A Response to Justice Peter Heerey

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I) Background to the Debate

In a paper published in an earlier volume of this journal,[1] Justice Peter Heerey commented on the case of *Louth v Diprose*[2] and provided a critique of my own analysis of that case published in the *Melbourne University Law Review* in 1994.[3] Such an exchange of views is to be welcomed. Constructive dialogue and debate between members of the judiciary and feminist legal academics is a sign that we have something worth saying to each other and that we are willing to talk. In this paper I would like to continue the dialogue by providing a response to Justice Heerey's critique.

In 'Storytelling and the Law: A Case Study of *Louth v Diprose*'[4], I drew on a body of critical theoretical literature known as 'Legal Storytelling'[5] in order to analyse the case of *Louth v Diprose*. The narrow legal issue in that case was whether Mary Louth was entitled to a house which Louis Diprose had purchased and put in her name. The trial judge ordered that Louth transfer the house to Diprose on the basis that it was unconscionable for her to keep it.[6] His Honour held that Diprose was emotionally dependent on Louth[7] and that she manipulated him into buying the house

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1 Peter Heerey, 'Truth, Lies and Stereotype: Stories of Mary and Louis' (1997) 1 *Newcastle Law Review* 1 ('Truth, Lies and Stereotype').

2 (1990) 54 SASR 438 (King CJ), (1990) 54 SASR 450 (Full Court of the Supreme Court of South Australia), (1992) 175 CLR 621 (High Court).

3 Lisa Sarmas, 'Storytelling and the Law: A Case Study of *Louth v Diprose*' (1994) 19 *Melbourne University Law Review* 701 ('Storytelling and the Law')

4 *Ibid.*

5 For an overview of this body of thought, see 'Storytelling and the Law' 701-703.

6 *Diprose v Louth (No 1)* (1990) 54 SASR 438, 449 (King CJ).

7 *Diprose v Louth (No 1)* at 447.

for her.[8] This finding was upheld by majorities in the South Australian Full Court[9] and the High Court respectively.[10]

An underlying assumption of the theoretical methodology I adopted in the article was that facts, including 'the facts' as told by judges, are constructed, rather than absolute, and that judicial adjudication is about the 'adoption of a particular story in order to resolve a case.'[11] I was concerned that the stories often told by judges are not arbitrary but are, rather, 'stock stories'; that is, stories that reinforce dominant discourses and exclude 'outsiders'. I analysed the case of *Louth v Diprose* from this perspective, using a dialogue format to represent various versions of the 'facts of the case'.

Here is a sample of the 'findings of fact' by the trial judge compared to the findings of the minority dissenting judges on appeal, extracted from the article.[12]

Trial Judge:

> "The relationship which existed between the parties 'placed [Diprose] in a position of emotional dependence upon [Louth] and gave her a position of great influence on his actions and decisions.
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> Diprose was a 'strange and romantic character'. He wrote 'love poems [which] were tender, often sentimental, sometimes passionate, very often on the theme of unrequited love'. He 'immediately fell very much in love' with Louth. He 'had a deep emotional attachment to her and desired only to have her love and to marry her'. '[H]e was utterly vulnerable by reason of his infatuation.' '[H]e had had unhappy domestic experiences and was anxious to lavish love and devotion upon a woman'. He 'tried to persuade her to remain in Launceston and proposed marriage'. He helped her with her living expenses, brought her foodstuffs, paid for her children's school fees, brought her expensive gifts and eventually bought her a house; all this to a 'woman who did not return his love' and when he 'had only limited assets and had to work as an employee solicitor for a living' with 'three children in his care' who had 'natural claims upon his bounty'.
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> Louth's attitude towards Diprose was 'quite indifferent', 'offhand' and 'niggardly'. She 'would leave unpaid household bills lying around', and she 'tolerated his visits and his company because of the material advantages which resulted. The result of this toleration was to feed the flames of ...[Diprose's] passion and to keep alive his hopes that [Louth] would relent and that his

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8 *Diprose v Louth (No 1)* 448.

9 *Diprose v Louth (No 2)* (1990) 54 SASR 450 (Jacobs ACJ and Legoe J, Matheson J dissenting).

10 *Louth v Diprose* (1992) 175 CLR 621 (Mason CJ, Brennan, Deane, Dawson, Gaudron and McHugh JJ, Toohey J dissenting).

11 See Kim Lane Scheppele, 'Forward: Telling Stories' (1989) 87 *Michigan Law Review* 2073, 2075.

12 In the article the findings of the trial judge were presented in paraphrased form by a fictional student named Andrew Chieve, and a combination of the findings of each of the dissenting judges in the Supreme Court and High Court appeals was presented by another fictional student, Penny Edant. The quotation marks refer to direct quotes from the relevant judgments.

devotion would be requited.' She 'deliberately manufactured the atmosphere of crisis [with respect to her living arrangements] in order to influence [Diprose] to provide the money for the house...[S]he played upon his love and concern for her by the suicide threats...then refused offers of assistance short of full ownership of the house knowing that his emotional dependence upon her was such as to lead inexorably to the gratification of her unexpressed wish to have him buy the house for her...[I]t was a process of manipulation to which he was utterly vulnerable by reason of his infatuation."[13]

Dissenting judges on appeal:

"Diprose was a 48 year old solicitor who had been married and divorced twice. He was under no misapprehensions and knew exactly what he was doing. He attended to the conveyancing himself and had ready access to colleagues for legal advice. It was his idea to buy the house and to send Louth's children to private schools. He knew there was no urgent need for Louth to leave the house, whatever she, herself may have said to him.

'[T]he relationship was one [Diprose] was prepared to accept and to foster over about seven years...it was one which [Diprose] must have seen as having something to offer him...[He] continued as a constant visitor, involved in various aspects of [Louth's] domestic life....[T]he children of the two families seem to have had a close relationship'.

Louth did not promise him anything in return and gave him no encouragement. She turned to him for help when she was depressed. She suffered from recurring depression caused by the breakdown of her marriage and the memory of a brutal rape in 1968 in which she thought she was going to be murdered. During 12 years of marriage she had moved her home on many occasions. She had had the removal of a cancerous appendix and a complete hysterectomy. She had made several suicide attempts. She had been caught for shoplifting but was not convicted on psychiatric grounds. Diprose knew all this history.

Diprose was infatuated and emotionally involved with Louth, but he was not emotionally dependent on her and she did not have great influence over his actions and decisions. 'In many respects [Louth] depended on [Diprose]. In many respects he had a "great influence on [her] actions and decisions"'. As a result, Diprose did not prove the necessary relationship needed to make out case of unconscionable conduct. He 'failed to make good the proposition that his relationship with... [Louth] placed him in some special situation of disadvantage....[and that he was] emotionally dependent upon her in any relevant legal sense'."[14]

My own reading of the trial transcript revealed yet other possible versions of 'the facts' of the case. It revealed the possibility that Diprose may not have been the benign romantic suitor that both the trial judge *and* the dissenting judges made him out to be. The transcript lent itself to the suggestion that Diprose may have been subjecting Louth to unwanted

[13] See 'Storytelling and the Law' at 712-713.
[14] 'Storytelling and the Law' 714.

sexual advances, and that the relationship between them was not free of verbal and physical violence.[15] Further, my own reading suggested that the economic power relationship between the parties was much more in Diprose's favour than *any* of the judges suggested.

By comparing, through a fictional classroom dialogue, these possible (and very different) readings of 'what happened' in the case, I hoped to demonstrate that the 'fact finding' process (which, I argued, is crucial to the outcome of any case) is far from objective, and further, that it is often based on 'stock stories' or dominant stereotypes. I concluded that:

> "...In the story told by the trial judge and echoed by the majority judges on appeal, Diprose is depicted as the classic romantic fool who is powerless in the face of love.... Louth, on the other hand, is portrayed as the archetype 'damned whore'.... *She* has power over *him*.... When the powerful image of the 'damned whore' is juxtaposed with that of the 'love-struck knight in shining armour', we know immediately that Louth must lose the case.
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> A somewhat different story is told by the [dissenting] judges. For them, Louth is less suspect.... In fact, she is more of the victim-type, a 'damsel in distress'. She deserves our pity.... The ... story continues: Mary Louth, victim, is fortunate to have met a very kindly and generous gentleman, Louis Diprose. A romantic man of limited assets, he showered her with gifts. But he is not entitled to take those gifts back just because he regrets giving them. He is a grown professional man who knew what he was doing.... Louth and he were on relatively *equal* terms.
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> This story is more subtle.... But the stereotype is reversed rather than eliminated. She turns from undeserving whore into pitiful victim, a status which makes it acceptable for the minority to find that she should keep the house in the circumstances.... However, *both* of the stories told in the case are stock stories. Whether it's whore or victim, kindly gentleman or romantic fool, these images not only fail to capture the complex nature of human subjectivity, but they also reinforce dominant stereotypes about women, particularly poor women, and about men.
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> Moreover the ... emphasis on Diprose's 'limited' assets is farcical given his position of relative social and economic privilege compared with Louth's position as social security recipient. Both narratives render gender and social class irrelevant while at the same time reproducing stereotypes based on those very categories."[16]

I then raised a number of strategic issues about how lawyers might conduct their cases in ways that would be most beneficial to 'outsider' clients like Mary Louth. I offered no definitive conclusion, but suggested that it was important for advocates to ensure that the client's voice is heard and listened to in the conduct of the litigation.

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[15] See 'Storytelling and the Law' 715-718. This reading of the facts is presented by another fictional student, Tran Scripts.

[16] See 'Storytelling and the Law' 718-720.

II) Critique and Response

In his critique of my article Justice Heerey makes five main criticisms. First, throughout his paper, he implicitly criticises my questioning the 'findings of fact' in the case. Second, his Honour suggests that my article 'ignores the forensic constraints which necessarily restricted the way the case was presented to, and therefore decided by, the various judges at first instance and on the appeals.'[17] Third, my analysis of the class disparity between the parties is criticised.[18] Fourth, his Honour accuses me of 'replacing one alleged stereotype with another;[19] and fifth, his Honour is critical of 'using litigation as a weapon for the correction of perceived injustice to classes within a society rather than justice according to law between the parties in a particular case'[20]-something, which he suggests, I do in my article. Below, I respond to these criticisms in turn.

a) Questioning the Facts of *Louth v Diprose*

Justice Heerey implicitly criticises my article for questioning the objectivity of any fact-finding process, and more specifically, for questioning the findings of fact in *Louth v Diprose*. In his paper, his Honour says that 'without facts-true, half-true or false-there could be no stories.'[21] He then gives the following example:

> "Two motor cars, one driven by Catherine and the other by Jacques, collide at an intersection. Each driver's story is that the green traffic light was showing when she or he entered the intersection. A case is brought. The judge wasn't at the accident. Clearly enough there was a collision and it occurred as a result of (or mainly as a result of) a "fact" - one of the drivers drove into the intersection against a red light. But which one?"[22]

His Honour continues:

> "That fact is a pre-existing and finite event in space and time which the judge has to "find".... Catherine and Jacques each has a story to tell....Then there is the storytelling of lawyer to judge....Then the judge tells a story, in his or her reasons for judgment....Since there would not be a case at all unless the parties disagreed, the judge will inevitably have to accept some things and reject others....The litigation story presents as truth and not fiction."[23]

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17 'Truth, Lies and Stereotype' at 1-2.
18 'Truth, Lies and Stereotype' 26-28.
19 'Truth, Lies and Stereotype' 2.
20 *Ibid.*
21 'Truth, Lies and Stereotype' 16.
22 *Ibid.*
23 'Truth, Lies and Stereotype' 16-17.

Surely, 'common sense' would dictate that this simple, straightforward and self-evident example (and commentary) is beyond argument, beyond theoretical critique. Facts are facts. Truth is not fiction. End of story. Or is it?

If we scratch the surface of the 'Catherine and Jacques have an accident' narrative, we find that what is left out is the whole *social context* in which this 'legal event' occurs and the interpretive and *reconstructive* role of the judge as 'fact finder'.

His Honour simply asserts that 'a case is brought', but surely there is more to the story than this. In their article on 'The Emergence and Transformation of Disputes'[24], Felstiner, Abel and Sarat analyse the complex processes that must take place even before an injury is transformed into a legal dispute. How, for example, did Catherine and Jacques come to blame each other for the accident? What knowledge of their legal rights did each of them have? What led them to decide to go through with the court case rather than settle the matter out of court or even let the matter go completely? Did they both have the same resources in terms of ready access to legal advice (His Honour assumes they are both legally represented)? Such issues are important because they determine whether 'a case is brought' in the first place, and an analysis of *these* issues requires an examination of the wider context in which the event takes place.

Further, his Honour's example assumes that once Catherine and Jacques get to court, they will be equal before it. But this assumption is problematic. It hardly needs saying that any differences in access to legal resources between the parties will affect their running of the case.

There is also the issue of what *sort* of story the judge tells in his or her judgment, which is partly determined by which party the judge believes or finds convincing. Justice Heerey states that in the telling of this story 'the judge will inevitably have to accept some things [that the parties and their lawyers say] and reject others'[25]. He elaborates on how the judge deals with competing stories. He states that:

> "While litigation involves storytelling....the competing stories are dealt with by the judge in a way that is dictated by the law and the judging craft. [An appropriate] metaphor [for what the judge does] is the mosaic made up of different pieces. Often the judgment may reflect entirely the successful party's picture as presented, but sometimes...the judge's mosaic takes pieces from both and adds some of his or her own."[26]

What this analysis ignores is the fact that 'law' and the 'judging craft' do not exist in a vacuum. They exist in the social world and are constituted by it. The dominant discourses or stock stories in that world will invariably impact on the 'law' and the 'judging craft'. To take just one

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[24] William Felstiner, Richard Abel and Austin Sarat, 'The Emergence and Transformation of Disputes: Naming, Blaming, Claiming...' (1981) 15 *Law and Society Review* 631.

[25] Heerey, 'Truth Lies and Stereotype' at 17.

[26] *Id*, 17-18.

example, Catherine and Jacques' gender, race and class (and the judge's, for that matter) may well have an effect on the sort of story the judge tells.

Hence we see that even the apparently straightforward and simple narrative about Catherine and Jacques takes place in a *context*, and that context is there before, during and after the trial; it is also in the judge's head. It is integral to the whole process.

b) Ignoring the Forensic Constraints Which Applied to the Case

Justice Heerey claims that my analysis ignored the forensic constraints which necessarily restricted the way the case was presented to, and decided by, the various judges. The forensic constraints to which his Honour refers in his paper are the rules relating to court procedure and relevant evidence.

Once again referring to the Catherine and Jacques example, Justice Heerey states that:

> "The legal system imposes constraints on the way their stories are told. Most of these constraints would strike even ardent reformers as reasonable....The story has to be told in a formal setting, in a courtroom, on oath or affirmation, and in the witness box so that the teller is isolated from friends and supporters."[27]

In a footnote his Honour qualifies this statement by conceding that:

> "These procedural rules involve some Western cultural assumptions. By contrast, in Aboriginal land claims in Australia the judge conducts hearings "out in the bush", with members of the claimant group conferring with and prompting each other as the evidence is given."[28]

He nonetheless asserts that "...Catherine and Jacques are assumed to have come from a Western background - as did Mary and Louis."[29]

The acknowledgment in the footnote that these procedural rules involve some Western cultural assumptions is revealing. It suggests that there may be workable alternatives to these procedures and that some people may not view them as 'reasonable' at all. In fact, even those who come from within a Western cultural tradition may find them *un*reasonable or inappropriate. There is a considerable body of work, written from *within* a western cultural tradition, which is critical of the formalised and adversarial court procedures followed in jurisdictions like Australia.[30] The mere existence of such critique is at the very least an indication that this

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[27] 'Truth, Lies and Stereotype' 16-17.

[28] 'Truth, Lies and Stereotype' at 1-2 (footnote 59).

[29] *Ibid.*

[30] See, eg Ellen Sward, 'Values, Ideology, and the Evolution of the Adversary System' (1989) 64 *Indiana Law Journal* 301.

issue is clearly not beyond question.

On the question of relevant evidence, his Honour refers to a number of 'complaints' made in my article regarding the conduct of the case of *Louth v Diprose*. Firstly, reference is made to my concern about Mary Louth's counsel being shut off by the trial judge when counsel asked her to expand on her current work as a nurse. Justice Heerey remarks that 'Mary's employment experience in 1990 would seem to be of no obvious help or relevance in resolving the issues of truth or falsity in the case.'[31]

Reference is also made to my concern that none of the judges who heard the case described certain incidents and events which may have occurred, as sexual harassment. His Honour notes that the 'undisputed factual history...[o]bjectively considered,...does not look like a story of a harassed woman unable to control unwanted advances by a harasser.'[32] His Honour nevertheless continues: 'How would such evidence of sexual harassment and/or violence help Mary's case?'[33]

By restricting the information that may be presented in court to a narrow range of 'legally relevant' material, rules of evidence may well have a profound impact on the court's construction of both 'what happened' in the case, and the character of the parties involved.[34]

In *Louth v Diprose*, had the trial judge obtained a broader picture of who Mary Louth was and what she did (ie that she had trained as a nurse and had resumed work in that area), then it may have been more difficult for him to have depicted her in the one-dimensional and demonised way in which he did. And the trial judge's construction of Mary Louth's character *did* have a lot to do with the eventual outcome of the case, because the trial judge found her an unreliable witness and preferred Diprose's evidence over her account of what happened.

With regard to the 'undisputed factual history' to which his Honour refers, it is worth noting that part of the *disputed* factual history of this case included Diprose making unwanted sexual advances towards Mary Louth; Mary Louth approaching the police about him; Diprose being violent towards Mary Louth; and Diprose threatening to burn the house down.[35] If what is supposedly 'undisputed' is presented in a vacuum and without a context, then the picture which emerges may be very partial and incomplete. When more detail is provided then the whole flavour of what that 'factual history' looks like may well change.

Further, evidence of any sexual harassment and/or violence may well have helped Mary Louth's case because it demonstrates the nature of the

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31 'Truth, Lies and Stereotype' at 23.

32 *Ibid.*

33 'Truth, Lies and Stereotype' at 24.

34 For interesting accounts of the ways that rules of evidence restrict the telling of clients' stories in court, see, eg Clark Cunningham, 'A Tale of Two Clients: Thinking about Law as Language' (1989) 87 *Michigan Law Review* 2459; Joseph Singer, 'Persuasion' (1989) 87 *Michigan Law Review* 2442; Anthony Alfieri, 'Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative' (1991) 100 *Yale Law Journal* 2107.

35 See 'Storytelling and the Law' at 715-16 (citing trial transcript).

gendered power relationship between her and the male plaintiff. Sexual harassment and domestic violence are harms committed against women in individual relationships. But they are part of, and reflect, a social context which is gendered. When looked at *in* context, issues of sexual harassment and violence are relevant to the 'legal' issue in the case, that is, the application of the doctrine of unconscionable dealing, because that doctrine envisages some sort of power relationship between the parties through the requirement that one party be at a 'special disadvantage' vis a vis the other. If the male plaintiff possessed gendered power over Mary Louth, then it is more difficult to see how the court could reach a conclusion that *he* was at a 'disadvantage' vis a vis *her*.

c) The Class Disparity Between the Parties to the Case

Justice Heerey also argues that my 'attempt to reconstruct *Louth v Diprose* in terms of class struggle, with Mary "at the bottom of the class hierarchy", is not convincing.'[36] Although his Honour admits that Mary Louth 'had had a tough life' and 'was down on her luck'[37], he brings up the fact (now relevant) that she 'had qualified as a nurse'[38] to conclude that 'the stories of Mary and Louis do not present as a meeting across class boundaries'[39]. He argues that '[t]he retention of social class despite financial decline is a recognisable phenomenon, perhaps even a stock story'.[40]

A fair assessment of the relative socio-economic positions of the parties to the case clearly indicates that Diprose had more economic power than Louth. He was a lawyer who owned an aeroplane, two cars and other considerable assets.[41] When Louth separated from her husband she was left in bad financial circumstances. She was a social security recipient for some time (including the *relevant* time of the transaction), and she was bringing up children on her own. She had no substantial assets. The trial judge himself referred to her as "poor" several times in his judgment.[42]

Furthermore, there is now a large body of research that shows that female headed households, in which women are solely responsible for the care of their children, are 'very likely to be living in poverty'.[43] The phrase 'the feminisation of poverty' has been coined to describe this widely recognised problem. The position in which Mary Louth found herself

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[36] 'Truth, Lies and Stereotype' at 26.
[37] *Ibid.*
[38] *Ibid.*
[39] *Ibid.*
[40] 'Truth, Lies and Stereotype' at 28.
[41] See 'Storytelling and the Law' at 718.
[42] See *Diprose v Louth* (1990) 54 SASR 438, 439-442 (King CJ).
[43] See Regina Graycar and Jenny Morgan, *The Hidden Gender of Law* The Federation Press, 1990, 69-71 (and the studies cited therein).

was not merely an instance of an individual woman being 'down on her luck'. Rather, her experience was part of this widespread phenomenon, in which poverty is based on gender, as well as class. Gender and class intersect in ways that exacerbate the disadvantage.

After dismissing the argument that social class played a role in the power relationship between the parties, Justice Heerey addresses the fact that Diprose clearly had more money than Louth. His Honour asks: 'how did Louis having more money than Mary give him power over her[?][44] He continues:

> "Power involves the ability to have others act as the holder of the power desires....Just what was it that Louis was able to get Mary to do, or not do, because he had more money than her? Nothing, it is suggested.... She had the choice of putting up with the annoyance he caused her or getting rid of him, but then, ceasing to receive the material benefits he provided."[45]

But isn't the ability to provide or withdraw material benefits to another, especially if that other is living in poverty, one of the most obvious and explicit ways of wielding power over that person? The liberal individualist conception of 'choice' invoked by Justice Heerey ignores the problematic nature of 'choice' in this context.

d) Replacing one alleged stereotype with another

Justice Heerey also suggests that in my article I replaced one alleged stereotype with another.[46] This claim is not explicitly further elaborated, so it is difficult know precisely what is meant. If the suggestion is that by attributing gender and class identities to the parties I thereby engaged in stereotyping, I can only reiterate my earlier point that it is essential that we do not ignore the social context in which people live and in which legal events and cases take place.

Acknowledging this context means acknowledging the fact that people come before the courts as already marked by gender, class, race and other such identities. To acknowledge that such characteristics are social and that they have social consequences does not necessarily involve stereotyping. To ignore these factors in the name of a hollow liberal individualism merely serves to reinforce existing structural inequalities.

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[44] 'Truth, Lies and Stereotype' at 28.
[45] *Ibid.*
[46] 'Truth, Lies and Stereotype' at 2.

e) Using Litigation as a Weapon for the Correction of Perceived Injustice to Classes Within a Society Rather Than Justice According to Law Between the Parties in a Particular Case.

In the final section of his paper, titled 'The Ethics of Reconstruction', Justice Heerey is troubled by the strategic questions I raise in my article when I ask:

> "If a different strategy was employed, if Louth's story was told differently, could this have influenced or changed the official court stories which prevailed? If so, what story would prove most effective from Louth's point of view?"[47]

Justice Heerey questions the ethics of what he considers to be my approach. He states that:

> "...there are constraints on the lawyer's retelling the story (and assisting witnesses in telling it)....[T]he lawyer does not manufacture facts or suggest to the client that the existence of such and such a fact will help the client's case and that the client should give evidence of its existence....[B]reaches [of this rule] would be very destructive of any system of justice and certainly of any legitimate role for the legal profession."[48]

His Honour continues:

> "...it is the client's case. The client as an individual seeks the professional skill and integrity of the lawyer....The client is entitled to be treated as an individual whose story deserves attention and skilful presentation. The client's supposed ignorance of wider political and sociological issues should not result in him or her being patronised and treated as guerilla - fodder."[49]

These accusations completely misrepresent the position taken in my article, and they miss the central theoretical point I make about narrative and storytelling. My point throughout was that the telling of facts, the presentation of a case, is *always* going to be an interpretive and reconstructive process. It has to be because we can never objectively represent the past. This means that there are a number of ways of *legitimately* presenting 'the facts' of a case. This is exactly what lawyers mean when they talk of 'trial strategy'.

Further, if his Honour is suggesting that in my article I 'supposed' Mary Louth to be ignorant of wider social and political issues or that I advocated that outsider clients like her be treated as 'guerilla-fodder', then again, it must be said that he completely misses the point. These

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[47] See 'Storytelling and the Law' at 724.
[48] 'Truth, Lies and Stereotype' at 29-31.
[49] 'Truth, Lies and Stereotype' at 31.

accusations serve to mask the real message behind his Honour's comments: that critical academic debate about the facts of specific legal cases is somehow illegitimate.

The legitimacy, indeed the *necessity* for such debate is made clear by the fact that it has got us talking. To be sure, the stakes are high. As Margaret Thornton has put it:

> "Neutrality is a central value of law, legality and adjudication. Partiality, bias and vested interests detract from the authority of law, or delegitimate it altogether. Feminist legal scholarship has unequivocally demonstrated that claims to neutrality, objectivity and universality are spurious."[50]

[50] Margaret Thornton, 'Discord in the Legal Academy: The Case of the Feminist Scholar' (1994) 3 *Australian Feminist Law Journal* 53 (footnote omitted).