismissal treatment of the history of the class struggle in the United States. A semi-official line dominates in academia and the media, claiming that the American

Communist Party was not a legitimate political organization at all. It is portrayed, in the crudest fashion, as simply a spy outfit. This crude misrepresentation of history finds expression in the filmmakers' ignorant treatment of the CP's role in the Scottsboro case.

Whether Goodman and Anker were motivated by direct political bias or, more likely, by a combination of ignorance and political cowardice as they sought to obtain the widest audience for their film, the result is, unfortunately, a rewriting of history that verges in some respects on outright falsification. This is aimed not only at the Communist Party, but at the basic conception that it is both possible and necessary for the working class to organize itself independently to defend democratic rights.

It goes without saying that the Scottsboro case is a timely subject. There have been enormous changes over the past 70 years, as the civil rights movement and broader struggles of the working class have consigned legal segregation to the past. At the same time, the deepening crisis of American and world capitalism is producing an escalating assault on democratic rights. This includes attempts to revive racism in various forms, as well as the use of the death penalty and the methods of frameup. The Scottsboro case has much to show about how to defend democratic rights, but viewers will have to reject the distortions of *Scottsboro: An American Tragedy* to learn anything from its presentation of the story.



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