

The Problem of Story: The dangers and affordances of narrative in criminal justice processes

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'Oh yes. Absolutely. [...] If the causes of their offending are identified, that is often a good sign of remorse. You know, if they actually face up to the underlying causes of their offending. [For example, if] somebody who embezzles three or four-hundred thousand dollars from their employer says: "My life was falling apart. My wife had left me. My business fell apart. But I wanted to keep the lifestyle that I was living. I wanted to put on this pretence, so I started embezzling money from my clients". That's genuine remorse, because they're saying "My motivation for committing the offence was totally immoral. That is, I wanted to pretend to [my] work that I was still this affluent" – and they actually come out and tell you that, and you know that that's genuine remorse.'

‘Look, to be honest with you, up until six weeks ago I hadn’t really thought about what I’d done. Then I suddenly thought “Wow! What if someone had hit *my* sister? What if it was *my* mother who was robbed and knocked over and her handbag was snatched?” And I thought to myself: “What have I *done?*”’

'If I was defence counsel, what I'd be inclined to do is to say [to the offender] "Look, you're going to have to explain to the judge why you did it and how you feel about it now, and you'll have to show some understanding of the impact that it's had on the victim, how you feel about the victim now, and how you see your future, what you'd like to do in your future. And how you think you've developed in the meantime." Things like that. I'd give them topics; a list that they can go away and think about.'

- Diana Eades writes that 'it is problematic to view the stories which emerge in these [legal and courtroom] contexts as the sole product of the storyteller' (2008: 214).
- If prisoners are in cognitive behavioural programmes, their life story is being subjected to a process of 'disenplotment' and 're-enplotment' (Waldran 2007:147).

Cultural Stock Stories

- Kilty, J. & Weir, C. “Temporary Irresponsibility, Foolish Mistakes, and Outright Villains: Narratives of Remorse in Sexual Assault Trials” in Tudor, S., Weisman, R., Proeve, M., Rossmannith, K (eds). *Remorse and Criminal Justice: Multidisciplinary Perspectives*. London: Routledge, 2021 (in press)
- Linda Berger: “If the story you are telling is one that already is embedded in tradition and culture, you need not fill in all the details; you can simply name the characters, and the plot will spring to life in the listener’s mind” (2011).

Case of Brock Turner

'Stanford rape case' – Brock Turner sexually assaulted fellow college student Chanel Miller



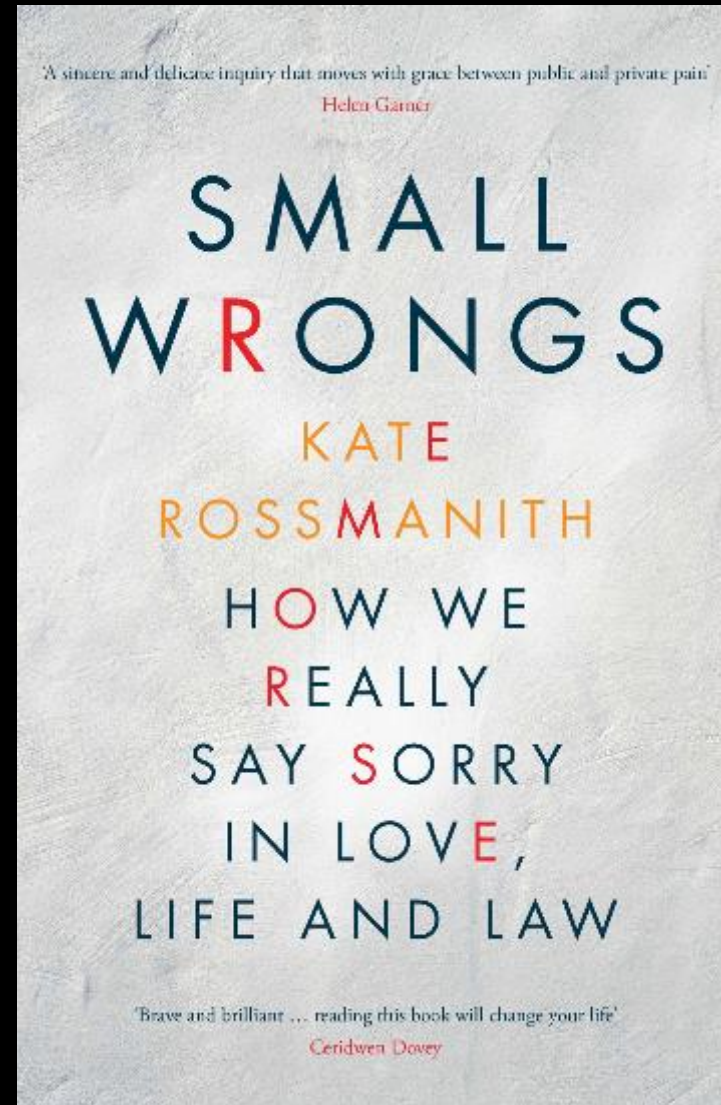
Narratives of foolish boys

- ‘Having outlined a tiny clip of Brock, your Honor can appreciate how totally out of character we find these charges against him. Brock is a decent, hard working, young man who knows right from wrong and, if given the chance, will offer so much positive to the world.’
(friend)
- ‘Brock Turner was misconstrued as a criminal, which he simply is not. I hope you see the real Brock Turner.’ (former teammate)
- ‘This is completely different from a woman getting kidnapped and raped as she is walking to her car in a parking lot. That is a rapist. These [university students accused of rape] are not rapists. These are idiot boys and girls having too much to drink and not being aware of their surroundings and having clouded judgement.’
(friend)

Creative nonfiction as research method

Small Wrongs (2018)

Melbourne & London: Hardie Grant Books



- Creative nonfiction as a research methodology is an emerging form of inquiry (Webb and Brien 2008).
- A key problem faced by writers concerns the status of the narrating voice: Who, or what persona, is telling us this story, and why? This is connected to a second issue: What is the object of study?