

PERCORSI DELLA RESPONSABILITÀ: LE NEUROSCIENZE CAMBIANO TUTTO O NIENTE?

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Abstract: The last few years have been crucial for the interaction between neurosciences and law: neurosciences are putting at stake several traditional questions in philosophy, which are relevant to the law, such as free will and the problem of compatibilism.

Libet's experiments made clear that traditional legal concepts - such as responsibility and capacity - needed to find a new meaning, facing the challenge issued from determinism to free will.

In Italy neuroscientific evidences started to find their place in law: in 2009 in the well-known 'Bayout case', followed by the 'Albertani case' in 2011, the Italian Court of Appeal of Trieste for the first time recognized a diminished capacity based on neurogenetic evidences.

Starting from Green and Cohen's famous sentence, 'for the law, neuroscience changes nothing and everything', it will be followed Paul Ricoeur's distinction between idem-identity and ipse-identity, trying to argue that neurosciences play a role only in the first meaning of identity (idem), which is 'the always same' that makes us to recognize someone. Responsibility, instead, lies in identity as ipse, which is the self-constancy (*le maintien de soi*), referring to keeping one's word. In this way, the description of the idem might owe very much to neuroscience, which could explain the connection between attitude and brain, but not entirely grasp the meaning of legal responsibility, strictly bound to liability (ipse).

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