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1994

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B. Priestley

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Recommended Citation

Priestley, B., Eve was framed, *Law Text Culture*, 1, 1994, 148-150.

Available at: <http://ro.uow.edu.au/ltc/vol1/iss1/14>

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Abstract

This is an unusual book, written by an unusual person. The book is unusual because, although the author describes it as a polemic about the law, written by one indebted to feminist jurisprudence, it would strike most readers, I think, as coolly professional in a legal sense, with a degree of detached objectivity which gives it much greater force than if it conformed more obviously to its author's own description.

EVE WAS FRAMED

Bill Priestley

Helena Kennedy. *Eve Was Framed*. London: Vintage, 1993. \$15.95.

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The author is unusual because she writes with the authority that comes from having lived in and understood a number of worlds. Raised as a Catholic in a low income home in Glasgow, she made her way to the Bar in England; not, she says, "as a feminist looking for slights against women" nor "particularly conscious of women's issues at all, except ... as ... part of my general concern about what happened to working-class people when they sought justice." At the Bar, practising mainly in criminal cases, she entered fully into the life of a barrister and was successful in terms of the profession itself: she became Queen's Counsel and a member of the Council of the Bar Association. But although a fully professional barrister, she did not become the fully traditional one for two reasons: because in her circumstances, and as a woman, it was next to impossible; and because in any event she did not want to. This last matter was connected with what appears

to have been an inbuilt tendency to be a critic, and with her related acquisition of feminist theory. This led to her living in a third world. A fourth, of which I have only hazy knowledge, has been that of creativity in television productions. Her successes in this, I guess, have helped give weight to her voice in legal circles. In these days, even the most traditional and backward looking of the lawyers she describes in such detail, are likely to be impressed by celebrity in the sphere of public entertainment. The punch packed by her book comes from the combination of her obvious knowledge of what she writes about, the accumulation of detail about each aspect of her theme, and the tone she achieves in her comment. Notwithstanding her own clearly explained point of view and the unconcealed strength of her beliefs, she conveys an air of having reflected and deliberated on her subject and of being able to lay out her case in a way which leaves a final formation of opinion to the reader's own decision.

She describes in turn how the Bar is made up; its long established orthodoxies; how women barristers have been treated and how they have evolved ways of coping; the attitudes of those who take part in court proceedings towards women as parties and witnesses; domestic violence (of all kinds); rape; the killing of men by abused women; double standards in regard to prostitution; double standards in regard to women of different social class; the way blacks (and in particular black women) are treated by police, by the non black community generally, and in court; and some particular instances of 'evil' women who give rise to widely accepted stereotypes.

In every category the author demonstrates the existence of attitudes and beliefs which weigh against a woman being seen in court as she is. These attitudes and beliefs are not only those of the judges and the lawyers, but of jurors, police, minor court functionaries and people generally; they are not taken up through deliberate wrong-headedness or ill will; the writer shows how they are socially formed and conditioned, and participated in by many (if not most) women. This makes it all the harder for them to be recognised as prejudicial and unfair to individual women in their particular cases or roles.

I have had to keep to general statements in indicating the subject matter of *Eve Was Framed*. To take specific examples as illustrations would not be fair to the author: her method is to build up an overall mosaic, piece by piece, which is in the end convincing because of the weight of detail. This becomes particularly clear in her treatment of women who become locked in relationships with dominant and physically abusive men, and the explanations she gives to the question, asked with seemingly obvious reasonableness after an eventual killing of the man by the woman, "Why did she not simply leave before things got this bad?" The many factors all tending to the answer "Because as a matter of practical and psychological reality she couldn't" only emerge as clear and persuasive after the combined supply of detail in case after case, and the intermixture of references to the accumulating research

studies on the subject.

The last topic mentioned is one of many in the book where the situations discussed are recognisable as having their direct counterparts in Australia. The same comment applies to most but not all of the book's subject matter. The analogy between the traditional orthodoxy of English and Australian barristers is not exact; many of the English attitudes, although more or less replicated in Australia, are not so marked; the problems of blacks in England are on a different scale and in some ways different in kind from those perceived in Australia as concerning Aborigines.

For the most part, however, the author's demonstrations of the way stereotyping of various categories of women operates to the disadvantage of individual women in the courtroom are directly applicable to (what I have seen and learned of) the situation in Australia. This is so in regard to change also, for both in England and Australia some shifting in attitudes is taking place, and a more general recognition of the disadvantages under which women regularly suffer is slowly going on. The author recognises this (indeed seems to be a force in the process), but is fearful "that the legal system, having been rocked out of its resting place like a huge boulder, will readily fall back into position unless it is pushed all the way." She notes that at a recent meeting (she was writing in 1992) on racism in the courts, the invited audience of senior members of the profession, including judges, needed to be convinced they had any role in resolving the problem. The same reactions are evident in Australia in regard to questions both of sex and race. The hopeful sign is that senior members of the profession are *accepting* invitations to listen to discussion of the problems. Listening leads to taking part, and the simple fact of having to state a position leads to greater awareness of attitudes previously taken for granted, without examination. Since ordinary human beings yearn to be thought of as fair, the increasing male participation in discussion of this kind, with all the reservations and scepticism that typically accompany it at first, can only lead to further rocking of the boulder from its resting place.

To the growing number of lawyers whose minds are opening to the ideas dealt with in *Eve was Framed*, or who are reaching the stage where they may begin to consider such ideas, the book will provide a source of fact and reasoned argument which at the least will leave them better informed, and at best, and as I would hope, significantly wiser.

Afterword: No one should think prejudice is eradicable. It may be reduced, but as some biases are recognised, others emerge. I happen to be writing this in Glasgow, where I see in the *Daily Record* of 13 September 1994 that in the Aberdeen Sheriff Court, a Mrs Crombie, appearing for a husband charged with assaulting his wife, was told by the judge: "To hear a lady trying to justify an assault of that kind on a wife is absolutely outrageous."