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Jenny Morgan

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Priggish, Pitiless, and Punitive or Proud, Passionate, and Purposeful? Dichotomies, Sexual Harassment, and “Victim-Feminism”

Jenny Morgan

Australia’s version of the popular genre of the “victim-feminism” debate played out via a case of sexual harassment in a university college, in which two young women alleged that they had been sexually harassed by the master [chief executive officer] of their college. This event became much more than a matter of parochial interest when one of Australia’s best-known novelists decided to write a book about it. The book generated enormous media attention, though this was often very polarized and not very useful in furthering our understanding of sexual harassment. However, there was some interesting debate in the wake of the book that did manage to transcend the dichotomy of “power” versus “powerlessness.”

La version australienne du débat populaire du «féminisme de victimisation» s’est déroulée par le biais d’un cas de harcèlement sexuel dans un collège universitaire, dans lequel deux jeunes femmes ont allégué avoir été harcelées sexuellement par le maître [p. d.g.] de leur collège. Cet événement a eu une portée qui déborde largement son lieu d’origine lorsque l’une des romancières les plus connues en Australie a décidé d’écrire un livre à ce sujet. Le livre a été très médiatisé, bien que les reportages aient été souvent très polarisés et sans grande utilité pour approfondir notre compréhension du harcèlement sexuel. Il y a eu, néanmoins, dans la foulée de la publication du livre, un débat intéressant qui a réussi à transcender la dichotomie du «pouvoir» face à «l’impuissance».

Who would have thought that writing about a defining moment in (legal) feminism could have induced performance anxiety? The performance anxiety reduced when I remembered that we were asked to write about *a* defining moment rather than *the* defining moment. Thus, I did not have to establish my moment’s superior prominence, only its importance. Yet I was asked to write about an Australian moment for a Canadian journal, and, while the Canadians might be happy with *an* Australian moment, the Australians who read the anniversary issue of the *Canadian Journal of Women and the Law* might be more critical of my singular choice. Agony can take one only so far...embrace the choice and write!

The moment I have chosen is, of course, a series of moments. Among other things, we have allegations of sexual harassment, the public arrival of the “victim-feminism” debate in Australia, and the sustained engagement of feminist academics in a widely reported discussion about the role of law, feminism, a possible generational war, and much more besides. However, first, let me introduce “the story.” Towards the end of 1991, a group of five students alleged that they were sexually harassed by the master of Ormond College at a student party after the formal valedictory dinner. The college is a prestigious residential student college at one of the oldest and most ‘establishment’ universities in Australia, the University of Melbourne. Of the two students who pursued their complaint, one alleged that the master squeezed her on the breast twice while dancing with her; the other alleged that the master had invited her into his office, locked the door, admitted that he had “indecent” thoughts about her, told her she was beautiful, touched her hands and breasts, and asked for a kiss.

The students originally tried to pursue an informal complaint with the then chairman of the College Council, Sir Daryl Dawson, who was at the time a High Court judge.¹ Sir Daryl later resigned from the Council. Some three months later, the college set up a committee of three to “formalize” the complaints (of the two women who persisted). The sub-committee reported to the council that the women had made their complaints in good faith but indicated its confidence in the master. The two students then made complaints to the police. The master of the college was charged with two counts of indecent assault. In relation to the first count, he was found guilty by a magistrate. This decision was appealed, and he was acquitted, the judge saying that the complainant was “an excellent witness” but that the charge had not been proved “beyond reasonable doubt.” On the second charge, the master was acquitted, the magistrate saying that although he believed something had happened in the study he could not determine what and that the master should receive the benefit of the doubt. The two complainants had also pursued a discrimination complaint against the college with the Victorian Equal Opportunity Commission. These complaints were conciliated, and the settlement included a public apology to the two young women:

1. “the College acknowledges that the complaints could have been handled differently by the Ormond College Council and...with more sensitivity and with a greater degree of impartiality”; and that
2. “it did not have in place an adequate policy and procedure which may have enabled the complaints to be resolved within the college.”

1. The High Court of Australia is the highest federal court, the equivalent of the Supreme Court of Canada.

3. The college also accepted that “the students had acted honourably and brought the matter to the attention of the appropriate person in a discreet manner.”
4. “The College regrets any hurt and distress suffered by the students.”

The criminal proceedings were reported in the media, though largely only in Melbourne. Helen Garner, a well-known Australian novelist, on seeing a newspaper report of the proceedings, wrote a letter to the master describing the actions of the young women as “punitive,” “appallingly destructive, priggish and pitiless,” a letter that was widely circulated. Garner then proceeded to write a book about the case, *The First Stone*, which was published in March 1995.² The book persisted with this theme, arguing that the young women “over-reacted” in going to the police with their complaint.

What makes all of this a defining moment in Australian feminism? At the very least, the extraordinary volume of public response to the book seems to me to justify the description of it as a defining moment. The rest of this brief article describes some of the response generated, examines why such responses might have been provoked, and, finally, questions how useful the debate was that followed in the wake of the *The First Stone*.

The Public Response: A Media Frenzy

The book was reviewed extensively and, at least in the mainstream print media, very favourably.³ Indeed, it generated considerable publicity even before it was published. For example, an extract was featured in *The Good Weekend*,⁴ and the ABC *Four Corners* investigative journalism program ran a fifty-minute show prior to the book being published.⁵ Some 30,000 copies

2. Helen Garner, *The First Stone* (Melbourne: Picador, 1995).

3. See, for example, Peter Craven, “Fighting the Furies,” *Australian “Weekend Review”* 25–6 March 1995, 7; Morag Fraser, “A Meagre Justice,” *The Age*, 25 March 1995, Books Extra, 7; and Andrew Rutherford, “Power and Principle,” *Sunday Age Agenda*, 26 March 1995, 9.

4. *The Good Weekend*, 18 March 1995, 38. This magazine is the colour supplement that appears in both the leading Sydney broadsheet, the *Sydney Morning Herald* (SMH), and the leading Melbourne broadsheet, *The Age*. This same issue of the magazine also includes a long piece by Anne Summers, an Australian feminist decrying the failure of young women to engage with feminism, “Shockwaves at the Revolution,” and a piece by journalist David Leser, “Generational Gender Quake,” which describes the book.

5. See ABC *Four Corners*, 22 March 1995. Indeed, the filming of this program led to the early release of the book in the belief that the program had released details of the book, in particular, its publication date, to the young women in violation of an agreement with the publishers. See Jane Freeman, *SMH TV Guide*, 3 April 1995.

of the book sold in the first month of its release, and, by June 1996, 70,000 copies had been purchased.⁶ This is an enormous sale record for an Australian non-fiction⁷ book. Apart from reviews in the print media, it generated a series of articles,⁸ a mass of radio coverage, especially talk-back radio. There were two major well-attended public addresses given—one by Helen Garner, and, in response, one by Dr. Jenna Mead, an academic who was resident at the college at the time and had been the most public face of response to Garner. Both of these speeches were reported in the mainstream media, indeed, large extracts were published in the leading broadsheet newspapers.⁹ Furthermore, *The First Stone* generated at least four books in response¹⁰ and, of course, reviews in more academic journals.¹¹ It seemed,

6. See Virginia Trioli, *Generation f: Sex, Power and the Young Feminist* (Melbourne: Minerva, 1996), 14 and 166.

7. Although the extent of fictionalization became an issue of controversy. See text at notes 17–19 in this article.

8. Some of the flavour of this debate is given by the following selection of headlines (all headlines to articles are either reviewing *The First Stone* or responding to it and the ensuing commentary): “A Gross Case of Injustice,” *Herald Sun*, 17 March 1995, Editorial, 12; “Keeping Sex in Its Fit and Proper Place,” *The Age*, 25 March 1995, 17; “Sold Out,” *SMH*, 4 April 1995, 13; “Why Help the Misogynists, Helen?” *The Australian*, 29 June 1995, 11; “Helen Garner Returns Feminist Fire,” *SMH*, 9 August 1995, 1; “Speech by Garner Pours Fat on Fire of Feminism,” *SMH*, 10 August 1995, 6; “Garner Casts a Stone at Her Critics,” *The Australian*, 9 August 1995, Editorial, 10; “Garner Attacks Feminist Critics,” *The Australian*, 9 August 1995, 1; “Defiant Garner Invites More Wrath from the Wimminists” *The Age*, 10 August 1995, 12; “It’s Time for Feminism’s Egos to Call a Truce,” *SMH*, 10 August 1995, 13; “Sticks and Stones,” *The Age*, 10 August 1995; “Sex, Power and Garner,” *SMH*, 10 August 1995, editorial; “Garner Hype Goes Too Far,” *The Australian*, 17 August 1995; “Cheap Shots in Feminist Fight,” *The Australian*, 25 September 1995, 11; “Stoned or Stroked,” *SMH*, 17 July 1997, 13 (comment on *The First Stone* released in the United States); and “More Stones Thrown over Ormond Affair,” *SMH*, 3 November 1997, 10.

9. Helen Garner, “The Larry Adler Lecture 1995: The Fate of the First Stone” (1995) 7 Sydney Papers 31.

10. Trioli, *supra* note 6; Jenna Mead, ed., *Bodyjamming: Sexual Harassment, Feminism and Public Life* (Sydney: Random House, 1997); Rosamund Else-Mitchell and Naomi Flutter, eds., *Talking Up: Young Women’s Take on Feminism* (Melbourne: Spinifex Press, 1998); Kathy Bail, ed., *DIY Feminism* (Sydney: Allen and Unwin, 1996). Note that Duncanson suggests that one of the books in response, *Bodyjamming*, was sold at supermarket checkouts: Ian Duncanson, “Review Essay: Sexual Harassment and the Politics of Culture: Incident(ally) at Ormond College” (1998) 10 Australian Feminist Law Journal 149, 149–50.

11. See, for example, Duncanson, *supra* note 10 at 149; Anne Cossins, “On Stone Throwing from the Feminist Sidelines, A Critique of Helen Garner’s, *The First Stone*” (1995) 20 *Melbourne University Law Review* 528; Ann Curthoys, “Discussion: Helen Garner’s *The First Stone*” (1995) 21 *Australian Feminist Studies* 203; Kevin McDonald, “Leeching the Meanings of Human Experience” (1995) 17 *Arena Magazine* 44; see also Mark Davis, *Gangland: Cultural Elites and the New Generationalism* (Sydney: Allen and Unwin, 1997), Chapter 4, “Stoned Again.”

at the time, that everyone was reading *The First Stone* and everyone was talking about it.¹²

Why Did The First Stone Generate Such a Response?

Cassandra Pybus¹³ suggests that “[a] story of tragic conflict, spiced with sex and conspiracy, is irresistible.”¹⁴ However, Ian Duncanson points out that “[t]here is nothing in the Ormond story to whet salacious appetites; the possible *frisson* of seduction or illicit sex that might explain public fascination . . . is absent—nor did anyone emerge to pretend that the Ormond master’s alleged behaviour was an example of sexual liberation.”¹⁵ It is true that elements of conspiracy are suggested in Garner’s book. One group of conspirators might be described as “the establishment”: Garner suggests that the master was not of quite the right class for the prestigious college—he wore hush puppies not brogues¹⁶—and thus the doyens of the college, the true upper-class men, were working behind the scenes to get rid of the master. In my view, while there may have been an element of the master being “of the wrong class,” there is little or no evidence (as opposed to allusion) of such a conspiracy, and, even if there was, I doubt that this is the stuff of a media frenzy.

There may be more of an explanation in the other implied conspiracy—that of the feminists. One of the things that troubled Garner, and that became a central theme in the book, was the refusal of the two young women, and (most of) their supporters, to talk to Garner. A reader is left with the sense of an organized feminist opposition. It was later revealed that Garner had turned one character—Dr. Jenna Mead, who was a supporter of the two young women and a resident tutor at Ormond College—into some six to nine characters. This move was made, apparently on the advice of her lawyer, in order to avoid a defamation action, and only came to light when

12. See Summers, “Sold Out,” *supra* note 7: “[I]t’s been almost impossible to have a conversation with anyone this week without the question coming up: Do you think those girls overreacted?” and Else-Mitchell and Flutter, *supra* note 10, Introduction, at xiii.

13. Pybus is the author of a book revisiting a much earlier Australian cause célèbre, involving a sexual relationship between a professor of philosophy and his student, which led to his sacking (a termination that reached the High Court). In this case, the academic community united behind Sydney Sparks Orr and, indeed, the union black banned the young woman, threatening any university that enrolled her with industrial disruption. see Cassandra Pybus, *Gross Moral Turpitude: The Orr Case Reconsidered* (Melbourne: William Heinemann, 1993).

14. “Cassandra Pybus Reviews Helen Garner’s *The First Stone*” (May 1995) Australian Book Review 6, 8.

15. Duncanson, *supra* note 10 at 149, 150.

16. Garner, *supra* note 2, especially at 91, 124–32, and 136.

Mead wrote a response to Garner's public lecture.¹⁷ This multiplication of personae surely then gives the appearance of a feminist conspiracy. Although Garner denies that she thought there was a conspiracy of feminists who "fomented" the whole thing,¹⁸ as Matthew Ricketson argues, "you cannot pretend that inflating on six to nine occasions the number of women blocking your research will have no impact on how the reader perceives the case, especially when the issue has been made central to the book's narrative."¹⁹ However, even assuming that the book did send the message of a feminist conspiracy, and even though this might be attractive to conservative readers, I am not convinced that it can explain the extent of the response.

A further explanation that was proffered involves the setting of the case—the university. Kath Kenny suggests that one of the reasons why the book "captured the public imagination" was "the way in which [it] drew on powerful, archetypal images of repressed and frigid academics, hysterical, untrustworthy or irrational women, and dangerous women who 'think too much.' From Eve to Mary Wollstonecraft, women with knowledge and ideas have often been figures to mock, to fear, and to abuse."²⁰ Anne Summers makes a related suggestion.²¹ Again my own view is that this might be part of the explanation, but only a small part.

Marilyn Lake, a feminist history professor, has an intriguing suggestion, which focuses on the figure of the master. She argues that one of the reasons for the success of the book was its

vivid and sympathetic rendering of that central Australian icon, the "poor bastard" . . . [The master] ("dogged," "meek," "vulnerable") joins the long line of defeated men—Ned Kelly, Henry Lawson, Burke and Wills, the Gallipoli diggers, the men on the track, the blokes on the susso—who embody our national mythologies. Now Helen Garner recounts the deeds of a new breed of "destructive"

17. Garner writes, when describing the advice she received that she should blur Mead's identity: "I didn't invent anything, but each time that the words or actions of this woman appeared in the text, I called her by a different name, thus splitting her into half a dozen people. Months after the book came out the woman identified herself publicly, to my relief, since I had divided her with the greatest reluctance." Helen Garner, *True Stories*, cited in Matthew Ricketson, "Helen Garner's *The First Stone*: Hitchhiking on the Credibility of Other Writers," in Mead, *supra* note 10 at 91.

18. See Ricketson, *supra* note 17 at 92.

19. *Ibid.* at 92. Ricketson goes on to argue that there are many other ways in which the book presents the matter as a feminist conspiracy, suggesting that "there are at least 25 passages in the book that directly or indirectly suggest a feminist conspiracy" (at 92).

20. Kath Kenny, "Sex and Harassment: Live from the Mouth of Babes," in Bail, *supra* note 10 at 139, 147.

21. See Summers, "Sold Out," *supra* note 7.

and “pitiless” women, who conspired to “wreck a man’s life.” In Garner’s hands, the Ormond story becomes the emblematic Australian story of the “poor bastard.”²²

And, of course, I would concede that one of the reasons for the interest in the book is that the book was well-written, easy to read, absorbing, and written by one of Australia’s best-known novelists. It is clear that Garner has an outstanding capacity to observe, and evocatively describe, the minutiae of life.²³ Here I should perhaps note that I do appear in the book, under a pseudonym, like everyone else. I can thus attest to Garner’s capacity to remember and evoke an atmosphere: her description of the 1960s wall paper in the old law school building, the mess in my office, and my narrow hands are all well painted.²⁴ However, again, this is only a small part of the attraction of the book.

I think that much of its attraction is the extent to which it played into other, larger, circulating discourses. Duncanson points out that social and cultural change generates anxiety: ‘The internal debates within feminism... may be especially interesting to a large readership when they are manifestations of changes otherwise so abstract and secular that it is hard to grasp them.’²⁵ What Garner’s book did, of course, was to suggest that feminists and feminism had gone too far, a view that was certainly widely circulating in Australia at the time. *The First Stone* both articulated this position and made it more acceptable to express. Hence, as Mark Davis argues, “[i]f... *TFS* sparked a debate about running to the law and excessive social legislation, then it arguably did so, not because the book was candid,

22. Marilyn Lake, “‘Vengeance Is Mine; I will repay,’ said the Lord: The Debate over *The First Stone*” (1995) 174 *Australian Book Review* 26. Although there would be no need to explain these figures or events for an Australian audience—they are all still familiar icons to all those who grow up in Australia—I should explain here that Ned Kelly was an Australian Irish bushranger (outlaw) in the 1880s who was executed for the murder of three policeman; Henry Lawson was a journalist and poet who adopted a radical left wing position and was an alcoholic; Burke and Wills were two incompetent explorers who tried to traverse the dry Australian continent from South to North and died of thirst; Gallipoli was the site of the Allied attempt to turn the flank of the central powers in 1915—it failed after nine months with very heavy casualties, memorialized each year in Australia on ANZAC Day; the men on the track were itinerant agricultural workers looking for short-term employment in the late nineteenth century; and the blokes on the susso refers to unemployed men receiving basic sustenance in return for undertaking public works (or “outdoor relief”).

23. See also Ricketson, *supra* note 17 at 94.

24. For the record, I should also note that although I am not convinced I said, or implied, precisely what is attributed to me in *The First Stone*, Garner writes of me in warm and respectful terms: see Garner, *supra* note 2 at 146–51.

25. Duncanson, *supra* note 10 at 150.

but because it played straight into fashionable mythologies about living in a landslide of so-called 'political correctness.'"²⁶

My own personal experience of this situation came in the form of an attack on me and the course I teach in Feminist Legal Theory by a prominent Melbourne lawyer after I appeared on the *Four Corners* program noted earlier. In this program, which appeared before the release of the book, I argued that the stance that the young women had taken was legitimate and defensible. In a fourteen-page letter to the vice-chancellor (president) of Melbourne University, which was also circulated to members of the judiciary and other senior members of the legal profession, Geoffrey Gibson argued that my appearance on the program was "political" and seemed somehow inappropriate because it arose out of what I taught. Furthermore, he said,

academics from different faculties, including some professors, have told him they are afraid to speak out on matters involving "gender politics and political correctness."²⁷

In the letter, Gibson noted:

I have had occasion to look at some of the literature described as feminist jurisprudence. I have been appalled by what I have seen. I am writing to you because I would like an assurance that what I like to call my University has given due consideration at all appropriate levels to the implications of its being engaged in the teaching of courses related to women's studies, and feminist jurisprudence...in my opinion the views being propounded in the subject of feminist jurisprudence are divisive.²⁸

They are doctrinaire. They are political. They are evangelical. They are designed to lead to action and they will certainly lead to reaction.²⁹

One of the reasons I have chosen to write about *The First Stone* in this article, and one of the reasons identified by some for the book's popularity,

26. Davis, *supra* note 11 at 80.

27. Geoff Maslen, "Top Lawyer Attacks PC Movement" (1995) 5(28) Campus Review 1. See also letter to Professor David Penington, then vice-chancellor, University of Melbourne, 1 May 1995 [copy on file with author]. The letter contains a lengthy attachment analyzing some of the reading in my course. The letter and the attack on the course were also featured on the ABC's 7.30 *Report*, 22 June 1995.

28. Letter to Professor David Penington, *supra* note 27.

29. *Ibid.* also cited in (1995) 5(28) Campus Review 1 at 1 (20-6 July).

is the fact that it produces, in an Australian context, the US anti-“victim feminism” discourse.³⁰ A major theme in Garner’s book was the notion that the young women had over-reacted. Their actions were over-reactions, she argues, because they had many other options. These options included “get[ting] her mother or her friends to help her sort him out later, if she couldn’t deal with it herself at the time”;³¹ “standing up and fighting back with their own weapons of youth and quick wits”;³² “tak[ing] the responsibility of learning to handle the effects, on men, of her beauty and erotic style of self-presentation”;³³ or “asking for an acknowledgment and an apology.”³⁴ Garner’s argument appears³⁵ to suggest that by making a complaint to the police the young women were adopting the victim role, refusing to recognize their own power, being duped (probably by feminists) into only being able to define themselves as victims, and, thus, ending up incapable of looking after themselves. This argument clearly seems to underestimate the difficulties of making a report to the police—although one defines oneself as a victim to make a report of a possible crime, it requires considerable agency to do so—and, as well, considerably underplays the independent discretion of the police.

Most particularly, the book, and much of the debate afterwards, largely ignores the actions that the young women actually took prior to going to the police.³⁶ For example, in reference to the option of “dealing with it herself at the time,” it should be noted that the young woman who alleged that the master had squeezed her breast on the dance floor did state that the first time he did it she had removed his hand and placed it back on her waist.³⁷ She then asked one of her friends, who had been dancing (safely) with the master earlier to do so again. The array of more formal, though still internal to the college, attempts by the complainants to find a resolution to the matter have been noted earlier in this article. In my view, both Garner

30. See, for example, Katie Roiphe, *The Morning After: Sex, Fear and Feminism on Campus* (Boston: Little Brown and Company, 1993).

31. Garner, *supra* note 2 at 15, where Garner is quoting one of the women friends she contacted after reading about the prosecution of the master of Ormond College in the media.

32. *Ibid.* at 40.

33. *Ibid.* at 89.

34. *Ibid.* at 92.

35. I say appears because Garner’s book is not entirely univocal or unequivocal. She, for example, appears to recognize the difficulties of “dealing with it [sexual assault or harassment] herself” at least on one occasion. See her description of immobility in the face of her masseuse kissing her in the midst of a massage, *Ibid.* at 173–5.

36. These actions are described briefly in *The First Stone. Ibid.* at 29–30.

37. This was part of her testimony in the criminal proceedings excerpted in *The First Stone*. Note also when asked by the lawyer acting for the master: “Why didn’t you say, ‘Stop it! Don’t do that!’?” she replied, “I thought . . . that by removing his hand I’d indicated that.” See *Ibid.* at 27 [emphasis in the original].

and many of the conservative commentators at the time, seem to have missed the extent to which the young women were more than victims—something that many of the American commentators on “victim-feminism” also ignore.³⁸ What is even more fascinating is the extent to which Garner portrays herself as a victim—victimized by the young women’s refusal to speak to her³⁹—which is orchestrated or at least assisted by their “supporters.” I believe that this perception strengthened the attack on so-called victim-feminism in the media and made it more likely that Garner was represented as a victim of a feminist attack in much of the ensuing media debate, a theme that I shall return to later in this article.

Play of Dichotomies

What now interests me most in the whole furor is the play of oppositions, in both the book and in the response to it. The public response to the book was presented as being extraordinarily polarized. Undoubtedly, the suggestion that the young women had over-reacted by going to the police and had been priggish in doing so struck a chord of opposition in many feminist commentators, perhaps particularly in those at the universities. What was wrong with using the legal system? To the extent that the criminal law via a prosecution for indecent assault was perceived to provide a remedy, why should it not be used? Moreover, in relation to the cause of action for sexual harassment under equal opportunity law, had feminists not fought long and hard to establish such an equality-based remedy? Yet, did the public response amount to the vehement attack Garner⁴⁰ and others describe?

Anne Summers describes the talk-back radio calls to Garner as “astonishingly hostile.”⁴¹ Unfortunately, I cannot remember, and, as someone who opposed Garner, I would probably not interpret them in the same way that Garner might.⁴² Jenna Mead, for example, suggests that “to disagree with Garner isn’t an attempt at censorship—it’s called debate and it’s supposed to be what happens in the public domain.”⁴³ On the other

38. Kathryn Abrams, “Sex Wars Redux: Agency and Coercion in Feminist Legal Theory” (1995) 95 Columbia Law Review 304.

39. See Jenna Mead, “The First Stone: It’s All in the Pitch” (1995) 5(38) Campus Review 8, quoted in Cossins, *supra* note 11 at 530: “The story of Helen-as-feminist-victim shadows and repeats the one about the Master of Ormond...as feminist victim until her story becomes much bigger than his.”

40. See her Larry Adler Lecture, in (1995) 7 Sydney Papers 31–40.

41. “Sold Out,” *supra* note 10 at 13.

42. And note that I opposed Garner’s viewpoint long before she said I and other women in the university had “our heads up...[our] own arses”: “Interview with Helen Garner” (1995) 74(3) Farrago 6, 7.

43. Mead, “Introduction” in Mead, *supra* note 10 at 31.

hand, it is certainly the case that at least one feminist commentator, Cassandra Pybus, argued that once the young women refused to cooperate, the book should not have been written.⁴⁴

However, was the general media coverage really so hostile? I have noted earlier that all of the reviews in the mainstream media were very positive. As Rosemary Neill observed after the Adler lecture:

Over the past week, Helen Garner has been portrayed [in the media]...as the victim of a feminist fatwa and a feminist book burning. Yet when she gave her first comprehensive reply to her critics...the address received more local media coverage than the one [by] the Prime Minister...recently published in *Le Monde* objecting to the planned French nuclear tests in the Pacific. [And] *TFS* [*The First Stone*]...received overwhelmingly positive reviews in the mainstream media...Since its publication, it has sold 50,000 copies...and has been the subject of approving feature articles and even newspaper editorials...How is it, then, that Garner has been cast by the media as a tortured victim of a new wave of fundamentalist feminists?⁴⁵

As I have argued elsewhere,⁴⁶ the media frenzy was not particularly useful in promoting an engaged and useful debate about sexual harassment, the phenomenon, what it is, and how we might respond to it. The media clearly prefers polarization⁴⁷ and simple dichotomies.⁴⁸

44. Interview with Ramona Koval, *Radio National*, 14 April 1995. Note that an edited transcript of this interview is published in (May 1995) 170 *Australian Book Review* 9, omitting the suggestion that the book should not have been published as without their perspective it could never be fair. Garner also says that a feminist academic, Lucy Frost, argued that the story was that of the young women and should not have been told by someone else. This is a position that Garner describes as “breath-taking intellectual dishonesty,” Larry Adler Lecture, *supra* note 40 at 35.

45. Rosemary Neill, “Garner Hype Goes Too Far,” *The Australian*, 17 August 1995.

46. Jenny Morgan, “The Power of Storytelling: The Quest for a Public Discourse on Sexual Harassment” (2005) 7 *International Journal of Law and Discrimination* 5.

47. See, for example, this comment from Meaghan Morris, in responding to questions from her colleagues as to why she agreed to appear in the book *Bodyjamming*, edited by Mead, *supra* note 10: “I found the speed and virulence of the media’s reactions to Garner’s critics deeply shocking, given the evident complexity and, for those not closely involved, the absurdity of the Ormond event,” cited in Else-Michell and Flutter, *supra* note 10 at xvii.

48. Note, for example, the depiction of Jenna Mead as a feminist (the woman symbol clenched in her teeth) in combat fatigues and throwing a grenade, accompanying an article by Luke Slattery entitled, “Cheap Shots in Feminist Fight,” *The Australian*, 25 September 1995 at 11. This is the same article that contains the breathtaking claim: “Surely the availability of a legal remedy for sexual harassment, rape, assault is a basic civil right in a liberal democracy. It has little to do with contemporary feminism.”

Furthermore, I do think there were aspects of *The First Stone* that encouraged such a polarization.

I have suggested earlier that the young women, in making their allegations of sexual harassment, were doing more than just declaring themselves victims and, indeed, acting as more than puritanical and pitiless, a complexity that Garner misses. Garner asked in her public lecture, which was her first sustained response to her critics, “[why] do they [members of the feminist orthodoxy] insist on focusing the debate on only one sort of power—the institutional?”⁴⁹ I am less convinced that “the feminist orthodoxy” wanted to focus *only* on the institutional,⁵⁰ but surely the institutional context is relevant and, indeed in my view, central. Garner gave it (almost) no focus. For her, the institutional context of the alleged assault—the fact that he was the master of the college with power over bursaries, references, and so on and that they were students—almost completely disappears behind the more dominant theme of the sexual power of the two women.

I believe we can see this continued acceptance of clearly dichotomized positions in later discussions of *The First Stone*. In an interview with Jan Bowen, Garner refers to Beatrice Faust’s review of Kathy Bail’s *DIY Feminism*, which was one of the responses to Garner by young feminists. Garner says that Faust was critical of the writers in *DIY Feminism* who seemed to see feminism as “having a lot of fun, and a free sex life,”⁵¹ whereas Faust wanted them to engage with the continuing injustices in the world. Garner states: “She [Faust] made the point that people need to work within the system to change it.”⁵² Garner goes on to comment:

But no-one wants to seem themselves like that when they feel so young and free—they either just want to live a free life and take what falls between the cracks of the patriarchy, or else they see themselves manning the barricades.⁵³

This viewpoint is certainly where I think Garner has it wrong. Young women often want both. And I think this can be seen within the *DIY Feminism* text itself. In the most sustained direct response to *The First Stone* in the book,

49. Larry Adler Lecture, *supra* note 40 at 34.

50. Note that Marilyn Lake suggests that as much as Garner ignored institutional power, her opponents (and she cites Pybus and Mead) ignored “sex” altogether. Lake, *supra* note 22 at 27.

51. Jan Bowen, *Feminists Fatale* (Sydney: Harper Collins, 1998) at 46.

52. *Ibid.*

53. *Ibid.*

Kenny articulates the various contradictions and complexities. In the following quotation, Kenny describes her response to Courtney Love:

Courtney Love, with her brand of street-savvy rock, is often presented by the music industry as a role model whom young women need to emulate. And I agree, to a point... Our Courtney Love, would-be role model, is not a knowable person but a saleable image backed by megawatts of lighting and sound equipment. On stage she can throw as much shit on her audience as she damn well pleases and then, with a halo of rock and roll stardom, a fat bank account and the odd beefy bouncer, insulate herself from most of the sexist crap that comes back.

Love's bruised, battered and ballsy persona says something to me and many other young women... about the conflicting feelings of being a battered victim and a god or goddess all at once... Love performs these emotions for us from the relatively safe distance of Starland. In "real life," it takes a certain amount of gutsiness to parade down the street in the torn baby-doll look she favours—you soon notice the rising interest you receive in catcalls and plain old abuse, and you'd better be feeling strong on the inside.⁵⁴

Undoubtedly, the most interesting things written about *The First Stone* were those comments that analyzed the play of dichotomies in the book and/or the aftermath and explored ways to avoid their simplistic allure. In addition to Kenny's article, some of Marilyn Lake's observations on *The First Stone* were particularly insightful. Lake decries the "relentlessly simplifying binary logic" used by both "sides" and argues:

We need to think about the ways in which sex and power are constructed and given meaning in terms of each other. We need to think about how and why power is sexualized and sex rendered political. Why does the Master's alleged breach of obligation—his exercise of power—take a sexual form and why is that form so objectionable to women students? Why *does* a beautiful young woman feel herself to be a "worthless sex object"? Garner cannot explain why so many women still experience sexual relationships and

54. Kath Kenny, "Sex and Harassment: Live from the Mouth of Babes," in Bail, *supra* note 10 at 149.

encounters as degrading and humiliating, because she wants to deny that this is the case. Instead of repudiating the women's subjective testimony as nonsense, our intellectual energies might be better spent defining the social, discursive and institutional circumstances conducive to women experiencing themselves as free and joyful sexual subjects—circumstances seemingly not present at Ormond in 1992.⁵⁵

However, this exploration will apparently need to wait for another defining moment in Australian feminism.

55. Lake, *supra* note 22 at 27.