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Prima Facie

Suzie Miller

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*For my mum,
Elaine Doreen Miller*

Writer's Note

Suzie Miller

Prima Facie - A (Latin) legal term meaning: *On the face of it.*

The idea behind *Prima Facie* has been playing out in my mind since my law school days, years before I was a playwright. It was there waiting for me to find the courage to write, and for the right social environment to provide a space for it. In light of the #MeToo movement, the play, *Prima Facie*, was finally able to be realised. Years of practising as a human rights and criminal defence lawyer increased my feminist questioning and interrogation of the legal system, because while I firmly believe that 'innocent until proven guilty' is the bedrock of human rights, it always felt that its application in sexual assault cases served to undermine rather than to uphold any real fairness.

I note that the play comes with a trigger warning for those reading it or attending a production of the play. Including details of the sexual assault at the heart of the story allows us to then see how the law reframes a woman's experience of a horrific crime against the person.

The legal system is shaped by the male experience, its cases decided by generations of male judges and its statutes legislated by generations of male politicians, against a backdrop where women were once categorised as the property of their husbands, brothers and fathers. So sexual assault law does not fit the lived experience of women. Innocence/guilt focuses on whether the (usually) male person reasonably believed consent was or was not

provided by the (usually) female person. It has always been the victims, (usually) women, who are 'on trial', cross-examined and made to relive their humiliating experience, and then doubted as to their motives for reporting a hideous crime against their person. Yet significantly, research has shown that women giving evidence in sexual assault cases are just not believed! Even by other women.

To report the crime, endure all the court delays, show up for a prosecution, be cross-examined and publicly written about in the media takes extraordinary courage. It is not a short process either, and ironically indicates an immense faith that the system will be fair. But does the legal system deserve this faith? Or does it silence women further? How can society and therefore the law evolve to reform this area of law?

When *Prima Facie* was first staged at the Griffin Theatre - Australia's playwrights' theatre, a night was sold specially to women in the law. The audience was made up of women judges, QCs, SCs, barristers, solicitors and female politicians from both state and federal parliaments. All of us women. As one of the creatives I sat on stage afterwards. What followed was a long and exciting discussion where played out before me was an authentic intersection between art and social change. Later that week members of the Law Reform Commission also attended a weekday matinee. Later that week we also had a few boys' schools attend in groups accompanied by teachers and parents. The compassion and curiosity expressed afterwards was a beacon of hope for future generations.

The protagonist of *Prima Facie*, Tessa Ensler, is a young-blood criminal barrister addicted to the game of law, bursting with social justice and fighting what she believes is the good fight.

She might not have gone to all the right schools, or come from the right socioeconomic family background, but she graduated top of her law school year with every major law firm in hot pursuit, all offering her the universe to come work for them. Yet Tessa chooses to fight in the trenches with the most challenging cases, always arguing for the defence, wary of the police and their tricks, and playing fairly and squarely within the rules of the law.

The system of law means you have to believe that the rules are sacrosanct and that your own role is purely a role within a bigger game. What happens when you rise through the ranks, playing by those rules, and you start to realise that some of the rules of the game are actually bendable, breakable? Not always fair?

Tessa is a star player now, but her careful treading within the discretionary parts of this world starts to feel dangerous, and she is caught between her life and her belief system. Suddenly thrust into a situation where she tests the system for herself, Tessa finds that the walls of this trusted watertight structure start to crumble, and there is nothing safe to cling to. Yet for Tessa, seeing the law for what it is, an imperfect human construct, constantly evolving within social changes, frees her to find her voice and call us all to action.

When this play was awarded the prestigious national award, the Griffin Theatre Award in 2018 (and then the prestigious Australian Writers' Guild Overall Major Award as well as the Australian Writers' Guild Drama Award and the David Williamson Award in 2020), it proved to me that women's stories do matter.

The following people have each significantly contributed to the UK edition of *Prima Facie*; I offer them tremendous gratitude: Her Honour Judge Angela Rafferty; His Honour Judge Murray Shanks; Danielle Manson; Kate Parker,

Monica Bhogal and everyone at The Schools Consent Project; Detective Superintendent Clair Kelland; Julia Kreitman, Tanya Tillet and the team at The Agency London; my agent Zilla Turner at HLA Australia; and Matt Applewhite and Sarah Liisa Wilkinson at Nick Hern Books.

I would like to offer my deep personal thanks to producer James Bierman, director Justin Martin and actor Jodie Comer; and to the original team of Lee Lewis and Sheridan Harbridge.

My thanks are also due to my wonderful family, Robert, Gabriel & Sasha Beech-Jones who never stop supporting me and light up excitedly at every new play; and to my beloved mother Elaine Doreen Miller, who I lost just prior to this play's premiere performance and who was the original inspiration for living a vital, vivid and big life.

Lastly, thanks also to the women who share their stories, and those who write women's stories, in particular I'd like to acknowledge the brilliant Eve Ensler (aka V), a woman playwright, a human rights advocate, and an inspiration.

Prima Facie was first produced by Griffin Theatre Company at the SBW Stables Theatre, Sydney, Australia, in May 2019, directed by Lee Lewis with Sheridan Harbridge as Tessa.

This version of the play was first produced by Empire Street Productions at the Harold Pinter Theatre, London, on 15 April 2022, with the following cast and creative team:

TESSA	Jodie Comer
<i>Writer</i>	Suzie Miller
<i>Director</i>	Justin Martin
<i>Set and Costume Designer</i>	Miriam Buether
<i>Lighting Designer</i>	Natasha Chivers
<i>Sound Designers</i>	Ben and Max Ringham

Composer
Video

Voice and Dialect Coach

Rebecca Lucy Taylor
Willie Williams
for Treatment Studio
Kate Godfrey

Characters

TESSA, *thirties*

Note on Text

[words in brackets, and in italics, can be spoken or acted]

words in ***bold italics*** are stage directions

... a trailing thought

- a truncated line

/ an interruption

The paragraphing and line spacing express how the lines can be delivered in timing and tone.

This text went to press before the end of rehearsals and so may differ slightly from the play as performed.