

Cycle de conférences du CRIS

How narrative shapes the law. Examples of factual construction in court proceedings and administrative procedures

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Since the narrative turn, multiple theories have been elaborated by socio-cultural psychologists (Bruner, 1981), literary critics (White, 1980), anthropologists and socio-legal theorists (Cover, 1984) for the purpose of understanding and explaining the functions of storytelling as a powerful methodological and interpretative tool for shaping human experience and of analysing legal reality (Atrey, 2015).

In particular, the narrative turn was applied the law by Amsterdam & Bruner (2000), who maintain that, in the law as in other domains, “much of human reality and its ‘facts’ are not merely recounted by narrative but constituted by it” (Brooks, 2004). In fact, by adopting Bruner’s paradigm of “narrative construction of reality” (Bruner, 1991), we can create a model of inquiry and analysis, on the one hand to interpret courts’ decisions and legal cases as expressions of human activity and, on the other, to illustrate dominant ideologies in societies.

Starting out from an analysis of some of the dimensions of narrative that are applicable to the legal discourse – epistemological, analytical, community building – I shall thus organise my presentation in two parts.

In the first part, I shall provide examples of data compiled in the framework of court proceedings, in order to show how facts do not access the trial *sub specie* of empirical reality, but as ‘fact narratives’, resulting from the negotiations-interactions between the actors (lawyer, client and judge) about the definition of reality (Di Donato, 2008, 2012).

In the second part, I shall provide examples of data compiled in the framework of administrative procedures of naturalisation and permits. These data will be analysed in a perspective of law, culture & humanities, in order to highlight, on one hand, how cases and controversies take shape in given legal-cultural frameworks and, on the other, through the active role of lay people acting in the law (Di Donato, 2015).