

WILLIAM & LONSDALE – Lives in the Law

Ep 14. Helen Garner

Voiceover [00:00:13] This is William and Lonsdale, a podcast about the legal eco system in Victoria and the fascinating people and stories that make it tick. Today, your host, Michael Green speaks with iconic Australian writer Helen Garner. Throughout her long and distinguished career, Helen has maintained a fascination with our justice system, often spending countless hours "hanging around the courts" as she describes it. Her loitering has resulted in a Walkley Award winning piece for Time magazine, numerous stories for The Monthly and the best-selling novels Joe Cinque's Consolation and This House of Grief. Helen has written about many facets of our justice system, from complex legal cases and exceptional practitioners to broken families and the selfless volunteers that support them. And among the many outcomes of her work, she loves when her writing brings people into the court, especially when it's one of her own.

Helen Garner [00:01:03] I remember once when my granddaughter was, what, her 16th birthday and I was taking her downtown to buy a pair of Doc Martin boots. And we walked past the Supreme Court and she said, is it the court where you go? And I said, Yeah, that's what she said, wow, I said, do you want to go in and have a look? She said, Oh, yes. So, we went in and we just walked in, sat down in a court. There was... Everything was already rolling. And some pathologist was on the stand giving these really quite gruesome details about an unfortunate man who'd been bashed outside a bar and died. And I thought, oh, my first thought was, oh, my God. I looked at the girl, my granddaughter, and I looked at the judge who was a woman who I vaguely knew. And I thought, that judge is going to think I'm really sick bringing this girl into this trial. And I sat there with my knees knocking and thinking, I can't get up now right in the middle of this and drag around the door and disturb everyone. And in those little pauses and I turned I said to my granddaughter, are you OK with this? And she said, yeah. She said it was really, really interesting and it's not emotional. And I thought, yeah, she's a natural!

Michael Green [00:02:37] Our guest this morning in Lives in the Law is Helen Garner, writer. Helen, our guests in Lives in the Law so far have mainly been lawyers. But you are a writer and your life in the law has been as an observer of the legal process. And among your many books, two of them have been bestselling books about the law; Joe Cinque's Consultation and This House of Grief. And you've also written many pieces of long form journalism about the law, but you've been exposed to the legal world before then when you supported a friend whose stepdaughter had been randomly murdered. Can you remember the circumstance of the case and how it affected you?

Helen Garner [00:03:13] Vividly. It was my first chance of going to a court. I see like most people in the population, I didn't realize you could walk into a trial. And I thought if I went with somebody who had a right to be there, I could get in. So, I saw it as a sort of an entree, as it were, into the I mean, that makes it sound rather cynical, really, I had two reasons for going. First, it was because he was so shattered by what had happened. And I thought I could he might like someone to be with him then. Secondly, with my curiosity, that's why I was there and how I got to be there. And it was a tremendous experience for me to go to that trial because it was the first time I understood that they really do have to prove the charge. There were two people charged with the crime, the murder of this young girl and her boyfriend. And, of course, like everyone in the room, listening to the evidence, I longed for these horrible people to be basically strung up. You know, you don't worry about morals when you're sitting there listening to such a terrible story. So, I was thunderstruck to find that the judge's charge to the jury was that the woman, that the

evidence against her was not sufficient to support the charge and that they were not to find her guilty. I that was the moment and this is very early in my experience of courts, where I actually sensed in the room what I thought of in retrospect as the spirit of the law. I thought, they really do have to prove it. And I felt this force in the room, which was an almighty power, the mighty power of the state, but it was controlled by reason. And I really think that was one of the most awesome experiences of my life. And I didn't realize it fully, I think, until years passed. And I'd been to other trials and thought about it a lot more. But I left the court stunned, really.

Michael Green [00:05:11] And that force that you felt in the room, it was a force for good. It wasn't a force of vengeance or retribution. It was a force of good and fairness and justice?

Helen Garner [00:05:21] I think it was a combination of a sense of the tremendous power of the state which in a sense is neither good nor bad, because in any regime it can be good or bad. But what impressed me was that it was it was being controlled by reason. And that seemed to me an enormous force of good.

Michael Green [00:05:43] What an amazing thing to be exposed to and a revelation to have. But your experience of the law was far more prosaic, or your first experience of the law was far more prosaic than the Supreme Court and the force of the state. It was you witnessing a motor vehicle accident in the mid-eighties. What in the trade is called a crash and bash. And you're going to the Magistrates Court as a witness. Can you remember what it was like to go into the witness box and to give evidence and be cross-examined by an opposition barrister?

Helen Garner [00:06:14] Yes, I remember that vividly as well. It was I think it was in Fitzroy Magistrates Court. And I had what I thought was a perfectly clear memory of what had happened, because I'd been standing on the balcony of my house just idly looking out, and the house was on a corner of an intersection up in North Carlton. And I saw exactly what happened because I was above it, I could have drawn a little diagram of the curve of the path of the cars. And so, I thought this outrageous thing, yes, I'm happy to give evidence. So, I get up, and they asked me what I'd seen and I said what I'd seen. And then this... What I thought of as this absolute twerp of a bloke began to hammer away at my simple tale. And he said, I remember, one thing he said was that all you've got really is a sense impression, isn't it? I thought this was the most outrageous thing anybody had ever said to me. I was really hot under the collar and I probably made a complete fool of myself. I thought, what else have I got to offer? Anyway, the guy went down

Michael Green [00:07:15] Your evidence was accepted.

Helen Garner [00:07:16] Apparently.

Michael Green [00:07:17] And you didn't enjoy the experience of being cross-examined?

Helen Garner [00:07:20] No, I broke out in a sweat of rage.

Michael Green [00:07:27] The first time that I'm aware that you wrote about the legal system was the murder trial of Daniel Valerio in 1993, Daniel was a toddler who was murdered by his mother's boyfriend. You weren't sent there by a newspaper or magazine to write about it. You happened to be in the court at the time. What were you doing in the court?

Helen Garner [00:07:45] Well, I was just poking my nose into other people's business, really. I'd read in the paper that there was somebody up on this charge. And as I often do when I'm reading about crime in the paper, I thought, what sort of a bloke would do a thing like that? I'd really like to have a look at that person. I just wanted to clap eyes on him. And so, I just hopped on my bike and went down to the court. And by this time, I knew you were actually allowed to go in. And so, I went in and meekly sat there and I began to watch this appalling story play out. Also present in the court that day was the cartoonist from the age, John Spooner, whom I vaguely knew, and he was just practicing, drawing, watching people, because a lot of people are sitting very still. And he came up to me and said, oh, he said hello. And we all went off for lunch. And after lunch, he came back and said that he was working for Time magazine. And when he'd been there at lunchtime, he told them that I was in the court and the editor said to him, send a message to Helen, does she want to write about this for us? So that's when I got out my notebook. But up until then, I just been an ordinary citizen having a look

Michael Green [00:08:53] Who was interested in the legal process and as you say, interested in the people in the process to see what they were like. And you won a Walkley Award for that piece of writing?

Helen Garner [00:09:01] Yes, I did. Yeah. I didn't even know what a Walkley Award was. I mean, I'm not I'm not a journalist. I have never been in a newsroom in my life. I'm not a trained journalist, never been a cadet or anything. I was just this sort of blow in. It's a terrific challenge to a writer to write about a case, a court case and a trial. I mean, the material that's before you is so extraordinary and so rich and complicated and fascinating that you've got to take that into account. But also, you're learning about the processes of a trial which are often quite mysterious to a stranger, to a beginner, the rules of evidence are hard to grasp. Yes, it's an extraordinary experience.

Michael Green [00:09:44] You said that Walkley Award is the award you are most proud of. Is that still the case?

Helen Garner [00:09:50] Yeah, and I got another one some years later! Yeah, I was thrilled to bits with them because when I wrote a book called *The First Stone*, which got me into a lot of trouble in the nineties, there was a lot of very bitchy attacks on me in various publications and sort of literary magazines. And some of the outraged feminists who were attacking me were casting aspersions on my abilities as what they called a journalist, they said, masquerading as a journalist, making a guest appearance as a journalist. You know, they used expressions like that. And I thought, bugger you, I haven't won a Walkley, so shove that up your ass. That's what I wanted to say. I am a journalist and I'm proud to be a journalist. I got a lot of friends who are journalists. A good journalist, is a terrific person, a person of enormous curiosity and persistence. And yeah, actually a bit like a lawyer. When you think about it.

Michael Green [00:10:42] Would you say fair mindedness about good journalists?

Helen Garner [00:10:45] Yes, a good journalist is someone who doesn't print scuttlebutt, you know, who checks their sources and who has the persistence to follow a story against obstacles that are placed in their way. Yes, I'm proud to have called myself at least an amateur journalist.

Michael Green [00:11:02] We better get on to the books that you have written about the law and the legal process, which have been very highly regarded. The first one was Joe Cinque's Consolation and the second one, This House of Grief. Joe Cinque was killed by his girlfriend injecting heroin into him after she laced his coffee with Rohypnol. She even told her friend she intended to do it. You at the time were living in Sydney. What made you go down to Canberra to decide to sit in on a trial?

Helen Garner [00:11:29] I didn't even know the story. I had a phone call from Tim Bowden, who is a very eminent journalist, probably half a generation senior to me. I mean, senior in life, not profession. He just called me up. He said, um, I didn't know him. I mean, he just rang me up and said, listen, I've heard is this, uh, murder trial down in Canberra, that sounds like your kind of thing is something you might be interested in. And he outlined it to me. And I thought, oh, I was very down in the dumps because my second marriage had just broken up and I was kind of licking my wounds in a flat all by myself and feeling very sorry for myself and not knowing what to do next. And anyway, he just kind of threw this into my lap and I thought, well, I'll just go down to Canberra and have a look. So, I did and it took me a while to get hooked on that one. It didn't immediately sort of grab me by the throat like the other one did. I spent a lot of time that year just going back and forth between Canberra and Sydney, exposing myself to the story. It was a terrible story and a great amount of anguish in it. I learned an enormous amount about how trials are conducted and what the law is and how somebody can construct an argument which to an outsider looks incredibly cold blooded.

Michael Green [00:12:44] And this was the argument constructed by Lex Lasry on behalf of Anu Singh. Yes. The woman accused of killing him.

Helen Garner [00:12:53] Yes.

Michael Green [00:12:53] So do you remember what the basis of his argument was?

Helen Garner [00:12:57] Yes, it's a very complicated thing. I wouldn't be able to sort of lay it out now briefly. Some of it had to do with duty of care, which was something I'd never given any thought to ever in my life. Really, the phrase was sort of new to me.

Michael Green [00:13:10] And the duty that she owed to Joe Cinque? Her duty of care to him....

Helen Garner [00:13:15] Well, apparently not. And no, actually the duty of care part came up with the second girl who was Anu Singh's best friend. And she... One of the famous points of this trial is that after, Joe Cinque had been given what one assumes, but it could not be proved, was the fatal injection. The killer's best friend came into the room and saw him lying on the bed, blue and taking a breath every few seconds. And she just turned around and went away and to your ordinary person in the street. That seems so outrageous. You can hardly contemplate it. I mean, these people weren't junkies, you know, they were they were just ordinary students. They tried a bit of drugs here and there, but they weren't sort of debased creatures who would just turn and run from the imminent death of someone they knew and liked. It was very shocking. And so, I thought, she'll go down for sure, because that's obviously such an appalling thing. But her defense counsel produced this argument about duty of care that just made my blood run cold. And she was found to have no case to answer. And so, after some time after this, when I was trying to write the book, I thought, I need to take it punt and I'll just contact the judge. And so, I wrote him a letter and asked if he'd talk to me, and I thought he'd just brush aside. But he

was very friendly and said, please come up and come to Chambers and I'll see you. So, we had a very, very interesting conversation. I've been always grateful to him for that generosity. I think it was partly because he must have felt pretty bad about the whole story himself. But that business of duty of care is so shocking to an ordinary person that I still can't get over it. And to see that argument coolly presented by a brilliant counsel, which was Lex Lasry, first time I'd ever seen him, I was speechless. Really.

Michael Green [00:15:17] So did you come away with a negative view of the system because of that?

Michael Green [00:15:21] Yeah, I was horrified. I thought this because the other thing that had happened, of course, was I mean, I was not a disinterested observer in this. By this time, I'd got to know Joe Cinque's parents and how I got to know them was at a break in the trial in the women's toilets, I was standing there putting on some lipstick at the mirror and Mrs. Cinque came out of a toilet and start to put lipstick on. And we looked at each other and, in the mirror, and she said, Oh, I see you. What are you doing here, you a journalist? I go, sort of. And I said, if I write something about this, would you speak to me? It was a strange moment. And it all seems very sort of significant to me that we weren't looking at each other right in the eye. We were looking at each other's faces in the mirror. And she examined me very carefully. She looked me up and down and she said, yes, I will. So that was a very important moment. But it also was a kind of disastrous moment because it meant that I was no longer capable of a detachment in the story. I was, as it were, infected by the anguish and grief of the dead man's parents. And so that's why that book, it's not a detached account. And I had to build myself into that book so that I could show my changes, the changes that I went through while I was watching the trial. And in a sense, that's one of the things that greatly interests me about watching a trial, is how listening to the evidence you're feeling about it swings, swings from I mean, some days you think, oh, of course he should immediately go to jail. He should get a life sentence for this. And then the next day, the other counsel swings the whole thing around. You go, oh, but wait a minute, maybe is there something I missed here? And so, in a sense, what you're doing as an observer in a trial is you're thinking like a juror, you're allowing the arguments to affect you and to persuade you one way or another. I've never been on a jury. I've never even been called for some reason, much to my disappointment. But I found that very interesting, how courts are supposed to be places of reason and to a large extent they are. But the place is a great cataract emotion, the room is full of emotion, and it's a matter of being able to sort of navigate that flood in order to write about it.

Michael Green [00:17:39] In observing these things and observing juries and taking into account what you've just said about the flood of emotions that's going on. Are you impressed with juries, the decisions they reach?

Helen Garner [00:17:50] I'm astonished by them. I know I have a great feeling for them. I can see how they sort of suffer, you know, the pain that they go through. I remember in that Valerio trial how there were two trials, actually Valerio, the first one, the jury couldn't reach a verdict. And so, they had to dismiss them and start again. But both times this weeping broke out in the jury box. Just one person would start to cry. And then all of them, the men, women, they would just be sobbing loudly. And I thought, gosh, what a process it is to try to absorb and understand the evidence that's been presented and actually make a decision. It's a colossal task and awesome. And I, I think people I know who've been on juries have spoken to me, you know, very honorably. They wouldn't give me all the details that I wanted, just that sense of a bunch of disparate people coming off the street. They don't know each other. They belong to different classes. They're different colors. They've

got different native languages. And suddenly they find themselves in this box and they have to listen and work together. What I find wonderful and thrilling and sort of gives me hope for the human race is that that bunch of people can mold themselves into a functioning unit and arrive at a decision. One of my sisters was on a jury once and she, because of my house, is on a direct line to the courts, to Flagstaff station, she came and stayed at my place for the week. She was on this jury, and she was super honorable, wouldn't tell me anything.

Michael Green [00:19:25] What sort of a sister is that?

Helen Garner [00:19:27] She's very honorable and stern. But, the interesting thing was that the first day she came home, I said how'd you go? And she said they made me the foreperson. I said, what did they say? She said, well, a lot of them were like tradies. And then there are a couple of posh ladies from the other side of the river. And she said they said to me, you should be the foreperson. And she said, and I go, Why? And they said, because you're a singer in a band and you're used to standing up and talking in front of strangers. So anyway, she was very upset. She'd come home every night and I'd say how'd it go, and she'd cry, it wasn't a murder. It was just some sort of money case. I can't remember what it was... blackmail! It was a blackmail case. Anyway, she said the awful thing is we know they're not telling us something. We know there's stuff here going on and they're not telling it, telling us. And we don't know what it is. And it's terribly frustrating and we don't know how to handle it. And I realized then that once again, as an observer sitting there in the court, you actually know more than the jury knows. This shocked me when I grasp it, you see always things fell very slowly. These pennies dropped in me very slowly, because I've never had any of this explained to me, I've never done a law course or sat down to try to read a book explaining it all. I just sort of throw myself in there. And I've learned very slowly in rather stupid, you know, a lot of the time I feel quite stupid in a court. I think, why the hell why wouldn't you let him say that? And I couldn't grasp it. And then afterwards I'd go and get somebody to explain it to me. And but in a sense, I think that's why people like those books, those two books of mine about trials, because I built that into the story, that sort of stupidity that you feel. We go, what the hell? Hang on. I thought this was so. But now I see that it's that. And he pulled the rug out. And so, I put in all those changes. And so, I think they give people a sense of what it's like to be actually in the room. Whereas, you know, you could write a book if you if you had the talent like Evil Angels, like John Bryson's book about the Chamberlain case, which is much more detached. And he and he's you know, because he's a barrister himself, he can kind of hover over the story. But I very rarely feel in court that I'm hovering over the story. I feel like I'm right there in the guts of it. And I have to kind of stagger home at the end of the day and get over what I've seen and felt and try to sort of find myself a little island in that mighty river of stuff that's rolling past.

Michael Green [00:21:48] Helen, is it why you say it is important to stay as close as you can to the dumb cluck in the street?

Helen Garner [00:21:56] Yeah, because I think I never set out to do this. You see, what happens is as a dumb cluck in the street, I go into the court, I go into the trial and I sit there for six weeks or however long it goes on. And I'm sort of like someone trying to keep swimming. Then I have to sit down and write the book. And that's the terrifying moment, is when I've got all the stuff there. I've got the transcripts of it, all the notes I kept. I've got the journals I kept every day and every night when I was actually at the trial and I think, what the hell am I going to do with this mass of material? And the only way that I'm able to do it is to follow my own path through it. What I've learned on day one of a trial the first day that

I go, I go down to Officeworks, and I buy myself a big exercise book and that is going to be the journal that I keep right through the trial. It's separates from my personal diaries. That's another thing. But this is an it's a daily account of my engagement with the material. When I first did this, which was with the Joe Cinque case, I had no idea what I was doing. I just knew that I was filled with thoughts and feelings and I needed to write them down to sort of relieve my nerves, as it were. But I found as I went along, and by the time I got to the end of that trial and I was lost, I didn't know how to write the book. I looked again at those journals and I saw that there was a kind of spine running through them, which was a narrative. And if I followed that thread, I didn't drown. And so that's why, as one of the reasons why there's an I narrator in those books, because that's the only way I can think of to do it. It's not because I thought it was that my opinions were more interesting than anything else. It was just that my experience of being there is the most interesting part of the thing for me when it comes to writing it. And it's somehow, it's the most vivid because it's about what I'm looking at and what I'm hearing and the mood in the room and the change of mood in the room and the distress of people in the room, strange bursts of laughter that suddenly come out. And even the accused person sometimes will laugh. Those are the things that if I follow that thread, that's how I find my way through the material.

Michael Green [00:24:05] Well, now, let's get back to your second book about the legal process or specifically on the legal process, This House of Grief. This is a case where a man named Robert Farquharson drove his car into a dam killing three sons. And I think you followed it from the committal in Geelong, Geelong Magistrates Court, the first trial in the Supreme Court, then a successful appeal to the Court of Appeal by the accused, Robert Farquharson, and then the second trial where Robert Farquharson was found guilty and sentenced to life with a 33-year minimum. I think by coincidence, the judge in that second trial was Lex Lasry, who had been defense counsel in the Joe Cinque trial.

Helen Garner [00:24:45] Yes.

Michael Green [00:24:45] One of those little twists and turns have come quite often in our lives. This was a seven-year process. You followed the whole thing through. How did it affect you working on this for seven years? Did it consume you? Did it take a real toll of you?

Helen Garner [00:24:57] Yes, it did. It broke my heart, really. It's a sort of experience that, uh, it's taken me years to get over it. And you see, I've always had this fantasy that I could recover from things quickly. I mean, work things. I'd look at the real journalists who are in the court and I'd see how they seem to have a kind of carapace on them that protected them from the distress of these stories. See, I suppose in my heart, I wished always that he hadn't done it because it was just so terrible to me to think that a man would kill his children. I mean, how many... it's in the paper every day. It's not as if it's a new thing, but I dunno, somehow the committal hearing was held in Geelong and that's my hometown. And I for some reason, I had a feeling of intimacy with the case. I don't know why I felt it.

Michael Green [00:25:52] Where he drove into the dam was Winchelsea.

Helen Garner [00:25:56] I know that road. And also, the fact that he had two older sisters and I could see how they loved him and cared for him and worried about him. And I come from a family. There's five girls and one boy. And I just you know, I know what it is to be a big sister. I'm usually quite helpless before this emotional part of the matter. I mean, the thing with Maria Cinque, I mean, Maria and I are still friends. Her husband died. He died a

couple of years ago. And I loved them and became very close to them. And so, I'm not suggesting that well, I'm stating boldly that I'm not good at maintaining detachment in these stories. And so, for that reason, perhaps I was sort of devastated by it. And because also I had grandchildren, little grandsons at the time who were the same age as the Farquharson boys. And there were some parts of that trial that were so frightful that I know Lex Lasry told me that he just couldn't read the book. He said, I can't read it, I can't go there again. And he said that they used these things called submergence videos. So, they got a car and loaded with cameras inside and they loaded into a dam to see what happened to the doors. And when you could open the doors and when the water pressure stopped you from opening the doors. And that was nightmarish evidence and people wept in the court, but that it was unbearable. But I thought, well, you know, I should toughen up. How could these journalists, you know, they don't go stagger out weeping at the end of every day, but maybe they did. Or maybe they waited till I got home. But I so I finally wrote the book. And then about a year later, I was sitting in the lobby of the ABC waiting to be interviewed about something. And the door from the street opened it. In walked this bloke who I recognize is one of the journalists who'd been at the Farquharson trial and I'd just been on nodding terms with him there, but I thought, oh, he probably won't remember me at all. So, I waved to him and he was on the other side of that big lobby and he recognized me, rushed across the lobby and he said, Helen, Helen, how'd you pull up after the Farquharson trial? And I said, I'm terrible, terrible. I thought I was going to have a nervous breakdown. And he said, Oh, thank God you said that. He said, so do you said, I just feel like I actually did crack up, I had to leave my job. And God, I was so relieved to hear. I have a feeling of comradery at that moment that I hadn't felt before. I thought, oh, I'm not the only one who can hardly be this stuff. And I wonder, too, if I'd been younger when I followed that trial, it might have been less devastating to me. I think as I've got older, I found that I can hardly stand the amount of pain in a courtroom, or even in the Magistrates Court, the people there who are in such trouble and you see they're never going to get their lives together. You sit there comfortably watching and it's just too painful.

Michael Green [00:28:40] Following, I mean, I just don't want to exacerbate your pain, I understand what you're saying. It makes me wonder about the judges and the barristers who are observing these situations and running these trials daily.

Helen Garner [00:28:52] Yeah, I've wondered that often. And I, I remember during the Farquharson trial I used to when it was lunch time, I used to go into the Supreme Court library, which is a place I love. And I just used to go at random along the shelves, I don't know what you call them, where there's decisions, judgments of various cases. And I just pull them down at random and open them at random. And I felt, I'd see in some of the judgments there a great modesty and sorrow in the judge's voices. Not always, clearly. In fact, quite rarely, I suspect, because people don't want to expose those emotions and they're presumably not relevant or they thought to be not relevant. But I'd occasionally come upon a judge basically saying, I don't understand. I mean, the subtext of what he was writing was, I don't understand this. I don't understand. What does it mean that this man could have killed this little girl and shoved her body into a drain? I don't know what to say or what to do, and I don't know how people stand it. I think there's got to be. Well, maybe that takes us back to what I was saying at the beginning about the role of reason, maybe reason, if you're trained as a lawyer, you're highly trained in how to reason and how to, as it were, step onto the bank. I've got this vision of a river rushing and I'm always looking for a little island or a rock or a log that I can hang onto. But maybe judges don't get their feet wet, you know, and maybe they can stand on the bank and watch it go by and use all their sharpness of intellect to deal with it. So that's not my job.

Voiceover [00:30:38] William and Lonsdale are brought to you by Greens List, one of the leading multidisciplinary barristers lists in Australia, Greens List believe in promoting conversation around the ideas and issues that shape not only our legal system but our wider community.

Michael Green [00:30:59] In reviewing this house of grief, David Maher called it a love song to the law, was it? And if so, why?

Helen Garner [00:31:07] Well, I was actually really thrilled that he said that it's definitely a love song to the court and I dedicated it to the court, and that's to the Supreme Court. The title, This House of Grief. It's from a Hungarian novel that I read where a person talked to I think it was even perhaps talking about a police station, but just talking about a building in which human agony is dealt with. And I guess in that regard, that's what I find awesome about the law, is that this enormous construction, which has been invented and devised over centuries to try to deal with the wildness of human beings and how mad we are and how cruel and how weak some of us are and how some of us suffer at the hands of others. And we've had to... The human race has had to devise a series of structures which we hope will enable us to deal with these terrible things. It's as big and as complex as a religion or as poetry and literature. It's got that degree of complexity. And I think in that sense, my book is a love song to it. Yeah.

Michael Green [00:32:16] Has it won your respect as a system which has to deal with our wildness as human beings, our cruelty to each other? Has it won your respect that it does in some way contain these things and help us function better?

Helen Garner [00:32:31] Yes, I, I hate to generalize it. Actually, I feel very uncomfortable generalizing in huge terms, although I just have for the last five minutes. But you see, the other thing about it is it's not super human, it's made by humans to deal with humans. And so all human faults are present in the law as well as in the matter that the law is devised to deal with. So, there's nothing perfect about it. And I know this. I mean, terrible mad things happen like, you know, the whole Nicola Gobbo business and all that crazy stuff and injustice and... I don't want to make to whitewash it, but it seems to me that it's a tremendous effort. And in that way, I mean, sometimes I've said in court, especially during a plea hearing, I find a plea hearing very moving somehow because it's small and intimate, and its people talking and reasoning with each other and explaining things. And I find that, I think I've said somewhere in the book that it's or somewhere or something else I wrote that it's like a string quartet, whereas a full-on jury trial is a symphony and a plea hearing is a string quartet. It's quiet and it's still full of feeling and an attempt of reason. But it's quiet and it's polite and people aren't sort of grandstanding. And I greatly value those moments that I've seen.

Michael Green [00:33:52] Are there enough of those moments? Is it a system which can be almost inhuman in grinding exceedingly finely, or is it sufficiently informed by the human qualities that we all love and admire, the qualities of empathy and compassion and understanding? And if we've got enough of that in the system? Or is it balanced?

Helen Garner [00:34:11] I would think probably not. I mean, as I was saying, it's a human system. It's made by humans. So, we're going to stuff up. It's going to be a stuff up. And it's an endless struggle. Like everything human, it's an endless struggle. There's never... Every now and then there's a little moment of peace where, you know, okay, Donald Trump loses the election. We get four seconds of relief and then all the chaos crashes in again. And I think it's the same with the law. It's, there's just no end to human craziness

and sinfulness. And so, I think there are times when a law, a law is changed and that relieves a certain degree of awfulness in the way that in certain cases have been dealt with. But it's an endless battle. So, I don't know the answer to your question.

Michael Green [00:35:02] If all the world is a stage, then it seems to me that a courtroom is a stage par excellence.

Helen Garner [00:35:08] Yes.

Michael Green [00:35:09] It has players with role judges, barristers, solicitors, jury witness accused, etc. But I'm particularly interested in the professional players. But the judges and the barristers, they wear costumes.

Helen Garner [00:35:21] Yes.

Michael Green [00:35:22] Wigs and gowns. And they play a role as someone who's observed now for decades. What do you make of them? Do you see them as important players? Do you see them playing a significant role in our community?

Helen Garner [00:35:34] Judges and lawyers?

Michael Green [00:35:35] Judges and barristers, particularly those who stand up and play?

Helen Garner [00:35:38] Yes, very much so. And I actually, I know this is very old-fashioned view, but I think wigs are fantastic. I think wigs and gowns are really important. I mean, I think if I was up on a charge, a serious charge, and I walked into a court and you saw people in ordinary clothes there, I don't think I'd be very happy because I would want to feel... What I think those costumes do is it make things less personal. They make a gesture of respect towards the history and an appreciation of the laws by which we try to govern ourselves and rule ourselves. Well, put it this way. I know quite a few judges and barristers now, and some of them I like and respect enormously. Others I find completely insufferable, you know there's plenty of insufferable people in any profession. I just I suppose in a way, as I was saying earlier in this interview, I was talking about journalists and how I like them and how I respect them. And I guess I respect people who work face to face each day with the mess of human life. I love and respect those people. And I mean, same goes for the police. I mean, the police are for good people, but there's some really rotten ones in there as well. And when I once was writing an article about the morgue, I spent three or four days in the morgue. And the people that I met there, I was once again awestruck by them, the extremity of their experience and their decency and dignity and their professionalism and their humor. And I remember asking them, the technicians I mean, I stood there while people were watching autopsies and bodies being, you know, cut up, basically. And I was the way that they dealt with their work was awesome to me. And in their company, I felt that I could be what they were doing. There was something about their attitude towards their work that I keep going for words like ennobled to ennobled something. But you would think that to go to work, to go to a morgue would be a squalid and hideous experience. But I actually found that it was I learned something that I can hardly put into words. And I guess I feel the same way about people in the law, that they have a lot more experience than the average person of the awfulness of human beings. And of it need to be controlled and regulated or reasoned about, examined carefully. And I find that quite moving and terribly impressive.

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Michael Green [00:38:44] Let's move away from the nitty gritty of the law and back to one of your other brushes with the law in your field of professional expertise, writing. You have worked or assisted through the judicial college, judges in their writing of judgments. What was that about?

Helen Garner [00:39:01] Well, I was asked if I wanted to take part in these little workshops. This would be a good 10 years ago. They were running. I think it was Linda Dessau who invited me to take part because I think a three-day gig and people came from all over Australia to do this. And they were judicial officers. There were magistrates and people from VCAT, then people from high courts. And I didn't quite know why I'd been asked to do this, but so I thought, well, I'll just dive in. So, we were sent in advance of the date. Each judicial officer had to send in two judgment decisions that had already been delivered, and we were going to work on those in a kind of workshop situation. So, I'm reading these pieces of writing and I thought, I don't understand these at all. I have no idea what these are about. And I'm on the tram going down to where this thing was on and my knees were knocking. I thought, I'm about to make the most colossal fool of myself. So, the first thing that happened was there's this guy, this American professor of law and literature called Jim Raymond, who was running this course. And he got up and gave the opening address of this gig. And it was called, I think, The Architecture of the Judgment. And listening to him, I thought, I know why I don't understand these. It's because they're really badly written. It's not because I'm stupid. I am not stupid! Great! So, I sit down and we had a face to face, you had to work with one of the judicial officers. And I had this guy who was a magistrate from Kalgoorlie, and he had sent in this judgment that was to me completely incomprehensible. I had absolutely no idea what it was about. And I thought, well, look at him. He seemed like a nice guy. So, I said, look, gonna cut to the chase. I said, listen, I've got a problem with this. I just don't understand what this is about. I have no idea what it's about. And he looked at me and he said, he was completely amazed. And I said, well, can you can you just run it? You know, just talk it through to me? He said, sure, I can do that. He said, well, there's this bit of land, right, it has got some gold in it. And I said... You have mentioned it anywhere in that judgment! He said, why would I do that? And so, you know, I batted away at him. And finally, I got him to write up the front of the judgment I got him to put... You see what Jim Raymond said was the very first bit of one of these judgments should say who did what to whom. That was his very blunt approach. So, I got him to explain that. And so, then we could clear up all the rest. So, you know, we have to halve the length of it. That was really it was a moment of great enlightenment to me that the law is so full of jargon. And often people just don't care if people outside the law can't understand it. And so often in these little courses that we gave, which I loved, I came to really enjoy them. We'd ask the people who'd come along, the judicial officers, we'd say, who? Who is your reader? And so, in other words, who are you addressing in this piece of writing? And they'd always say the court above and the parties in that order, often. And it dawned on me after a while that they were scared. That there was a hell of a lot of fear in the writing, and that was what was making the writing bad, because they were writing defensively

Michael Green [00:42:10] They feared the court above them?

Michael Green [00:42:12] They feared that they would be overturned. And because this was something, this was all new to me, because I was just looking at it as a piece of writing and I just simply couldn't understand why they couldn't say, okay, this bloke had a license to mine the gold out of this, he wasn't using it. And so, these other company over here wants to get rid of him and get a license to. Why couldn't they just say that? And this was a mystery to them that I expected that. They didn't ever think that people who weren't concerned with the matter would want to read it. So that in itself was pretty interesting to me.

Michael Green [00:42:45] You talk about great clunking subordinate clauses back to back. Now, as someone who has done his own fair share of legal reading, I can understand exactly what you're saying. They're bolted together by verbs in the passive voice.

Helen Garner [00:43:01] Yeah, that's exactly what they were. They were just it was barbaric writing, but it was. But see, when you think of being bolted together, that's the exact quality. It was like somebody bolting together, a kind of a defensive wall. And so, after a while, we realized the people running this course realized that they needed to get some guys in there, some guys and women in there from the higher courts. So, they could say, listen, we don't want this shit. You know, we don't want to have to plow our way through twenty-five pages of shit. Can't you just boil it down? We haven't got time to read this stuff. Why is that there? Why is that there? And the person in the lower court would say, but I put that in because. I thought that if I didn't put it in, you know, I'd be criticized, and it was as if they... what they didn't have the nerve to do was digest the thing and then write the judgement. They sort of worked through it point by point by point, instead of striding through it and taking: I need this, I need this. Which of course, is how you write a book. You can't put everything in because no one will read it and they'll just chuck it at the wall. You've got to you've got to take command of the material and then go striding through it. And this this was fantastically fun to help people to do.

Michael Green [00:44:19] Are you aware of it having made any ongoing changes to legal writing?

Michael Green [00:44:24] I wouldn't go so far as to say that, because I don't see the legal writing. But I know I made a couple of friendships through the course. And I know that one person at least has written to me gratefully and said I'd saved them a lot of time. Its quite time saving, you know, not to sort of commando crawl your way through that material, but to stride, you know, stand above it and grab the bits you need.

Michael Green [00:44:51] To me, in some books, not all books, it becomes a conversation with the author. I certainly felt that with Joe Cinque's *Consolation* and *This House of Grief* that I was talking to you Helen. What are you saying to me, the reader? What are you expecting of me by taking me into a courtroom and having me witnessed the drama and often the pain of a trial?

Helen Garner [00:45:12] Well, my first expectation of my first hope is that you will keep reading, that you won't get bored. I'm hoping that the way I write will hold your attention. I think that, that's actually it's a very complicated question. I mean, it's psychologically quite complicated. My aim in writing is to keep the work as close to speech as I can. I think that doesn't preclude using long sentences. The sort of writing that I enjoy reading is... That I most enjoy reading is where the narrating voice is close to speech. I love it and it makes me feel kind of companionship with the writer and a shared curiosity. And I guess that's

what I'm hoping. I'm hoping that people will... That I can persuade a reader to see what's important about what I'm talking about. See, when I first started out as a writer, women weren't, in Australia anyway, women weren't sort of well thought of as writers. We were always told that our concerns were secondary and minor and that things that happened in houses and bedrooms and kitchens were less worthy of attention than ones that were about wars or politics or mighty journeys. So, I've always felt that I wanted to sort of breakthrough that feeling. I want to be able to share with the reader my fascination with what's going on right in front of me. And that's my... It's a kind of companionable feeling that I that I'm trying to create. And so, I'm really happy that you said that because maybe it's working.

Michael Green [00:46:50] So you want to take me into the courtroom like the 16-year-old girl who went with you to This House of Grief.

Helen Garner [00:46:56] Yeah.

Michael Green [00:46:56] And to sit next to you. Yeah. And to jointly experience what is occurring.

Helen Garner [00:47:01] Yeah. And I suppose that goes back to I was very surprised when I first started, when I published the Joe Cinque book was the first one, when people, like highly educated people would say to me, how did you get permission to go to that trial, who let you in? And I was rocked to find that people don't know that you can just walk in and that it's your right as a citizen to see what's being done in your name, basically. So that's one thing I wanted was to say, look, this goes on every day. These stories are happening. Let's go in here and have a look. I remember once when my granddaughter was, her 16th birthday and I was taking her downtown to buy a pair of Doc Marten boots. And we walked past the Supreme Court and she said, is that the court where you go? And I said, yeah, that's the one. She said, wow, I said, do you want to go in and have a look? She said, Oh, yes. So, we went in and we just walked in, sat down in a court. There was, everything was already rolling. And some pathologist was on the stand giving these really quite gruesome details about an unfortunate man who'd been bashed outside a bar and died. And I thought, oh, my first thought was, oh, my God. I looked at the girl, my granddaughter, and I looked at the judge, who was a woman who I vaguely knew. And I thought, that judge is going to think I'm really sick bringing this girl into this trial. And I sat there with my knees knocking and thinking, I can't get up now right in the middle of this and drag around the door and disturb everyone. And there was a little pause. And I turned I said to my granddaughter, are you OK with this? And she said, yeah. She said it was really, really interesting and it's not emotional. And I thought, yeah, she's a natural. I was so happy about that, that that's what I want. I want people to see how kind of thrilling it is, this process and how wonderfully structured it is, the sense of structure that you feel when you walk into a court. There's a special place where everyone sits. And I think that's one of the things that excite and move me about a court is how, although what it's dealing with is, is that human wildness, it's devised a way of saying, all right, now let's come into this room, we're all coming into this room. And there's a special way that you behave in here. You don't yell and scream, OK, you can cry. We try to be rational and everyone takes it in turns. And those people sit over there and those people sit over there and you can sit just there and you can listen. And if you can't stand it, you can get up very quietly and walk out. You know, this seems to me to be a hugely civilized phenomenon and process. And I guess that's in those books. That's one of the things I want the reader to appreciate. And I want to be able to write in such a way that they can bear what I want to tell them, like this stuff about the submergence video. Those poor little Farquharson boys, and that links up

with something else are saying about how when I went to the morgue, what made that experience bearable, not only bearable to me, but intensely meaningful and awe inspiring was the behavior, the formal behavior of the people who were working in there. Their attitude towards their work made it possible for me to bear it. And I think that's what I want from the reader. I want them to... It's like I'm taking them by the hand, I'm saying you can come in here and I'll explain to you what's going on and we'll look this together.

Michael Green [00:50:25] As well as that. It also gives you a shot of adrenaline to walk into a court building. That sounds like a junkie, of course. And you are a court junkie, Helen. What is the shot of adrenaline?

Helen Garner [00:50:34] Well, I can answer that. I wouldn't have once been able to, but I do still feel it. And I haven't been in court as much over the last year or so, but I didn't really understand it until I identified it with another situation in which I feel a shot of adrenaline. My office where I work every day is not far from the Royal Melbourne Hospital and in the basement of the Royal Melbourne Hospital they've got this fantastic cafeteria and everybody goes there, the doctors and nurses and patients and blow ins and people, everybody, they I make the most fantastic salad sandwiches in there. So, I often go there for lunch or just walk across the road and I go to the thing and I order a sandwich and I sit down at a table with a total stranger and get into, often get into conversation with them. And I after a while, I realized that walking into that cafeteria gave me the same shot of just, you know, my nerves started to fizz a bit. And I thought, this is the same feeling I get when I walk into a court. How come? I thought, I know what it is. It's because everybody here is in extremis. Everyone here. This is an important moment in people's lives to be in this place. And you walk in the door and you can feel it. It's like a kind of electric shock in the air that goes through you, and I connected with people in the hospital who have just had a baby and they've just staggered down to have their first coffee or somebody who's got someone in to take a break from watching somebody die, or someone's got a horrible injury. But they sit they sit at the table and you say she's what happened to your arm? And they tell you the answer and they're ready to talk. Everybody's got a story. That's what it is. They're all places that are full of stories.

Michael Green [00:52:20] Helen, thank you very much for giving us of your time today. Thank you very much for your decades of writing that we have all read and loved and continue to love. So please keep publishing. But to listen to your take on the law and the legal system, I think is really important to us as a community to get an insight into this system by an outsider who has something to tell us about the system and about ourselves. Really grateful. Thanks for coming.

Helen Garner [00:52:45] Thanks. And I've got to say, I really enjoyed your questions that were very provocative and they all seem to link up with each other in a subtle way. So, I appreciate that. Thanks so much, Michael.

Voiceover [00:53:02] Show notes from today's episode can be found at [Greenslist.com.au/podcast](https://greenslist.com.au/podcast). There you'll find links to things talked about in this episode, a transcript of the show and some wonderful photos of our guests. If you're enjoying Lives in the Law, please tell your networks and subscribe, rate and review the show. It really helps others find out about us. Your host is former lawyer and Greens List clerk Michael Green. Our show is produced by me, Catherine Green, mixed and mastered by Windmill Audio and recorded by Alex Macfarlane, who also wrote and performed all the music for the series. With covid restrictions limiting numbers inside the County Court of Victoria, we are currently recording our shows at Owen Dixon Chambers on the corner of William and

Lonsdale Streets in our beautiful city of Melbourne. We acknowledge The Wurundjeri People of the Kulin Nation as the traditional custodians of this land and pay our respect to their elders past and present. There is no doubt that conversations about justice have been taking place on this land for thousands of years, and we are privileged to continue the discussion here today.