

# Yale witch hunters and the decline of democratic consciousness

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On March 7, the *Yale Daily News* ran an article by columnist Amelia Nierenberg titled “Not ‘not guilty’” opposing the possibility that Yale may readmit Saifullah Khan after a jury acquitted the 25-year-old suspended student on four charges of sexual assault.

The article exposes two essential and interrelated elements of the #MeToo campaign: First, the antidemocratic legal conceptions behind the campaign itself, and second, the lack of democratic consciousness among the privileged upper-middle-class layer that has been mobilized by it.

Nierenberg writes:

“Readmitting Khan would be a grievous mistake, as using legal standards of ‘not guilty’ do not apply in a private community like Yale. Legal acquittal does not mean ‘innocence.’ It does not mean that Khan did not engage in deeply dubious sexual conduct. It just means that a jury could not find that this sexual behavior was, to their eyes, rape beyond a reasonable doubt. Fortunately, a courtroom and a college community have different standards of proof. Here, the question is not, ‘Is this person absolutely guilty?’ Instead, the question is more, ‘Has this person acted in such a way that their right to continued participation in our community is forfeit?’ To my eyes, the answer to the second question is, resoundingly, ‘Yes. His place here is forfeit.’”

She continues, explaining that Khan did not act “with the best sexual intentions” when he and his unnamed accuser had sex after a Halloween party in 2015. Nierenberg writes that “individuals who approach sex—one of the most vulnerable and intimate things we do—with such cavalier malice should be unwelcome at Yale.”

Nierenberg then attacks Khan’s lawyers: “It is unacceptable at Yale to put alleged victims on trial

rather than alleged rapists, as the defense attempted to do.”

In other words, the accused is not entitled to a defense. His lawyers should not be allowed to question and test the credibility of the accuser.

Ms. Nierenberg concludes, “This problem extends far beyond the bounds of this one man or this one night. Just because the courts have found this example of sexual misconduct one in which the participant was ‘not guilty’ does not mean it is acceptable or that Khan is innocent. He is not.”

This diatribe is, in effect, an argument for mob justice. “Not guilty” most certainly does mean “innocent.”

In the Anglo-American legal tradition, all of the rights afforded to a criminal defendant—the right to counsel, to a fair trial, to remain silent, etc.—flow from the presumption that the accused is innocent until proven guilty. In Khan’s case, the prosecution and defense selected jurors, presented evidence, including witnesses, and subjected them to examination and cross-examination to determine the truth or falsity of their testimony. The state did not meet its burden to prove, beyond a reasonable doubt, that Khan was guilty. As a result, the presumption of innocence remains intact. A verdict of “Not guilty” means that the defendant has been found innocent of the charges that had been brought against him.

Nierenberg’s argument is that Khan’s acquittal counts for nothing. In Nierenberg’s view, all that is required to ruin an individual’s life and secure his ostracism is an accusation that he “acted in such a way that their right to continued participation in our community is forfeit.” The fact that a team of State of Connecticut lawyers and investigators failed to prove Khan’s guilt is irrelevant to Judge Nierenberg. The

relevant question to determine whether social excommunication is justified is: did the accused act “with the best sexual intentions,” according to the accuser?

Following this logic, countless innocent people should have rotted in jail or been hanged by a mob on the unchallenged allegation of an accuser. By this logic, Bob Ewell in Harper Lee’s *To Kill A Mockingbird* would have been justified in saying Tom Robinson was “not ‘not guilty’” even if Atticus Finch had secured his acquittal in court. And there, wasn’t it also the case that Finch “put the victim on trial” and subjected Mayella Ewell—who lied about Robinson’s rape—to “victim blaming”?

In 1915, a mob dragged Jewish shop owner Leo Franks out of his Georgia jail cell and lynched him, concluding he was “not ‘not guilty’” and that they would not wait for the likelihood Franks would succeed in throwing out the frame-up sexual assault conviction on appeal.

That such arguments could be made by a student at one of the United States’ most prestigious colleges shows the degree to which the affluent “future leaders” of America are hostile to democracy. In the late 1960s, Yale was a center of antiwar politics, with regular teach-ins, demonstrations and pickets. In the early 1970s, Yale students held raucous protests against the prosecution of leading members of the Black Panther Party, including Bobby Seale, which took place in New Haven, Connecticut, where Yale is located.

In that period, Yale administrators and students were in the forefront of the fight to defend the Black Panther defendants, who were accused of murder. To cite a passage from the Wikipedia entry on the New Haven trial of Bobby Seale:

Yale chaplain Willian Sloane Coffin stated: "All of us conspired to bring on this tragedy by law enforcement agencies by their illegal acts against the Panthers, and the rest of us by our immoral silence in front of these acts," while Yale President Kingman Brewster Jr. issued the statement, "I personally want to say that I'm appalled and ashamed that things should have come to such a pass that I am skeptical of the ability of Black revolutionaries to achieve a fair

trial anywhere in the U.S." Brewster's generally sympathetic tone enraged many of the university's older, more conservative alumni, heightening tensions within the school community.

How times have changed! Nierenberg’s column reflects a very low level of democratic consciousness among broad sections of the upper middle class. The proponents of the #MeToo campaign exploit the fixation with gender identity in order to promote a fundamentally reactionary social and political agenda.



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