

# Review Essays

*'[W]here women face the judgement of their sisters': Review of Helen Garner, (2004) Joe Cinque's Consolation: A True Story of Death, Grief and the Law, PanMacmillan, Sydney*

---

In her latest book, *Joe Cinque's Consolation*, Helen Garner turns her attention to crime and the criminal justice system, focusing on the sad and bizarre story of the death of 26-year-old Joe Cinque in 1997. Jo Cinque died from a cocktail of Rohypnol and heroin, administered by his girlfriend, Anu Singh. Singh, a young law student at the Australian National University in Canberra, had talked about killing herself and Cinque for some time. Cinque was apparently unaware of the plan, but many of Singh's student friends were, particularly her best friend Madhavi Rao, who, along with Singh, was charged over the death. Singh was tried before a judge without a jury and found not guilty of murder on the grounds of diminished responsibility. She was convicted of manslaughter and sentenced to ten years in prison with a non-parole period of four years. Rao was found not guilty in a separate trial on the basis that she was under no positive duty to prevent the killing. The cover blurb of Garner's book describes it as one that 'probes the gap between ethics and the law; examines the helplessness of the courts in the face of what we think of as "evil"; and explores conscience, culpability, and the battered ideal of the duty of care'.

## Crime as Morality Play

The book's pledge to probe, examine and explore, along with Garner's reputation as a journalist and writer, promise sober reflections on law and justice in the face of homicide, the most extreme of all legal, social and cultural transgressions. Instead, we are treated to a story saturated with the unexamined assumptions, prejudices and stereotypes that fuel crime reporting in the daily tabloids and inflate the ratings of radio shock jocks (see, e.g., Katz 1987; Daly 1995; Cowdery 2002, for discussions of crime news reporting). Garner's story takes full advantage of the easy ride provided by the slipstream of law and order reporting, resulting in a shallow, one-dimensional and highly confused account that works to diminish rather than further public understanding of crime and criminal justice.

Garner's account, like popular crime reporting generally, is built on a number of fabricated dichotomies that obscure complex issues of law and justice. The first and most pervasive of these is the reduction of crime and justice, in this case, the killing of Cinque and the legal processes that followed in its wake, to a type of 'morality play' which casts the evil and powerful offender against the good, weak victim (see Grabosky & Wilson 1989:14; Ericson et al 1991:74, for discussions of crime news as morality play). This binary divide, giving rise to two central characters with polarised attributes, works to manufacture what Nils Christie (1986) refers to as the 'ideal victim' and 'ideal offender'—cultural stereotypes which we adopt in legitimating the experiences of some victims and offenders and delegitimizing others. Singh is portrayed as a powerful and dangerous woman by virtue of her sexual charisma. Cinque, by way of contrast, is portrayed as unambiguously good,

sexually innocent, and powerless in the irresistible pull of Singh's sexual potency and devious nature. Information or evidence that challenges this construction of Cinque, such as the suggestion that he may have been physically violent in his relationship with Singh, is treated as highly suspect or, alternatively, as an understandable response to Singh's overwhelmingly manipulative nature.

Despite its popular currency, the victim/offender dichotomy bears little resemblance to real world complexities. Research, particularly feminist scholarship, demonstrates that the categories of innocent and guilty, victim and offender are not distinct but blended, particularly in the case of female offenders (Pickering & Alder 2000:226). For example, when women kill intimate partners, it is often in the context of physically abusive relationships where they have been victims (Browne 1987; Bacon & Lansdowne 1982; Eastal 1993). Mental illness is also often a factor in female perpetrated homicides (Kirkwood 2003).

The morality play script Garner adheres to closes off any nuanced understanding of crime or the criminal justice system. In the framework provided by the binary construction of good and evil, the idea that Cinque might have died a wholly undeserved death at the hands of someone whose guilt is diminished by virtue of abnormality of mind<sup>1</sup> cannot be countenanced. The book's use of the framework of good versus evil is intensified through the encounters Garner describes having with Cinque's parents, particularly his mother, juxtaposing the absence of similar encounters with Singh. Garner herself is exercised over the issue of 'bias' arising from her inability or failure to interview Singh (see e.g. pp 269, 282). In focusing on the issue of bias however, Garner leaves unacknowledged her far more significant failure to provide a meaningful context for this crime by explicating the nature and function of the criminal justice system. Even the notion that her story would be made complete by getting 'both sides' reveals her basic (mis)understanding of the criminal justice system as a type of contest between victim, or in this case, the victim's family, and offender. The criminal justice system operates on behalf of the community and therefore must take into account a range of interests that include, but extend beyond, those of the victim. The reduction of the criminal justice system to a contest between victim and offender underlies Garner's perspective that justice demands parity. The logical conclusion to be drawn from this is that criminal homicide demands capital punishment. Garner does not, however, make this argument explicitly and therefore does not engage with the moral arguments against capital punishment, or consider the possibility that state-authorised killings might compound injustice, despite evidence supporting this conclusion (Amnesty International 2004).

Garner's lack of sophistication regarding the criminal justice system is evident in her uncritical adoption of what Russell Hogg and David Brown call 'law and order commonsense' (1998; see also Chibnall 1977). These 'commonsense' notions abound in crime reporting and political slogans around law and order but collapse under critical scrutiny. Amongst the elements of 'law and order commonsense' incorporated into Garner's account is the notion that courts and the law are 'too soft on crime', paying too much heed to the rights of criminal suspects and too little to victims. Garner expresses frustration, confusion and moral outrage at a system that allows the defendant to remain silent and requires the prosecution to prove the guilt of the defendant. The presumption of innocence and the due process protections afforded the accused are given no substance or

---

1 The defence of diminished responsibility takes into account the accused's frailty in the sense of an 'abnormality of mind'. Abnormality of mind has been held to include severe depression, post-traumatic stress disorder and personality disorders (Bronitt & McSherry 2001).

weight in the face of the suffering of Cinque's parents. One reviewer states that the book 'contrasts human responses and human emotional needs with the remote logic of the legal system' (Lever 2004). However, the rules of a criminal trial are designed to militate against the abuse of power by the state and the conviction of the innocent, outcomes which just as surely involve human suffering. While opinions may differ on the effectiveness of the system to deliver justice (Fleming 1994; Mansfield & Wardle 1993; Whitton 1994), Garner offers no space for the logic behind the rules of adversarial justice, nor what might be at stake should they be abandoned.

Singh's sentence of ten years with a four year minimum is certainly portrayed as wholly inadequate. Garner's perspective fits into Hogg and Brown's media-promoted commonsense 'that the criminal defendant is an exceptionally indulged and mollycoddled creature in our system of criminal justice' (1998:33). Implicit in Garner's belief that the sentence failed to fit the crime is the notion that prison is a 'soft option'. On two occasions in the book Garner explicitly reinforces this popular belief: once, by expressing shock that Singh can 'casually' telephone her parent's home from prison and, secondly, when she includes Cinque's mother's angry and sarcastic comments: 'I saw on TV last week the thing about the women's gaol. It's a hard life they have there, eh. A little room, a TV, a computer—yeah, a very *hard life*, isn't it'. (pp 191, 194). Prisons, despite media suggestions to the contrary, are highly punitive institutions, generally experienced as harsh punishment, especially by women (Davis 2003; Cook & Davies 1999; Sisters Inside 2004).

## Sexualizing the Female Offender

One of the key distinctions between everyday homicide and homicide portrayed in the media is that in the latter 'only the most outstanding crimes ... are likely to be presented' (Polk 1997:6). Garner's book deals with one of the more commonplace homicide scenarios for female perpetrators, where the victim and the perpetrator are in a close domestic relationship. The newsworthiness of this case, necessary for the validation of Garner's reportage, therefore relies on the mobilisation of commonly used stereotypes about female killers in order to mark it out as extraordinary. The central structuring narrative Garner uses is that of the sexually voracious female offender.

Garner's representation of Singh focuses consistently, from the earliest pages of the text, on her apparent sexual power over the victim and her excessive sexual appetite. Garner describes the death throes of Cinque in the following way:

She tried to kiss the dead man; she sat on top of him, moving back and forth; she pulled at his face (p 9).

This simulation of a sexual act at the moment the victim is pronounced dead marks Singh's crime as sexual, and depicts her passions as overwhelming and inappropriate. This theme continues throughout the text. Garner describes finding evidence that Singh has had an active sex life and implies that she has exhausted male partners with whom she has been involved. On Singh's entry into the courtroom, Garner notes her 'springy tight-bottomed, almost bouncing walk' (p 43). She recounts the story of a friend's disbelief that Cinque would ever voluntarily acquire the dildo that was found in their shared apartment, commenting that Singh had changed Cinque:

She'd had an impact on him — she'd changed him. She's violated the way he'd previously lived (p 302).

This presumption about Singh's sexuality, with the evocative use of the word 'violate', is extended into what Garner describes as 'other people's helplessness before the force of [Singh's] erratic will' (p 180). She endows Singh with an uncanny ability to influence people and draw them into 'the force-field around [her]' (p 168). Garner relies on a series of distinctions between the 'honourable Tanya Z' (p 213) and Rao, who are 'good' women, in order to mark out the power of Singh. These women are shown as passive and submissive, at different times, to Singh's will and often to the will of others around them. Garner's valorisation and praise of these women reiterates conventional assumptions about women's natural characteristics and serves to push Singh even further from the norm. Investigating representations of female killers, Belinda Morrissey has suggested that 'violent female criminals ... are not only considered more ferocious and fearsome than their male counterparts, but are also guilty of the sin of hubris in their assumption of the traditionally male preserve of action, especially murderous action' (2001:119). Garner participates in the circulation and reiteration of cultural narratives which normalise passivity for women by assigning extreme agency to one violent and dangerous woman. While she likens all women to Singh, identifying her as 'the figure of what a woman most fears in herself — the damaged infant, vain, frantic, destructive, out of control' (p 18), she then separates and praises the submission of other women like Rao. Garner evokes what Helen Birch has described as 'the threat of femininity unleashed from its traditional bonds of goodness, tenderness, nurturance' (1993:32).

## Domestic Dramas

This notion of appropriate feminine nurturance and passivity is linked to Garner's representation of domestic violence. As Ilsa Evans argues, media representations of domestic or intimate partner violence are most often underpinned by the discourse of romantic love and passion, where male perpetrators are driven by the intensity of their passion to injure or kill their female partner. 'Underlying assumptions [of] active/passive and dominant/submissive roles' (2001:165) structure the ways in which domestic violence appears in media accounts and Garner's account rehearses this paradigm. Her account of the 'power' of Singh means that the evidence offered by a university counsellor of Singh reporting domestic abuse in a session prior to the commission of the killing is undermined before it can be seriously investigated. Garner asks around Cinque's family and friends for supporting evidence of this alleged offence committed by Cinque, but finally lays to rest this aspect of the case by recounting an incident in her own past where a male partner hit her. Garner writes:

I knew he wasn't that sort of guy. I knew I'd driven him to it. I pushed him past his limit (p 303).

This comment exemplifies what criminologists and agencies assisting women, including police, have identified as one of the key fallacies about domestic violence (Pickering & Alder 2000). Garner clearly suggests that women can *deserve* physical abuse. This transfer of responsibility from perpetrator to victim entrenches damaging myths of female culpability (Evans 2001:148); myths that corrupt community awareness of domestic violence patterns and suggest that male violence in response to feminine behaviour is both natural and acceptable. Garner's pre-emptive dismissal of the possibility of Cinque's assault, combined with her assertion that good men can commit violence and should not be blamed, entrenches one of the most persistent and detrimental accounts of intimate violence on offer in our society.

Nina Puren and Alison Young argue that the operation of law draws on ‘commonplace cultural narratives, genres, scenarios and characters’ (1999:4) that are brought into legal proceedings by questioning and advocacy. Garner’s text, while offering itself as an open account of a criminal act and its consequences, relies on these commonplace cultural narratives: of the bad sex-crazed woman driven to kill, of the woman who, by her own actions, pushes a good man to violence, and of the manipulative and scheming woman drawing others into her malign web, in order to present an account that is both partial and distorted. Garner attributes a form of excessive agency to Singh—one that contradicts most contemporary research into female killers. As Polk argues:

[S]tories that emerge from files of women who kill are full of tragedy, economic deprivation, extreme isolation and alienation, and they bear little resemblance to the fictional image of the purposive, composed, often evil women who kill either out of jealousy or some complex threat to their power (1997:7).

At the beginning of the book, Garner says that ‘Anu Singh raised my girl-hackles in a bristle’ (p 18). Later, talking with journalists, she suggests a deep resemblance between all women in the following comment: ‘Our laughter was slightly shrill. No one said it but we were all thinking, *‘Call that mental illness? She’s exactly like me.’*’ (p 38). Garner’s text, presenting itself as an account of the morality, meaning and truth of the criminal justice system and its aims and objectives, instead offers the most conventional of culturally sanctioned narratives of the female killer and further, by association, iterates the potential of all women for acts of evil. That she links this crime to sexuality and to ‘innate’ individual power rather than to social, economic or psychological pressures that are usually the context of such crimes obfuscates the way that gender really operates within the criminal justice system.

### Avoiding ‘Abnormalities of Mind’

Garner works hard to avoid a direct or informed engagement with mental state in her account of the trial of Singh. In so doing, she fails to acknowledge that the law and the criminal justice system are required to take account of the mental state of the alleged offender during both trial and sentencing. A person’s mental state is central to determining guilt or innocence—indeed, the law determines guilt or innocence and degree of culpability by employing the principle of *mens rea* (Brown, Farrier, Egger & McNamara 2001).

In refusing the issue of mental state a credible and central place in the telling of this story, Garner further demarcates offenders from society. The judge found that Singh’s mental state provided at least a partial explanation for the crime and diminished her responsibility in relation to it. Explanation of the crime in terms of mental state suggests, contrary to Garner’s thesis, that the killing of Cinque is explicable and understandable in human terms, though not in any way justifiable. In short, Garner’s refusal to give credibility to evidence about Singh’s mental state assists to position Singh as evil and therefore outside the moral community and beyond human understanding. Information that might contradict this picture, such as the evidence that Singh was suffering ‘abnormalities of mind’ at the time she committed the homicide, is dismissed as unworthy of serious consideration.

Yet, for all the systematic avoidance of psychology apparent in Garner’s account, it is riddled with psychology, although not that of Singh nor Cinque, but rather, that of Garner herself: psychology comes into play where Garner weaves the narrative of her current life status into the death of Cinque and the trial of Singh. Overlaying the killing of Cinque and the trials of Singh and Rao are Garner’s reflections on her own failed marriages, and her life as a writer and woman. Represented as a focus on the body, movement, emotions and actions of the ‘other’ woman, Garner is indeed focusing on herself. For example:

I understand now that I went to Canberra because the breakup of my marriage had left me humiliated and angry. I wanted to look at women who were accused of murder. I wanted to gaze at them and hear their voices, to see the shape of their bodies and how they moved and gestured, to watch the expressions on their faces. I needed to find out if anything made them different from me: whether I could trust myself to keep a lid on the vengeful, punitive force that was in me, as it is in everyone—the wildness that one keeps in its cage, releasing it only in dreams and fantasy (p 25).

Garner surveys other women, while searching for answers in her own life. She wants Singh to answer to her, rather than to the law and the procedures of the criminal justice system. Garner wanted judgment, female judgment:

Maybe only another woman could intuitively grasp the extent to which Singh, like the rest of us, was ruled by her body, imprisoned in it and condemned to struggle against it. But, oddly, this insight did not melt the hearts of the women who sat listening in court. On the contrary, the more like an ordinary woman Singh came to appear, the less sympathy she had to draw on, and the more the psychiatrists' explanations of her behaviour sounded like excuses which would not stand up in the harshly skeptical forum where women face the judgement of their sisters (p 54).

Garner wanted to be able to place 'intuition' over due process and commonsense over reasoned juridical opinion. Garner desperately seeks to locate this legal story of mental state in her own realm of feelings and moral presumptions, in order to provide a framework for her own rage and anger, at the 'dumb gut level' (p 51) rather than in the processes of the law and the courts.

## Conclusion: Privileged Stories

At home in Sydney, life lost its forward impetus and became limp and pointless. My mind slackened off into self-obsession and regret. My family was far away, my friends busily absorbed in their own affairs. The only thing that could drag me out of my own cramped sorrows and shove me into the reality of other people was the story of Joe Cinque's murder (p 66).

Garner's account of the murder of Cinque privileges the function of the individual and the personal in the criminal justice system. Individual cases, particularly ones where character and motivation emerge from the words of a bystander rather than a participant can never hope to represent the complex set of interests to be served by the processes of the law. Garner's own drama — her own lack of 'standing' before the law — blinds her to the important and legitimate interests in justice for others besides the victim. This is most clearly signalled in her response to the defence counsel for Singh, Lex Lasry QC. She describes his defence in the following way: 'The spin Mr Lasry put on the events of Joe Cinque's last days was breathtaking in its gall' (p 242). Defence cases are not 'spin'; they serve the interests of the court by challenging evidence and assumptions. They are crucial to the interests of the justice that Garner asserts is of such great interest to her. But Garner's own desire for this story to play out in particular ways precludes a careful and measured interaction with the criminal justice system.

'Outstanding crimes' (Polk 1997) may be read and experienced in a multitude of ways. The ways we insert ourselves into the 'true crimes' of others has very serious consequences for understanding pivotal issues in the functioning of society, law and justice. In this case, Garner has adopted tabloid tropes in personalising the story of Cinque and Singh and detaches 'true crime' from the circumspect and daily operation of law and justice in the criminal justice system. Where interpersonal violence is depicted as a clash of good and evil in the absence of a legal or juridical framework, the protections of justice dissipate and

demonisation is straightforward. By drawing on the 'commonsense' interpretive schema of good and evil, and particularly the myth of the evil woman, Garner's account serves to entrench and validate commonly held misunderstandings about crime, criminal justice and the influence of gender on crime and justice.

JaneMaree Maher, Jude McCulloch & Sharon Pickering  
School of Political and Social Inquiry, Monash University

## References

- Amnesty International (2004) *Death Penalty*, <[www.amnestyusa.org/abolish/index.do](http://www.amnestyusa.org/abolish/index.do)>.
- Bacon, W & Lansdowne, R (1982) 'Women who kill husbands: the battered wife on trial' in O'Donnell, C & Craney J (eds) *Family Violence in Australia*, Longman Cheshire, Sydney.
- Birch, H (1993) 'If looks could kill: Myra Hindley and the iconography of evil' in Birch, H (ed) *Moving Targets: Women, Murder and Representation*, Virago, London.
- Bronniti, S & McSherry, B (2001) *Principles of Criminal Law*, LBC Information Services, Pymont, New South Wales.
- Brown, M, Farrier, D, Egger, S & McNamara, L (2001) *Criminal Laws* (3rd ed), Federation Press, Sydney.
- Browne, A (1987) *When Battered Women Kill*. Free Press, New York.
- Chibnall, S (1977) *Law-and-Order News: An Analysis of Crime Reporting in the British Press*. Tavistock, London.
- Christie, N (1986) 'The ideal victim' in Fattah, E (ed) *From Crime Policy to Victim Policy*. St Martin's Press, New York.
- Cook, S & Davies, S (1999) *Harsh Punishment: International Experiences of Women's Imprisonment*. Northeastern University Press, Boston.
- Cowdery, N (2002) 'Who's sentences: the judges', the public's or Alan Jones's?', *Australian Journal of Forensic Sciences*, vol 34, pp 49-56.
- Daly, K (1995) 'Celebrated crime cases and the public's imagination: from bad press to bad policy?', *Australian and New Zealand Journal of Criminology*, vol 28, pp 6-22.
- Davis, A (2003) *Are Prisons Obsolete?*, Seven Stories Press, New York.
- Easteal, P (1993) *Killing the Beloved: Homicide Between Adult Sexual Intimates*, Australian Institute of Criminology, Canberra.
- Elroy, J (1997) *My Dark Places: An LA Crime Memoir*, Arrow, London.
- Ericson, R, Baranek, P & Chan, J (1991) *Representing Order: Crime, Law and Justice in the News Media*, University of Toronto Press, Toronto.

- Evans, I (2001) 'Desperate lovers and wanton women: press representations of domestic violence' *Hecate*, vol 27, no 2, pp 147–74.
- Fleming, J (1994) *Barbarism to Verdict*, Angus & Robertson, Sydney.
- Grabosky, P & Wilson, P (1989) *Journalism and Justice: How Crime Is Reported*, Pluto Press, Sydney.
- Hogg, R & Brown, D (1998) *Rethinking Law and Order*, Pluto Press, Sydney.
- Katz, J (1987) 'What makes crime "news"?' , *Media, Culture and Society*, vol 9, pp 47–75.
- Kirkwood, D, (2003) 'Female perpetrated homicide in Victoria between 1985 and 1995', *Australian and New Zealand Journal of Criminology*, vol 36, no 2, pp 152–72.
- Lever, S (2004) 'Jo Cinque's Consolation', *Sydney Morning Herald*, <[www.smh.com.au/articles/2004/08/20/1092972728456.html?oneclick=true](http://www.smh.com.au/articles/2004/08/20/1092972728456.html?oneclick=true)>.
- Mansfield, M & Wardle, T (1993) *The British Legal System Exposed: Presumed Guilty*, Mandarin, London.
- Morrissey, B (2001) 'Crises of representation, or why don't feminists talk about Myra?', *Australian Feminist Law Journal*, vol 16, pp 109–31.
- Naylor, B (1995) 'Women's crime and media coverage: making explanations' in Dobash, R et al (eds) *Gender and Crime*, University of Wales Press, Cardiff.
- Pickering, S & Alder, C (2000) 'Challenging reforms for feminists and the criminal justice system' in Chappell, D & Wilson, P (eds) *Crime and the Criminal Justice System in Australia: 2000 and Beyond*, Butterworths, Sydney.
- Polk, K (1997) *When Men Kill: A Comparison of Everyday Homicide with Images of Media Violence*, Australian Institute of Criminology, Canberra, also available at <[www.aic.gov.au/conferences/violence/polk.pdf](http://www.aic.gov.au/conferences/violence/polk.pdf)>.
- Puren, N & Young, A (1999) 'Balancing the scales: rape, law reform and Australian culture: review essay', *Law, Culture and the Questions of Feminism: Special Issue, Australian Feminist Law Journal*, vol 13, pp 152–63.
- Sisters Inside (2004) <[www.sistersinside.com.au](http://www.sistersinside.com.au)>.
- Whitton, E (1994) *Trial by Voodoo: Why the Law Defeats Justice and Democracy*, Random House, Milson's Point, NSW.