Bialystok Legal Studies
Białostockie Studia Prawnicze
2024 vol. 29 no. 3

sciendo

DOI: 10.15290/bsp.2024.29.03.03

Received: 31.12.2023
Accepted: 14.05.2024

Marta Andruszkiewicz
University of Bialystok, Poland
andruszkiewicz@uwb.edu.pl
ORCID ID: https://orcid.org/0000–0003-3731–7258

Narrativity and the Idea of Narrative Identity in Law

Abstract: How can an extension of the legal perspective with the idea of narrative unity be presented using the law and literature movement? Considering law as a complex semiotic object that is a product (and carrier) of culture makes it possible to see elements of narrativity from a theoretical and legal perspective. This is a significant phenomenon, especially after the cultural turn in the humanities. This article presents a problematisation of narrativity in legal discourse and the theory of law. As is well known, the theory of narration and the concept of narrativity have been widely used in the humanities, mainly in literary theory. I propose extending the narrative perspective to law by showing what research directions can be observed when using the concept of narration in the ethical and aesthetic dimensions of law. Finally, I discuss the thesis of narrative identity in relation to law. I adopt the perspective of examining law in the light of literary analysis.
Keywords: law and literature, literary theory of law, narrative identity, narrativity

Introduction

The law uses various types of narrative convention, which are shown in several areas in which law is present in social reality: the law's creation, practice, interpretation, and normativity. In the creation of law, there is narrative coding in the content of the legal text and in legal norms indicating certain ways of behaviour addressed to specific subjects. If we view the created law as a construction analogous to the literary category of the 'presented world', we see that legal norms project a certain vision of the world, oriented towards the future – the kind of world that the legislator intends should come into being when the law is observed. A representative category of narration is that of the narrator – the one who conveys the story but also creates it in the

© 2024 Marta Andruszkiewicz published by Sciendo.
This work is licensed under the Creative Commons
Attribution-NonCommercial-NoDerivatives 4.0 License.

relationship conveyed to the receiver. In law, the narrator can be the lawmaker, 'hidden' in the construction of the legislator. Another property of law analogous to a literary one is interpretation, the purpose of which is to seek the intention of the sender encoded in the content of the legal text. The role of the lawyer who interprets law is that of a 'translator', who translates the meaning from the surface level to the layer of legal norms. Narrativity is also encountered in the practice of the application of law and in legal practice. Narration is used in the dramaturgy of the judicial process during proceedings, i.e. the court hearing, in which procedural roles are assigned to certain participants and the matters to be spoken of are specified, along with stage directions. Elements of the plot describing the course of events, which are the basis for establishing the facts, are also recreated.

Narrativity and literariness are also visible in one of the most important features determining the specificity of law: the validity of norms and the normativity of the law itself. These are based on formally and conventionally established assumptions; that is, they are counterfactual, not real (for example, the notion that the law 'comes into force' is valid in a given place and at a given time). Finally, the philosophy and theory of law reach for narrative structures. We have such 'great images of law' as the construction of human dignity, subjectivity and objectivity, natural rights and legal rights, and personality rights – namely, the moral and cultural axiological foundations of the legal world. In accounts of philosophical and legal concepts, 'great metaphorical characters' appear, such as Judge Hercules, Judge Herbert in the work of Dworkin (1998), or King Rex in the work of Fuller (2004). Scholars and practitioners in the field of law acknowledge that narrative plays a significant role, permeating various aspects of legal theory and practice in diverse ways (Hanne & Weisberg, 2018, p. 1). Therefore, the law benefits from strategies used in literature, such as fiction, the conventionality of the constructed world, the interpretability of the text, counterfactual assumptions, and narration itself; these will be analysed more closely below.

1. Narrativity in the theory of literature and theory of law

The theory of narration is inspired by the works of structuralists, mainly French and Russian formalists, and is reflected in the approaches of structural semiotics. The structuralists saw a special kind of semiotic trope in narrative structures, which are used not only in literary texts, but also in other cultural texts. As well as in literary theory, the theory of narration has also been widely used in historical scholarship. It developed as an independent field of research in the second half of the 20th century (Głowiński, 2004, p. 5), but the beginnings of theoretical reflection on this topic are related to Propp's work *Morphology of the folktale*; later, narratology was developed by such authors as Greimas, Todorov, and Barthes. Important moments in the development

of research in this area included the hermeneutic and then the narrativist turn.[1] These breakthroughs triggered a change in the humanities and social sciences related to the shift from a substantive to a dynamic view of the human being: '[I]t is about the category of humans, their identity, the subject, the human individual. The change involves moving away from the object or substance-based understanding of humans and replacing it with a view that emphasises the specific temporality of this being' (Rosner, 2004, p. 7).

Currently, the concept of narration has been widely mediated by other fields in the humanities – philosophy, sociology, psychology – and is also beginning to be explored by the science of law.[2] Contemporary literary scholar Rosner (1999, p. 10) explains the popularity of narrative in fields other than the theory of literature by the fact that the concept of narration usually appears where the question of human identity in postmodern society arises. This is also consistent with the approach taken by French narrativists (Greimas, Bremond, and Todorov). Inspired by the concept of narrative and by generative grammar, they formulated the concept of narrative grammars, which were intended to cover all narrations, be they artistic, fictional, or those that speak of real events. Research on narration developed within literary studies is referred to as narratology (the science of storytelling), while analyses of narration or narrativity outside literary studies are referred to as narrativism (Grajewski, 2003, pp. 165–176).

As a scholarly category, narratives often appear in reference to historical narratives (which Hayden White, among others, has written about). It is then a strategy for explaining historical relationships by creating stories. When organising the categories and concept of narration, I propose distinguishing between the theory of narration (in the sense of narratology), narrativity as a text feature included in the distinguishing features of literariness, and narrativity as a perspective for examining identity; I will discuss these below. In the first sense, one can speak of narration as a way of transmitting knowledge about the world, but also of constructing a vision of the world and creating historical and cultural continuity. The second approach shows that narrativity as a determinant of literariness is a feature of cultural texts, not only literary ones, such as those that are based on a common cultural context. The third approach I propose is narrativity which is examined in the context of creating a subject's identity. Narrativity and identity, on the other hand, are terms that are used when questions are raised about what type of subject a person is and what fea-

1 This was the term used by Martin Kreiswirth (1992) to describe the phenomena occurring in the humanities; also see Polkinghorne (1988).

2 Narrative is an inspiring concept in legal theory. See for example Adams (2016); Allegranti (2022); Binder & Weisberg (2000); Brooks (2002); Bruner (2017); Cichocki (2016); Del Mar & Gordon (2013); Dubowska & Dyrda (2018); Gaakeer (2015); Hanne & Weisberg (2018); Olson (2014); Pieniążek (2015); Ralph (2015); Skuczyński (2020); and others.

tures distinguish their autonomous subjective structure, which can be expressed precisely in narrative identity (unity), for example of the person through self-reflection in specific cultural and social conditions. All of these elements are consistent with an approach close to the creators of narrativity, semiotics – in this case the semiotics of law. In the article, I assume that the semiotic-cultural approach is the most appropriate to narrative in law. This issue is also being explored within the field of cultural studies. Brooks (2002, p. 1) writes that the notion of narrative presupposes that there is a recognisable mode of expression or operation that we call narrative, and although it is not necessarily completely independent of the medium of expression, it can nevertheless be abstracted from that medium. In other words, we are talking about some type of narrative structure or process that can be extracted from a particular medium of expression, whether it is the text of a written word, literature, or another medium of communication (Brooks, 2002, p. 1).

2. Narratology and the law: 'In the power of stories'[3]

An inspiring perspective for studying narrative in law is the law and literature movement. In both fields – law and literature – narration can be used as a form of description and explanation of the world; it is a way of creating stories as well as creating temporal representations (Ricoeur, 2012, p. 318 ff.). As Ricoeur, among others, believed, storytelling helps us understand the world and ourselves because it enables us to organise experiences into a coherent whole. Narration as the creation of story structures is a pattern for a scheme for learning about reality. Ralph distinguishes three features of narration: narrative coherence, narrative correspondence, and narrative fidelity. Narrative coherence consists in the fact that the structure of the text includes certain repetitive elements, such as the status of characters, the relations between them, a certain logical sequence in the plot, its internal chronology, etc. (Ralph, 2015, p. 27 ff.). Narrative correspondence is achieved through a representation of a situation that is appropriate to the common experience of the text's recipient, which fits with what happens in the ordinary course of the world (Ralph, 2015, p. 29). Narrative fidelity, on the other hand, goes beyond the formal features of the structure and links to the context of cultural resources, appealing to the practical judgement, experience, and intuition of the audience (Ralph, 2015, p. 31). A story is a form of narration, consisting of a series of events crafted, chosen, highlighted, or organised to bring to life, clarify, inform, or enlighten (Posner, 2009, p. 424). If we agree with the validity of Ralph's distinctions, they can be used to analyse a legal text.

3 As Ryszard Nycz writes: 'Within a few years, quite unexpectedly, we found ourselves in the power of stories. We, that is, literary critics and researchers, linguists, and cultural anthropologists' (2004, pp. 4–8). This tendency is constantly growing, heading towards a synthesis or at least an attempt to integrate interdisciplinary research.

Narrativity, like the creation of plot patterns, is characteristic of literature, and is also sometimes used in many non-literary texts, such as those of law or history: law also uses narration on many levels. The trial itself can be perceived as a narration, which includes individual stages of plot structure – time, place, people, roles – and each stage of the sequence is another fragment of the 'story', which is a link to a larger tale. It begins with a description of the case that caused the legal effect, after which the proceedings before the court are initiated, followed by the evidentiary procedure, the interpretation of legal sources, the establishment of the legal basis by the court, and ending with the issuance of a verdict. During the judicial process, narrative imagery is used. When determining the actual state of affairs, the facts are reconstructed: the sequence of past events, the time, place, people, their roles, and past behaviour are recreated and assigned to legal categories. The narration is also included in the constructions of justifications for court decisions, in which the sender reconstructs the sequence of reasoning that leads them to adopt such a decision and not another, their method of interpreting, making argumentative decisions, linking events and facts to norms, etc. Similarly, analysing the behaviour of characters – participants in the process – means analysing narrative unity in the legal sphere.

As demonstrated by Peter Brooks (2005), a narratological approach to the narrative of law influences legal decision-making. The study of narrative elements in the context of the law and literature movement involves using the tools of literary analysis to understand the structure, content, and meaning of legal texts. Within this approach, it is possible to examine literary or narrative threads present in legal acts, contracts, and other legal documents. For example, the analysis of specific legal texts involves the use of literary methods for various categories of literariness. A narrative can concern the elements of a literary work, which can also be seen in law: the elements of the plot in the context of a legal text are an understanding of the main themes and how they develop in different parts of the text. As for the characters, it may be important to identity actors of the legal narrative, such as the parties to the contract or decision-making bodies, and analysing their roles and characteristics. Motifs and symbols refer to recurring themes or signs in a legal text that help to understand the main points. Language and style analysis involves understanding how a legal text is worded and examining sentence structure, terminology used, and other linguistic elements. Literary analysis as a research tool allows us to look at legal texts from a different perspective, enabling the identification of hidden meanings, interpretations, and social influences that affects the shaping of law and lawmaking. It's like using the tools typically used in literature analysis are employed to uncover deeper layers of meaning and social contexts in a legal text. Elements of the narrative can also be explored using the law and literature trend, where literary threads that

can be used to understand the law or analyse specific legal codes are analysed.[4] Sharing the above opinion, I believe that literary analysis can be a complementary tool for a lawyer, as an enrichment of strictly legal methodologies.

3. Narrativity and the law: 'In the power of *literariness*'

The perspective of narrativity (in Rosner's approach) makes it possible to look at law as a semiotic object, just like literature. Literary analysis has features similar to interpretive practices used in law; it enables the study of the ethical nature of law and insights into its humanistic problems. In this approach, there is a visible reference to hermeneutic methods of interpretation and semiotic approaches to law. In recent decades, the theory of law's interest in issues that have hitherto been confined to the field of literary studies and other humanistic disciplines can be seen as influenced by the development of cultural studies (and earlier, the cultural turn in the humanities). Literary theory and cultural studies increasingly emphasise the ubiquity of narrative in culture (Culler, 1997, p. 90), and the cultural approach has influenced a return to hermeneutic methods of interpretation. Cultural research shows the crisis of this concept and its displacement by the hermeneutics of suspicion. From the perspective of legal theory, this can be presented as an opposition: narrativity versus analyticity.[5]

A hermeneutic reading of a legal text is not only about reproducing the literal meaning, but also about locating it in context: cultural, social, and political. As Wagner and Marusek write,

> the value of a semiotic perspective is that the focus on symbols fosters a sense in which they are real. It breaks down the divide between facts and values which leaves symbols in the value category and hence, like ideas, unreal. One can extrapolate from this a contribution to current political realities. Respecting the semiotic means respecting ideas and symbols as part of our reality (2023, p. xxii).

The use of the literary perspective of narrativity shows that the author's intention can be a conventionally established construct and is not individualised to a single sender. This may be consistent with the concept of interpretation in Ronald Dworkin's

4 See e.g. R.H. Weisberg, Narrative Plot and Legalistic Dimension (in:) *idem*, The Failure of the Word. The Protagonist as Lawyer in Modern Fiction, New Haven 1984, pp.133–159; P. Brooks, Narrative in and of the Law, (in:) J. Phelan and P.J. Rabinowitz (eds). A Companion to Narrative Theory, Hoboken 2005, pp. 415–426; M. Fludernik, A Narratology of the Law? Narratives in Legal Discourse, 'Critical Analysis of Law and the New Interdisciplinarity' 2014, vol. 1 no 1, pp. 87–108 and others.

5 This also allows us to notice a change in perspective in the approach to law in the narrative, analytical, and postanalytical categories. Here, the use of literature could also be fruitful. On the evolution of the analytical philosophy of law after the linguistic turn, see for example Zirk-Sadowski (2020).

philosophy of law, which speaks of 'chain'-like work in the interpretation of individual judges, who in their judicial practice are like authors writing successive chapters of a novel. As Dworkin says: 'Now every novelist but the first has the dual responsibilities of interpreting and creating because each must read all that has gone before to establish, in the interpretive sense, what the novel so far created is' (1982, p. 193). This may also make reference to Fish's approach, which states that judges are not 'servants of texts' but interpreters, readers, co-authors, and critics of cultural narrative, discovering meanings conditioned by the context and justified by the purpose of interpretation (1999, p. 171). It appears that both ways of thinking about legal interpretation are narrative and hermeneutic. I believe that what should be considered a determinant and common point of narrativity in law is its cultural justification; I agree with the view of Cover on the connections between culture and narrative in law. As Cover writes, legal interpretation is never entirely unconstrained; it cannot solely rely on an understanding of the text or language alone. It also goes beyond a straightforward analysis of what the interpreter perceives as a reading of the 'social text', encompassing a consideration of all pertinent social information (1986, p. 1617). Legal narratives are intertwined with cultural narratives (Cover, 1983).

Law and literature within narration are brought together by the theme of the interpretability of the text (literary as well as legal). When applying an abstract legal norm to a specific case, the law necessitates engaging in interpretation. This involves utilising narrative analysis methods, including distinguishing between the framework of the narrative, the actual narrative itself, and what is conveyed. It also entails identifying the functions of narrative structures and recognising various types of narrators (Olson, 2014, p. 371). With reference to hermeneutic approaches, narration is treated as a way of interpreting the world, and reading a narrative text requires taking into account the context, meanings, and relationships between different elements of reality. An example is the category of the narrator, one of the key categories in narration (Ball, 2012, p. 18 ff.). In the theory of literature, we see the construction of the narrator in the so-called omniscient narrative; the narrator is the creator and controller of the presented world. It is possible to transfer the category of omniscient narrative to the study of a legal text by posing the question: Is the narrator of the story about law the creator and controller of the presented world, the reality created by this story?

The narrator of the 'legal story' is two-dimensional: it is possible to separate the sender-author of the legal text and the sender-creator of the law. There is a distinction between the subject that actually produces the content and the one that is considered to be the sender of that content. The subject that is formally recognised as the sender is identified as the legislator, who does not use a first-person verb, nor do they appear as the sender in the text itself. The actual author is not, as a rule, the centre of interest in the interpretation of a legal text; the legislator is merely the sender who mediates the message. In a literary text, on the other hand, its counterpart may be the

subject formulating the narration, in the case of prose, or the lyrical subject in poetry; therefore this stratification or two-dimensionality of the sender also occurs here. This coincides with narrative approaches in literary theory. The distinction between viewpoint of focus and narrative voice reflects the emergence of a split between two different modes of characterisation (Binder & Weisberg, 2000, p. 214). In the traditional sense, narratives typically regarded thoughts as monologues, resembling a type of persuasive language adhering to the norms of public discourse. In the modern approach, as in M. Bachtin's dialogic conception of narration, there is a proliferation of voices and viewpoints of narrators (Binder & Weisberg, 2000, p. 215). Applying this to the law, it is possible to see a dialogic narrative structure in which the authority of a narrative or authorial voice can be challenged by the interpreter's point of view.

When discussing this topic, one can also notice how narrativity brings law and literature closer together. However, as Jonathan Culler (1997, pp. 26–27) points out, what distinguishes literary texts from other 'narratively organised' texts is that the former were selected appropriately (by publishers, reviewers, and others) before they reached readers, which makes them programmatically worthy of attention. However, a similar feature can also be noticed in legal texts. For the interpreter of a legal text, the primary goal of the message is to assume that the sender's statements assume correct legislative practice and the legislator's rationality. Both in literature and law, this is the result of the inherent features of the text, which are determinants of literature or law. These determinants are the unique nature of the speech act, the conditioning of the context of meaning, and the dependence of text reception on established social and institutional conventions (in literature and law).

As one can see, many inspiring contexts can be used in the study of law from the perspective of the literary theoretical concept of narrative, including, first, emphasising that legal interpretation and legal texts can be viewed from a perspective other than the positivist one. It is a cultural and hermeneutical approach; the narrative allows the study of the law with the tools of theoretical literary analysis, such as plot structures, dialogicity in the relationship between the sender and the recipient of the text, the concept of the narrator, and others.

The narrative approach also has weaknesses and may cause disagreement. One can ask the question (following Brooks): Does the law need a narratology? Analysing the abovementioned positions allows us to identify arguments supporting and questioning the narrative approach to law. On the side of the former will be the representativeness of cultural discursive practices and the continuity of history over time, while on the side of criticism is possible emotion and lack of objectivity. The point of disagreement is the role of narrative in interpretive practice: proponents of using narrative for legal interpretation believe that storytelling can effectively help understand the impact and consequences of law.

On the other hand, critics doubt the wisdom of giving narrative such a central role in interpreting the law, fearing it could lead to subjective and unpredictable

results. Another argument is the dual approach to emotional involvement and lack of objectivity. Using narratives in a lawsuit may pose a problem of 'relevant emotional processes involved in transforming stories into legal categories'(Bergman Blix and Minissale, p. 261). As Bergman Blix and Minissale note, '[t]he legal transformation of everyday stories into law stories pinpoints how gaps can emerge between a common-sense understanding and a legal understanding of a case' (2022, p. 261). Proponents of narrative interpretations argue that the emotional involvement of trial participants can be beneficial by helping them better understand and accept court decisions. Critics, however, fear that emotional involvement may lead to unfair judicial decisions because emotions can distort objectivity. Another controversial issue is the role of narrative in the context of the objectivity of law. Proponents of narrative interpretations claim that narrative can increase the objectivity of law by considering diverse perspectives and experiences. However, one may be concerned that excessive emphasis on narrative may lead to subjectivity and loss of clarity in applying the law. The debate on legal narratives in legal studies encompasses various opinions and perspectives. Proponents of legal narratives emphasise their benefits, such as better understanding, emotional engagement, credibility building, and improved communication. Meanwhile, critics highlight the risks of distorting facts, emotional manipulation, and neglecting critical legal issues.

Doubts regarding the use of narrative are also known to literary theorists. Is it worth considering whether narrative is a source of knowledge or an illusion (Culler, 1997, p. 93)? Supporters believe that it is a form of knowing the world, while sceptics believe that narrative is one of the figures of speech. There is a clash of arguments here regarding whether narrative structures reflect or distort the image of reality. Regardless of these doubts, I advocate the productivity of applying the category of narrative to the study of law, if it complements the theoretical and legal methods of literary analysis.

4. Narrativity–identity–subjectivity: The subject's reflection 'on oneself as another'

The issue of the relationship between identity and narration has been widely developed in the theory of literature and other disciplines of the humanities. The concepts of narrative identity were formulated by Ricœur, Taylor, MacIntyre, and Bruner, and are focused on the search for the status of the subject through the reflection that a person undertakes regarding their own identity on the basis of external conditions or internal (individual) insights. For example, Ricœur understood narrative identity as a necessary connection between the identity of the acting subject and the identity of the ethical and legal subject. Self-reflection, the ability to 'talk' about oneself as a subject, is a condition of being a person. Rosner's approach in this

context is interesting, as she sees the subject's narrative as self-determining Heidegger's concept of understanding oneself through *Dasein*, the structure of understanding and its temporal (narrative) nature (Rosner, 1999, p. 12). Narrative identity in philosophical terms raises questions about the status of the subject, questions about who or what a human being is (Rosner, 1999, p. 10).

In contemporary philosophy, there is talk of a crisis of the subject, or a philosophy of the subject 'without a subject'. The answer to this crisis is found in the conception of 'hermeneutics of the self', formulated by Ricœur, who writes: 'The true nature of narrative identity is revealed […] only in the dialectic of being yourself and being the same. In this sense, the latter constitutes the main contribution of narrative theory to the establishment of "the-one-who-is-himself"' (2003, p. 233). The concept of narrative identity is based on the assumption that human identity is not fixed and unambiguous but can change through the construction of a narration. These narrations can be both individual and supra-individual, conditioned by values and goals shared in society and culture. Let us emphasise that for Ricœur, cultural codes and contexts are important in identity formation. Narrative identity shows that a person's identity as a subject – social, moral, physical, spiritual, legal, etc. – is not a fixed and unchanging characteristic but a dynamic concept. It shapes and changes through the construction of meanings from our experiences and under the influence of various factors. Understanding narrative as the experience of learning about oneself by telling one's own stories about oneself is the basis of the notion of *homo narrans*, which defines the formula of humans as 'storytellers', narrative thinkers. As Culler says: 'Stories, the argument goes, are the primary way we make sense of things, whether in thinking of our lives as a progression leading somewhere or in telling ourselves what is happening in the world' (1997, p. 90).

Narration and narrative identity inspire new attempts to define human status. The narrative turn mentioned earlier has changed the perspective on how individuals construct their life narrations and identify with them. In philosophy, there has been a change in the understanding of human subjectivity, which is defined as a transition from a substantive to a dynamic approach. The 'substantive' approach means that a person perceives themselves as a static 'substance' or a set of characteristics that define their individual identity. Identity is created due to external conditions, such as social role, profession, features assigned to a given personality type, etc. In the 'dynamic' approach, an individual's identity is created under the influence of changes occurring in the human beings themselves, who shape it through new experiences, learning, and reflection, in a changing historical context.

The connection between narrative and identity has long been a literary interest. In many narrative works, we find examples of patterns of identity formation by characters. The literature also raises questions about whether human identity is given or created and whether one's difference or authenticity can define identity. The significant increase in discussions in literary theory on race, gender, and sexuality is largely

because literature offers extensive material that complicates political and sociological explanations of how these factors shape identity (Culler, 1997, p. 110). Wojciechowski writes very interestingly on this topic in his work entitled *Tożsamość narracyjna jako warunek autentycznej podmiotowości prawnej* (2023a).

Narration understood as a source of human construction and identity and a way of explaining the world is also present in law, as well as, for example, in legal psychology and ethics.[6] The way people define their identity is shaped by stories mediated by symbols, signs, and norms of behaviour referred to by law. Narrativity in the sphere of the practice of law was discussed above; it is also visible in the concept of the subject of law and legal subjectivity, defining the status of a human being as a subject of law. As Dworkin wrote in *Law's Empire*, we live within the law, and thanks to it, it determines what we are (2006). Both law and literature shape the identity of social subjects. The axiology on which the legal system is based is also a set of moral norms considered fundamental in a given culture and society. Ideas, values, and norms in law can form the basis for a shared identity. As Wojciechowski writes, 'identity is inscribed in the wider social structure, but also by various narrative patterns or cultural scenarios, without which a person would not be able to say who they are' (2023c).

Narrative identity also encompasses the cultural conditions in which man live as a social unit and as subjects of law. An important determinant is the unity of the narrative form; the core of self-identification in social interactions lies in the cohesive integration of narrative forms.[7] The introduction of a narrative perspective allows us to look at law as an element constructing a story about social identity. The law introduces criteria for categorising persons and other subjects as addressees of legal orders and prohibitions. Nowadays, subjectivity is extended to beings other than humans, such as animals, robots, and AI. The practice and science of law use the concept of legal subjectivity, which is determined by the fact that a subject is one who may be entitled or obliged to do something. This is close to the concept of the identity of a subject as defined by legal norms, indicating who a person is from the point of view of the law at a given stage of life, age, profession, function, etc., what obligations and rights they have, what their legally regulated behaviours are, what they are allowed to do, and what is prohibited. Identity in law is the legal recognition of an individual as a specific person or subject with legal rights and obligations. In literature, on the other hand, we encounter images of society and human experience, which, as in law, belong to the common area of culture. Various literary genres can provide knowledge about different aspects of human life, including the problem of identity. Literature can provide insight into varied aspects of life and thus help in understanding the legal and social context. The problem of identity is a very important and often discussed topic in literature. Who are humans and what are their duties? These are questions that literature

6 See for example Brockmeier & Carbaugh (2001); McAdams (2001); Rosner (2003).

7 For more on this topic, see Wojciechowski (2023b).

has been posing since the earliest times. Literature is where one can see how human beings are rooted in culture, history, and ethics. This is the case from the perspective of the participant-recipient, but also of the creator of the literary work. In Polish literature, we find such themes in texts such as *Czuły narrator* (*The Tender Narrator*) by O. Tokarczuk and books by J. Dukaj, S. Lem, and others. They are also typical motifs in cyberpunk and science fiction literature; particularly in science fiction, one can notice convergences between literature and law in relation to the problem of identity. The example of the identity of artificial intelligence in literary works shows the philosophical, ethical, and social implications of technological development. The view of law as a humanistic semiotic object, explained above, helps to define human subjectivity and separate it from artificial beings. Evaluation of a situation or the nature of a human being can be distorted by overconfidence in perception or experience. What is important in reality is not what is visible through the senses, but emotions, empathy, memory, morality. Difficulties in distinguishing truth from fiction, reality from virtuality, or human from non-human can be balanced by narrative identity.

Conclusion

Expanding the legal perspective to include the idea of narration and narrative identity can introduce inspiring aspects to the study of law. The categorisations presented in this article are a preliminary diagnosis and may be a starting point for more detailed analyses in the future. As the above analysis shows, law, like other cultural products, is a narrative, and this narrativity is a tool for creating identity. As shown in the text, the legal perspective, combined with the idea of narrative unity, can be a pretext for analysing several problems, at least: law as narration (creating stories), the interpretation of law as a hermeneutic act of creating meaning (reading the law), and law as the semiotic basis of the subject's identity (building cultural identity through law). Law understood in this way is a sequence of narrations of the creation and application of law, which are conceptualised and interpreted by various legal characters. Introducing the idea of narrative unity into the analysis of law can broaden the legal perspective. I believe that the perspective of narrative unity makes it possible to understand how culture and social values influence the content and development of law. After the cultural turn, law is perceived as rooted in narrative and intertwined with culture; this implies the advantages of adopting an approach to legal discourse that is informed by a deep understanding of narrative structures and techniques (Olson, 2014, p. 371). It is fair to agree with Binder and Weisberg (2000, p. 209) that the task of a narrative approach is not to introduce the narrative subject into the alien and alienated discourse of the law, but to read, critique, and revise the field of narrative discourse that law already is.

Both law and other cultural products (literature, film, visual arts, etc.) are part of the system of cultural and communication codes of a given community that refer to a set of moral values carried by linguistic structures. This makes law a specific semiotic object, part of a common, broader social narrative, responsive to changing values and norms, and it means that it is clearly legitimate to examine it from the perspective of both semiotics and literary studies.

REFERENCES

Adams, W.A. (2016). *Popular culture and legal pluralism: Narrative as law*. Routledge.

Allegranti, I. (2022). Literature and law: Fairy tales, animated cartoons and property law. *Białostockie Studia Prawnicze*, *27*(4), 7–20.

Ball, M. (2012). *Narratologia. Wprowadzenie do teorii narracji* (E. Kraskowska & E. Rajewska, Trans.). Wydawnictwo Uniwersytetu Jagiellońskiego.

Bergman Blix, S., & Minissale, A. (2022). (Dis)passionate law stories: The emotional processes of encoding narratives in court. *Journal of Law and Society*, *49*(2), 245–262.

Binder, G., & Weisberg, R. (2000). *Literary criticism of law*. Princeton University Press.

Brockmeier, J., & Carbaugh, D. (Eds.). (2001). *Narrative and identity: Studies in autobiography, self, and culture*. John Benjamins Publishing Company.

Brooks, P. (2002). Narrativity of the law. *Law & Literature*, *14*, 1–10.

Brooks, P. (2005). Narrative in and of the law. In J. Phelan & P.J. Rabinowitz (Eds.), *A companion to narrative theory* (pp. 415–426). Blackwell Publishing.

Bruner, J. (2017). Narrative and law: How they need each other. In B. Schiff, A.E. Mc Kim, S. Patron (Eds.). *Life and narrative: The risks and responsibilities of storying experience* (pp. 3–10). Oxford University Press.

Cichocki, P. (2016). Perspektywa narracyjna w naukach prawnych. In J. Wasilewski (Ed.). *Narracje w życiu. O grupie i o jednostce* (pp. 145–160). Oficyna Wydawnicza ASPRA.

Cover, R.M. (1983). The Supreme Court, 1982 term. Foreword: Nomos and narrative. *Faculty Scholarship Series 2705*, 4–68.

Cover, R.M. (1986). Violence and the word. *Yale Law Journal*, *95*, 1601–1629.

Culler, J. (1997). *Literary theory: A very short introduction*. Oxford University Press.

Del Mar, M., & Gordon R. (Eds.). (2013). *Law and literature: Special issue on exemplary narratives in law and legal reasoning*, *25*(3).

Dubowska, M., & Dyrda, A. (2018). Legal narrative and legal disagreement. *Archiwum Filozofii Prawa i Filozofii Społecznej*, *2*(17), 47–59.

Dworkin, R. (1998). *Biorąc prawa poważnie* (T. Kowalski, Trans.). Wydawnictwo Naukowe PWN.

Dworkin, R. (2006), *Imperium prawa* (J. Winczorek, Trans.). Wolter Kluwers Polska.

Fish, S. (1999). Dowodzenie vs perswazja: dwa modele krytycznej działalności (K. Arbiszewski and A. Szahaj, Trans.). *Teksty Drugie 6*(59), 161–173.

Fludernik, M. (2014). A narratology of the law? Narratives in legal discourse. *Critical Analysis of Law and the New Interdisciplinarity*, *1*(1), 87–108.

Fuller, L. (2004). *Moralność prawa* (S. Amsterdamski, Trans.). Dom Wydawniczy ABC.

Gaakeer, J. (2015). Who's in narrative control? In C. Faralli, J. Gaakeer, M. Campos Galuppo, M.P. Mittica and A.C. de Faria Silvestre Rodriguez (Eds.), *The harmonies and conflicts of law, reason and emotion: A literary-legal approach*. ISSL Papers, The Online Collection of the Italian Society for Law and Literature, 8, 1–17. www.lawandliterature.org

Głowiński, M. (2004). Wokół narratologii. In M. Głowiński (Ed.), *Narratologia* (pp. 5–12). słowo/obraz/terytoria.

Grajewski, W. (2003). *Maszyny dialogowe. Szkice teoretycznoliterackie*. Universitas.

Hanne, M., & Weisberg, R. (2018). *Narrative and metaphor in the law*. Cambridge University Press.

Kreiswirth, M. (1992). Trusting the tale: The narrativist turn in the human sciences. *History, Politics, and Culture*, *23*(3), 629–657.

McAdams, D.P. (2001). Narrative identity: The psychology of life stories. *Review of General Psychology*, *5*(2), 100–122.

Nycz, R. (2004). We władzy opowieści. *Teksty Drugie*, *1–2*, 4–8.

Olson, G. (2014). Narration and narrative in legal discourse. In P. Hühn, J.Ch. Meister, J. Pier and W. Schmid. (Eds.), *Handbook of narratology* (Vol. 1) (pp. 371–383). De Gruyter.

Pieniążek, M. (2015). The application of Paul Ricœur's theory in interpretation of legal texts and legally relevant human action. *International Journal for the Semiotics of Law / Revue internationale de sémiotique juridique*, *28*(3), 627–646.

Polkinghorne, D. (1988). *Narrative knowing and the human sciences*. Sunny Press.

Posner, R.A. (2009). *Law and literature*. Harvard University Press.

Ralph, A.E. (2015). Not the same old story: Using narrative theory to understand and overcome the plausibility pleading standard. *Yale Journal of Law & the Humanities*, *26*, 1–57.

Ricœur, P. (2003). *O sobie samym jako innym* (B. Chełstowski, Trans.). Wydawnictwo Naukowe PWN.

Ricœur, P. (2012). *Pamięć, historia, zapomnienie* (J. Margański, Trans.). Universitas.

Rosner, K. (1999). Narracja jako struktura rozumienia. *Teksty Drugie*, *3* (56), 7–15.

Rosner, K. (2003). *Narracja, tożsamość i czas*. Universitas.

Rosner, K. (2004). Narracja jako pojęcie filozofii współczesnej. In W. Bolecki & R. Nycz (Eds.), *Narracja i tożsamość. Narracje w kulturze* (pp. 7–13). Instytut Badań Literackich PAN.

Skuczyński, P. (2020). Narracyjność języka prawniczego w procesie tworzenia prawa. *Archiwum Filozofii Prawa i Filozofii Społecznej*, *1*(22), 66–83.

Wagner, A., & Marusek, S. (2023). *Research handbook on legal semiotics*. Edward Edgar Publishing.

Weisberg, R.H. (1984). *The failure of the word: The protagonist as lawyer in modern fiction*. Yale University Press.

Wojciechowski, B. (2023a). *Tożsamość narracyjna jako warunek autentycznej podmiotowości prawnej*. Wydawnictwo Uniwersytetu Łódzkiego.

Wojciechowski, B. (2023b). Narrative identity and human beings' legal subjectivity. In A. Wagner & S. Marusek, *Research handbook on legal semiotics* (pp. 135–145). Edward Edgar Publishing.

Wojciechowski, B. (2023c, 25 May). *Narrative identity as an identifying category of human legal subjectivity*. https://www.wpia.uni.lodz.pl/fileadmin/Wydzialy/Wydzial_Prawa_i_Administracji/Redaktorzy/Anna_Florek/Narrative_identity_and_human_beings'_legal_subjectivity.pdf

Zirk-Sadowski, M. (2020). Analityczna filozofia prawa. In J. Hołówka & B. Dziobkowski (Eds.), *Filozofia prawa. Normy i fakty* (pp. 43–46). Wydawnictwo Naukowe PWN.