

Tampering with Facts: Questions of Ethics

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Abstract

Prompted by a reading focused on ethics of Helen Garner's creative non-fiction *Joe Cinque's Consolation*, this paper addresses the issue of representation of mental illness and its implications for writers and researchers, and more specifically for PhD students who are writing about sensitive issues such as mental illness. My search for answers takes the following questions into account:

1. What is the status of the mentally ill in a narrative by an author who purports to be an 'ordinary person'?
2. What is the status of the mentally ill in the discourse of medicine endorsed by 'ordinary' people?
3. What is the status of the mentally ill in the discourse of the law to which 'ordinary' people are subjected?
4. What is the status of the mentally ill in the discourse of the university, and what ethical challenges does this pose for researchers?

I contend that even as a piece of literary journalism, Helen Garner's book does not honour important ethical responsibilities: first because of her stated motivation in

writing the book and the ensuing flawed construction of the murderess in her text—not as a mentally ill woman, but rather as infantilised evil creature, and second because of her identification with the ‘ordinary person’ and the moral stance this presumes. My aim is to show how one might put to good use Garner’s mistakes in the context of practice-led research in writing carried out within the university.

Key words: creative nonfiction, ethics, mental illness

To be credible the writer of creative nonfiction has to play fair. This is a statement of both ethics and aesthetics—Lynn Z. Bloom

Once, the surest way to elicit cynical laughter over the word ‘ethics’ was to use it in the same sentence as ‘politician’. Lately, another profession might serve as well: writer. Biographers are hagiographers or slanderers, anthologists are thieves or cultural pirates, journalists are paid for opinions, not factual accuracy, memoirists are revealed as fakes, novelists as plagiarists. Looming over this landscape is the dark cloud of the university’s Human Research Ethics Committee one needs to go through in order to be granted ethics clearance for particular writing projects, including biographies, anthologies, reportage pieces, memoirs and novels. This paper focuses on one book of creative nonfiction to show that this dark cloud need not be ominous.

In October 1997, with the help of a friend, a young woman sedated her boyfriend and injected him with heroin, thus inducing a slow and painful death. The circumstances of the killing were complex and bizarre. There were a series of trials. The young woman was convicted of manslaughter on the grounds of mental impairment, and sentenced to ten years in jail—of which she served four, while her accomplice was acquitted. There

was also a book: Helen Garner's *Joe Cinque's' Consolation. A True Story of Death, Grief and the Law* (2004).

A trial and a text do not aim at the same kind of conclusion, nor do they strive towards the same kind of effect. A trial is presumed to be a search for the truth, but technically, it is a search for a decision, and thus, it seeks not simply truth, but finality in the form of a resolution. A text is, on the other hand, a search for meaning, for heightened significance and symbolic understanding. Such narrative act supposes a dual ethical position, that is, towards the material and towards the reader. While a writer's ethical responsibility towards her material may be described as the respect of the other as other in terms of narrative truth, which may include characterisation, for what matters for the reader is the contract established between the writer and the reader and the extent to which it is honoured.

Joe Cinque's Consolation is Helen Garner's attempt to restore the memory of a twenty-seven-year old engineer from Newcastle murdered in 1997 by Anu Singh, his twenty-five-year old girlfriend. I contend that as a piece of literary journalism, Garner's book is ethically problematic. Despite her voiced 'fantasy of journalistic even-handedness', Garner proves disrespectful towards both material and reader (Garner 2004, 269). First, because of her stated motivation in writing the book and the ensuing flawed construction of Anu Singh in her text—not as a mentally ill woman, but rather as an infantile and evil creature. Second, because of Garner's identification with some hypothetical 'ordinary' person and the moral stance this presumes. To some extent, the book is redeemed by its testimony to the memory of Joe Cinque, but it is irredeemably flawed because of the 'conflict between a voiced ethics of reportage, and a demonstrable, compromised exploitation of its subject matter' and a regrettable manipulation of the reader (Salzman 2009, 185).

Creative nonfiction, ethics and the representation of mental illness

Non fiction is in the facts. Creative nonfiction is in the telling. It entails writing about facts 'using literary techniques such as scene, dialogue, description, allowing the personal point of view and voice rather than maintaining the sham of objectivity' (Gutkind 2001, 173). Creative nonfiction reads like fiction, but stays loyal to the truth. It 'carries the writer and the reader into a deeper dimension of trust, truth and believability. The creative nonfiction writer may take certain liberties with the truth (he or she may push the blurred gray barrier between fiction and nonfiction to the limit) without breaking through to the other side' (Gutkind 1996: 16). As one writer remarked, this seems 'a bit of a cop-out, but one has to be practical: truth and verifiability are ideals' (Evans 2007: Online).

The fluid genre of creative non-fiction has held vexed positions in scholarship. Conservative critics have long taken umbrage with writers who develop, as part of their narrative style, a consciously subjective methodology that brings the 'eye' that sees into contact with the 'I' that experiences (Gass 1994, 46). As Susie Eisenhuth and Willa McDonald remark in the introduction to their co-edited book *The Writer's Reader*, there remains to this day a small cohort of critics who 'cling doggedly to the bogus notion that objectivity is an outcome that can actually be attained' (Eisenhuth and McDonald 2007, x). However, in the section entitled 'examining our own lives', Eisenhuth does state that 'what counts for readers and critics alike, is the contract that's forged between the writer and the reader ... The more the text claims to be reportage, the stronger the expectation on the part of the reader that the story will be both true *and* accurate' (Eisehuth and McDonald 2007, 148). Lynn Z. Bloom defines ...'the ultimate attribute of the ethics of creative nonfiction' as 'the shared ethos of writer and readers' (Bloom 2003, 288). As she explains:

Readers expect the writer to tell the truth. Writers, in turn, trust their readers to understand and respect that truth, and the larger Truths their work implies, even though readers may not share its values. This ethical principle dictates an aesthetic fulfilment—that the meaning will be conveyed through character and story that will provide their own clear-eyed witness to the truth, that witness untainted by vindictiveness or special pleading (Bloom 2003: 288)

Katherine Wilson's incisive review of Helen Garner's *Joe Cinque's Consolation* in *Overland* rightly suggests that Garner has breached the writer/reader contract 'through repetition and emotive appeals to the reader' (Wilson 2004, 77). Garner in fact presents herself as a messenger of the dead, a bearer of moral meaning she has the duty to preserve and transmit to some hypothetical 'ordinary' reader with whom she identifies. Not only is the meaning she conveys predicated upon this 'ordinary' reader's subjection to the discourse of the law and medicine, but also to a common understanding of evil. Let us consider some problems caused by this moral stance.

Garner states in an interview with Suzanne Eggins that her motivation for writing the book was on the one hand a fascination with murder that we all share 'because they show us ordinary people who "crack"' and on the other her own newly felt sympathy 'towards women who kill blokes' -- bitterness was the dominant expression of grief just after the end of her third marriage (Eggins 2004). Taking this statement into account, both the title and focus of the book are outlandish. Indeed, it is not with the murderess and her accomplice (women who kill blokes), but rather with the victim(s), that Garner overtly sides, i.e., the dead son, the grieving mother she befriends, and the laconic father. The cause of this apparent change of heart bears an uncanny resemblance to what happened when Garner was researching her vindictive account of a case of sexual harassment in *The First Stone*:

The women won't talk to me. Suddenly I felt very tired. Here I was, back at the same old roadblock. My fantasy of journalistic even-handedness, long buckling under the strain, gave way completely (Garner 2004, 269).

The 'fantasy of journalistic even-handedness', though, may not have been the driving one, for earlier in the narrative another fantasy, a fantasy of retribution and revenge, has inscribed itself in the text:

Whatever the reason, I sided with Joe Cinque. I searched for him in all documents. But every place where he should have been was blank ... His direct speech is rarely recorded. He is forever upstaged by Anu Singh. As the transcripts' tapestry of versions unfolds, she kills him again and again. Attention always swings back to *her*: why she did it, what sort of person *she* is, what will become of *her*. She gets bigger, louder, brighter, while he keeps fading (Garner 2004, 178. Emphasis in the text).

As to other rationalising of fantasies, we could go even further back in time. At the point in the trial when Garner realises that Singh might get twenty years if convicted of murder, for instance: 'Twenty years! Stunned, I got the sum wrong: I thought, she'll be *my* age when she comes out' (Garner 2004, 71). Her tone and focus however change when she manages to pull herself together: 'How soon even a frightful event like Joe Cinque's murder is swept away into the past! Something into me rose up, indignant for him. What – not even a decent, respectful pause? No breathing space?' she asks, noting that two months remain before Singh is actually sentenced. Finally, denied an interview with Singh, Garner fails to reconcile what she sees as the too lenient sentence issued on the

grounds of the accused's mental illness with her own moral judgement, a judgement that she lends to the 'ordinary' person: 'in the speech of any ordinary person, what Anu Singh had done was called murder' (Garner 2004, 11).

It is precisely Garner's identification with this hypothetical 'ordinary' person so reminiscent of the 'reasonable man' now upgraded to the 'ordinary reasonable person' encountered in law manuals which brings the ethical framework of the narrative down. As one reviewer put it: though her book 'is a writer's profound response to a tragedy and to questions about human responsibility over time as well as precise moments, questions about duty of care in a community, about the law and its limits, this is also precisely what nips such questions in the bud' (Fraser 2004). In the telling, Garner pits the reader as reasonable law abiding and sane person against the object of her own hostile gaze: 'what a woman most fears in herself—the damaged infant, vain, frantic, destructive, out of control' (Garner 18).

In the very first paragraph Singh is cast as a 'hysterical' young woman (Garner 2004, 4), upon which she is given speech in the transcript of the recorded emergency call placed with the Canberra ambulance headquarters on Sunday October 26th, 1997. However, if Garner gives Anu Singh speech, it is only in order to better despoil her of it, better to subjugate this speech to the discourses of the law and medicine, two disciplines that notoriously objectify subjects. Singh is further depicted as a 'frantic girl' (Garner 2004, 9) who is 'obsessed with her physical imperfections *both real and imagined*' (Garner 2004, 15, my emphasis). She has 'hysterical fits' (Garner 2004, 17). In Garner's text, Anu Singh is cast as manipulative and narcissistic bitch, but, significantly, she speaks in 'a very *adolescent* voice' and seems 'to lack a language for the trouble she was in' (Garner 2004, 18. Emphasis in the text). There is clearly no subject in Anu Singh.

The court heard evidence from various psychiatric experts to the effect that Anu Singh had been suffering from a major depressive illness or borderline personality

disorder with narcissistic features. Garner reports this evidence, but the symptoms discussed focus on Singh's alleged eating disorder, hypochondria, and related paranoid thoughts. This reporting contributes to re-enforcing the objectification of Singh as vain, infantile and irresponsible. As Katherine Wilson so ironically points out, 'Garner's Singh isn't mentally ill at all: she's just like all (manipulative) women, but more so, and she's trying it on' (Wilson 2004, 77). Thus the problem with the representation of mental illness in *Joe Cinque's Consolation* is that mental illness is conflated with an overtly desexualised yet repressed femininity. We are witnessing the return of the mad woman in an infantilised guise. Moreover, not only is Singh the embodiment of a negative entity, she also functions as putative daughter at two removes in the narrative (Garner's own idealised feminist daughter and herself as Maria Cinque's imaginary daughter).

Mental illness, medicine and the law

Psychiatry is a branch of medicine. As such, it claims an ascendancy to classical medicine and to Hippocrates in particular. But unlike Hippocratic medicine, which was a medicine of passive contemplation and observation with little in the way of remedies, that is, 'with no therapeutic object', modern medicine is focused on medication (Lebrun 1993, 33). Further, unlike Hippocratic medicine, which did not refer to a body of knowledge outside the discourse between patient and doctor, modern medicine does. Whilst Hippocratic medicine was a practice of the subject, modern medicine is a practice of the object. Moreover, modern medicine has a double object: the patient and the drug. Similarly psychiatry has a double object. Anu Singh, Garner reports, is alternatively on Prozac and Zoloft, two antidepressants. As the objectified patient and objectified character, she is dumb twice over: both her symptoms and the text speak for her.

'Psychiatric services in both New Zealand and Australia had their beginnings in the gaols' (Dax 1981, 258). With the de-institutionalisation of the mentally ill in Australia, it would seem that we are heading back in time. If Garner's opinion is an indication of what 'ordinary' people think, or an index of the *Zeitgeist*, one might be closer to our beginnings than one might think. Witness how in *Joe Cinque's Consolation*, Garner insists that despite evidence of some psychiatric illness, Anu Singh was responsible for her acts at the time of the crime and should have been convicted of murder and punished accordingly.

Suffice it to say, this suggests that mental illness and criminality have been for quite some time implicated in a common dynamics of two apparently distinct institutional developments, i.e., psychiatry and the law. As Foucault shows in *Madness and Civilisation*, the intricate interactions in the contemporary processes of psychiatry and the law followed from the transformation of criminal responsibility in early nineteenth-century European penal law, where the intelligibility of a criminal act increasingly became referenced against the personality and history of the accused (Foucault 1965) Foucault highlights the paradox that this entailed:

The more psychologically determined an act is found to be, the more its author can be considered legally responsible. The more the act is, so to speak, gratuitous and undetermined, the more it will tend to be excused. A paradox, then: the legal freedom of a subject is proven by the fact that his act is seen to be necessary, determined; his lack of responsibility proven by the fact that his act is seen to be unnecessary (Foucault 1965, 140)

The interaction between psychiatry and the law made it possible, later in the century, to assess both major and minor crimes along increasingly differentiated psychological and

psychiatric categories. As conceptions of insanity shifted, the psychiatric and criminological registers also allowed for an almost infinite proliferation of categories of 'persons' and 'mental disorders'. The recognition of this historical reciprocity between psychiatry and the law, particularly with regard to the implications of the 'psychiatrization of criminal danger', is critical to an understanding of the social functioning of psychological and psychiatric categories today (Foucault 1965, 125).

Indeed, whilst one might joke about recognising oneself again and again between the pages of DSM IV, neither one's life nor freedom depend upon it. Conversely, when Garner reports how she joked with fellow journalists about having all the symptoms Anu Singh suffers from, particularly those pertaining to anxiety and poor body image, she does not 'play fair' Bloom 2003, 284). Although Garner tries hard to get a grip on psychiatric categories, she fails to do so, pushing the line of moral high ground instead. This radical shift in point of view is ironically adumbrated early in the narrative when she asks:

If you aren't satisfied by a category from the *Diagnostic and Statistical Manual of Mental Disorders* which claims to explain a person's dreadful actions, you are thrown back on simple, quotidian concepts of moral disapproval such as ... *selfish* At the other end of the scale you may wind up having to endorse terms like *wicked* or *evil* But does psychological sophistication over-ride a sense that some actions are just plain *bad*? (Garner 2004, 52, emphasis in the text)

At this point in the book, the concept of mental illness is discarded in the text and replaced by the 'ordinary' person's conception of 'evil'. As Anu Singh's trial progresses, sympathy for the defendant lessens further; her person is reduced to body parts, to her psychological disorder, to the narcissism of the borderline. One of the journalists Garner

compares notes with has this to say: 'What *she* needs is a good kick up the arse' (Garner 2004, 192). What Garner fails to do here is convey that morality is a system of approvals: there will be as many moralities as there are groupings in society. There is no empirical way of establishing which is to be preferred.

Singh's mental illness becomes encased within the discourses of medicine and the law. In these discourses, the language and conceptual terrain of personality disorder have entered into the routines of evaluating 'problem' subjects and groups in the mental health system as well as in the magistrates' courts, one essential difference being that mental health workers are concerned with diagnosis and treatment while the courts are concerned with responsibility, that is, the relationship between a person and a particular act. Interestingly enough, both fields leave the concept of 'personhood' and 'personality' problematic. Nearly two decades ago, when schizophrenia was the flavour of the month, some psychiatrists claimed that cases in Australian law revealed a 'fundamental inability to define conceptual boundaries' (Glaser 1994, 115-16). Though contradicting the position of many a lawyer, some legal experts, on the other hand, argued for a more 'flexible' legal theory to allow for the incarceration of 'dangerous' individuals, rather than resorting to 'fictions' about a person's psychiatric condition (Williams 1990, 182).

The concept of 'borderline' is a fairly recent one: it was, first coined in 1938 by Andrew Stern and ratified by the American Psychiatric Association as one of the diagnostic categories among 'Personality Disorders' in DSM III.ⁱ Typically, the definition reiterated by the American Psychiatric Association in DSM IV is not terribly useful: '**Borderline Personality Disorder** is a pattern of instability in interpersonal relationships, self-image, and affects, and marked impulsivity' (DSM IV, 685). Incidentally, the DSM does not purport to '*explain a person's dreadful actions*', but rather describes symptoms. Garner's further dismissal of mental illness is nowhere as obvious as in her use of italics

in her unpicking of some of the evidence given by psychiatric or legal experts. See pp. 48, 50, 52, 54-55, 117, 119, 142 for glaring dismissal.

Garner makes good use of the term 'personality disorder'. However, she problematises neither the term nor the concept to which it refers. Arguably, the concept of 'personality disorder' is even more problematic than the concept of 'borderline'. Much of contemporary certainty regarding the category of 'personality disorder' finds itself disturbed by attempts to map out a genealogical analysis of existing uses of the terms 'person' and 'personality'. Rather than referring to ahistorical contents of individuality, the category of personality refers to historical contingencies. First, it is predicated upon the increased individualisation of the population that occurred during the late nineteenth-century through statistical procedures and administrative reforms such as schooling, health and other social hygiene strategies designed to mark differences between people (Delumeau, 1992; Foucault 1965; Hacking 1990; Armstrong 1993). Second, it needs to be looked at with reference to the production of knowledge concerned with the internal dimensions of individuality in all its complexity, which is inseparable from the growth and proliferation of therapies inspired by psychiatry, psychoanalysis and psychology during the twentieth century (McCallum 1990; Rose 1990). Third, it is associated with the late twentieth-century and early twenty-first century objectives of (political) power to regulate citizens through the implementation of norms of personal life, such as the channelling of desire towards the shaping – or better, presentation – of a well-adjusted, yet flexible, personality. In a tale told out of the stated desire to 'show us ordinary people who "crack"' and out of sympathy 'towards women who kill blokes', one would have expected some deconstructing of concepts such as 'borderline' and 'personality disorder'.

'Borderline' and 'personality disorder'—and in fact 'mental illness' itself, are opaque words in *Joe Cinque's Consolation*, precisely because they have become household words whose status signify both explanation and cause. Why has Anu Singh

perpetrated such a *bad* action? Because she suffers from borderline personality disorder. How does one know that she suffers from borderline personality disorder? Because she has committed such a *bad* action. Because unlike the 'ordinary person', she is 'narcissistic', demonstrates 'hysterical' behaviour, is vain and 'selfish' – in a word because she behaves like a mad brat when she is expected to behave like a *femme fatale* in the most literal sense of the word.

Practice-led research, ethics and the university

I'd like to put Helen Garner's book and my critique of it into the context of what universities require in terms of the ethical conduct of research as may be applied to the discipline of writing. In Australia, Steve Evans reminds us in an important paper on ethics, the National Health and Medical Research Council 'articulates policy regarding the ethical conduct of research' (Evans 2007). As its name indicates, however, the initial focus of the NHMRC was not research in the humanities, social sciences, or creative arts, but rather medicine and related disciplines. Nonetheless, its concerns translate across fields. In the humanities as in the sciences, Evans remarks: 'we have to deal with it because our institutions subscribe to the protocols of the NHMRC through various Human Research Ethics Committees (HRECs).

The main document of the NHMRC is the *National Statement on Ethical Conduct in Human Research 2007*, commonly known as *The National Statement*. One of the chief aims of the NHMRC is to ensure that the benefits of research are achieved without undue cost to human subjects. The key tests for obtaining ethics clearance or exemption revolve around the issues of impact and identification. In particular, research projects need to involve both 'negligible risk research' and only the use of existing records with non-identifiable data (2007a: 18, 79). With reference to identification, one

can see how Garner's book would not have passed the test. With reference to impact, here is some clarification:

2.1.6 Research is 'low risk' where the only foreseeable risk is one of discomfort. Where the risk, even if unlikely, is more serious than discomfort, the research is not low risk.

2.1.7 Research is 'negligible risk' where there is no foreseeable risk or harm or discomfort; and any foreseeable risk is more than inconvenience. Where the risk, even if unlikely, is more than inconvenience, the research is not negligible risk.

2007a, 18

Some categories are 'high risk'. These include children, the elderly, the disabled, as well as culturally sensitive communities such as Indigenous Australians. Since mental illness is rated as a disability, I doubt very much that Helen Garner's project would have been granted ethics clearance within the university context. However, I might be wrong, for universities have protocols and committees within committees ratified by the NHMRC, a body only too keen to assist researchers by challenging its own guidelines (2007b, 5). Thus, 'where research proposals are regarded as low risk, they could be handled efficiently by delegates of the HREC rather than entering the larger and potentially delaying process of review by the full committee' (2007b, 5). The NHMRC also recognises that 'there is an ongoing need to assess the way that certain situations are dealt with by registered HRECs, thus acknowledging that a certain kind of project might be routinely treated expeditiously as low risk, or exempted from ethical review' And further, the NHMRC envisages 'a standardised, national system' that 'would allow every

research proposal of the same nature put forward for approval of an HREC in an institution governed by the NHMRC guidelines to be treated consistently' (2007b, 5).

What does this mean for writers within the academy? This means that clouds come in multiple shades and colours. Be true to your own ethical principles, exercise a healthy degree of circumspection and check with your Research Ethics Advisor. As a risk assessment exercise, reflect upon:

1. the degree of risk to individuals (first or second degree)
2. the impact of any writing on identifiable individuals
3. if identifiable, by whom and whether or how you can reasonably anticipate the reaction of those who can so identify the individuals concerned
4. if identifiable, whether the information that relates to or impacts upon the individuals concerned can be seen to be adverse
5. sufficient justification needed for any discernible risks to impact upon individuals
6. what are the greater cultural, social or scholarly benefits that may result from your project
7. make sure due care and respect is taken as regards the individuals concerned

Ironically, for all its flaws as a work of literary journalism reified by autobiographical affect, the redeeming aspect of *Joe Cinque's Consolation* may be that it widens the focus of its own examination, in part by clinging to the point of view of conventional morality and in part by misrepresenting mental illness.

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