

## Truth and Responsibility

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\* Truth or responsibility--is there any excuse for lying ?

The traditional defence against charges of defamation is that the offensive statement is true and that it is in the public interest to make it known. I want to suggest that both these defences are inappropriate. In the first place, the defence of truth is not available to writers of fiction who are unfortunate enough to write of a character who can be identified, by name or otherwise, with a living person. But even more importantly, truth itself is a slippery concept. It certainly cannot be identified with factual accuracy. As one Queensland historian found, the recital of facts can be impeccable, but if they contain unflattering implications about any of the actors they can still be defamatory. A whole edition of his work was pulped as a consequence. On the other hand, the elements of a story can be completely fictitious yet the portrayal of a character still be considered defamatory. Tony Morphett discovered this when his wholly fictitious account of a wholly fictitious Sydney artist happened to use the name of an actual Melbourne artist. Because truth was not a defence in either of these cases, the public lost potential benefit of being able to read what the two authors had said. In both cases, I would argue that public benefit should override the perceived interests of particular individuals. Yet our present legal system does not allow this.

It is not my intention, nor do I have the qualifications, to argue about the law as it stands, nor even about what it should be. Rather, I wish to argue that the kind of truth

contained in poetry, fiction and historical writing, in satire and in criticism, is not susceptible to the tests of truth used in a law court, and that therefore the law of defamation as a whole depends on a fallacy and should be scrapped.

This suggestion seems on the face of it to run counter to the proposition that our reputation is our most precious possession. Community living depends on the acceptance of good faith among the members of our community, and so implies the right of all members of a community to be accepted as persons of good repute unless proven otherwise. Of course, we know that this does not work, and that every community inhabits a House of Fame where gossip, flattery, innuendo and dissent daily build and destroy reputations. The law of defamation is designed precisely to keep these forces within reasonable bounds. Yet even on its own terms it does not work, for it checks only those who would diminish reputation, not those who falsely build them. It thus by its nature runs contrary to the public interest.

The issue of truth is not a separate defence, but is central to the question of the public interest. No community can go about its business unless it has an adequate understanding of its place in the world. In the small isolated communities of prehistory it did not matter if this understanding was based on a false cosmology and a fantastic portrayal of remote places and peoples. In today's world erroneous science can precipitate disaster, and distorted views of our neighbours lead to such tragedies as the Gulf war. It is therefore not merely a matter of taste or convenience, but of survival, that we have access to the greatest possible array of voices telling us how they see themselves and the world. While this market place of ideas will never supply a final truth, it will help us to keep our minds open and to avoid the more egregious error. For while there may be no clear truth, there is certainly falsehood, and only debate





