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## THE AUSTRALIAN

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# Even the innocent are lost to this virtual lynch mob

HENRY ERGAS THE AUSTRALIAN 12:00AM May 11, 2018

Eric Schneiderman, the attorney-general of New York who resigned on Monday just hours after being accused of sexual misconduct, apparently suffers from Portnoy's Complaint, which Philip Roth defined, on the first page of his novel by that name, as "a disorder in which strongly felt altruistic impulses are perpetually warring with extreme sexual longings, often of a perverse - nature".

Readers of that book — whose success in Australia was assured by attempts to ban it so ham-fisted that they brought the censorship of literary works to an end — will remember its hero, Alexander Portnoy, indulging his fantasies with the girlfriends he called the Pumpkin, the Pilgrim and the Monkey.

But when Portnoy wasn't tied up (or, more likely, tying up), he was championing the poor and dispossessed as Assistant Commissioner of Human Opportunity for the City of New York.

Now Schneiderman, who hailed the #MeToo movement while launching fierce legal attacks on the Trump administration, has been "outed" in *The New Yorker* by a string of former companions who credit him with sexual preferences that would have made Portnoy blush.

Of course, Schneiderman's is merely the latest scalp in an ever-mounting pile, joining that of Junot Diaz, the Pulitzer prize-winning Dominican-American author who met his doom last Friday at the Sydney Writers Festival. Diaz, his accusers say, is a serial offender whose misdeeds range from unwanted advances to yelling at (female) graduate students.

Whether one ought to feel a great deal of sympathy for Schneiderman or Diaz is debatable. But it is difficult not to be disturbed by the way they, and myriad others, have been thrown under the wheels of #MeToo's Oblivion Express.

Schneiderman, for example, claims that the relationships *The New Yorker* details were entirely consensual and did not involve any inequality of bargaining power. Even were his claims correct, it would still be hard to reconcile his private behaviour with his vocal support for #MeToo, which included suing Harvey Weinstein.

But as hypocritical as Schneiderman may be, it is not illegal for consenting adults to engage in forms of sex one might regard as distasteful, if not positively immoral. Vice, in other words, is not crime — at least not yet. Moreover, that distinction, which separates us from theocratic regimes such as Iran's, has long been a fundamental element in the Western political tradition.

As John Locke famously wrote in 1689: "Many things are sins, which no man ever said were to be punished by the magistrate. The reason is because they are not prejudicial to the rights of others, nor do they break the public peace."

Every bit as disturbing as the confusion between immorality and illegality is the disappearance of any notion of proof and due process, with mere allegations being treated as compelling evidence. That is all the more important as history shows these kinds of allegations readily snowball. Once the initial steps are taken, all those nursing a grudge seize their chance, often anonymously: with revenge a dish best served cold, its simple appearance on the menu can provoke an outpouring of grievances that converts a single plate into a veritable smorgasbord.

And nowhere are the risks of vengeance overwhelming truth greater than when ex-lovers are involved, as the passage of time and the blurring of memories hardens resentments as frequently as it heals them.

None of that is meant to downplay the seriousness of the allegations or suggest they necessarily lack merit. On the contrary, that the right to bodily integrity is the first of all rights is as fundamental to the Western political tradition as the distinction between vice and crime.

But Kant, who more than any other thinker emphasised the foundational nature of that right, placed immediately next to it each person's right to be "beyond reproach": that is, to not have one's good name — and hence one's ability to stand as an equal in society — unfairly tarnished.

It is no accident that the word "diabolical" descends from the Greek word *diaballo*, which means to defame; and the fact the consequences of #MeToo's denunciations have indeed been hellish only underscores the need to ensure allegations are properly tested. The court of public opinion has never been reliable in that respect. Manipulative language has been around as long as public debate, as has the fear of swimming against the tide.

But the virtual crowds swirling on the internet are as deadly a lynch mob as any previous form of mass hysteria. The unwillingness or inability to differentiate between genuine abusers, such as Weinstein, and cases that involve little more than boorishness then

compounds the damage.

That many women are justifiably angry is obvious. And it is also obvious that social change, including women's rapidly growing power in society, means harassment is no longer tolerable. However, that cannot justify a proliferation of executions based on scant evidence and summary judgments.

Nor can the problems be dismissed as simply the price of revolutions, which invariably veer to excess. The reality is that excess is why revolutions invariably fail, causing much needless suffering along the way; if failure is all those who support #MeToo can look forward to, they should abandon their revolution now, before it too devours its young.

As long ago as 450BC, Aristophanes deplored the ability of "sycophants" — a term that referred to gangs of slanderers who spent their time intimidating innocent citizens — to work Athenians into a rage against alleged miscreants.

Yet Aristophanes believed women might take fairness more seriously than men. When Athens' women seized power in his play *The Assemblywomen*, they therefore moved to punish slander and dismiss unfounded allegations.

More than 2000 years later, a glance at #MeToo would have taught him better.