Review Essay

Of Narrative in Law and Anthropology

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Martha Minow, Michael Ryan, & Austin Sarat, eds., *Narrative, Violence, and the Law; The Essays of Robert Cover.* Ann Arbor: University of Michigan Press, 1993. 312 pp. $44.50 cloth; $18.95 paper.

Robin West, *Narrative, Authority, and Law.* Ann Arbor: University of Michigan Press, 1993. 456 pp. $49.50.

Lila Abu-Lughod, *Writing Women's Worlds: Bedouin Stories.* Berkeley: University of California Press, 1993.

In what is now considered a classic article in *Past and Present* in 1979, Lawrence Stone remarked that the cyclical "turn to narrative" in history was cropping up again. He attributed the return of the narrative mode to the genuine failure of other forms of historical writing to provide cogent answers through their tomes filled with tables and structural models. Stone argued for a return not to individual narratives but to "meta-narratives" that were readable, thrilling, and perhaps even popular. But he cautioned as well against the serious problems of the narrative form. Individual narratives, he argued, allow for decontextualization, a shift to the "single cell" which loses the larger social and political context. How does one distinguish between the narrative that presents the normal and the eccentric presentation, and doesn't it matter? Stone worried, moreover, in his essay about the author's ability to translate and the reader's ability to interpret when the medium is the narrative format. Finally, he noted the

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possibility of "antiquarianism," the return to storytelling purely for its own sake.

Using Stone's ideas on narrative as a backdrop, this essay compares the use of narrative in the disciplines of law and anthropology. Each of the three authors, two law professors (Bob Cover and Robin West) and an anthropologist (Lila Abu-Lughod), has employed narrative as a strategy within their discipline but for varying purposes: to model law in a new way (Cover), as an analytic tool for understanding meta-narrative structure in law (West) and as it is contrasted to "rights talk" in law (West), and finally as a resistance strategy to the core modernist representations of the discipline (Abu-Lughod). What is most striking in these works is the disparate fields of knowledge they start from, their divergent understandings of "narrative," and the striking differences in their use of terms such as "culture," "law," "humanism," "nomos," and "interdisciplinarity." Narrative itself is seen through these works to be a pluralistic, multivalent term occurring on many levels—individual, group, community, nation, global—and serving many purposes.

A few introductory paragraphs will provide some background on why the current turn to narrative is occurring in law and anthropology and the forms it has taken. Throughout, it becomes apparent that narrative itself has become a problematic term. For even when these authors represent it as an oppositional tool, it is just as easily understood as foundational to the construction of their arguments, rules, rights, ethnography—even disciplines. The conclusion addresses the role positionality and reflexivity play in these two disciplines, the concerns of the new "Against Culture" and "Against the Law" scholars with the hardened stereotypes that have evolved in their fields, and finally, the possibilities of determining humanism in the law through anthropological methodology.

Stone's initial point, an exhaustion or failure of form as a reason for the current turn to narrative, rings true for both disciplines. Legal academics and social scientists have been and continue to turn to narrative, in part because they are simply bored with their current reportage styles. The outline-with-interminable-footnoting format of law reviews that solidified as a style in the 1960s has been reviled as a straitjacket by many within the legal academy since its inception. Some current legal scholars refuse to employ citation at all or display it only for comic asides.[1] The 1960s also marked a shift away from the book format for law professors which had been a distinctive literary form before that

[1] Richard Posner in his 1995 book *Overcoming Law* attacks the legal academy and legal scholarship directly for their exhaustion of both form and content. See also Joseph Vining's *From Newton's Sleep* (1994) (the title is Blake's poetic reference to what we all want to avoid in the form of scientific overthink), written in an aphoristic style as a set of meditations on law.

time for both jurists and legal scholars. This too has changed: many of my law professor friends are now "only writing books." There are at least three types of books in this new "law book" upsurge: collections of single-authored, intellectually unconnected, previously published law review articles of which both the Cover and West books are examples; collections of purposefully connected, previously published law review articles, such as Richard Delgado's recent *Rodrigo Chronicles* (1995b); and finally, books about law with a particular point to make, of which there are many current examples.

Within anthropology, the tired format is the ethnographic monograph detailed most succinctly in George Henry Murdock's sacred text *Outline of Cultural Materials* ("the *OCM*") (1950).[2] After reading and discussing hundreds of ethnographic monographs on distant "tribes," many American anthropologists leaving to record the "strange" habits and lifestyles of the "Other" from the early 1940s to the late 1960s tucked this large book under their arms. Post-fieldwork, they returned to write monographs in standardized recountings, monographs with programmatic tables of content following the *OCM* ("Puberty," "Kinship," "Village Social Structure," etc.). The results were then codified by subheading into the large data base called the Human Relations Area Files. Starting in the 1970s, anthropologists began to break from this form of checklist anthropology, a movement that will be discussed at greater length below.[3]

Another reason for the shift to narrative, unchronicled in Stone's piece, is the fractured identities of modern life that make narrative style—individual, meta-narrative, or other—attractive to academic as well as popular audiences. One sees the move to autobiographical and biographical narrative in readerly pages from the *New York Times Magazine* to *Wired* and even the *Harvard Law Review*. In this period of late or postmodernism, single-person narrative is viewed as a safe and effective technique both for avoiding false generalizations that might be attacked (the false coherence of essentialist stereotypes) and for creating a new form of social science that includes, instead of dismisses, multiplicity and diversity.

While Stone sees the "turn to narrative" in historical writing as part of a cyclical "re-turn," it can be more directly attributed in

[2] The *OCM* describes itself rather bombastically as "a manual which presents a comprehensive subject classification system pertaining to all aspects of human behavior and related phenomena." It gives an interminable list of all the "cultural material" that must be collected in the "field." For example, on page 45, entry numbered 343, "Outbuildings," instructs the fledgling fieldworker to look for and record the "description of domestic nonresidential buildings (e.g. cookhouses, latrines, menstrual lodges, bathhouses, granaries, barns, stables); special characteristics of each; mode of construction; etc."

[3] June Starr has pointed out to me that the use of Murdock's *OCM* was school specific. In the late 1950s and 1960s in Berkeley and Columbia, it was only mentioned in passing, along with the British equivalent, *Notes and Queries* (British Association for the Advancement of Science 1929).

law and anthropology to large theoretical shifts that took place in the 1970s and 1980s. In law, the Critical Legal Studies movement commenced the search for new theoretical approaches. Its interdisciplinarity was complemented by a flood of Ph.D. recipients who, unable to secure academic jobs, decided to enter law school in the 1970s. Suddenly, law school classes had medieval historians asking about the social consequences of feudal property rules and economists wondering about the efficiency of a balancing test. The flourishing of the Law and Literature, the Law and Economics, and Law and Society movements all date to this period. Legal academics began, in short, to worry about what they were doing and to borrow techniques, ideas, and theories from other disciplines. Borrowing became better.

About this time, Clifford Geertz (1973) began to look at the origin of social and personal meaning and developed ideas of anthropology as an interpretive craft. Questions arose about several aspects of anthropological theory: the ambiguity of Murdockian categories and "facts," the fluidity of social boundaries, the importance of the author's position in understanding point of view (reflexivity and positionality), and the production of ethnographic monographs. Feminists started to record the stories of women and to use those stories to make changes in basic anthropological understandings. The works of Michel Foucault and particularly his recognition that narrative structures shape the way we think, that they are part of the larger discourse forming the world we live in, began to influence social science in the United States. Turning the lens of the literary criticism[4] on the anthropological medium of the ethnographic monograph, James Clifford and others began to analyze these recountings as "texts" (Clifford & Marcus 1986).

Stone had several concerns about the use of individual narrative; one was decontextualization, a shift to the "single cell," the loss of the structure of the larger social and political context. And yet several scholars in both law and anthropology see their new employment of narrative as a distinct way of commenting about the larger context. It is a form of recontextualizing, a political strategy within their discipline for breaking the normal flow of academic conversation. This is storytelling as a strategy of resistance, revolution, and catharsis, as a frontal attack on the powers that be. Legal narrative in the 1990s (not chronicled here in the early writings of Cover and West) has come to mean personal stories of subordination or exclusion by previously marginalized scholars—women, African Americans, Hispanics, Native Americans—as an expression of identity as a form of politics. This is very much in line with Michel Foucault's notion that

[4] One of the more interesting recent appraisals of the literary turn of anthropology and its relation to narrative is by literary critic David Simpson in his *The Academic Postmodern and the Rule of Literature* (1995).

disciplinarity (in this case legal socialization) defines the time, space, and form of actions to produce the disciplined legal subject who is incapable of breaking form. What is termed "oppositional storytelling" by Richard Delgado (1989, 1995) is an attempt to change the perceptions, orientations, and frames of the power elite of the legal academy. Anthropologists attacking the functionalist generalizations of anthropology use similar arguments; Abu-Lughod states that she is "writing against culture," culture being the premier concept in anthropology since its inception. Narrative, therefore, can be conceived as a new strategy to excoriate/bombard/assault the basic presuppositions, the standardized epistemology, of powerful elite groups. It breaks open a discipline by creating new linguistic and representational forms.

Uncovering Cover

Bob Cover was a mythic figure both in and outside of Yale Law School. When I attended classes there in the early 1980s, several of us used to sit in on his courses just to watch the way his mind worked. Aviam Soifer captures this sense of awe in his preface to this collection of Cover's most famous essays through his description of Cover's "irresistible curiosity, wild flights of ideas, broad learning and cascades of creative analogies and paradoxical arguments." We all felt that he was unlike other legal academics. This was evidenced by the fact that he would title his introduction to the staid annual *Harvard Law Review* issue on the Supreme Court something wild, like "Nomos and Narrative" (chap. 3 of this book). He was a meta-thinker, socially engaged, forthright about his own ethnicity and his intellectual position within that ethnic tradition, and he used a radically different language style when he wrote in law reviews. We listened in awe.

This book presents in one volume Cover's six most famous essays cushioned between initial thoughts by Aviam Soifer and Martha Minow and concluding comments by Austin Sarat and Michael Ryan. It is a wonderful idea to put his work together in one volume, and it allows the reader to see the connections between his academic pieces and the ongoing conversations he was having, with himself and others such as Ronald Dworkin and Owen Fiss, about important ideas. Cover is often described as a co-founder along with J. B. White of the Law and Literature movement, which is credited with first introducing the current use of narrative into the legal arena. His two founding essays, from 1983 and 1986, will be discussed here.[5]

[5] I should mention in passing that this book is the only one of the three with a index, a deleterious result of recent changes in the publishing industry.

Cover is concerned in the first piece, "Nomos and Narrative," with a single but recurrent theme in legal writing: What does the legal world look like? How can we understand it, how can we explain it or model it? He begins with his central organizing principle—"nomos." Nomos, as Cover presents it, is our shared normative universe, a world constituted by a system of tension between the actual reality of the present and the vision of what might be. Law sits on this bridge of tension in the normative space connecting the two worlds. Law is always looking toward the better, future world while recognizing that it is engaged in "the organized social practice of violence" in the present.

Surprisingly, nomos, for Cover, arises not from prefabricated national missions but "is an essentially cultural activity that takes place (or best takes place) among smallish groups." These smallish groups create and maintain ("jurisgenesis" is the word he uses for this process) normative worlds or nomos through their cultures. The examples he gives of this "jurisgenesis" are from the rabbinical tradition, with stories such as that of Simeon the Just. Thus both of these worlds, actual reality and visionary reality, are constituted of narratives. We understand present reality through narratives constructed by and for us, and we understand the "alternity," the visionary reality (dare I call it the "ideal"?), through sacred narratives.

While talking of nomos and narrative, Cover is deeply concerned with a separate issue that grounds all of American law, the problem of the One and the Many: How, in effect, do we balance the rights and needs of the One—the individual or small community—with the rights and needs of the Many—the nation-state? This is a standard liberal quandary albeit rendered here in a far more poetic and celebratory way, employing a wider range of interdisciplinary themes and a magical voice. He calls the nomos of small communities "paideic," while the nomos and meta-narrative of the state are termed "imperial." Cover recognizes that the power of the state, the Many, is exercised through meta-narratives based originally in smaller nomos. And he also recognizes that the state retains its power and authoritative voice only through blending, quelling, and ultimately destroying alternate narratives. He moves uneasily in this piece from lauding the multiplicity of paideic voices arising to oppose the meta-narrative of the larger civil, imperial community to worrying about the smallness and prejudice that can be the basis of the paideic views. Cover is concerned with the unity of the law being contested by the multiplicity of meanings from alternative narratives.[6]

Cover rejects in a later piece ("Violence and the Word," chap. 5) the idea that the legal nomos is simply an interpretive

[6] He dismisses rather rapidly one of the other understandings of this issue—the problem of the "multiplicity of meanings" available for any one legal situation—as an easier interpretive problem not addressed in this essay.

community of like-minded persons. In this essay, he distinguishes his vision from the model of Jim White: "the idea of interpretation, understood as interpretation normally is in literature, the arts or the humanities" is not the same as interpretation in legal decisions. Legal decisions, in other words, are not merely texts, they involve violence: "Legal interpretation takes place in a field of pain and death." Here, he clearly positions himself against narrative as pure text, for narrative has become, narrative is, reality.

The source of all law, for Cover, is the paideic nomos, "a common and personal way of being educated into this corpus and . . . a sense of direction or growth that is constituted as the individual and his community work out the implications of their law." It is akin, in anthropology, to Pierre Bourdieu's (1977) idea of *habitus* and to the recent work done in the production and transmission of knowledge and ritual. Narrative here is not personal voice, or individual stories decontextualized from their social and political roots, as Stone feared. This is meta-narrative modeled in the abstract, small communal meta-narratives versus large national meta-narratives. Cover's work stands as a philosophical model of the origin of morals and law within smaller communities and the balancing of these nomos within the larger national whole. The force of this essay lies in its use of language, in its far-flung interdisciplinary searching, and in its understanding of law as narrative and of all narrative as basically normative.

Winning West

Narrative, Authority, and Law is a collection of essays—most but not all published in law reviews from 1985 to 1991—by one of the more interesting and prolific professors currently writing in legal academe. Robin West, a law professor at Georgetown, has in recent years become an important figure in constitutional jurisprudence.[7] She became well known fairly early on in her career through a series of essays that took on Richard Posner's Law and Economics jurisprudential school. She and Posner exchanged responses and rejoinders in *Harvard Law Review* in 1985 and 1986 (reproduced as the first two chapters in this book). This volume by West exemplifies the "turn to books" by law professors, particularly books of unconnected essays, which is related to the current emphasis on publishing and the increasing interdisciplinarity of the profession. It is also a move to influence a much broader audience beyond the highly circumscribed and rigidly regulated world of law reviews. Included here is one of the key articles in the early exploration of narrative (1985) as well as

[7] Surprisingly absent from both this collection and a similar collection of law review articles, *Progressive Constitutionalism* (1994), is her best-known feminist article, "Jurisprudence and Gender" (West 1988).

a more recent musing on narrative (1993) written for this collection.

Her 1985 piece, "Jurisprudence as Narrative: An Aesthetic Analysis of Modern Legal Theory," is an attempt to apply the narrative theories of a literary critic, Northrop Frye (1957), to current legal schools of thought. West makes the interesting claim that "our legal theory has an aesthetic dimension that can be separately and meaningfully studied," and that such analyses can "shed new light on the substantive debates that presently dominate jurisprudential literature." In *Anatomy of Criticism*, Frye had four modes of emplotment: Romance, Tragedy, Comedy, and Satire. West cleverly divides up legal jurisprudence into these four modes and shows how this schema can teach us about jurisprudence:

Natural law (romantic/analogy of innocence)
Statism (tragic/the demonic myth of disunity and alienation)
Legal positivism (ironic/analogy of experience)
Liberalism (comic, apocalyptic myth of unity and community)

With this grid established (see Fig. 1), she is then able to place schools of legal thought in particular spaces in the quadrant; for example, Fuller and Wechsler's procedural constitutionalism is a romantic narrative that "exudes contentment with constitutional institutions as well as a romantic insistence that, through constitutionalism, power and right converge." Postmodern nihilism falls near the area of ironic tragedy with its moral and aesthetic emptiness.

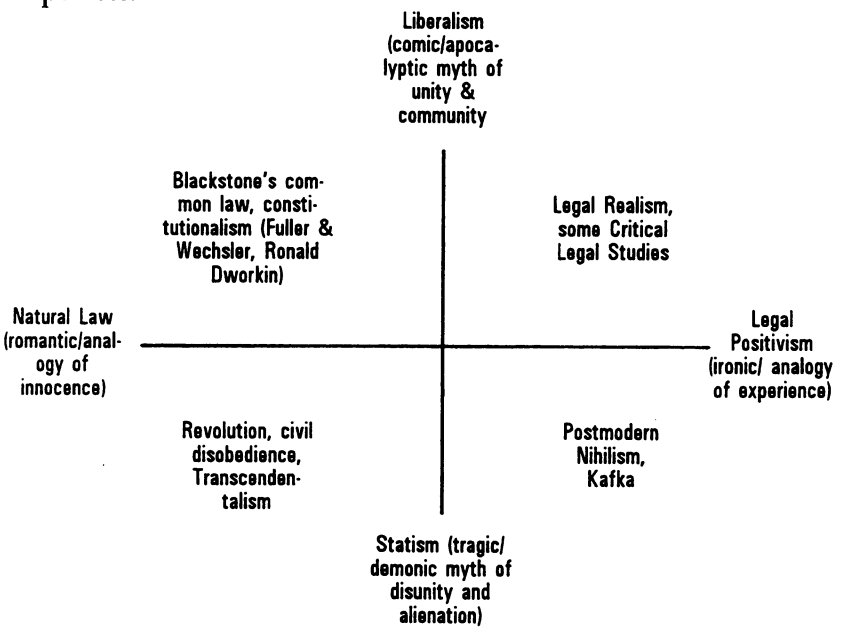

Fig. 1. Adapted from R. West

Hayden White (1973) and others who have used and expanded on the work of Northrop Frye have already described the limitations of his work:

> The principal criticism of Frye's literary theory seems to be that, while his method of analysis works well enough on second-order literary genres, such as the fairy tale or the detective story, it is too rigid and abstract to do justice to such richly textured and multi-leveled works as *King Lear, The Remembrance of Things Past* or even *Paradise Lost.* (White 1973:8 n.)

In applying these categories to legal schools of thought, West runs up against exactly this limitation. However, while I don't agree with West on some of her placements, it is an interesting exercise and perhaps one worth considering further. For example, what does it mean that we have these emplotments? Do these placements just restate our current biases about legal theories? Or do they push us to think about our styles of reasoning through narrative? In this essay, West describes Frye's system, places legal theories in categories, and then pulls her punch before asking the next set of questions. Instead of telling us how to understand these categories or what to do with them, she tells us they might not be very important after all. She ends by repeating Cover's point that narrative is normative (she uses the term "moral") and by reminding us that while "legal theorists . . . can and should give full rein to their imaginative, utopian instinct," lawmakers have to be more serious and "keep the narrative instincts separate from the act of lawmaking."

West in her first essay is not creating narratives but analyzing legal approaches as meta-narrative structures. In her second, much later essay on narrative, "Narrative, Responsibility and Death," she analyzes the current epistemological opposition between narratives and rights as it is presented in the jurisprudential literature: "A broad normative question has been raised about the moral value of rights talk on the one hand, and storytelling on the other as competing ways of organizing both society and the conflicts to which social living gives rise."[8] In law, she states, rights construction is understood to be "an intrinsically moral human enterprise," while storytelling is a less noble, biased enterprise. Then she asks: "is it the case that storytelling is a better way of organizing society and storytelling a better way of resolving disputes than that of a rights regime?" West concludes in a conciliatory tone that both rights talk and storytelling are necessary but that the latter allows one to assign responsibility. Liberal legal scholars need to adopt the narrative voice and

[8] This is a popular dichotomy in the current legal anthropology literature as well for describing U.S. legal discourse. The two types of legal discourse are: (1) rights-judicial-"clean"-important-male talk versus (2) relationship-mediation-"dirty"-unimportant-female talk. See Conley & O'Barr (1990) and Merry (1990) for an introduction into this literature.

themes of responsibility to "challenge the unbridled individualism of the narrative account provided by the conservative majority."

A more interesting question here, it would seem, is the problematic opposition that supposes a real difference between the two. Rights talk, which points toward rules and principles and currently has great moral weight, is based on a story about the relationship between the state and its component individuals just as individual narratives are. Moreover, long after "oppositional storytelling" has been advanced and "legal storytelling" thoroughly delineated in the now famous 1989 *Michigan Law Review* Symposium, West is still writing about legal narrative as the juxtaposition between rights talk and story talk. Why is she ignoring its other powerful meanings?

West takes a provocative stance toward interdisciplinary studies in several of these essays; she considers herself part of the "non-mainstream interdisciplinary legal academy" and yet she cautions against using too much outside influence. For example, in "Adjudication Is not Interpretation" (chap. 3), she describes and explains the Law and Literature movement at length only to conclude that "insights drawn from literary theory can mislead as well as inform, if applied to law too unthinkingly," because law is a command and a product of power while literature is a "work of art." This repeats Cover's cautions in his chapter on "Violence and the Word."

In "Disciplines, Subjectivity and Law" (chap. 6), she discusses postmodernism and interdisciplinarity again. She argues that the postmodern attack on Enlightenment reason is ill-aimed; current legal training is a "non-rationalist, pre-Enlightenment" attitude characterized as "faith in the morality of legal authority." American legal scholars are attracted to interdisciplinary work as part of their search for "normative standards external to both power and abstract reason" and the hope that "in other disciplines we will find a response to the postmodern challenge." But this search by the Law and Economics movement and what she terms the Law and Humanities movement for new perspectives has resulted instead in "conservative if not reactionary or regressive politics, a general acquiescence in the order of things and a sometimes quite explicit tendency to establish themselves as apologists for the current legal order." She once again cautions the nonmainstream interdisciplinary legal academy not to rely "too heavily on other disciplines . . . for an articulation of our ideals." Instead, we should look to "our sympathetic understanding both of the ideal community . . . and the ideal individual . . . and the commitment to freedom, welfare, tolerance, nurturance, egalitarianism, individualism and communitarianism that compete within and between them."

West's central concern, then, is with the lack of humanism in current legal practice and academics. She would like to inject feeling, compassion, and emotion, to add aesthetic judgment and moral tone. "The test of the morality of power in public life as in private life may be neither compliance with community mores . . . nor political success . . . but love." She advocates a sort of personal humanism based in her own sense of sympathetic judgment. Judges should put themselves in the shoes of the litigants, should truly listen to people, should understand suffering. The basis of law should be "the constitutional and common-law traditions of true respect and community that depend on it." Her image of feminism is similarly humanist in that it sets out to posit female insight (understood here as the insight of the nurturing, caring, responsible female prototype) as missing from legal discourse. Her broader humanism is based on "shared human aspirations, fears, pains and pleasures." Throughout, she calls for the reader, certainly a sympathetic plea, to "be properly grounded not in abstract reason, nor in general truths, nor in the dictates of preexisting law, nor in naked power, but rather in sympathetic judgments of the heart."

But how are we to do this? Meta-narrative analysis of jurisprudential schools of thought has told us who is upbeat (Fuller and Wechsler) and who is a deadbeat (postmodern nihilists) but not how to put "heart" into law. West uses interdisciplinary sources but rejects interdisciplinary movements within the law, such as Law and Economics and Law and Humanities, because they have resulted in sterile, programmatic printouts and refined rationalizations. Unlike Cover, she refuses to position herself in an actual community or as an actual subject in the legal world. Castigating a pre-law commitment to the authoritarianism of the law, she posits morality and normativity as an answer. But isn't this just another form of authoritarianism? This is not unlike the parent who just keeps saying, "Be good, Be good" but doesn't show you what to do. Who is the "we" whose "heart" are we talking about here (the possibilities seem endless) and, to repeat, how are "we" to do this?

Writing against Culture

Lila Abu-Lughod is an anthropology professor at New York University who specializes in the Middle East and has done extensive fieldwork among the Awlad 'Ali Bedouin of Egypt. Her book *Writing Women's Worlds: Bedouin Stories* begins by situating itself as a narrative feminist ethnography written by an author who is "searching, like other anthropologists working today, for a new ethnographic style." She describes herself as a "halfie," a Palestinian American who has returned to work in the Arab Middle East.

The chapters that make up the body of this book resonate with some of the most compelling depictions of women's lives ever presented in an ethnography. They are singularly evocative. Abu-Lughod has worked very hard to get at what West calls "the sympathetic judgments of the heart" within a Muslim woman's world, the core of what Cover describes as the "paideic nomos" of a small community. Instead of modeling it or speaking about it, Abu-Lughod takes on the difficult task of representing it accurately.

We learn of the world of the Awlad 'Ali Bedouin primarily through the voices of the women in one family beginning with a recounting of the history of the group by the grandmother, Migdim. Mixing the personal ("I always gave birth by myself") with the historic, the anecdotal with generalizations ("Daughters aren't yours. When they marry, that's it"), Abu-Lughod builds a complex picture of Migdim's relations to the world and others through Migdim's own voice. The book progresses to the stories of Migdim's daughter-in-law Gateefa, her daughter Nagwa, a more traditional granddaughter Sabra, and concludes with Kamla, an educated, less traditional granddaughter. The author brings herself into the narrative flow fluidly and at regular intervals. For example, she interjects to show her personal reactions ("I'm confused by Migdim . . ."), her own emotions (embarrassment at discussions of virginity and defloration), and the contrast of this family to one with modern monetary wealth ("this family I felt so close to and who usually seemed so ordinary suddenly appeared, as I saw them through our hostess's eyes, like ragamuffins or Gypsies").

Questions that the American reader might have about a Muslim woman's perspective on multiple wives, the importance of family and children, what prevents and what aids childbirth, how disputes are transacted, parallel cousin marriages, the increase in religious propriety and changing attitudes with education and the media are all answered vividly through rhythmic narrative or verbatim quotes. The book is structured so that the narrative contents provide critical commentaries on the tired format of Murdock's *Outline* (1950); each chapter heading—"Patrilineality," "Polygyny," "Patrilateral Parallel-Cousin Marriage," so reminiscent of early ethnographies—stands in sharp contrast to the stories that follow. This is a beautifully done book that purposefully has no "interpretive/analytical" conclusion to sum up what has been said. She wants instead for us to be left with the stories and their "power and their potential to overflow our analytical categories."

In a long theoretical introduction, Abu-Lughod reviews her own thoughts about creating the book and the role its creation has played in the development of her ideas about feminist anthropology, culture, and ethnography. Abu-Lughod explicitly de-

scribes and explores the nature of her particular standpoint and the power relations it implies. In a very interesting move, she delineates her audience specifically which gives the reader a further glimpse of her purpose:

> I expect the audience—which I assume will be mostly Western or Western-educated, coming to the text informed by anthropology (and its current critics), feminism (and its internal dissenters, including Third World feminists) and Middle East studies (with its awareness of the problems of Orientalism)—to approach the book critically, keeping in mind questions about the politics of ethnographic representation and sociological description, problems of feminist aspiration and method and assumptions about the Muslim Middle East.

Abu-Lughod is writing specifically "against culture," that is, to break down the false essentialisms that anthropologists have promoted in their ethnographies. Generalizations about "culture" promote images of coherence and containment that mask the complexities and details of social life. This homogenization allows groups to appear bounded, enduring, and timeless while masking their internal diversity, fluidity, and transformations. Reifying a distinct separate culture further promotes dichotomies such as Western/non-Western, Self/Other, and the hierarchies, power distinctions, and boundaries that such dichotomies encode. This is accomplished through a professional discourse, a language of power. Anthropologists in their typifications of cultures use authoritative discourse to construct "these others as simultaneously different and inferior."

Telling stories becomes for her "a powerful tool for unsettling the culture concept and subverting the process of 'othering' it entails." Thus, her ethnography is a critical work positioned against generalized notions of culture and in opposition to "common feminist interpretations of gender relations in nonwestern societies and widely shared understandings of Muslim Arab society." Turning Stone's reasoning on its head, Abu-Lughod argues that the major advantage of narrative storytelling is that it is unavoidably contextualized and situated. Objectivity, the "false belief in the possibility of a non-situated story," is avoided by the constant grounding in the voices and thoughts of the women of Awlad 'Ali. She wants the reader to feel, see, and hear the individual's voices, emotions, and thoughts, to show how social life actually proceeds, and to "represent through textual means how this happens rather than simply assert that it does so."

While she states that she is not "arguing for particularity versus generality as a way of privileging micro- or macro-processes," she points out correctly that generalizations can arise just as easily from "micro-interactions" as they can from "analyzing social movements or global interactions." This is an important point.

But in refusing to elicit or present meta-narratives of the Bedouin female "nomos," the question of generalization remains. While the ethnographer does not want to lapse into sterile stereotyping ("All Bedouin women do this"), one needs to also ask Stone's question in this case about individual narrative, even several individual narratives woven together, as anecdotal, normal, or eccentric. Abu-Lughod states that she has purposefully set herself the task of revealing the normative world of the Bedouin women by selecting stories and weaving "them into a pattern on the basis of a conjunction between Bedouin women's interest in and attention to certain issues and the salience of these issues for specific audiences in the West." Thus, she is interested in the tension, in the middle space, between micro-interactions that personalize, relativize, and individualize and the generalizations that make larger points about specific issues. Her success in moving toward this middle path through the narrative medium presents a stunning methodological model.

A final goal of the book as laid out by the author is "tactical humanism." Abu-Lughod presents the serious problems with standard liberal humanism as generally conceived: (1) it presents a "universal individual as hero and autonomous subject" while failing to see that this "essential human" has "culturally and socially specific characteristics"; (2) it puts man at the center of the universe dominating nature; and (3) it "refuses to understand how we as subjects are constructed in discourses attached to power" that create systematic social differences. Abu-Lughod proposes instead to be "tactically humanist" by putting herself (in all her own humanness) into the book, by focusing sequentially on particular women in each chapter, and by employing the narrative form as a genre in five different ways throughout the book. We will return to her form of tactical humanism in the discussion below.

Re-turning to Narrative

Lawrence Stone was an accurate predictor of an important movement. As these three books demonstrate, the expansion of narrative in law and in anthropology has resulted in a variety of uses, pluralistic voices, multileveled applications, and diverse agendas. While each book focused at least in part on narrative, the *meaning* of the term and its uses differed greatly in each account. To begin with, these scholars are not interested in some classic concerns of narratology—for example, how storytelling produces meaning within a specific context or the ritual production of a narrative by a speaker (Bal 1985)—or in how a story presented in court actually persuades (Bennett & Feldman 1981; Mumby 1993). Instead, Bob Cover saw narrative as an aspect of his model of law: "Once understood in the context of the narra-

tives that give it meaning, law becomes not merely a system of rules to be observed, but a world in which we live." The community creates its shared normative universe or nomos through mythic meta-narratives like the story of Simeon the Just. His rendition then is primarily structural; narrative is part of his political and legal model of our world.

In the first formulation by Robin West, we discover an interesting investigation into the meta-narrative form of various jurisprudential schools. This is narrative according to literary critics, a theory of large-scale tropic lines that can be categorized by their themes and movement. In her second formulation, narrative is idealized individual storytelling, a speech style for the presentation of a case in court. And for Lila Abu-Lughod, narrative is both the method of research and explanation and a specifically explicated critical representational form.[9] As these three books demonstrate, narrative has become a highly polyvalent term.

A second point highlighted in these three works is the differing importance of positionality and reflexivity in the two disciplines. Bob Cover specifically situated himself within the legal community as a Jewish intellectual in his essays, but he assumed rather than discussed *his position* as a Yale law professor and the positional power this provided him in legal discourse.[10] Although she does approach this issue in her other work, here, Robin West elides any discussion of how *who she is* creates the power of what she says. Being a female law professor at a major law school is very much part of her *position* within the "we"/"our" community she addresses. Lila Abu-Lughod, in contrast, is very specific about who she is, where she is positioned, and what that means. In cultural anthropology unlike law, it has become central to the discipline to situate oneself and to then reflect (at least somewhat) on that position, to give one's longitude and latitude before embarking on the literary voyage. Abu-Lughod's move to state that she is a "halfie" is not particularly surprising to the anthropologist. In law, the move to create position and identity through narrative is newer and, therefore, more striking. Feminists and Critical Race Theorists have stated that positionality and reflexivity are necessary parts of the process of injecting issues of gender and culture into academic discourse, particularly legal academic discourse

[9] Ewick and Silbey (1995) have stated that narrative can enter scholarly research in at least three ways: as an object of inquiry (how storytelling produces meaning), as a method of inquiry (citing the work of Abu-Lughod), and as a product of inquiry (when scholars such as Richard Delgado (1989) and Patricia Williams (1991) "have self-consciously written personal narratives as a way of examining and understanding the law"; p. 203).

[10] Kim Scheppele (1989:2073) has referred to this aspect of Cover's work in her discussion of the "constitutive we" in her Foreword to the *Michigan Law Review* Symposium on Legal Storytelling. She states, "Much of legal scholarship these days is written in consensual terms to an audience it constitutes as 'we.' . . . Robert Cover begins Nomos and Narrative with: 'We inhabit a nomos—a normative universe. We constantly create and maintain a world of right and wrong, of lawful and unlawful, of valid and void.' "

(Michigan Law Review 1989; Delgado 1984, 1992). Indeed, narrative is now viewed as a form that allows for reflection on one's position within such a legal discourse.

The use of the term "culture" in these writings also presents a striking contrast. Writing "against culture" for Abu-Lughod means working to break down the hardened stereotypes produced by dichotomies such as "Western"/"non-Western" and the superior/inferior dichotomy that underlies them. From her anthropological perspective, cultural constructs are hardened, romanticized images of "Others" that lack the fluidity and diversity of the real world. Her book is thus an attempt to confront, redefine, and rework the concept of "culture," the central concept of the discipline of anthropology.

Within the legal academy, culture (as anthropologists understand it) was not a viable concept until the work of Cover and a few others. Culture is a relativist concept, and by being relative, it strikes at the heart of the law's central principle—"the neutrality of the legal process."[11] For this reason, Critical Legal Studies and Critical Race Theorists are "for culture" and for identity politics as a way to discuss the complexity and multiplicity of voices in legal discourse. Anthropologists such as Abu-Lughod are "against culture" to promote some of the same ends.

The legal academy's negative response to the promotion of "culture" is based in the standard liberal quandary. While American law understands itself as inductive, building from the particular case to the general rule, its overriding mythic norms of Equality, Due Process, Consent, and Individual Rights represent the system as blind to individual cultural differences, including gender and sexual orientation, except in very specific circumstances. This is part of the framing of the conundrum of the One and the Many, discussed above, the particular circumstances of the individual person or the smaller group in opposition to the general needs of a legal system of the Many. Bob Cover worried about this paedic/imperial opposition in his essays, just as Robin West searches for a way to approach the particularity of individual stories and emotions in her considerations of narrative. They do not go so far as to inject race and "culture" into the legal discourse.

Common themes of humanism, of nomos and normativity, pervade all three works. Bob Cover begins by presenting all law as narrative and all narrative as per se normative. He never goes on to address the issue of whether narrative and moral valence are "rational" and "neutral" mechanisms for addressing legal issues—one of the central questions in West's second article. Cover's point that by just "doing law" one is attaching normative

[11] For example, to explain a line of estate law decisions through a discussion of African American testators is not considered to be "advancing legal doctrine" by many legal academics because it is not "neutral."

labels (whether one notices it or not) is important and has been expanded on in current jurisprudential writing.

It has led also to the antithetical position of the "against the law" scholars in the legal academy who see law as an empty activity because it is *entirely normative* and little else. Scholars like Campos, Schlag, and Smith (1996) decry the good/bad labeling of legal discourse, the "bankruptcy of abstract values talk," because they find that it masks serious thought, indeed, all thought becomes subordinate to normative categories. Law review articles are "an impressive compendium of trends, thoughts and authorities drawn from (virtually) every discipline [which] just happen to coincide (in the footnotes, of course) to support a text which, in turn, just happens to support the normative program of the author's choice." For "against the law" scholars, this is quintessential liberal humanist thought. It is also a discourse that is completely problematic because it assumes an "autonomous, coherent, integrated, rational, originary self, receptive to moral argument . . . weightless and neutral" (Schlag 1990, 1996).

Schlag and the "against the law" scholars would see Robin West in this way as a liberal humanist "normativo," operating in a closed elite discourse prone to philosophical utopianism, nostalgia, and normative soapbox lectures.[12] But there is perhaps a separate, subtler, and more personal aspect to her work. Robin West wants people to treat each other as people, she want judges to think of litigants with compassion. Whether one talks about rights or narratives, she wants to stop "feelings of hatred, social antipathy and fear" and apply personal humanism with sympathetic judgment. Legal academics may agree with this point, but is it, in any deep or authentic sense, consonant with the enterprises of American law as now set out? More to the point, is "heart" enough? And how is it to be accomplished?

Anthropology may provide at least part of the answer. Anthropology is a discipline, in marked contrast to law, that has generally rejected, rather than embraced, ideas of normative judgment and humanism. Until recently, anthropologists were taught that the "facts" and interpretive meanings they collected should not, as much as possible, be based on their own normative judgments. (Thus it is not surprising that Abu-Lughod, as part of a recent critical movement, is radically "against culture" and *tactically for* humanism, while "against the law" legal academics are strongly *against* standard, blanket, liberal humanism.)

To get at the quality, construction, and heart of the normative world, perhaps legal academics (and judges and lawyers) could begin to look, feel, see, and hear the voices, emotions, and thoughts of real people in real communities, as an anthropolo-

[12] It is fun to note that Robin West's emplotment scheme, described above, typified this group as "pomo-nihilist"—a tragic emplotment with the "demonic myth of disunity and alienation." See Fig. 1.

gist does. By describing one female world in vivid narrative detail, Lila Abu-Lughod is able to realize both West's goal of injecting the caring point of view and Cover's idea of understanding and presenting "nomos." Abu-Lughod has presented, to use West's own words, the "shared human aspirations, fears, pains and pleasures" that are the basis of "traditions of true respect and community." Certainly, Muslim Bedouins and American workers are different, and experiential concreteness is no guarantee of personal or community morality. But Cover has told us that the normative world of the nomos that creates law is generated and constructed of local narratives. Studying, with empathy and through narratives, how humanism and normativity actually work on the ground, may be an answer. Legal academics should give it a try.

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