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The Narrative Subject of Law: An Introduction to and Outline of a Long-Awaited Turn in Law¹

Abstract: In this article, we argue that the current concept of the legal subject should be expanded to include narrative identity, in other words that the narrative subject of law should be recognised. With this aim in mind, we firstly (i) identify the philosophical assumptions and tools necessary to articulate the thesis of *homo narrans*. We find them in Martin Heidegger's work *Being and time*, where he made a groundbreaking contribution to twentieth-century philosophy by deconstructing the concept of the subject. Then (ii) we discuss the key theoretical-legal assumptions and tools related to the legal turn we advocate, and finally (iii) we indicate – provisionally and in broad outline – the key consequences of recognising the narrative legal subject of law in the justice system.

Keywords: Anthony Giddens, law as a medium of communication, legal positivism, Jürgen Habermas, Martin Heidegger, narrative subject of law

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Introduction

Narratology, an interdisciplinary field belonging to the main discourse of the humanities, and having a strong presence in the social sciences, has undergone dynamic evolution since the narrative turn, a shift identified with Roland Barthes' groundbreaking 1966 publication on the structural analysis of narrative (Barthes, 1996). Hence the central thesis of narratology – that human beings can be described as *homo narrans* (Fisher, 1984; Victorri, 2002), an idea that was once considered radical – is nowadays viewed as rather uncontroversial. From a philosophical perspective, the development of narratology is a multifaceted consequence of the deconstruction of the concept of the subject performed by Martin Heidegger in 1927, in his classic volume *Being and time*. Narratology is also greatly indebted to Hans-Georg Gadamer's project of hermeneutical philosophy and his idea of effective history (*Wirkungsgeschichte*), elaborated in *Truth and method* in 1960. Although contemporary research in the humanities and social sciences obviously offers multiple fresh insights, all of them with significant projections in the arena of juridical discourse, it continues to draw on past achievements, including those of the aforementioned philosophers.² It also draws on the concept of communicative action, first presented in 1981 by Jürgen Habermas, who in his youth was inspired by the depiction of the public (*Öffentlichkeit*) in *Being and time* (Habermas, 1984). The concept of communicative action has made a comeback in sociology, for example in research on the instrumentalisation of interaction partners and/or their positioning (Björninen et al., 2020), mainly due to the so-called new media, especially when people are engaged in two analytically distinct activities: storytelling and narration.

2 As far as the consideration of narrative rationality in general is concerned, the plurality of these projections forces us at least to add the inspiring contributions that we owe to Greimas, Ricœur, MacIntyre, and Lyotard (this one conjugated the latter together with Foucault and Derrida). Creative assimilations of these unmistakably heterogenous idioms in the legal (meta-dogmatic) arena take us, in fact, from Bernard Jackson's and Eric Landowski's narrative structural semiotics to James Boyd White's ethical-literary narrativism (opening the door to the blossoming of the law and literature and law and performance movements), passing through Costa Douzinas' philosophical-political use of grammatology and Goodrich's critical rhetoric, obviously without forgetting the role that community-building counter-storytelling assumes in so-called narrative outsider jurisprudence (from critical race to postcolonial legal theories, passing through feminist jurisprudences and LGBT critical studies). We should also not forget that narrative rationality is often considered one of the plausible contemporary assimilations (beyond those we owe to topic rhetoric and new hermeneutics) of practical-prudential (subject/subject) rationality, if not as an 'attempt to recapture Aristotle's concept of *phronesis*' (Fisher, 1994, p. X). For a brief consideration of some of these projections and their irreconcilable idioms, see Linhares (2013, pp. 3–20; 2022, p. 83 ff., 86–90; 2023, pp. 47–60). See also volume 3 of the journal *Undecidabilities and Law*, the thematic core of which is precisely 'justice as translation and counter-storytelling'; <https://www.uc.pt/en/fduc/university-of-coimbra-institute-for-legal-research-uciler/undecidabilities-and-law-ulcj/>.

In light of the above, at this point the reader would have good reason to ask this basic question: what is the relevance of writing about narrative subjectivity 58 years after the narrative turn and the birth of narratology? After all, contemporary social science largely focuses, on the one hand, on the positively connotated ability to tell stories (storytelling) about events significant to individuals or groups, and, on the other hand, on narratives with negative connotations. It is said that narrative articulates not so much the course of events as the ambitions, desires, or motivations of the narrator. It is therefore linked, at least potentially, to ideology, thus narrative is susceptible to instrumentalisation and 'strategic uses of counter-narratives' (Mäkelä & Björninen, 2022, pp. 11–23). Here we should point out that storytelling skills have been glorified in marketing since the 1980s: if the company's story is told in a way that leads to the articulation of its mission, the target audience will be more likely to identify with it. Furthermore, storytelling is crucial even in the preparation of integrated financial reports, for which the narrative form is an 'integral component of reporting', enabling stories to be told about the company's sustainable development, thereby allowing the company to reach society and its members (not only in their role as company customers, but as people or citizens), (Kobiela-Pionier, 2018, pp. 100, 119).

So we can reformulate the main research question: what is the significance of writing about narrative subjectivity in law in our times? Well, in our view, the examples just mentioned of the narrative understanding of oneself and the world demonstrate how urgent the need has become to take a turn in law that introduces the concept of narrative identity into the justice system. However, in an effort to treat this endeavour seriously, and bearing in mind the limitations resulting from the fact that this is an introductory article to the topic, we will focus on the most important philosophical assumptions rather than on current debates from the entire field of humanities and philosophy.³ These philosophical-theoretical assumptions and tools will allow us to indicate the key assumptions and the required conceptual-theoretical re-definitions of the proposed turn in law, focused on the narrative subject of law.

1. Philosophical assumptions and tools: The deconstruction of the concept of the subject and its consequences

Perhaps the most significant philosophical issue associated with Heidegger is the examination of *being*, as opposed to *entity*. This was, of course, a radicalisation of the

3 We would like to thank Reviewer 1 for their comments on the sociology of law, which, however, is beyond the scope of this article. At the same time, anyone interested in taking a more in-depth look at the issue, taking into account the researchers we have only mentioned and the sociological tradition that developed after Heidegger, is encouraged to read the monograph by Bartosz Wojciechowski, *Narrative identity as a condition for authentic legal subjectivity*, to be published by Springer in 2025.

phenomenological investigations made by Edmund Husserl, focused on how what exists presents itself to us and how it exists. Because this is an important issue for the proposed turn in law, let us note that in the world we know, better or worse, there are people, there is Valhalla, there are centaurs, there are numbers, triangles, and squares, and even tables and chairs, around which we directly or through electronic means of communication, such as computers (which are also part of our world), discuss, read, watch movies, etc. Indeed, Valhalla, with its brave Norse warriors is – just like the land of eternal hunts of American Indians or ancient Hades – something that exists in our world – it just exists differently than the tables and chairs we use when reading about these creations of the human imagination. There are also triangles, squares, and numbers, which we tend not to view as creations of the human imagination, but rather as discoveries of the human mind. Very generally speaking, we can see that what we learn about, talk about, read books or watch movies about (not to mention conducting research about!), differs in the way it exists. But, as Heidegger points out, the issue here is not existence in the sense of real/unreal or figment of imagination/scientific discovery, but rather the richness of aspects related to this different way of existence. Put simply – the chief issue is these different ways of existence.

1.1. Temporality, not the linear points of clock time, determines human existence

With human beings, what is crucial is that they are not present as points in a Cartesian coordinate system; instead, they live. Of course, other living beings also live, but humans live in the manner of occurring (*geschehen*) (Heidegger, 2010, p. 19 (the first paragraph of the paragraph § 6)), emerging, and becoming. People are born as children, their development is taken care of from the very beginning, bringing joy to parents – even if it also gives rise to concerns; later they become teenagers, with whom difficult conversations are held at home, at school, etc., or conversations are held on difficult topics; then they become adults who are always very busy with work, home, social, and other matters. They are people who have hopes and dreams; some are frustrated, some are engaged in various initiatives, while others shy away from the noise of the world and try to remain detached individuals. In the meantime, they become parents, and grandparents – and they wonder (or try to escape from such reflection) why life has turned out like this and what they should do about it. With the temporality of human being, the key thing is not a simple change – like the cogs turning in a clock. What really matters is human becoming, since it is here that we can exert some significant influence.

1.2. People understand – themselves, others, and the world – because they talk

This temporality is bound up with understanding, or in more precise Heideggerian terms, the *project of understanding* (after all, human existence has a tempo-

ral character, not a 'point-based' one, because none of us is a 'presence'). Thinking in terms of a project, i.e., focusing on one's future, which is shaped but not determined – let's do this-and-that now and 'see what comes of it' – is fundamental for human beings. It precedes the conceptual thinking that demarcates something from something else and suppresses connections; the kind of thinking of something/someone in a way that defines (preferably through a list of attributes) and thereby temporally specifies and semantically closes its object. Because understanding, by coming full circle and establishing a perspective, opens us, immediately opens us up to the world; and within this world, always to other people, to various things we do with them, for them, or just without them; to our everyday life, to exceptional moments and life breakthroughs that we perceive from an open perspective thanks to their interconnectedness. Understanding opens up wide perspectives immediately – it does not close, does not seal, does not define 'once and for all', unless we are in the morgue being examined in an autopsy. And this opening is the decisive moment of the deconstruction of the concept of subjectivity.

This deconstruction of the concept of subjectivity – a concept that is inherently inadequate, because it grasps who people are – and above all, how they are – in a fragmentary and piecemeal manner – also implies a change of key metaphors, and of terms specific to human activity.

The key point here is that in everyday language we say 'I see' to mean that we understand something. So, originally, seeing refers to and means understanding (Heidegger, 1980, p. 56 [De 32–33]). Secondly, it is important to bring metaphors associated with hearing into play, and when describing the relationship with another person, to replace visual metaphors with metaphors associated with hearing. This brings to light the assumption which for centuries – at least since the time of Descartes – prevented philosophers and scientists from reaching the other: the body–soul dualism. And in Heidegger's conception, the other is not a body with a *locus* in their head, which one has to reach in order to read their thoughts, but which remains inaccessible. Rather, the other is a way of understanding the world, and the others in it – including oneself, and it would suffice to simply talk to them. One would like to say something, just to talk like a human and ask how they are doing. Because the other person can be understood – we are able hear what they are saying to us; and when one does not see them or understand their language, one can try to understand them in the basic categories of their everyday concerns. After all, like us, they care about their world, their life, and their loved ones. They are, 24/7, a psycho-physical and cognitive-affective unity (Heidegger, 2010, § 29 ff.), thanks to and through understanding the world and engaging in it: drinking coffee or juices, sleeping, walking, or driving to work – and also while reading this article. 'Dasein finds "itself" proximally in *what* it does, uses, expects, avoids – in those things environmentally ready to-hand with which it is proximally *concerned*' (Heidegger, 1980, p. 155 [De 119]).

And that is why the ‘trying to understand the other person and their concerns’ reflects the projective character of understanding.

Talking, discussing something, is, in the proper sense: ‘letting something be seen in its *togetherness* [*Beisammen*] with something – letting it be seen as some thing’ (Heidegger, 1980, p. 56 [De 33]). So changing the metaphor serves to show that thanks to talk and the projective character of understanding, which opens certain perspectives for us, we ‘by our nature’ already understand what we see thanks to and through a connection to something else, and with reference to it. Neither we nor anyone else, nor things in the world, are by their nature isolated, separate, devoid of connections and relationships. To understand something means linking it with something else and seeing the context of connections in which it operates. This interlinking allows us to see something *as* something, and the way of relating to someone *as* someone like this-or-that. Individualisation and the shaping of this something is a process always taking place through (and in) a structure of significance, the structure of potential meanings that we invoke and shape in given contexts, by virtue of what is important – and how. We are with others, and we tend to understand other people precisely through the prism of such mediation in relation to the world, in caring for this world, in contexts and various open perspectives.

In this approach, shaping and understanding the seeing of something *as* something has little to do with the well-known category of truth, because here nothing is put together, collected, contrasted, or related to anything else for the purpose of juxtaposition. Here the truth is originally understood as *aletheia*, that is, the unconcealedness or unhiddenness taken as the activity of Dasein (as being-in-the-world)⁴ of disclosing the things for our understanding – how we understand them – that guides our everyday concern. Because here the most important thing is the disclosing and perceiving of specific mutual references and interconnections between people and their everyday affairs; as well as the determining of which aspects, from which perspective, due to what is particularly significant for us, we perceive them most often, or in the most important moments.

1.3. People shape their lives as they understand them

The disclosure of Dasein – simply us, people, each of us – is associated with the fact that we ourselves make sense of our lives, of course, by shaping relationships with other people, both individually and collectively, for quite different purposes, manipulating in every way entities that are, of course, not us. ‘Yet man’s “*substance*” is not spirit as a synthesis of soul and body; it is rather *existence*’ (Heidegger, 1980,

4 We are very grateful to Reviewer 2 for their important comments on the terminology which we draw on above. At the same time, we would like to clarify that certain simplifications are intentional – both philosophically and legally – and their purpose is to enable the two parts of the article to relate to each other conceptually and remain readable.

p. 153 [De 117]). We shape our existence – we do not choose our existence from a set of available options, like answers on a test.⁵ Human beings are not in the world as a constant presence (Heidegger, 2010, § 21). Generally speaking, they are rarely present – because they are usually engaged in the concerned overview of ready-to-hand entities, that is, they simply act in the world: carrying out tasks, resting after their completion, or discussing them with others, and devising ways to start or free oneself from them. And what we do changes the world, others – and ourselves in turn. Thus, we make sense of our lives and of being with others.

The human being acts in the world always already in the way of being with others, and demonstrating the ‘presence’ of others has always been a somewhat strange manoeuvre, because others have been collaborating with us all this time. ‘By reason of this with-like [*mithaften*] Being-in-the-world, the world is always the one that I share with Others. The world of Dasein is a *with-world* [*Mitwelt*]. Being-in is Being-with Others. Their Being-in-themselves within-the-world is *Dasein-with* [*Mit-dasein*].’ (Heidegger, 1980, p. 155 [De 118]). When asked who we are, we usually respond by recounting how we relate to others, how they have related to us so far – the way we interact with them, or how we cope with the fact that things are not going well with others. Thus, the outcome of the deconstruction of the concept of subjectivity is perceiving people together with others – in comparison with others, in the context of others, in relation to others, and so on, and sometimes even in opposition to them. Others co-determine us, when we do various things together with them – whether this involves family matters, professional life or hobbies. At the same time, however, we largely choose these others. Largely – because, after all, we do not choose where we are born and raised, nor our primary school, nor the circle of people who will have a decisive influence on us – whether this influence aligns with how we wish to shape our lives, or is one that we resist and thereby determines how our lives are shaped, or is one that make us feel helpless in the face of the possibilities (and necessities) involved in shaping our lives.

The shaping of our own lives is not arbitrary: it requires various efforts and endeavours on our part if things are to turn out how we want them to, at least in rough outline. We are always somehow thrown into a situation and situated there; we see what we see from the perspective of our situation and in the process of becoming someone. We tend to draw on the past tense to construct the history of the times and place we lived in, and as an interpretive resource for shaping the world and our understanding and life project with others. For example, a Native American from Idaho or Montana will assess the Industrial Revolution of the 19th century differently than a Briton, German, or even a Pole, although, along with residents of countries

5 ‘Philosophy is universal phenomenological ontology, and takes its departure from the hermeneutic of Dasein, which, as an analytic of *existence*, has made fast the guiding-line for all philosophical inquiry at the point where it *arises* and to which it *returns*’ (Heidegger, 1980, p. 62 [De 38]).

in Central Asia, Central Africa, or even Central Australia, they may share a common vision and even project for a healthy and ecological life on Earth in, say, 50 years.

Heidegger made the following assertion: 'In clarifying Being-in-the-world we have shown that a bare subject without a world never "is" proximally, nor is it ever given. And so in the end an isolated "I" without Others is just as far from being proximally given' (1980, p. 152 [De 116]). From a phenomenological perspective, this is a crucial moment in defining objectivity, which, as we recall, has been understood as *intersubjectivity* since Edmund Husserl, and this is always mediated in the world in which we act together with others, or alone – though even then others are taken into consideration.

We can work together with others, just as we can enjoy our leisure or lives with them. Who we are, our identity, is not a matter of aggregating traits that seem characteristic to someone from a particular perspective at a given moment. Firstly, such a perspective would objectify us by denying us a voice and agency in the matter most crucial to us, namely our very own existence (Björninen et al., 2020).

Secondly, this perspective would objectify us by likening us to a set of traits – rather than treating us as a person who becomes someone in life because they understand their life, others in it, and the world somehow; and who expresses this understanding through the way they live their life. As long as a person understands, they remain disclosed (to the world, to others in the world) and are never constituted by a set of determinations. Due to the richness of personality and the multifaceted nature of understanding the world, they always transcend one-dimensional and aggregative apprehensions of it.

Therefore, identity is – in broad strokes – a matter of how one lives with a specific group of people in a place that is defined historically, culturally, politically, even geographically, etc.; fulfilling dreams and realising plans, i.e., carrying out various activities on a daily basis, be they institutional, personal, or professional; how one realises various projects associated with one's dreams, ambitions, aspirations, or how one fails in such endeavours – and then how one deals with it in existential terms, whether one copes or not... and this is what one wants to say, or even shout in others' faces.

2. Theoretical and legal assumptions: Breaking the dominance of the monological approach

2.1. The need to overcome monological law

In Europe, the prevailing understanding of the legal system owes much of its perspective to normativism – or the survivals, more or less transparent, of normativism (some of them significantly beyond the positivist 'field') – which essentially entails thinking of the law as a system of norms requiring analytical precision in conceptual formulation. If the rational legislator fails to imbue the system of norms with the

necessary precision (Cern, 2019; Zirk-Sadowski, 1990, p. 432 ff.), the legal doctrine should step in to ensure that law is an expression of human rationality. The legal system should be free from unnecessary values – unnecessary as they generate pointless doubts and discussions; it should be hierarchical, precise, and complete, or entire, as well as non-contradictory, or coherent (albeit admitting distinct modes of consistency and/or coherence). The discursive nature of law is, of course, guaranteed systematically, through the appellate and control procedures applicable to decisions made in each branch of law.

However, the monological nature of law referred to here concerns the relationship between law and the legal subject, or its addressee. The latter, when confronted with the authority and power of the legal system, can at best respond to questions and fit themselves into one of the available conceptual sets of precisely defined legal terms. What needs to be highlighted here is the closure of legal concepts, since no room is left for otherness, difference or transformation, for discussing and indicating what was and is important, and why, for the legal subject as the addressee of the law. Law, with its characteristic analytical inclination towards the semantic closure of concepts, does not leave room for its addressees to articulate and discuss a plurality of views (Rawls, 1996).⁶ Thus there is no opportunity to make a decision that best satisfies the articulated arguments in the face of the law, taking into consideration what is significant, what people hold to be of the greatest importance – because what is said in the face of the law either has a predetermined legal meaning (into which the statement fits), or, roughly speaking, has no legal significance. In the former case, the addressee of law is not an autonomous source of meaning and sense but, as we assume about law with a claim to justice, is merely an autonomous decision maker when it comes to which of the presented conceptual options applies to them.

In other words, the prevailing paradigm of law employs the concept of the subject, which is oriented towards the semantic (and, of course, obligatory) closure of questions about the ‘who’ of legal subjects. Heidegger accomplished the deconstruction of precisely this concept of the subject in 1927, 97 years ago. The concept of the subject, which out of respect for legal values is subordinated to the concern for the hierarchy, completeness and entirety of the legal system, is associated with a certain ostentatious indifference of law to non-legal values, known as the neutrality of law. However, this neutrality distances the legal system from what is meaningful, significant, and valuable in the lifeworlds of subjects of law. Thus, to a certain extent and within a certain scope, it objectifies them in the name of the system of the most consequential legal norms.

This leads to the partial instrumentalisation of legal subjects, who are encapsulated in rigid legal schemas and conceptions about what it means to be an ordinary,

6 When we write about pluralism, we assume, following Rawls, that the views held are characterised by a claim to reasonableness and comprehensiveness, hence they are inclusive.

modest human being. The everyday life of this ordinary individual – their concerns, the way they build relationships, and, on this basis, their earnest process of becoming someone other than they were before – is pushed into the background. It is in this sense that legal subjects can be said to lack a voice: they are unable to tell their stories in a meaningful way, they can only make choices within a closed universe of meaning. They are, at least in some cases, trapped in the rigid legal perspective of the concept of the subject of law, a concept which is precisely designed to close off the disclosure of Dasein through the multitude of lawyer-assistants to the legislature.

2.2. Law as a medium of communication

According to Habermas, law is a medium of communication, because (simplifying massively) it ‘joins forces *from the outset* with a communicative power that engenders legitimate law’ (1999, pp. 126–128, 149). As a medium of communication, law institutionalises and thereby stabilises mutual expectations regarding the behaviour of its addressees – though from a democratic perspective, it does so only temporarily. Subjects of law should always understand themselves as authors of law. Thus law, as a medium of communication and a means of reaching consensus among citizens, should be open to contemporary individuals who understand themselves – having had this philosophical and cultural awareness for several decades – as a certain challenge, as a project that they can undertake and autonomously shape, while always being situated in some way.

From this perspective, both norm-shaping activity and the application of law should be perceived in the context of, and in some connection to, the framework of communicative activity, cultural production, and the discursive resolution of dilemmas or problematic situations. It is also important to recognise the historicity of concepts reflecting the historical nature of human life (Palombella, 2009, p. 9). Communicative action, by virtue of its communicative nature, is associated with the practices of speaking and listening, understanding and interpretation; it has an open character, and even entails opening up, disclosing to the other, thus it entails the inclusion of the other, hearing the other during the mutual definition of the situation (TCA, Vol. I). We argue in favour of such an ‘attentively listening’ openness and disclosure (*not* arbitrariness) in legal matters. We call for an openness of the legal system that will allow the subject of law to be heard, so that the events and individuals that have shaped their life can be taken into consideration. This always implies speaking about important people and events that have made them who they are and who they want to be – or, perhaps, who they are no longer able to be.

3. What is the proposed turn in law?

Anthony Giddens focuses on the relationship between individual identity and modern institutions, arguing that the reflexivity of modernity reaches the very core

of the self. The self thus becomes a reflexive project, based on the structure of understanding. However, this self as a project, an idea introduced by Heidegger in 1927, is clearly influenced in modernity by institutional changes. Giddens writes: “modernity radically alters the nature of day-to-day social life and affects the most personal aspects of our experience. Modernity must be understood on an institutional level; yet the transmutations introduced by modern institutions interlace in a direct way with individual life and therefore with the self” (1991, p. 1). Modern institutional reflexivity means ‘the regularized use of knowledge about circumstances of social life as a constitutive element in its organization and transformation.’ It influences identity by mediating its construction with an institutional dimension (1991, p. 20 ff.). This means that personal and social transformations are intertwined, and that law is an inseparable part of them. Giddens, like Heidegger, albeit decades later, argues that the modern individual shapes their identity precisely through personal relationships with oneself and with others, and through the ability to reflexively direct one’s own life in a way that takes into account the transformations of reality and institutions. In other words, managing one’s own life has the character of a project modified according to one’s understanding of the world in which one lives, as well as one’s aspirations, ambitions, plans, etc.

On the other hand, it is a profound challenge for modern institutions to become and remain reflexive, that is, to enable, strengthen and protect the capability of individuals to autonomously and reflectively shape their own lives as an authentic and unique project, to safeguard this project from the dehumanising uniformity or objectification that characterises mass societies. This process should be associated with empowering individuals by granting them certain rights, and by assigning them duties and responsibilities for their actions.

This means that personal identity is a right that is bound up with being human. The right to identity implies the right to psycho-physical integrity, as we are neither solely thinking beings – like a brain in a jar – nor solely feeling beings. Each of us is an integrated whole that interprets ourselves, others, and the world in which we live, where we act alongside others; and based on this, desiring something, finding joy in something, or being unable to derive joy from life in the world with others. As an integral person open to the world through understanding, each of us must have the guaranteed right to cognitive-affective integrity, to comprehending in an interconnected manner both the ways in which we know ourselves, others, and the world, and how we feel about ourselves in co-shaped relationships.

The ability to shape our identity requires not only the right to psycho-physical integrity, and thus cognitive-affective integrity, through which the project of understanding ourselves and others in the world can be developed by us, but also requires – due to the essential way of being human, that is, as already situated in geographical-cultural terms – the right to historical-cultural integrity (Wojciechowski, 2010, pp. 38 ff., 176 ff.). Human beings as beings that become, rather than points of occupied

time or aggregates of timeless traits, already somehow understand themselves in the world. That is to say, the world and others in the world of everyday concern have always been a basis for partial self-understanding for each of us. The world – which a person found themselves in and supports, or which they abandoned because it was intolerable and they had to flee, or in which they decided to stay in order to change it – is an integral and therefore fundamental element for shaping a certain project of self-understanding; or rather self-transformation, because being a human that becomes who one is simply means that our self-understanding changes along with our becoming. Thus, the project of our understanding and the events that shaped us – including the meanings of the language or languages in which we think, our categories of family, friendship, work, ambition, peace, and the significance they have for us and our loved ones – also change.

The most contemporary, pressing, and urgent examples of projective understanding in the world include issues such as intergenerational justice, and the right to preserve nature, healthy and clean rivers, forests, and so on. The idea of recognising that nature has legal personality has been circulating for many years in proposals for a new approach to ecology. Recent years have brought concrete developments in this regard. In various places around the world, there have been attempts to grant rivers (and other natural phenomena) recognition as distinct legal entities. While this is not a universal trend, a few such cases can be identified in existing legislation. From a purely legal perspective, the reasonable arguments regarding the extension of the concept of legal personality to elements of the environment deserve attention. Nature requires protection, and in order to receive it, it should be granted legal personality and its own independent rights, which would mean that entities harming nature could be sued and made to compensate. Such developments indicate the need for new approaches that pay particular attention to cutting-edge conceptions of the personhood of natural phenomena, and the necessity of developing biocentric or eco-centric jurisprudence.

As is evident from the above, various relationships can be cultivated between people in the world, ourselves, and also towards the natural world or the world in general, making it particularly important to have the right to ethical-moral integrity. However, in our view, the optimal approach would be to ensure that law provides the conditions for the development of ethical-moral capabilities. This encompasses the right to develop ethical-moral sensitivity, a sense of justice, mutual care for oneself, the ability to articulate and demonstrate such capabilities, and to organise socially and institutionally for their sake. Ethical-moral capabilities enable us to deepen our understanding and cultivate a competently evaluative existence in the world with others – that is, being affirmative, critical, or engaged in recognising ethical-moral dilemmas – as well as a competent norm-creating existence in the world, involving formulating certain justified constraints or rights for the sake of ensuring our dignified coexistence. This should be a coexistence worthy for us and for others, wherein

the dignity of each of us requires the right to independently, autonomously determine who we are and who we are not, and how we understand ourselves in the world with others – not just to define oneself within a space predetermined by concepts over which we have no influence. What is particularly at stake here is the right to present one's identity through narrative. Such presentation is crucial for the possibility of meaningful self-expression – and only such expression empowers oneself and returns or safeguards one's agency in the world with others. And because agency is at stake here, respecting the rights to psycho-physical, cognitive-affective, and historical-cultural integrity is crucial for its consolidation and reinforcement.

Storytelling and narration express the fundamental need that each of us has: to be heard, listened to, and acknowledged, whereby the latter integrally relates to both the cognition and affect focused on us (Wojciechowski, 2023, p. 135 ff.). Consequently, this need to be heard, listened to, and acknowledged involves creating and narrating stories to others, and ourselves, about who we are in the world as we know it. It is crucial for legal subjects to realise that such storytelling is part and parcel of everyone's everyday life, covering concern and care about oneself, others, and things we encounter in the world, which is familiar to us, thus no sphere of our existence is excluded from the scope of such narratives. Therefore, we can become entangled in the life stories of other individuals, such as grandparents, parents, neighbours, friends, or even the stories of simply fellow citizens, travellers, who often enter our daily lives unnoticed, and sometimes unintentionally, but we suddenly meet them while co-doing and cooperating on something. To repeat Heidegger, an individual subject as an object of analysis and cognition is a secondary concept to each human in their everyday concern and care with their own life and, in this life, with other people with whom they do things – and on this basis understand the world they live in. As one may see, telling the story of one's life is also telling the story of the world one has been thrown into and tried to do something about; of the people we have encountered and with whom – in opposition to them or because of them – we tried to do something.

Therefore, we may say that nothing seems more natural and universal to the human individual than telling stories (Miller, 1990, pp. 66–79). We tell stories because only in this way can we capture the flow of time and events in words in an original way that helps us understand ourselves our transformations and the world around us. Storytelling is one of the most important and widespread forms of shaping texts; not only linguistic texts but also cultural products, including law. Law, like culture, constitutes a network or intertwining of mutually defining and conditioning phenomena, meanings, gestures, or artifacts.

The narrative identity of the human individual allows the model of subjectivity to be expanded by incorporating and emphasising the role of factors that, in the traditional paradigm, stand in opposition to what is rational and universal – in particular social and cultural conditions, temporal and procedural elements, as well as that which is personal and belongs exclusively to the individual. As noted by Charles

Taylor (1989, p. 47 ff.), a prerequisite for the emergence of a shared world and, subsequently, a coherent, shared narrative, is the existence of common values, goals, and ideas that can be defined as somewhat external to the individual: human dignity, authority, human rights, or fundamental rights. For we are members of a society, and law is a medium through which the unique expression of the individual can be realised. For a person to take an authentic and active part in social life, basic values are required – including truth, freedom, and justice, which guarantee a harmonious social life; as well as a language in which they can be expressed, especially the language of legal acts or judgments concerning specific legal issues.

Understanding a person's authentic legal subjectivity is not possible without grasping the relationships connecting the subject with their personal identity – understood as that which makes us the same person at any time, place, and context, albeit certainly not with an unchanging identity. Narrative identity implies change – for instance, five years ago, I was still a woman, and now I feel that I am someone else. To comprehend the contemporary individual and their reactions to a constantly and rapidly changing social reality, we must turn towards human identity. When enquiring about personal identity, we are asking about what is essential to the person as an individual, focusing on the factors that enable the individual to be themselves, despite the numerous changes experienced as an empirical entity enduring over time, and thus ageing, changes in appearance, weight, hair colour, or even sex (Garrett, 1998, p. 306). We are also enquiring about the potential of a person to act in specific conditions, about the interactive competencies of the individual that can be manifested in human relationships. This is crucial when considering the legal recognition of a subject, as it involves individual subjectivity and, more specifically, what sets a particular individual apart from others and allows them, in a legally protected manner, to enter into specific relationships with other subjects.

As we have just argued, an understanding a person's authentic legal subjectivity is not possible without grasping the relationships connecting the subject with their personal identity. As relevant as this acknowledgement may be, it nevertheless requires additional clarification. This means justifying a specific claim of balance, which, allowing an interdiscursive reference to the status or dignity of *sui juris* – seriously taken not as a self-subsistent hypostasis but as a specific, historically determined, practical-cultural *artefactus* (inseparable from the claims of *audiatur et altera pars*) – avoids however the treatment of narrativity as a pure celebration of incommensurability. This balance demands in fact that the components relating to identity are incorporated in the status of legal subjectivity without crossing the threshold that deprives law and legal discourses (and the practical circle which they constitute) of a plausible claim to (or vocation for) comparability, i.e. without forgetting (or renouncing to) – as it often happens with identity-based theories and critical assimilations of narratology – the specific kind of intersubjectivity which (as one of its constitutive artifacts) distinguishes law as a form of life, a project or a tradition.

We mean evidently a specific way of creating meaning concerning legal subjectivity which conjugates attributive bilaterality (Leon Petrażycki & Miguel Reale) and comparability (Levinas): on the one hand by imposing a reciprocally constitutive connection between spheres of autonomy and responsibility (spheres which are normatively and dogmatically specified as webs of rights and duties) and, on the other hand, by supporting a relevance filter which, considering each subject as a party in a shared situation-event distinguishes concreteness from singularity, i.e. an analogically comparable concreteness from pure, unconditional and absolute singularity (Linhares, 2022, pp. 90–98). This is certainly more than a clarification; it is also a tension-generating challenge. Either way, an indispensable challenge, that we should not forget while attributing to identity features the contextual (juridically relevant) weigh which they deserve.

Conclusions

Legal recognition means that we are bearers of certain rights and as such, we can demand their fulfilment, but only on condition that we are aware of the normative obligations that we must uphold towards other subjects (Honneth, 1994, p. 174). Recognition thus has a double reference: the norm – the binding legal order, and the other human being, compelling each to identify the other as an individual free and equal to all others. In other words, legal recognition, thus understood, combines the universal validity of the norm and the uniqueness of each person.

From the perspective of the right to identity – especially the possibility to (re) construct it – self-respect enhances the sense that we are fully appreciated, cooperating members of society, capable of guiding ourselves through life with the principles associated with a specific, personal concept of the good worth striving for and realising. It is important for a person to live in a way that ensures the preservation of the inherent value of their dignity, determined by a certain minimum resulting from the fact of being human. The measure of this value is the respect we have for ourselves, for others, and the respect others have for us.

The possession of individual rights means that the subject can assert socially accepted claims and thus engage in legitimate social activity, with the conviction that all other members of society must treat them with respect. Rights, such as the right to identity, the right to privacy, or the right to freedom of expression, and the right to tell the story about one's own life, help in cultivating self-respect and enabling the shaping of personal identity, as they provide each individual with an additional symbolic means of expression, allowing them to demonstrate their social actions externally, and express their reflexivity, distinctiveness, which should lead to the universal recognition of that individual as a fully appreciated and unique person.

In legal relations, the ability introduced by Heidegger and emphasised by Giddens, namely, to reflexively relate to oneself, allows meaning to be imparted to the action of the reflexive subject, explaining the motives behind certain behaviour, or ultimately analysing the correctness of decisions made (by identifying benefits and losses).

Stories, however, are transmitted through 'meta-codes' that have a universal character. Such meta-codes allow specific messages to penetrate the cultural structure in an understandable and empirical way. They enable the subject to relate specific events and behaviour to themselves and other participants in the interaction, interpreting them in terms of familiar or unfamiliar situations. This makes it possible to explain why a particular subject entered into a specific contract, performed a legal act, or refrained from certain actions.

This reflexivity also generates a crucial conviction: that we can independently develop and improve the paths of our own lives, and thereby control the surrounding reality, at least to some extent. The autonomy and dispositionality of our legal decisions reinforce this belief. It is manifested in the legal situation of a subject to whom the law grants the competence to independently shape legal relationships. The autonomy of will means the possibility for legal subjects to establish and shape their legally binding relationships. The ability to act freely and intentionally is possible when one is a conscious and self-aware being. This primarily involves the ability to make conscious experiences the object of one's own higher-order observations and the ability to conceptually distinguish oneself and one's own body from all other objects. And the awareness of the person to whom we wish to attribute an action must maintain their identity over time.

It is essential to reemphasise that the continuous explanation of oneself to others is the focus of discourse in a democratic legal state, within which various components of identity are verbalised and negotiated with other participants in social interactions.⁷ We can describe identity with various adjectives: personal, cultural, ethnic, national, social, gender, political, civic, or professional. And the life is a journey during which we shape ourselves, arriving at different harbours and ports, and 'the process of the journey matters equally if not more than the actual arriving (Swayd, 2014, p. 35).

REFERENCES

- Barthes, R. (1996). Introduction à l'analyse structural des récits. *Communications*, 8, 1–27.
- Björninen, S., Hatavara, M., & Mäkelä, M. (2020). Narrative as social action: A narratological approach to story, discourse and positioning in political storytelling. *International Journal of Social Research Methodology*, 4, 437–449.

7 For example, one particular argument is the cultural defence argument.

- Cern, K.M. (2019). *Juristenrecht: The rational lawgiver and legal policy in the Polish tradition. Towards a discursive model of power.* In J.M. Aroso Linhares, A. Gaudêncio, & I. Godinho (Eds.), *Jurists' law and European identity: Dogmatic-institutional, methodological and legal-philosophical problems* (pp. 77–105). Instituto Jurídico, Faculdade de Direito da Iniversidade de Coimbra.
- Fisher, W.R. (1984). Narration as a human communication paradigm: A case of public moral argument. *Communication Monographs*, 1, 6–10.
- Garrett, B. (1998). Personal identity. In E. Craig (Ed.), *Routledge encyclopedia of philosophy* (Vol. 7) (pp. 305–314). Routledge.
- Giddens, A. (1991). *Modernity and self-identity*. Polity Press.
- Habermas, J. (1984). *The theory of communicative action* (Vol. 1). Beacon Press.
- Habermas, J. (1999). *Between facts and norms: Contributions to a discourse theory of law and democracy*. The MIT Press.
- Heidegger, M. (1980). *Being and time* (J. Macquirre & Edward Robinson, Trans.). Basil Blackwell.
- Heidegger, M. (2010). *Being and time* (J. Stambaugh, Trans.). State University of New York Press.
- Honneth, A. (1994). *Kampf um Anerkennung. Zur moralischen Grammatik sozialer Kämpfe*. Suhrkamp.
- Kobiela-Pionier, K. (2018). Opowiadanie historii. Rola narracji w sprawozdaniu zintegrowanym – studium przypadku Novo Nordisk A/S. *Studia i Prace Kolegium Zarządzania i Finansów. Zeszyt Naukowy*, 163, 99–126.
- Linhares, J.M.A. (2013). Pojęcie dowodu jako otwarta rana prawa: niezmiennie błędna aporia? *Archivum Filozofii Prawa i Filozofii Społecznej*, 1(6), 3–20.
- Linhares, J.M.A. (2022). Exemplarity as concreteness, or the challenge of institutionalising a productive circle between past and present, old and new. In A. Condello (Ed.), *New rhetorics for contemporary legal discourse* (pp. 83–100). Edinburgh University Press.
- Linhares, J.M.A. (2023). Legal philosophy and the promise(s) of legal semiotics. In A. Wagner & S. Marusek (Eds.), *Research handbook on legal semiotics* (pp. 47–60). Edward Elgar Publishing.
- Mäkelä, M., & Björninen, S. (2022). My story, your narrative: Scholarly terms and popular usage. In Dawson & M. Mäkelä (Eds.), *Routledge companion to narrative theory* (pp. 11–23). Routledge.
- Miller, J.H. (1990). Narrative. In F. Lentricchia & T. McLaughlin (Eds.), *Critical terms for literary study* (pp. 66–79). University of Chicago Press.
- Palombella, G. (2009). The rule of law and its core. In G. Palombella & N. Walker (Eds.), *Relocating the rule of law* (pp. 17–42). Hart Publishing.
- Rawls, J. (1996). *Political Liberalism. With a New Introduction and the 'Reply to Habermas'*. Columbia University Press.
- Swayd, S.S. (2014). Identity, 'identology' and world religions. *Open Journal of Philosophy*, 4(1), 30–43.
- Taylor, C. (1989). *Sources of the self*. Harvard University Press.
- Victorri, B. (2002). Homo narrans: le rôle de la narration dans l'émergence du langage. *Langages*, 146, 112–125.
- Wojciechowski, B. (2010). *Philosophical approach to the interculturality of criminal law*. Peter Lang.

- Wojciechowski, B. (2023). Narrative identity and human beings' legal subjectivity. In A. Wagner & S. Marusek (Eds.), *Research handbook on legal semiotics* (pp. 135–145). Edward Elgar Publishing.
- Zirk-Sadowski, M. (1990). Konstrukcja racjonalnego prawodawcy a kompetencja komunikacyjna. In S. Wronkowska & M. Zieliński (Eds.), *Szkice z teorii prawa i szczegółowych nauk prawnych* (pp. 431–445). Wydawnictwo Naukowe UAM.