The Goal of Narrative Persuasion: Knowledge Rather Than Love

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The Goal of Narrative Persuasion:
Knowledge Rather Than Love

What is the appropriate goal of narrative in persuasive legal argument?

- Not merely telling "what happened"
- Present client's perspective

Articulated:

- Get audience to like client
- At least, agreeing/understanding client goals

"Likeability": why?
- Decision-maker will route for client

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Is likeability the right goal?

Adrian Lim murders: Singapore, 1981

- Lim claimed medium, persuaded women had supernatural powers
- Victims offered money/sexual services exchange cures, beauty, good fortune
- Two women became his assistants: Tan Mui Choo married him, and Hoe Kah Hong became one of his "holy wives"
- When Lim investigated for an alleged rape of one of his victims, he threatened to derail the investigation by killing children.

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Is likeability the right goal?
<u>Adrian Lim murders</u>: Singapore, 1981

- 24 January 1981, at Lim's direction, Kah Hong saw nine-year-old Agnes in a church playground and got her to Lim's flat
- Agnes drugged, then Lim sexually abused the child before asphyxiating and drowning her; Lim applied electric shock to 'make doubly sure she was dead'
- On 6 February 1981, Ghazali, a 10 year old boy, was brought to the flat where he was drugged, gagged, tied, and drowned.

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Is likeability the right goal?

Adrian Lim murders: likeability does not work for some clients – period

Likeability is not the right goal for narrative in persuasive legal argument:

1. At odds with narrative theory:
-   Character and emotion; student mistakes

2. Encourages unethical practices

1. Likeability: at odds with narrative theory

Narrative techniques: (character, plot, scene, etc.)
Balance complexity and simplicity

Simplify:
Narrative is inherently selective: it portrays a perspective
Choose narrative theme
- Utilise societal paradigms, e.g., hero
- Fit within stock stories or challenges stock story

Complicate:
Client normally needs to be a"character": fully developed person, with strengths and foibles
Secondary persons can be portrayed as caricatures/flat characters: select that aspect relevant to client's story

1. Likeability: at odds with narrative theory

Narrative technique: balances complexity and simplicity

If accept advice client = character
- Goal of likeability is out of place
- Client will be "mixed bag"

Understanding the contradictions of the character, hopefully leading to empathy, is better goal articulation

1. Likeability: at odds with narrative theory

Narrative technique: **portrays and evokes emotions**

People are emotional beings, characters have emotions
Emotions help explain why a party acted in way did
Client emotions are complex, as are emotional response of *audience*

Example: trial strategy may *elicit* decision-maker to –
- Be somewhat afraid of client, but persuaded telling truth
- Pity the client, thereby help them
- Be disgusted by client's preferences, but thereby persuaded that out of character for client commit alleged acts

1. Likeability: at odds with narrative theory

<u>Narrative technique</u>: portrays and evokes emotions

Likeability goal unnecessarily restricts emotional potential of narrative
Sets direction not relevant in many cases

Even where likeability is appropriate: does it do justice to the facts?

1. Likeability: at odds with narrative theory

Narrative technique: **what mistakes do students make?**

1. Students try to make client likeable:
Pull out facts not that relevant to the story/legal issue
Facts disconnected to narrative, seem "tacked on"
Resulting story not an authentic rendering works hand in hand
with trial strategy

2. Demonising the other side:
Very few people qualify as demon
As narrative strategy, "falls flat": opposing party portraying
character
Logical extension of likeability: equal and opposite effect

2. Likeability: encourages unethical practices

What is available ethical guidance on narrative?
- Professional regulation: do not misrepresent, introduce perjury
- Little guidance regarding ethical questions in narrative

What effect does likeability have?
To make unlikeable client (Adrian Lim) likeable, either:
1. Ignore "bad facts" – incompetent and unethical omission?
2. Actively manipulate facts – simply unethical

3. Likeability: are nasty clients the exception that proves the likeability rule?

Is likeability an appropriate goal for the majority of clients?
Unsavory client/criminal defendant – use different technique?

Distinction: trial strategy and narrative goals

Question of trial strategy: facts so poor, do not submit client narrative? E.g., criminal cases, defence challenges prosecution's evidence

Separate question: narrative goal

Once client narrative is incorporated into trial strategy, need coherent narrative goal

- Authentically portray character, warts and all

Conclusion

Likeability: not the narrative goal

Goal of Narrative Persuasion:
Understanding client, in manner creates empathy, consistent with theory of the trial
- Utilises full spectrum of narrative potential: character, emotion
- Gives better ethical direction, avoids creating pressure engage unethical practices regarding facts

Knowledge Rather Than Love

Reject simplistic notion of narrative goal
Integrate subtleties of narrative theory: allow lawyers truly represent client