

**“A bridge that will probably never be crossed”:  
The discourse of accountability in Judge Persky’s  
sentencing decision of Brock Turner in *The People v.  
Turner* (2016)**

**Ana-Maria Jerca**

York University, Canada

10.21747/21833745/lanlaw/6\_2a3

**Abstract.** *The People v. Turner* (2016) exemplifies a common leniency towards perpetrators of rape in the courtroom. Despite Turner’s conviction bringing hope that trial proceedings might stop exonerating rapists, Judge Persky’s decision to sentence Turner to only six months in jail shows that the perpetrators can still be somewhat exculpated post factum. This paper conducts a critical discourse analysis of Persky’s sentencing decision, analyzing its intertextual relationships with the victim’s impact statement and the perpetrator’s apology inter alia, emphasizing the systematic minimizations of the victim, Chanel Miller’s, descriptions of Turner’s acts of violence. Finally, I analyze Persky’s evaluation of Turner’s apology to Miller, i.e. that reconciling is “a bridge that will probably never be crossed” because Miller’s insistence that Turner acknowledge that his assault was intentional is an exorbitant request. I conclude that Persky passed a sentence that was consistent with his reformulations of Turner’s actions, which parallels findings from previous research.

**Keywords:** *Sexual assault trials, courtroom discourse, critical discourse analysis.*

**Resumo.** *O caso The People v. Turner (2016) é um exemplo de leniência dos tribunais para com violadores. Embora, com a condenação de Turner, haja esperança de que os tribunais deixem de isentar violadores, a decisão do Juiz Persky de condenar Turner a apenas seis meses de prisão mostra que os criminosos continuam a poder ser, de alguma forma, desculpados post factum. Este artigo apresenta uma análise crítica do discurso da sentença de Persky, analisando as suas relações intertextuais com as declarações da vítima e com o pedido de desculpas do agressor, entre outros, com destaque para a minimização sistemática das descrições dos atos de violência de Turner pela vítima, Chanel Miller. Finalmente, analizo a avaliação, por parte de Persky, do pedido de desculpas de Turner a Miller, i.e. que a reconciliação é “uma ponte que provavelmente nunca será feita” porque a*

*insistência de Miller para que Turner reconheça que a sua violação foi intencional é um pedido excessivo. Concluo que a sentença de Persky é consistente com as suas reformulações das ações de Turner, confirmando resultados de estudos anteriores.*

**Palavras-chave:** *Julgamento de violação sexual, discurso da sala de audiências, análise crítica do discurso.*

## Introduction

The focus of this paper is Judge Aaron Persky's sentencing decision in the case *The People v. Turner* (2016), in which then 20-year-old Brock Allen Turner was found guilty of "assault with intent to commit rape of an intoxicated or unconscious person, penetration of an intoxicated person, and penetration of an unconscious person"<sup>1</sup>. Turner's trial and sentencing in 2016 sparked public outrage because, despite the jury's verdict that Turner was guilty of all three counts of sexual assault, Judge Persky only sentenced Turner to six months in county prison followed by probation. Many people, including the victim, Chanel Miller, considered this too lenient a punishment given the gravity of Turner's crimes. The lenient sentence in the Turner case suggests that Judge Persky may have minimized Turner's accountability for his crime.

To support this claim, I conduct a critical discourse analysis of Judge Persky's sentencing decision<sup>2</sup> preceded by a review of the case, the trial, and some literature that is relevant to my analysis. A critical approach to discourse analysis examines the relationship "between discourse, power, dominance, and social inequality, specifically *the role of discourse in the (re)production and challenge of dominance*" (Van Dijk, 1993: 249, emphasis in original). Dominance, in this sense, refers to "the exercise of social power by elites, institutions, or groups that results in social inequality including [...] gender inequality" on groups of people who are less powerful (Van Dijk, 1993: 249-250). This particular framework is well-suited for this type of study for many reasons. First of all, Judge Persky is indisputably a member and representative of the class of social elites and social institutions. Secondly, he, by authoring his sentencing decision, he is engaging in a discourse that essentially evaluates the degree to which another member of the class of social elites – i.e. Brock Turner – should be held accountable for raping Chanel Miller. Lastly, as a woman, Miller represents a group that is often dominated in society by social elites. My analysis shows how Turner's accountability is represented in Persky's sentencing decision while also emphasizing the important role of intertextuality in representing his accountability.

In other words, Judge Persky's sentencing decision does not exist in isolation, rather, it is based on a number of texts such as Chanel Miller and Brock Turner's statements<sup>3</sup>, the character references written on Turner's behalf, the Penal Code, and the *Rules of Court*, a document that, among other things, governs what allows and prevents a defendant from being sentenced to probation. By examining the intertextuality, I mean to say that I critically analyze the ways in which each one of these texts is systematically cited, interpreted, and commented upon in Judge Persky's text, such that he creates a dialogical relationship with them which supports his sentencing decision: "to grant probation [...] with the defendant to serve six months in county jail" (§7). Importantly, this decision goes against the victim's wish that Turner serve time in federal prison.

## Description of the Case

*The People v. Turner* (2016) unfolded as follows: on March 30, 2016, a Santa Clara County jury found 20-year-old Brock Allen Turner guilty of the three counts of sexual assault outlined above. The victim, who chose to remain anonymous during the proceedings, was initially only known as Emily Doe. Since then, she has published a memoir entitled *Know My Name* and come forth as Chanel Miller. In respect of her decision to reveal her name and share her story through her memoir, I will refer to her by her name in this paper.

The rape took place late in the late evening/early morning of January 17/18, 2015, after a party. Turner was 19 at the time, "a freshman at Stanford University and a member of the school swim team"<sup>4</sup>. According to his statement, on the night in question, he had gone to a classmate's dorm room party where he had consumed several servings of alcohol before leaving to go to a fraternity party with his swim team friends. It was at the fraternity party that he met Chanel Miller and danced with her. Some time later, in the early morning of January 18, they left the party together.

In his statement and testimony in court, Turner claimed that Miller consented to him penetrating her with his fingers. However, the two graduate students who reported the assault said that they saw Turner "thrusting vigorously on top of [Miller]" behind a dumpster and that Miller was unconscious, her "dress pulled up above her waist" and her underwear off<sup>5</sup>. After being confronted by the graduate students, Turner tried to run but one of the students "tackled [him] and pinned him down"<sup>6</sup>. The students called the police and Turner was arrested, charged with the counts of sexual assault outlined above, and taken to jail<sup>7</sup>. Later, he pleaded not guilty to all the charges laid against him. He also withdrew from Stanford University<sup>8</sup>.

The next day, Miller woke up in the hospital without any recollection of what took place the night before. In fact, she did not know that Turner was the perpetrator of her rape until she read articles about the rape in the media and recognized it as her own. As the victim of Turner's offence, she testified as a witness during his trial. In her victim impact statement, she describes how she was revictimized during this process, yet how she is grateful that the jury saw past Turner's attorney's adversarial questioning tactics and found him guilty on all the counts of sexual assault with which he was charged.

On June 2, 2016, about two months after the guilty verdict was delivered, Turner's sentencing hearing took place. During the sentencing hearing, four texts that were integral for this trial were read out loud<sup>9</sup>. The first text was a statement written by Turner where he attempted to exonerate himself and convince the court that he regretted his actions. The second text was a letter to Judge Persky written by Turner's father that supported his son's innocence and tried to persuade Judge Persky to sentence Turner to probation instead of prison, though I do not address this text in this paper. The third text was the victim impact statement written by Chanel Miller, where she detailed the harm the rape caused her and asked that Turner be given a sentence that reflected the severity of the damage he had caused, i.e. more than a year in a federal jail. The fourth and final text was Judge Persky's decision to sentence Turner "to six months in county jail, three years' probation and [requiring him] to register as a sex offender"<sup>10</sup>.

As I mentioned above, the sentencing spurred public outrage. Judge Persky was criticized for being "inappropriately sympathetic" towards Turner<sup>11</sup> and for "discounting the victim's worth because [Turner] had such a bright future"<sup>12</sup>. The decision was

described as "a travesty to justice"<sup>13</sup> and there were nation-wide calls for his removal from the bench. This campaign was successful and in June 2018, Judge Persky was removed from the bench, marking "the first time since 1932 that California voters [had] recalled a sitting judge"<sup>14</sup>.

Evidently, this decision had a substantial impact on the victim, the perpetrator, Persky's career, and even legal precedent, which is why it merits being studied in detail, within the context of previous work done on the intricacies of sentencing decisions.

### **Well-formed apologies inside and outside the courtroom**

Since Judge Persky's sentencing decision mentions Turner's remorse, it is worth discussing literature on the pragmatics of (good) apologies. In a paper on the pragmatics of political apologies, (Harris *et al.*, 2006) provide a list of the component parts of well-formed apologies. Though theirs is a paper that analyzes the apologies of politicians, the framework outlined by Harris *et al.* can be applied to apologies in general. It is important to note, however, that while not all apologies contain the five components outlined in the framework, the components apologies do contain should adequately accomplish their roles in the apology. I reproduce the components below, although only the first two figure prominently in Judge Persky's evaluation of Turner's apology and his sentencing decision:

1. An explicit illocutionary force indicating device, or IFID
2. An expression which indicates the acceptance of responsibility and/or blame for the offence
3. An explanation or account of what led to the offence
4. An offer of reparation
5. A promise of future forbearance (Harris *et al.*, 2006: 721)

Component 1, an IFID, refers to an expression like "I'm sorry" or "I apologize". It accomplishes the illocutionary act (Austin 1962, p. 98) of apologizing. However, when it comes to an explicit IFID, "I'm sorry" is ambiguous because it can be used to express not only regret but also an acceptance of blame for what happened (Harris *et al.*, 2006: 722). This is because, to use Austin's (1962: 73) terms, "I'm sorry" is not an explicit performative; it does not bring about an apology in the same way as "I apologize" does. So when "I'm sorry" is used as an expression of regret, it does not contribute to a good apology, because expressing regret about an event that affected the addressee is not the same as accepting responsibility for an offence against them. At the same time, some addressees often treat "I'm sorry" as the equivalent of "I apologize". Therefore, an apology that uses "I'm sorry" as the illocutionary force initiating device (IFID) can be deemed acceptable by some and inadequate by others, depending on the context of the offence and who the addressee is. This shows that the acceptability of an apology is contingent on two factors: the presence of certain components and how it is perceived by the people to whom it is issued in that particular context. To illustrate this point, Harris *et al.* give an example of a statement that was widely reported as an apology by some media outlets yet was still deemed lacking and questionable by others (Harris *et al.*, 2006: 729). The statement was made by Patricia Hewitt, England's Secretary for Trade and Industry at the time, regarding Prime Minister Tony Blair's decision to take the UK to war in Iraq, a decision which was revealed to have been based on false intelligence (Harris *et al.*, 2006: 728). The statement was a response to the public's view that Blair's apology for the UK's involvement in Iraq was inadequate. Hewitt said:

I certainly want to say that all of us, from the Prime Minister down, all of us who were involved in making an incredibly difficult decision are very sorry and do apologize for the fact that the information was wrong – but I don't think we were wrong to go in. (Harris *et al.*, 2006: 729)

Harris *et al.* explain that the reason for the opposing perceptions of Hewitt's statement is that it "looks very much like an apology" on the surface and it is only once every component is analyzed that it becomes clear that it is not a well-formed apology at all (Harris *et al.*, 2006: 729). For example, while two IFIDs are present, "all of us [...] are *very sorry* and *do apologize*", there is no acceptance of blame or responsibility for the actual offence, that is, taking the country to war unnecessarily. In fact, Hewitt does the opposite and says she thinks they were right to go into Iraq. She only apologizes for the fact that the information the decision to go to war was based on was incorrect. But since she cannot take responsibility for the intelligence being wrong, her 'apology' is arguably not well formed. And yet, in spite of these shortcomings, some people still found it acceptable and called her statement an apology.

Cases like these, where superficial apologies are readily deemed adequate by some but not by others, can be even more problematic when somebody other than the person to whom the apology is issued is in charge of determining its acceptability, as is the case in the courtroom. As Gruber discusses in her book on courtroom apologies, defendants issuing apologies are in a "nonprototypical" setting (2014: 22). In other words, normally when a person says they are sorry, they are unprompted, and the apology is accepted or rejected by the addressee very soon after it is given. However, in the courtroom, the defendant may be asked or encouraged by a lawyer to apologize for their crime, so in a sense they may be prompted to give the apology. Additionally, rather than hearing an immediate acceptance or rejection from the addressee, it is the judge that later issues the defendant a sentence as a response (Gruber, 2014: 22). This sentence, of course, is also contingent on factors outside of the apology, but the apology may bear some weight in the judge's decision, as it did in *The People v. Turner* (2016). Crucially, however, whether or not the complainant deems the apology adequate and accepts it bears little to no weight on the perpetrator's sentence. As I will show, in the Turner case, the perpetrator gave an apology that the victim found lacking, yet the judge, who held more power than the victim, viewed it as satisfactory, and, based on this view and the belief that the victim's idea of an appropriate apology was too much to ask for, issued a lenient sentence.

### **Judges mitigating perpetrator agency in their sentencing decisions**

In order to better understand Judge Persky's sentencing decision, it is important to also discuss previous work that examined judges' sentencing decisions in sexual assault trials. For instance, Coates and Wade (2004) specifically examine the factors judges cited in justifying their sentences of perpetrators and sexual assault. They show that rather than assessing the gravity of the offence when they determined a sentence, judges considered psychological explanations, or what the authors call causal attributions, that often "transformed deliberate and violent acts into non-deliberate and non-violent ones" (Coates and Wade, 2004: 521). In fact, in another paper, Coates distinguishes between two types of *causal attributions*: *internalizing* and *externalizing* ones. *Internalizing causal attributions* are reasons for committing an offence that occur in the perpetrator's mind. As such, they characterize the offender as being "a freely choosing individual" who has

agency and choice (Coates, 1997: 286). *Internalizing causal attributions* hold the perpetrator responsible for the crime. On the other hand, *externalizing causal attributions* refer to reasons for an offence that occur outside the offender. They represent perpetrators as having little agency or responsibility for the offence because it is external factors that are responsible for it instead (Coates, 1997: 286). When it comes to rape trials, then, a defendant's appeal to externalizing causal attributions can help exonerate them, or at least minimize their sentence by taking the focus off their role in the sexual assault and placing the blame on a number of other things such as them being intoxicated, and/or even what the victim did or did not do. Specifically, in cases where alcohol was involved, Coates and Wade found that the offender was perceived by judges as not having committed the rape on purpose (i.e., their behaviour was non-deliberate), but rather because "alcohol eroded his inhibitions" (Coates and Wade, 2004: 506), which characterizes the assault as resulting from the external factor of alcohol. In cases where there was similar appeal to external causal attributions, the perpetrator was only held responsible for drinking or taking drugs instead of the deliberate act of rape (Coates and Wade, 2004: 507). Likewise, if the judges viewed the assault as "out-of-character", this permitted a view of it "as an inexplicable anomaly with little to no chance of reoccurring" (Coates and Wade, 2004: 512-513), which diminished the accountability of the perpetrator and lay the groundwork for a lenient sentence. The authors' summary of their findings shows the effects of such linguistic reformulations of accounts of sexual assault, and is especially relevant for the Turner case:

Judges obscured and mitigated perpetrators' responsibility [through the systematic reformulations of] deliberate acts of violence as non-deliberate, non-violent acts. Judges then gave sentences [...] that were consistent with these reformulations. The mitigation of perpetrator responsibility occurred despite the fact that every perpetrator in our study had pleaded or was found guilty. (Coates and Wade, 2004: 521-522).

### **Perpetrator versus victim accounts of rape in the courtroom**

So far, I have discussed literature on the discourse of defendants and judges in court. However, as previously mentioned, a crucial aspect of Judge Persky's sentencing decision is its interaction with Chanel Miller's victim impact statement. This makes relevant a discussion of the research on victim accounts of rape in the courtroom. To begin with, these accounts do not exist in a vacuum – rather, they usually take place within the confines of institutions which privilege a "patriarchal logic of sexual rationality", a set of all-or-nothing arbitrary male standards "governing the interpretation of sexual desire, sexual access, and sexual interaction" (Matoesian, 2001: 217). Such a logic is used "for generating inconsistencies in trial testimony and for constructing fixed gender identities" regarding "details relevant before, during, and after the alleged rape incident [like] how victims should feel (including their emotional and mental state), what they should say, what they should do, and when and with whom they should do it" (Matoesian, 2001: 217). The details Matoesian refers to may incorporate or ideologically rely upon certain rape myths, like the *male sexual drive discourse* (Hollway, 1989, as cited in Ehrlich, 2001: 57), which "constructs male sexuality as driven by a powerful biological imperative [and] confers responsibility upon women [not to trigger it]", for example, by dressing provocatively or by engaging in some intimate activity beforehand with the perpetrator (Burr, 1995, as cited in Ehrlich, 2001: 57).

Another example is the *utmost resistance standard*<sup>15</sup>, the idea that "if a woman did not resist a man's sexual advances to the utmost, physically, then the rape did not occur" (Estrich, 1987, as cited in Ehrlich, 2001: 65). Not only do these assumptions "provide a sense-making framework that allows rape to be justified as 'just sex'" (Ehrlich, 2020), but they also create a "cultural scaffold" for rape (see Gavey, 2005). Previous research by feminist linguists has shown how victims of rape are subjected to these and other assumptions about rape in their accounts of sexual violence in court. For example, Ehrlich (2001) examines how the complainants in a sexual assault trial and university tribunal in Canada were consistently depicted as ineffectual communicators of their lack of consent to the perpetrator in the defense and adjudicators' questioning, resulting in "their so-called lack of resistance being construed as tantamount to consent" (p. 76). Meanwhile, the perpetrator's and his representatives' accounts "mitigate[d], diffuse[d], obscure[d], and/or eliminate[d] [his] agency in the initiation of sexual acts of aggression that could be construed as non-consensual" (Ehrlich, 2001: 40), such that his actions were depicted as "spontaneous sexual events" or "happenings that [had] taken their natural course without any particular cause or agent" (Ehrlich, 2001: 50). Similarly, in a case study of the William Kennedy Smith rape trial, Matoesian (2001) shows how inferences pertaining to a victim's sexual history may be generated through the defense's questioning in spite of rape shield legislation prohibiting the introduction of such evidence<sup>16</sup>. By suggesting through his questioning that the victim was sexually experienced, the defense attorney may have set the jurors up to assume that she was "'provoking' or 'inviting' male sexual desire" (Ehrlich, 2020), which could have cast doubt on her claim that the sexual activity was non-consensual. What remains to be shown in this paper is how Chanel Miller's account was reconstructed to conform to the patriarchal logic of sexual rationality despite its content explicitly opposing it.

### **From the perpetrator's exonerative account to the judge's sentencing decision – intertextuality**

It is necessary to reiterate that, in a rape trial, no account of the sexual assault exists by itself. The victim's and the perpetrator's descriptions of what happened and even the judge's sentencing decision interconnect in a process called *intertextuality*. This term is associated with Julia Kristeva, as "she coined [it] to describe the Bakhtinian idea that 'any text is constructed as a mosaic of quotations [and that] any text is the absorption and transformation of another'" (1980, p. 66, as cited in Hodges, 2015: 44). As I mentioned above, intertextuality plays an important role in Judge Persky's sentencing decision of Brock Turner, particularly when it comes to the way the excerpts from different texts are recontextualized, or moved from their original context to a different one across time and space, becoming more abstracted along the way (c.f. Maybin, 2017: 416; Linell, 1998). When pieces of text are extracted from their original sources and placed into new contexts, these kinds of *recontextualization* create new meanings for the discourse. The "life cycle" of such pieces of discourse is called a *textual trajectory*. More specifically, textual trajectories are the "changes, movements, and directionalities of spoken, written, and multimodal texts and the relationships between these across social space and time" (Maybin, 2017, p. 416, but see also Linell, 1998 and Blommaert, 2005. In other words, a textual trajectory is the path a text follows after it is produced in its original form, be that in writing or orally. For example, it can be cited in another text and that citation can then be used in a subsequent one, etc. Textual trajectories involve different processes,

the first one being *entextualization* or "the process of rendering discourse extractable, of making a stretch of linguistic production into a unit – a text – that can be lifted out of its interactional setting" (Bauman and Briggs, 1990, as cited in Maybin, 2017: 423). Perhaps what contributed to the entextualization of the texts in the Turner case, specifically Chanel Miller's statement, was the fact that it was initially a written letter to Judge Persky, and became speech when Miller read it aloud in court. As such, it may have been easier for Judge Persky to extract and cite certain excerpts of her statement since he had access to a written, permanent version of it, rather than the temporary access he would have had if Miller had only read her statement out loud. In fact, Judge Persky's sentencing decision includes excerpts where he is cited as *reading* from Chanel Miller's text.

In the legal context of sexual assault trials, sentencing decisions made by judges are created bearing in mind and citing the perpetrator's and the victim's accounts of the rape while at the same time, creating new meanings of these accounts through discursive strategies like reformulation, as Coates and Wade (2004) argued. I will show that this is precisely what Judge Persky did in his sentencing decision of Brock Turner: he isolated specific phrases from Chanel Miller's victim impact statement that, in their textual trajectory, were recontextualized in such a way that instead of supporting her request that Turner's sentence be proportionate to his crime, ended up supporting Judge Persky's lenient sentencing decision instead.

### **Critical discourse analysis of Judge Persky's sentencing decision**

#### **"The damage is done"**

The first example of Judge Persky recontextualizing and reinterpreting Chanel Miller's words that I consider here is the phrase "The damage is done". In the sentencing decision, Judge Persky cites this particular sentence within its original context, that is, Chanel Miller's victim impact statement. He then reformulates these words and uses the reformulation to preface his sentencing decision. I reproduce the relevant section below (emphasis mine; all italicized portions in the examples given from now on are my own emphasis):

(1) "And here – I think this is relevant to the – to the sentencing decision – she writes, [as read] 'You should have never done this to me. Secondly, you should have never made me fight so long to tell you you should never have done this to me. But here we are. *The damage is done*. No one can undo it. And now we both have a choice. We can let this destroy us. I can remain angry and hurt, and you can be in denial. Or we can face it head on: I accept the pain; you accept the punishment; and we move on.' So, as she writes, the damage is done. The role of the Court at sentencing is to essentially follow the roadmap that our system of criminal justice sets out for the Court in sentencing decisions. It's not completely an unbridled discretion. It is constrained by factors that are contained in the *Rules of Court*. And so I've tried do [sic] that to the best of my ability. And my tentative decision is to grant probation, as recommended by the Adult Probation Department, with the defendant to serve six months in county jail and to comply with the recommendations of probation as contained in the report, as will be slightly modified." (§6–7)

As we can see, in her original text, Miller explains what she means by "the damage is done", i.e. that Turner can never take back what he did, and that both of them must now



move forward. As she says, this includes Turner no longer being in denial about having sexually assaulted her and accepting the punishment for it. However, Judge Persky fixates solely on the words "the damage is done", removing them from the context he had just cited and recontextualizing them. Through this process, he seems to minimize Miller's suffering by equating it with a decontextualized "damage", namely one that is over as opposed to ongoing. In other words, regarding the damage as being completely in the past enables Judge Persky to alter its meaning and interpret it as something equal to the victim's suffering being in the past. This occurs despite that, as Miller mentions in her original statement, she is still suffering. By saying that she can "choose to *remain* angry and hurt" (emphasis mine), she implies that she is currently angry and hurt, not that she once felt this way and stopped because the rape is over and "the damage is done". In fact, she explicitly states this in her statement:

(2) "He is a lifetime sex registrant. That doesn't expire. *Just like what he did to me doesn't expire, doesn't just go away after a set number of years. It stays with me, it's part of my identity, it has forever changed the way I carry myself, the way I live the rest of my life.*" (§76)

Keeping in mind that these words were read out about a year and a half after the rape, as readers, we can see that it will take a long time for Miller's suffering to completely be in the past.

Nevertheless, Judge Persky's interpretation and reformulation of the suffering as being over allows him to follow a logic that mitigates the severity of Turner's offence. The logic is that a severe offence would be one whose damage is felt by the victim for a lengthy period of time and thus would merit a lengthy prison sentence. But, since Miller's suffering is in the past, despite the guilty verdict, the offence must not have been terribly severe, and so neither should the sentence.

As we can see, Judge Persky minimizes Chanel Miller's experience by ignoring the long-term psychological effects of rape that she discusses in her statement. He uses this reformulation of her words to support his point of view that six months in county jail is an adequate sentence for Turner.

### **"Alcohol is a factor"**

Similar to the recontextualization and reinterpretation of the words "the damage is done", excerpts from Miller's statement regarding Turner's alcohol consumption were also extracted from their original context by Judge Persky and reformulated. Specifically, in her statement, Miller writes:

(3) "*Alcohol is not an excuse. Is it a factor? Yes. But alcohol was not the one who stripped me, fingered me, had my head dragging against the ground, with me almost fully naked.*" (§43)

Here, Miller is arguing against Turner's attempts to mitigate his responsibility for her rape by citing his alcohol consumption, which he made in his exonerative statement. I reproduce some below:

(4) "I made a mistake, I drank too much, and my decisions hurt someone." (p. 10)

(5) "At this point in my life, I never want to have a drop of alcohol again. I never want to attend a social gathering that involves alcohol or any situation where people make decisions based on the substances they have consumed." (p. 9)

By saying that *alcohol* was not the one who raped her, Miller implies that it was indeed Turner who raped her, thereby ascribing agency to him and holding him accountable for his violent behaviour towards her despite his intoxication. However, as I will show shortly, Judge Persky reformulates the emphasized portion of Miller's statement in (3), such that alcohol becomes a *mitigating* factor in Turner's offence. He bases this reformulation on a previously mentioned argument that alcohol mitigates the degree of a perpetrator's offense:

(6) "The argument can be made that it is more morally culpable for someone with no alcohol in their system to commit an offense like that than with someone who was legally intoxicated at the rate of .16 or so." (§14)

(7) "I have also considered the fact that he was legally intoxicated at the time of the incident. Pursuant to the evidence at trial, this does affect judgment. And as I indicated previously, it's not an – and I think, as [Miller] wrote – it's not on [sic] excuse. But it is a factor. And I think that it is a factor that, when trying to assess moral culpability in this situation, is mitigating." (§52)

What (3), (6), and (7) show is that, while Miller seems to be saying that Turner's intoxication should not be regarded as a mitigating factor in her sexual assault, Judge Persky uses her words to argue that it *should*. Of course, as a judge, he is entitled to his own interpretation, but what is crucial for our understanding of his statement is that he is supporting his interpretation of the events of Miller's rape and Turner's culpability by citing and recontextualizing Miller's own words. As we see in (7), he extracts part of Miller's original sentence, "[Alcohol] is not an excuse, but it is a factor", from its original context in which she also emphasized Turner's agency in committing the rape, and he relocates it, leaving out the descriptions of Turner's violent actions, to a new context where it is used to support his view that intoxication does reduce one's moral culpability in sexual assault. As a result, Turner is "perceived as not having committed the rape on purpose" (Coates and Wade, 2004: 506), because the external causal attribution of the rape is that his moral inhibitions were reduced by alcohol. And since, as Judge Persky's words show in (6), "the court's assessment of the extent of responsibility of the offenders rests largely on the extent to which the offender's actions are viewed as deliberate" (Coates and Wade, 2004: 502), viewing the perpetrator's actions as unintentional allows the court to reduce the responsibility of the offender for the rape. In this case, the mitigation of Turner's actions as a result of the reinterpretation of Miller's words further supports Judge Persky's argument for a lenient sentencing decision.

### **"Stripped of titles, degrees, enrolment"**

Another consideration from the *Rules of Court* that Judge Persky cites in determining whether a defendant should be sentenced to jail is "the likely effect of imprisonment on the defendant and his or her dependants" (§31), as well as "the adverse collateral consequences on the defendant's life resulting from the felony conviction" (§32). When discussing how these factors apply to Brock Turner, he states:

(8) "Obviously, a prison sentence would have a *severe impact* on him. And that may be true in any case. I think it's probably *more true with a youthful offender sentenced to state prison at a – at a young age.*" (§31)

(9) "[The adverse collateral consequences on the defendant's life resulting from the felony conviction] are *severe*. And they're severe in a couple of ways: One, with respect to the *Penal Code section 290 registration that he'll be subject to for life*<sup>17</sup>; and, secondly, with respect to the *media attention that's been given to the case*, it has not only impacted the victim in this case, but also Mr. Turner. Where, in certain cases, there is no publicity, then the collateral consequence of those on the defendant's life can be minimized." (§32)

(10) "But the – I – I think you have to take the whole picture in terms of what impact imprisonment has on a specific individual's life. *And the impact statements that have been – or the, really, character letters that have been submitted do show a huge collateral consequence for Mr. Turner based on the conviction.*" (§34)

In these excerpts, Judge Persky argues that Turner should not be sentenced to federal prison for three reasons: first, because it would have a severe impact on him, especially considering that he is young (8); second, because the media coverage of the trial and having to register as a life-time sex offender have already made him suffer (9); and lastly, because, according to the character references letters, he's already undergone significant emotional stress as a result of the conviction (10). In other words, Judge Persky is arguing that the amount of adversity Turner has faced through the course of the trial is enough that a federal prison sentence would be excessive punishment. Similarly to what I have shown in the sections above, he cites an excerpt from Miller's statement to support this assessment:

(11) "And so here, we have, I think, significant collateral consequences that have to be considered. *And I think [Miller] made a good point, which is, well, if you had someone who wasn't in the fortunate circumstances that Mr. Turner had found himself in his youth, that they shouldn't – it shouldn't count against them.*" (§33)

Once again, it is noteworthy that this recontextualization of Miller's words significantly transforms their original meaning. Consider what Miller originally wrote in her statement with regards to Turner's high socio-economic status and the fact that he was "stripped of titles, degrees, and enrolment [at Stanford]" (§55):

(12) "*The fact that Brock [Turner] was a star athlete at a prestigious university should not be seen as an entitlement to leniency, but as an opportunity to send a strong cultural message that sexual assault is against the law regardless of social class.*" (§72)

Additionally, with regards to what would happen if the perpetrator were "someone who wasn't in the fortunate circumstances" of Brock Turner, she wrote:

(13) "If I had been sexually assaulted by an *un-athletic guy from a community college*, what would his sentence be? If a first time [sic] offender *from an underprivileged background* was accused of three felonies and displayed no accountability for his actions other than drinking, what would his sentence be?" (§73)

From the statements in (12) and the rhetorical questions in (13), we can see that Miller is arguing that a perpetrator of rape from a high socio-economic background who is enrolled at a prestigious university and is athletically gifted should *not* be given a more lenient sentence for rape than somebody who comes from a less privileged background. In other words, her point is that socio-economic status, college education, and athletic

ability *do not* reduce culpability for rape, and consequently, that Turner being "stripped of titles, degrees, [and] enrolment" as well as the ability to compete in the Olympics does not count as 'enough' punishment for having raped her.

However, Judge Persky uses Miller's words to draw a different conclusion. He argues that low socio-economic status, ordinary education, and lack of athletic abilities should not count *against* a perpetrator of rape when determining their sentence, which, though implied by Miller's statements, was not their intended meaning.

As we can see, once again, Judge Persky extracts Miller's words from their original context, recontextualizes them, and, in doing so, reformulates them in order to support his sentencing decision. Her words now seem to mean that factors which go along with socio-economic background – be it high or low – should not be reasons to *add* extra punishment to a rape perpetrator's sentence. What follows from this logic is that Turner's privilege should not "count against him" by adding to his sentence, and that the "significant collateral consequences" he has already suffered, i.e. the loss of certain privileges that were associated with his high socio-economic background and athletic skills, must be considered when determining the severity of his sentence for rape.

Judge Persky's conclusion runs counter to the original meaning of Miller's words. Instead of using Miller's statements to support her argument that a perpetrator's privilege should have no bearing on his accountability for rape and that Turner should therefore receive a sentence equal to what an underprivileged perpetrator of rape would receive, Persky reformulates her words to support giving Turner a lenient sentence based on the fact that his privilege has strongly been diminished as a result of the trial and the media coverage, and that this should not "count against him" by adding to his sentence.

#### **"He's sorry" – how Judge Persky interprets the issue of Turner's remorse**

In addition to the effect that a prison sentence would have on the defendant, the *Rules of Court* also state that in determining a defendant's eligibility for probation, it is also important to take into consideration whether the defendant shows remorse for their actions (Persky, as cited in Levin, 2016). However, before analyzing Judge Persky's consideration of Turner's remorse, I must briefly turn to Turner's exonerative statement, and reproduce the closest thing to a well-formed apology that was found therein:

(14) "There isn't a second that has gone by where I haven't *regretted the course of events I took* on January 17<sup>th</sup>/18<sup>th</sup>." (p. 9)

Recalling Harris et al.'s (2006) work on well-formed apologies, the reader will notice that there is no IFID (illocutionary force initiating device) in this statement, although Turner seems to be accepting *some* responsibility for his actions – component (2) of well-formed apologies – through the words "I took". These words indicate that he acknowledges his own agency in the "course of events" he mentions, and that he exhibits regret for them. However, crucially, it remains unclear what specific behaviour he is referring to by "the course of events".

This vagueness is perhaps part of what leads to Chanel Miller and Judge Persky forming different opinions regarding whether Turner is sorry beyond simply expressing regret, that is, whether or not he is actually apologizing. Within the context of his previous statements, as in (4) and (5) above, one interpretation of "the course of events" Turner alludes to is the consumption of alcohol. Miller maintains that because Turner only took responsibility for drinking too much in his exonerative statement and not for

sexually assaulting her, he cannot be truly remorseful, or sorry in the sense of apologetic, for the crime of which he was convicted. In her victim impact statement, she writes:

(15) "[...] you were not wrong for drinking. Everyone around you was not *sexually assaulting me*." (§47)

(16) "Unfortunately, after reading the defendant's statement, I am severely disappointed and feel *that he has failed to exhibit sincere remorse or responsibility for his conduct*. I fully respected his right to a trial, but even after twelve jurors *unanimously convicted him guilty of three felonies, all he has admitted to doing is ingesting alcohol*. Someone who cannot take full accountability for his actions does not deserve a mitigating sentence." (§70)

On the other hand, another interpretation of "the course of events" is the ones that led to the trial, or the crime for which Turner was convicted, i.e. rape. Judge Persky's response to (14), (15), (16), and to the question of Turner's remorse is as follows:

(17) "Mr. Turner came before us today and said he was genuinely sorry for all the pain that he has caused to [Miller] and her family. And I think that is a genuine feeling of remorse. [Miller] has stated that he hasn't really taken responsibility for his conduct. And I think at one point she basically wrote or said that 'He – he just doesn't get it.' And so you have Mr. Turner expressing remorse, which I think, subjectively, is genuine, and [Miller] *not seeing that as a genuine expression of remorse because he never says, 'I did this. I knew how drunk you were. I knew how out of it you were, and I did it anyway.'* And that – I don't think that bridge will probably, ever be crossed." (§35-37)

By stating that he believes Turner's apology is a "genuine feeling of remorse", Judge Persky shows that he believes Turner *did* take responsibility and apologize for having sexually assaulted Chanel Miller. In other words, Judge Persky finds that Turner's statements adequately meet the criteria for remorse outlined in the *Rules of Court* such that he should be eligible for probation.

What is troublesome about this is that, while Persky does acknowledge that Miller does not view Turner's remorse as genuine, he still recontextualizes her words. Neither in (16) nor anywhere else in her statement did Miller request that Turner explicitly say, "I did this. I knew how drunk you were. I knew how out of it you were, and I did it anyway." This statement is entirely constructed by Persky. What Miller wrote was that she wanted Turner to apologize for having raped her instead of simply apologizing for drinking too much. To illustrate this, consider the following excerpts from her statement:

(18) "*Had Brock admitted guilt and remorse* and offered to settle early on, I would have considered a lighter sentence, respecting his honesty, grateful to be able to move our lives forward." (§68)

(19) "I [...] told the probation officer that *what I truly wanted was for Brock to get it, to understand and admit to his wrongdoing*." (§69)

As we can see in (16), (18), and (19), to use Judge Persky's words, all Miller asked for was the "I did this" part, that is, for Turner to admit that he raped her and understand that it was wrong. It was Judge Persky who added, "I knew how drunk you were. I knew how out of it you were, and I did it anyway." And so, when Judge Persky says that he doesn't think "the bridge" will ever be crossed, i.e., that Miller will ever receive an

apology she finds adequate from Turner, he is talking about a reformulated, hyperbolic apology, which Miller never actually asked for. However, he uses his reformulation of her words to construct a version of the apology that Miller requested, and he uses this to argue that Turner did apologize in an adequate manner, or at least in a manner that was realistic in terms of her expectations. In other words, it was partly this reconstructed request for an apology that was used by Judge Persky to support his decision to grant Turner probation, as well as other entextualized, recontextualized, and reformulated statements made by Chanel Miller in her victim impact statement.

### **Conclusion and limitations**

In this paper, I have shown that Judge Persky's sentencing decision is heavily reliant on a dialogue that he builds with other texts from the trial – specifically, Chanel Miller's victim impact statement, Brock Turner's exonerative statement, and the *Rules of Court* – through the processes of entextualization, recontextualization, and reformulation. I have emphasized that, as is often the case, this relationship is not one of neutrality. I explained how Judge Persky extracts statements from Miller's text that she originally uses to hold Turner accountable for raping her – such as "the damage is done", "alcohol is a factor", and that Turner was "stripped of titles, degrees, and enrolment" – and recontextualizes them in ways that alter their meaning. What is most significant and troublesome about his doing so is that he uses the new meanings ascribed to Miller's words to administer a lenient sentence to Turner, essentially exculpating him for raping her. In other words, similar to the judges in Coates and Wade's (2004) study, Judge Persky passed a sentence that was consistent with his reformulations of Miller's descriptions of Turner's actions rather than truly reflective of them, namely that her suffering is in the past, that alcohol is a mitigating factor in sexual assault, that Turner has suffered enough through the course of the trial, and that he is truly sorry for his actions.

As a product of having begun the analysis of this discourse with a critical perspective, however, the findings of this paper may be viewed as subjective, or at least, not neutral. Nevertheless, it is important to note that such is the nature of critical discourse analysis. As van Dijk wrote, because critical discourse analysis is preoccupied with "the crucial role of discourse in the reproduction of dominance and inequality", there cannot be such a thing as "a neutral position of its practitioners" (1993: 253) (but see also Ehrlich and Romaniuk (2013)). In the case of this paper, it was impossible to discuss injustice towards a rape victim by a judge in their sentencing decision without feeling myself that such was the case, that is, by looking at the text from a neutral perspective. Furthermore, as Cameron and Panovic, "critical discourse analysis [...] maintains that 'objectivity' is an illusion: analysts are part of the world they study, and it is impossible for them to approach their data without any preconceptions at all" (2014: 67). With that in mind, what I have tried to show here is a *covert pattern* (Cameron and Panovic, 2014: 67), emphasis mine) in the text of Judge Persky's sentencing decision, that is, the systematic reformulation of Chanel Miller's words being used to support an argument that she is against, which is that Brock Turner deserves a lenient sentence for raping her.

As for the consequences of the discourse that produces such inequality or injustice, the only way to make progress as a society is to continue to challenge the dominant ideologies of sexuality and sexual assault perpetuated by judges, defendants and others in rape trials. As researchers and as a society, we have the capacity to speak out against discourses that exculpate guilty people and punish innocent ones. So, it would

be a mistake to suggest that hope for future improvement in this regard is in vain. This statement even applies to the case of *The People v. Turner*. For instance, in spite of his lenient sentence, Brock Turner is now quite literally the "textbook definition of rape", as his photo has been inserted next to the definition of the term in the textbook *Introduction to Criminal Justice: Systems, Diversity, and Change* (2017) along with a brief description of the case<sup>18</sup>. More importantly, the victim's impact statement has been heavily circulated online under headlines that emphasize (male) perpetrator responsibility for rape (of women<sup>19</sup>) like "Here is the Powerful Letter the Stanford Victim Read Aloud to Her Attacker"<sup>20</sup> and "Your Son Needs to Read Stanford Rape Victim's Letter"<sup>21</sup>. In fact, she was named Woman of the Year by Glamour magazine in 2016 for her bravery in writing her text<sup>22</sup>. And so, to use Miller's words, perhaps this is "a small assurance that we are getting somewhere" (§79).

## Acknowledgements

I thank Malcolm Coulthard, Rui Sousa-Silva, Susan Ehrlich, Philipp Angermeyer, and the anonymous reviewers for their support and useful comments on previous versions of this article. All remaining errors are of course my own.

## Notes

<sup>1</sup>Grinberg, 2016.

<sup>2</sup>The full decision is available online. This link provides a transcript of what was read in the courtroom, not the official document of the decision. (<https://www.theguardian.com/us-news/2016/jun/14/stanford-sexual-assault-read-sentence-judge-aaron-persky>) Additionally, this link refers to the victim as Jane Doe. In other online sources, particularly the ones published before September 2019 (before she waived her anonymity), she is referred to as Emily Doe.

<sup>3</sup>These texts are also available online. For Turner's statement, go to <https://www.paloaltoonline.com/news/2016/06/10/county-releases-brock-turner-court-documents> and click on "Turner's Statement". Chanel Miller's statement can be found at <https://paloaltoonline.com/news/2016/06/03/stanford-sex-assault-victim-you-took-away-my-worth>.

<sup>4</sup>Kadvany, 2015.

<sup>5</sup>Dremann, 2016.

<sup>6</sup>Dremann, 2016.

<sup>7</sup>Kadvany, 2015.

<sup>8</sup>Kadvany, 2015.

<sup>9</sup>In addition to Judge Persky's decision and Turner's and Miller's statements, the letter written by Turner's father is available at <https://www.mercurynews.com/2016/06/06/stanford-sexual-assault-letter-from-brock-turners-father-to-the-judge/>

<sup>10</sup>Svrluga, 2016.

<sup>11</sup>Levin & Wong, 2016.

<sup>12</sup>Svrluga, 2016.

<sup>13</sup>Kadvany, 2016.

<sup>14</sup>Martin, Yan, & Merica, 2018.

<sup>15</sup>The utmost resistance standard was formerly a criterion for the crime of rape in the Canada and the United States until the 1950s-1960s (Ehrlich, 2005: 196). The reasoning behind such a standard was to protect innocent men from being punished for rape when the woman had fabricated the accusations against them (Ehrlich, 2001: 65).

<sup>16</sup>There are certain exceptions to this rape shield legislation, at least in Florida where the William Kennedy Smith trial took place. The judge can rule "that the probative value of sexual history evidence

Jerca, A. M. - "A bridge that will probably never be crossed"  
*Language and Law / Linguagem e Direito*, Vol. 6(2), 2019, p. 24-42

outweighs its prejudicial impact" when, for example, "it is necessary to prove the source of semen, pregnancy, or disease, and in cases where the victim and defendant had a prior relationship" (Matoesian, 2001: 209).

<sup>17</sup>That is, being a registered sex offender.

<sup>18</sup>Rennison, 2017.

<sup>19</sup>Although I acknowledge that rape is perpetrated against both sexes by both sexes.

<sup>20</sup>Baker, 2016.

<sup>21</sup>Robbins, 2016.

<sup>22</sup>Miller, 2016.

## Data Analyzed

Kadvany, E. (2016, June 12). County releases Brock Turner court documents. *Palo Alto Online*. <https://www.paloaltoonline.com/news/2016/06/10/county-releases-brock-turner-court-documents>, Accessed February 27, 2017.

Levin, S. (2016, June 14). Stanford sexual assault: read the full text of the judge's controversial decision. *The Guardian*. <https://www.theguardian.com/us-news/2016/jun/14/stanford-sexual-assault-read-sentence-judge-aaron-persky>, Accessed February 27, 2017.

## Case Information

Baker, K. J. (2016, June 3). Here's the powerful letter the Stanford victim read to her attacker. *Buzzfeed*. [https://www.buzzfeed.com/katiejmbaker/heres-the-powerful-letter-the-stanford-victim-read-to-her-ra?utm\\_term=.isQeje1lyv#.voYVGV8r1W](https://www.buzzfeed.com/katiejmbaker/heres-the-powerful-letter-the-stanford-victim-read-to-her-ra?utm_term=.isQeje1lyv#.voYVGV8r1W). Accessed May 22, 2018.

Dremann, S. (2016, March 30). Former Stanford swimmer found guilty of sexual assault. *Palo Alto Online*. <https://www.paloaltoonline.com/news/2016/03/30/stanford-swimmer-found-guilty-of-sexual-assault>, Accessed May 16, 2017.

Grinberg, E. (2016, September 1). Brock Turner to leave jail after serving 3 months for sexual assault. *CNN*. <http://www.cnn.com/2016/09/01/us/brock-turner-release/>, Accessed April 23, 2017.

Kadvany, E. (2015, February 2). Former Stanford swimmer pleads not guilty to sexual-assault charges. *Palo Alto Online*. <https://www.paloaltoonline.com/news/2015/02/02/former-stanford-swimmer-pleads-not-guilty-to-sexual-assault-charges>, Accessed May 16, 2017.

Kadvany, E. (2015, January 28). Stanford University swimmer faces felony sex-assault charges. *Palo Alto Online*. <https://www.paloaltoonline.com/news/2015/01/28/stanford-university-swimmer-faces-felony-sex-assault-charges>, Accessed May 16, 2017.



Kadvany, E. (2016, June 3). Stanford sex-assault victim: 'You took away my worth'. *Palo Alto Online*. <https://paloaltoonline.com/news/2016/06/03/stanford-sex-assault-victim-you-took-away-my-worth>, Accessed May 13, 2017.

Kadvany, E. (2016, June 6). Brock Turner sentencing draws strong reaction across country. *Palo Alto Online*. <https://www.paloaltoonline.com/news/2016/06/06/brock-turner-sentencing-draws-strong-reaction-across-country>, Accessed May 16, 2017.

Kadvany, E. (2017, January 9). Recall campaign: State ruling that cleared judge is 'error-ridden'. *Palo Alto Online*. <https://www.mv-voice.com/news/2017/01/09/recall-campaign-state-ruling-that-cleared-judge-is-error-ridden>, Accessed August 1, 2017.

Levin, S., & Wong, J. C. (2016, June 8). Brock Turner's statement blames sexual assault on Stanford 'party culture'. *The Guardian*. <https://www.theguardian.com/us-news/2016/jun/07/brock-turner-statement-stanford-rape-case-campus-culture>, Accessed April 23, 2017.

León, C. D. (2019, September 4). *You know Emily Doe's Story. Now learn her name*. <https://www.nytimes.com/2019/09/04/books/chanel-miller-brock-turner-assault-stanford.html>, Retrieved October 1, 2019.

Martin, A., Yan, H. & Merica, D. (2018, June 6). Voters oust judge who gave Brock Turner 6 months for sex assault. <https://www.cnn.com/2018/06/06/us/judge-aaron-persky-recall-results-brock-turner/index.html>, Retrieved October 1, 2019.

Miller, S. (2016, November 02). Stanford sex assault survivor named a Woman of the Year. *USA Today*. <https://www.usatoday.com/story/news/nation/2016/11/01/stanford-sex-assault-survivor-named-woman-year/93145144/>, Accessed May 23, 2018.

Rennison, C. M. (2017, November 17). "I'm the professor who made Brock Turner the 'textbook definition' of a rapist". *Vox*. <https://www.vox.com/first-person/2017/11/17/16666290/brock-turner-rape>, Accessed May 22, 2018.

Rennison, C. M. & Dodge, M. (2017). *Introduction to Criminal Justice: Systems, Diversity, and Change*. Thousand Oaks, CA: Sage.

Robbins, M. (2016, September 02). Your son needs to read rape victim's letter. *CNN*. <https://www.cnn.com/2016/06/07/opinions/stanford-rape-case-letter-robbins/index.html>, Accessed May 22, 2018.

Svrluga, S. (2016, June 15). Stanford rape case judge explains controversial Brock Turner sentence. *The Independent*. <http://www.independent.co.uk/news/world/americas/stanford-rape-case-judge-explains-controversial-brock-turner-sentence-a7083406.html>, Accessed May 16, 2017.

## References

- Austin, J. L. (1962). *How to do things with words*. Oxford: Clarendon Press.
- Bauman, R. and Briggs, C. L. (1990). Poetics and performance as critical perspectives on language and social life. *Annual Review of Anthropology*, 9, 59–88.
- Blommaert, J. (2005). *Discourse: A critical introduction*. Cambridge, UK: Cambridge University Press.
- Burr, V. (1995). *An Introduction to social constructionism*. London and New York: Routledge.
- Cameron, D. and Panovic, I. (2014). *Working with written discourse*. London, UK: Sage.
- Coates, L. (1997). Causal attributions in sexual assault trial judgments. *Journal of Language and Social Psychology*, 16(3), 278–296.
- Coates, L. and Wade, A. (2004). Telling it like it isn't: Obscuring perpetrator responsibility for violent crime. *Discourse & Society*, 15(5), 499–526.
- Ehrlich, S. (2001). *Representing rape: Language and sexual consent*. London, UK: Routledge.
- Ehrlich, S. (2005). The discursive reconstruction of sexual consent. In D. Cameron and D. Kulick, Eds., *The language and sexuality reader*. Abingdon, UK: Routledge, 196–214.
- Ehrlich, S. (2020). Language and sexual violence in the legal system: 'He-said/she-said' accounts and beyond. In K. Hall and R. Barrett, Eds., *The Oxford handbook of language and sexuality*. Oxford, UK: Oxford University Press, Forthcoming.
- Ehrlich, S. and Romaniuk, T. (2013). Discourse analysis. In R. J. Podesva and D. Sharma, Eds., *Research methods in linguistics*. Cambridge, UK: Cambridge University Press, 460–493.
- Estrich, S. (1987). *Real rape*. Cambridge MA: Harvard University Press.
- Gavey, N. (2005). *Just sex? The cultural scaffolding of rape*. London, UK: Routledge.
- Gruber, M. C. (2014). *"I'm sorry for what I've done": The language of courtroom apologies*. New York, NY: Oxford University Press.
- Harris, S., Grainger, K. and Mullaney, L. (2006). The pragmatics of political apologies. *Discourse & Society*, 17(6), 715–737.
- Hodges, A. (2015). Intertextuality in discourse. In D. Tannen, H. E. Hamilton and D. Schiffrin, Eds., *The handbook of discourse analysis*. Chichester, UK: John Wiley & Sons, 2 ed., 42–60.
- Hollway, W. (1989). *Subjectivity and method in psychology: Gender, meaning, and science*. Sage.
- Kristeva, J. (1980). *Desire in language: A semiotic approach to literature and art*. New York: Columbia University Press.
- Levin, S. (2016). Stanford sexual assault: read the full text of the judge's controversial decision.
- Linell, P. (1998). Discourse across boundaries: On recontextualizations and the blending of voices in professional discourse. *Text*, 18(2), 143–157.
- Matoesian, G. M. (2001). *Law and the Language of Identity: Discourse in the William Kennedy Smith Rape Trial*. Oxford, UK: Oxford University Press.

Jerca, A. M. - "A bridge that will probably never be crossed"  
*Language and Law / Linguagem e Direito*, Vol. 6(2), 2019, p. 24-42

Maybin, J. (2017). Textual trajectories: Theoretical roots and institutional consequences.  
*Text & Talk*, 37(4), 415–435.

Van Dijk, T. A. (1993). Principles of critical discourse analysis. *Discourse & Society*, 4(2), 249–283.