

Ghislaine Maxwell and the presumption of innocence

By Brendan O'Neill (editor of Spiked) in The Catholic Herald

[July 13, 2020 at 1:11 pm](#)





Brendan O'Neill

“Is the accuser always holy now?”

John Proctor’s words in Arthur Miller’s play *The Crucible* should ring in our ears in 2020. We have found ourselves in a world in which accusation too often equals guilt. Accusers have become sacred beings, their pointed finger of condemnation often being enough to destroy a person’s career or a person’s life.

In the MeToo era, actors and others have found themselves cast out of polite society on the basis of accusation alone. Sometimes the accusations of sexual misconduct have appeared in anonymous social-media posts. A society that presumes guilt on the basis of nameless, untested accusations is not a healthy one.

The actor Jeremy Piven, who was accused by three women of making unwanted sexual advances (he vigorously denied the accusations), was right when he said “we seem to be entering dark times”.

Presuming that the accused is innocent until proven guilty is central to a fair, civilised society. – Brendan O’Neill



NEW YORK – DECEMBER 8: (L-R) The Duchess of York, Sarah Ferguson and Ghislane Maxwell attends the Opening of the Asprey Flagship Store on 5th Avenue December 8, 2003 in New York City. (Photo by Mark Mainz/Getty Images)

“[A]llegations are being printed as facts and lives are being put in jeopardy without a hearing, due process or evidence”, he said. “I hope we can give people a benefit of the doubt before we rush to judgement.”

Doubt. That’s a good word. It’s a good thing. Doubt is our guard against dogmatism and judgementalism. To doubt is to deliberately suspend judgement. And when it comes to the accusation of a crime in particular, that is precisely what we must do: suspend judgement until we know more; until all “reasonable doubt” has been erased by the convincing marshalling of evidence.

There’s a phrase for this, of course: the presumption of innocence. Presuming that the accused is innocent until proven guilty is central to a fair, civilised society. And yet this presumption is in trouble. It is being replaced by instant, Twitter-fuelled presumptions of guilt every time someone is accused of sexual misconduct or bullying or “speechcrime”.

Consider Ghislaine Maxwell, the British socialite and confidant of the late American financier and convicted sex offender, Jeffrey Epstein. Epstein was convicted in 2008 of procuring for prostitution a girl under the age of 18. In 2019 he was charged with sex trafficking. The judge denied Epstein’s request to be released on bond while the sex-trafficking case against him was being prepared, and a few days later Epstein was found dead in his prison cell – the verdict was suicide by hanging.

In some people’s minds, she [Maxwell] has come to symbolise the rot the heart of the moneyed elites, the cancer of white privilege and rich-people arrogance. – Brendan O’Neill

Maxwell is now accused by federal prosecutors in New York of conspiring with Epstein to recruit, groom and abuse underage girls in the mid-1990s. In the sphere of online chatter, she’s already guilty. She’s a monster, in fact. “No smoke without fire”, as the cliché goes. The fact that Maxwell was targeted in recent years by numerous civil cases alleging sexual exploitation is held up as proof that she must be guilty of the criminal charges now being made against her.

She is in many ways the ideal hate figure in these woke, unforgiving times. She's wealthy. She's the daughter of a disgraced tycoon (Robert Maxwell). She rubbed shoulders with allegedly iffy men and women who have more money than morals. In some people's minds, she has come to symbolise the rot the heart of the moneyed elites, the cancer of white privilege and rich-people arrogance. String her up. And yet, while the accusations against her are very serious, and while she unquestionably had associations with a convicted sex offender, we must presume innocence until guilt has been proven.



405141 16: Model Naomi Campbell (C) arrives with Ghislane Maxwell (R) for the Tribeca film festival opening night premiere of "About a Boy" May 8, 2002 in New York City. (Photo by Mark Mainz/Getty Images)

We owe this presumption to everyone, whether it's a high-flyer like Maxwell or a struggling mother-of-three accused of stealing food from the local supermarket. The presumption of innocence has existed in one form or another for millennia. Justinian's Digest of Roman law, published in the 530s, says "Ei incumbit probatio qui dicit, non qui negat". That is, the burden of proof lies on he who asserts, not he who denies. In the British context, the presumption of innocence has been described as the "golden thread" of our justice system.

In the US, the "presumption of innocence in favour of the accused" is "the undoubted law", as the judgement in the 1895 case *Coffin v United States* made clear. This presumption protects all of us. It means we can never – or rather, should never – find our freedom curtailed and our lives turned upside down by mere accusation.

The presumption of innocence protects us from the Stalinist urge to finger-point and denounce and cast people out without first granting them a fair, free trial in which every doubt about the guilt is successfully overturned. Sadly, that Stalinist instinct is widespread in the Anglo-American world today.

We live in a culture of denunciation, a culture of cancellation, where alleged moral transgressors are given short shrift. – Brendan O'Neill

We live in a culture of denunciation, a culture of cancellation, where alleged moral transgressors are given short shrift. Some will argue that the presumption of innocence only applies in a court of law, while in society more broadly, an individual has every right to presume that some accused person looks or sounds a bit dodgy and is probably therefore guilty. Narrowly speaking, this is true. But when tens of thousands of individual suspicions of guilt meld together into a social-media storm against an accused person, then we start to behave like a mob.

And we also start to erode the moral foundations of the legal presumption of innocence. After all, how can this golden thread be maintained in law, especially among juries, if it is thoroughly demeaned in society more broadly? We should heed the warnings of Margaret Atwood. In 2018, when a former Canadian university professor was accused of sexual misconduct, Atwood advised against instant judgement. “[U]nderstandable and temporary vigilante justice can morph into a culturally solidified lynch-mob habit, in which the available mode of justice is thrown out the window, and extralegal power structures are put into place and maintained”, she said.

That is a prospect that should terrify us all. Extralegal power might provide a thrill to the mob who wields it, but it is always devastating to justice and peace and the rights of the individual.

Let’s presume that Maxwell is innocent until the court convincingly demonstrates otherwise.

Brendan O’Neill is the editor of spiked magazine.