Circles: Buffalo Women's Journal of Law and Social Policy

Volume 6 Article 4

1-1-1998

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REVENGE AND PUNISHMENT: LEGAL PROTOTYPE AND FAIRY TALE THEME

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The study of the interrelationship between law and literature is currently very much in vogue, yet many aspects of it are still relatively unexamined. While a few select works are discussed time and time again, general children's literature, a formative part of a child's emerging notion of justice, has been only rarely considered, and the traditional fairy tale[2] sadly ignored. This lack of attention to the first examples of literature to which most people are exposed has had a limiting effect on the development of a cohesive study of law and literature, for, as Ian Ward states:

> It is its inter-disciplinary nature which makes children's literature a particularly appropriate subject for law and literature study, and it is the affective importance of children's literature which surely elevates the subject from the desirable to the necessary. Everyone has read *The Tales of Peter Rabbit*. Not everyone has read *The Metaphysics of Morals*."[3]

The first section of this article will discuss Richard Posner's analysis of the theme of revenge as it is used in literature and in the law. Posner indicates that, while the legal implications of revenge are often ignored, it is a topic that should necessarily be considered by lawyers, both in their readings of literary works and their analysis of legal issues. The second section will focus on the close interrelationship between fairy

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[1] J.D., Harvard Law School, 1997; B.A., University of Louisville, 1993. I would like to thank Professors Richard Parker and Maria Tatar for their helpful comments and encouragement of this project. I am also most grateful to my colleagues Mark Tamburri and Laura Long for their insightful criticisms and overwhelming support. This article is dedicated to my parents, John and Cynthia Pierson, who first introduced me to the tales that were my inspiration.

[2] Russian folklorist Vladimir Propp preferred to refer to such tales as "wonder tales," thus embracing both fairy tales and folk tales (those which may have little or nothing to do with magic or actual fairies.) In this paper, however, I chose to follow the lead of Marina Warner, and will continue to use the term "fairy tale" as I am focusing on stories that have traditionally been called by that term, although they themselves may not contain any fairy characters. *See* MARINA WARNER, FROM THE BEAST TO THE BLONDE: ON FAIRY TALES AND THEIR TELLERS XVIII-XIX (1994).

[3] IAN WARD, LAW AND LITERATURE: POSSIBILITIES AND PERSPECTIVES 90 (1995).

tales and the legal themes of revenge and punishment. Relying primarily on the Brothers Grimm's traditional renditions of the tales,[4] this article will address the important role fairy tales play as introductions to ideas of justice, punishment and retribution to children and adults alike. The third section of the article will concentrate on the increasing presence of legal issues in modern fairy tales, through both original stories and revised versions of traditional tales.

I. REVENGE AS LEGAL PROTOTYPE AND LITERARY GENRE

Richard Posner, in his *Law and Literature: A Misunderstood Relation,*[5] focuses the first chapter in its entirety on a discussion of revenge and the extensive role it has played in shaping both literature and the law. "Revenge," Posner notes in his opening, "is one of the great themes of literature."[6] He adds that it is also a traditional, if currently infrequently discussed, subject of legal study and that in fact, the notion of retribution in punishment emerged from a desire for revenge. "Indeed," he writes, "most of criminal law, and much of tort law besides, can be viewed as a civilized substitute for what would otherwise be the irrepressible impulse to avenge wrongful injuries."[7]

Revenge is thus a significant issue for legal study in that it represents an alternative to the conventional legal system, or perhaps even a manifestation of private law[8] or justice. Posner tell us that:

> [W]hile revenge is not the modern idea of law, it is a primitive

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[4] The Grimm brothers, particularly Jacob, have played an important part in linking folk and fairy tales to the law. As Hermann Baltl wrote in his essay, *Folklore Research and Legal History in the German Language Area*, "The Grimm's collection of fairy tales and folktales... supplied more and more evidence of the close relationship between folklore research and legal history." *See discussion in* FOLK LAW: ESSAYS IN THE THEORY AND PRACTICE OF *LEX NON SCRIPTA*: VOL. I, 398, 400 (Alison Dundes Renteln & Alan Dundes eds., 1994). Those who study folk law are of the belief that "the law of the people is a living reality in the legal customs, in the different manifestations of the cultural life of the people: in proverbs, in songs, in parables, in folktales, in countless ritual forms." *See* Erno Tarkany-Szucs, *Results and Task of Legal Ethnology in Europe*, *id.* at 161, 166.

[5] RICHARD A. POSNER, LAW AND LITERATURE: A MISUNDERSTOOD RELATION (1988). Posner is a renowned judge of the United States Court of Appeals for the Seventh Circuit.

[6] *Id.* at 25.

[7] *Id.* at 25-26.

[8] Calling revenge "private law" seems only appropriate, as the Elizabethans referred to what we would now call our legal system as "public revenge." *See id.* at 45.

> form of law, an antecedent and template of modern law, and an argument for modern law. So one might think that a lawyer would be more likely than other readers to understand the revenge motif in these works.[9]

Posner further notes that "revenge tends to break out whenever legal remedies are blocked, as when the evildoer controls the legal machinery or is otherwise above the law, or when public law enforcement is very lax."[10] Where is there a better illustration of blocked legal remedies and evildoers controlling the legal machinery than in the case of children attempting to receive legal redress for wrongs done to them by adults (or, as will be discussed in the second part of this paper, women who have been harmed by men)? Such children are often the characters of fairy tales, and are, at least today, their intended audience. The stories to be discussed here thus involve protagonists who are doubly alienated from the traditional legal process: they are young, probably still considered juveniles in today's legal system, and they are women.

Women and children have traditionally played very similar roles. As Nina Auerbach and U.C. Knoepflmacher write in their introduction to a collection of fairy tales and fantasies by Victorian women authors:

> Most Victorian women, including those whose stories we reprint here, envied adults rather than children. Whether they were wives and mothers or teachers and governesses, respectable women's lives had as their primary object child care. British law made the link between women and children indelible by denying women independent legal representation. As Frances Power Cobbe pointed out in a witty essay, "Criminals, Idiots, Women, and Minors" were identical in the eyes of the law.[11]

The powerlessness of women and children to appeal to the law for justice causes revenge to seem a particularly attractive option for them. Kate Saunders, in summing up the role of women in this revenge alternative to the legal system, writes:

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9 *Id.* at 70.

10 *Id.* at 32 (parenthetical omitted). *See e.g.*, SUSAN JACOBY, WILD JUSTICE: THE EVOLUTION OF REVENGE 200 (1983). "Private vengeance is the preferred weapon of those who have no access to public retribution."

11 NINA AUERBACH & U.C. KNOEPFLMACHER, FORBIDDEN JOURNEYS: FAIRY TALES AND FANTASIES BY VICTORIAN WOMEN WRITERS 1 (1992).

> Francis Bacon defined revenge as 'a kind of wild justice,' and condemned it, because it was beyond the law. This probably explains why it belongs to particularly to women. You cannot have an act of revenge unless a crime has been committed, and the crimes men have visited on women down the ages are traditionally outside the statute books. Even today, a wife has difficulty taking her battered head or drained bank account to court, let alone her broken heart or wasted life. Bacon's 'wild justice' is often the only justice available. Women delight in revenge as a revolutionary tribunal which rights the wrongs the law cannot touch.[12]

In *Law and Literature*, Posner focuses on analyzing those insights that legal training can provide into examinations of revenge literature.[13] The issue to be addressed in this article, while similar, is concerned instead with those insights into the legal justice system that can be provided from a close reading of modern and traditional fairy tale literature. The article will discuss revenge in fairy tale literature for several reasons: not only is there a wealth of quality tales from which to choose, but fairy tale literature has the potential to play an exceptionally important role in forming a child's emerging notions of justice. Furthermore, and perhaps most importantly, the article will explore the relationship between revenge and fairy tales because it is a relatively unexamined area of the field of law and literature.

Posner, in his discussion of revenge as a theme in literature and law, essentially skips any reference to fairy tales. His analysis moves directly from that of Ancient Greece to Elizabethan literature with no reference to the well-known folk and fairy tales being recorded by authors such as Jacob and Wilhelm Grimm and Charles Perrault. Posner's failure to acknowledge this literary form is intriguing, as many fairy tales have a rich history of revenge themes. In the Grimms' *Little Red Cap*,[14] for example, the principle character takes her revenge on the wolf, after being

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12 REVENGE: SHORT STORIES BY WOMEN WRITERS vii (Kate Saunders ed., 1990).

13 Posner is apparently quite troubled by the lack of attention paid to revenge themes in literature by "literary lawyers." He explains the problem: "[A]lthough revenge is the prelegal method of vindicating rights and maintaining (if erratically) the public order, it is not a subject likely to interest a lawyer. . . . When literature deals with law it tends to deal not with its technical aspects (except for their dramatic effect) but with law and justice in the large--an airy realm into which few lawyers soar." LAW AND LITERATURE, *supra* note 5, at 53.

14 Grimms' *Little Red Cap* is better known as *Little Red Riding Hood* in popular culture.

saved by the huntsman, by filling it with stones and thus killing it. Gretel (of *Hansel and Gretel*) takes her revenge on the witch by pushing her into the very oven in which the witch had planned to trap Gretel and, the Grimms tell us, "the godless witch was miserably burned to death."[15] Snow White is considered avenged when her evil stepmother is forced to dance herself to death in red-hot iron slippers at Snow White's wedding.[16] Even *Aschenputtel/Cinderella*,[17] does not end happily ever after for all concerned. The evil stepsisters cut off their toes and heels to try to get the glass slippers to fit,[18] then have their eyes plucked out -- the wrongs done to Cinderella thus avenged by the pigeons she favored. The Grimms conclude the tale: "they were punished with blindness for the rest of their lives due to their wickedness and malice."[19] Punishment, revenge, and retribution are prevalent in classic fairy tales.[20]

Despite the clear relevance of fairy tales to key legal issues such as justice and morality, the role that fairy tales play in the formulation of

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15 1 JACOB AND WILHELM GRIMM, THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM, 68 (Jack Zipes trans., 1987).

16 *Id.* at 222.

17 *Aschenputtel*, or *Ash Girl*, is the Grimms' version of the Perrault's *Cinderella* (or *Cendrillon*) story. While there is an entire series of similar "ash-boy" tales of boys who have been subjected to (or voluntarily entered into) treatment such as that of *Aschenputtel/ Cinderella*, as well as numerous other versions of the tale that are popular throughout Europe and Asia, this article will rely primarily on the Grimms and Perrault renditions as those best known in the United States. As *Cinderella* is the best known title of the tale, I will refer to all versions of the story by that title from this point on.

18 THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM, *supra* note 15, at 98. Sheri Tepper, in her award-winning revision of the *Sleeping Beauty* tale, incorporates several other fairy tales, including *Cinderella*. In her version of this story, the Cinderella character is the one to suggest to her despised, very-much-in-love-with-the-Prince stepsister that if she should cut her foot in half, she might stand a chance at fitting it into the shoe. The step-sister does, and ultimately bleeds to death. In this telling of the tale, a very cold-hearted Cinderella takes her own, perhaps excessive, revenge for the mistreatment suffered at the hands of her stepsister. *See* SHERI S. TEPPER, BEAUTY 283-84 (1991).

19 THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM, *supra* note 15, at 99.

20 The type of punishments inflicted in these cases illustrates what Posner describes as a "frequent pattern in revenge literature." He writes: "We the audience start off with great sympathy for the revenger and wish him or her complete success, only to find that as the play (or story) proceeds we cool on revenge. The vivid picture of the revenger's wrong with which we began fades and is replaced by and equally vivid picture of the horrors of revenge itself." LAW AND LITERATURE, *supra* note 5, at 39. Section three of this article will, in part, discuss how Walt Disney attempts to eliminate this loss of audience sympathy by modifying the endings by decreasing the focus on revenge, offering fewer descriptively cruel punishments and introducing new rationales for the destruction of the evil-doer.

a comprehensive evaluation of law and literature has been disregarded by many other authors as well. Even recent works which look specifically at the relationship between law and children's literature give only the most cursory glance to fairy tales. Ian Ward's book on law and literature has a chapter entitled *Children's Literature and Legal Ideology*,[21] yet this chapter essentially fails to reference fairy tales. Similarly, John Morison's essay, *Stories for Good Children*,[22] provides only a brief glance at the subject of fairy tales in relation to the law. Morison does, however, stress the importance of such tales in developing a child's sense of justice. He writes that, "not only do such tales offer signposts, rather than impose directions, but they put the boundaries of right and wrong and the child's need and capacity to make an effective choice at the centre of the narrative."[23]

In addition, fairy tales reflect the legal system because the original tellers of fairy tales have been significantly shaped by this system. As Marina Warner writes:

> The experiences these stories recount are remembered, lived experiences of women, not fairy tale concoctions from the depths of the psyche; they are rooted in the social, legal and economic history of marriage and the family, and they have all the stark actuality of the real and the power real life has to bite into the psyche and etch its design....[24]

For all these reasons, the interrelationship between legal revenge and the theme of revenge and retribution as presented in fairy tales can be seen as significant and worthy of exploration.

II. THE CULPABILITY CONTINUUM: RESPONSIBILITY IN TRADITIONAL TALES

Fairy tales are frequently a child's first exposure to rules, laws and punishments. The degree to which heroes and heroines of fairy tales are responsible for the actions that lead to their initial, often temporary, downfalls is often directly juxtaposed with the culpability of the villains of

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21 LAW AND LITERATURE: POSSIBILITIES AND PERSPECTIVES, *supra* note 3.

22 John Morison, *Stories for Good Children, in* TALL STORIES? READING LAW AND LITERATURE 113 (John Morison and Christine Bell eds., 1996).

23 *Id.* at 131.

24 FROM THE BEAST TO THE BLONDE, *supra* note 2, at 238 (discussing the obstruction of the historical realism of fairy tales).

the tales, thus providing a lesson for readers. The punishments that last in fairy tales are brought on by the wrongful actions of the evil-doer. As Max Luthi states:

> That evil-doers, without knowing it, have to pronounce their own death sentences is characteristic: They are the cause of their own destruction. And that the weak are able to triumph over the strong, the small over the large, is again an expression of the all-pervasive theme of appearance versus reality.[25]

Revenge and retribution, by their very nature, are necessary only against those who have previously acted in an unfair, illegal, or otherwise harmful manner.

Fairy tales as teaching tools have often been broken into a dichotomy: on one side, exemplary tales, and on the other, cautionary tales. Exemplary tales include stories like *Cinderella* or *Hansel and Gretel*, where the title characters have done nothing wrong or disobedient in order to deserve their ill-treatment. These tales are intended to teach children to behave by showing the rewards reaped by these well-behaved, honest, clever characters in the end. On the other side are cautionary tales, such as *Little Red Riding Hood*, which often rely on what Maria Tatar calls "brutal intimidation to frighten children into complying with parental demands,"[26] and are intended to teach impressionable children the result of breaking societal rules or laws.

While folk and fairy tales have long been pushed into one of these two types of stories, a less constraining system of analysis may indicate that a considerable number of the tales fall along a continuum. Many tales contain qualities of each category, a fact which often serves to muddle the meaning of the stories, but may also succeed in making the message of the tales deeper and more true to life. Consider the well-known stories *Rumpelstiltskin*[27] and *Bluebeard*, both of which fall somewhere near the

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25 MAX LUTHI, THE FAIRY TALE AS ART FORM AND PORTRAIT OF MAN 133 (Jon Erickson trans., 1984).

26 MARIA TATAR, OFF WITH THEIR HEADS! FAIRY TALES AND THE CULTURE OF CHILDHOOD 8 (1992).

27 Notably, in her *America's Cinderella*, Jane Yolen indirectly points to the degree to which exemplary and cautionary tales may overlap, distinguishing between *Cinderella* as a story of riches recovered and *Rumpelstiltskin* as a true rags-to-riches story worthy of the (unliberated) American view that "even a poor girl can grow up and become the president's wife." She writes: "We Americans have it wrong. 'Rumpelstiltskin,' in which a miller tells a whopping lie and his docile daughter acquiesces in it to become queen, would be more to the point." CINDERELLA: A CASEBOOK 294, 296 (Alan Dundes ed.,

midpoint of this culpability continuum. Both tales involve the implications of breaking a verbal contract. In *Rumpelstiltskin*, the contract is immoral and coerced, for the miller's daughter with whom Rumpelstiltskin contracts will die the next day without his help. How culpable is the miller's daughter/Queen, when she later refuses to keep the promise she made to Rumpelstiltskin? To what extent is there a legal and moral obligation to keep such coerced promises? To attempt to resolve these questions, it is necessary to have some basic knowledge of the story. The essential aspects of it are as follows:

A poor miller had a beautiful daughter. One day, he bragged to the King that she could spin straw into gold. The King, hoping to capitalize on this talent, shut her in a room with straw, telling her that she would be killed if it was not changed into gold by the next morning. The girl, possessing no such ability, was distraught. A small man then entered the room and offered his assistance. The miller's daughter bargained with him, convincing him to spin the straw into gold in exchange for a necklace she possessed. This went on for two more nights, until she had nothing of value left to give. The man then made her promise him her first born child. Having no other option to preserve her own life, she made the promise. After this third night of supposedly spinning straw into gold, she married the King. They eventually had a child, and the man came back to claim it. The now-Queen cried and begged until he finally felt sorry for her and told her that if she could guess his name within three days, she could keep the child.[28] The Queen immediately sent messengers around to listen for strange names. Eventually one came across Rumpelstiltskin singing a verse which included his name. The messenger reported back to the Queen, who confronted Rumpelstiltskin with it. Rumpelstiltskin, angered and amazed at being found out, responded by tearing himself in half.[29]

In considering the *Rumpelstiltskin* tale, Jack Zipes writes:

> According to the Aarne-Thompson tale type 500,[30] Rumpelstiltskin

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1988).

[28] Interestingly, despite the focus on "naming" in the story, the female protagonist is never herself named, but is instead identified only by her social role in association with the role of a male figure--originally, the daughter of a miller, then, the wife of the king.

[29] For the translation of *Rumpelstiltskin* used here, *see* THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM *supra* note 15, at 227.

[30] The index of fairy tales by Antti Aarne and Stith Thompson is an exhaustive effort to systematically classify story types and motifs. *See* FROM THE BEAST TO THE BLONDE, *supra* note 2, at XXII.

> is categorized as a helper, though he is obviously a blackmailer and oppressor. In short, the categorization has strangely resulted in concern for a villain whose name is just as meaningless as the scholarship that has been absorbed in naming him. [31]

The Aarne-Thompson categorization of Rumpelstiltskin may not be so obviously flawed. To the contrary, this concern for the "villain" has more to do with the reader's notion that a contract has been broken than how Aarne-Thompson categorizes Rumpelstiltskin. The reader is sympathetic to Rumpelstiltskin because it appears that the miller's daughter/Queen bargained freely and understood that for which she was bargaining. But even sympathy does not blind the reader to the fact that he is in some sense an evil-doer -- he extracted a promise from her when she was desperate to save her own life. Nonetheless, when she breaks this contract, the reader's sense of justice is affronted.

The importance of the degree of coercion in the tale becomes even more clear when comparing *Rumpelstiltskin* with the original oral tale *Rumpenstunzchen*, on which it is based.[32] Consider one of the predominant changes that was made in converting the tale to written form: In the oral tale, the maiden freely agrees to give up her first child, hoping only to increase her status. This is quite a different scenario than that of *Rumpelstiltskin*, where the female protagonist acts under duress, fearful of losing her life if she fails to comply. In this way, the oral tale leaves us far more sympathetic toward Rumpenstunzchen, who has made a fair, if distasteful, bargain. The Grimm Brothers, in wishing to convert the entertaining tale into one with a moral message, must have felt it necessary to decrease the maiden's culpability in order to create a more unscrupulous-appearing villain.

Perhaps, too, the reader identifies with the Rumpelstiltskin/ Rumpenstunzchen character because he is *not*, unlike the King and miller, a symbol of the male patriarchal system. He, like the female protagonist, is in many ways an outsider, although not due to his age or gender. The reader is unsure what keeps Rumpelstiltskin from participating in the system, although the fairy tale equivalent of race, religion or disability seem the obvious guesses. Regardless, his difference is felt: the reader

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31 JACK ZIPES, FAIRY TALE AS MYTH, MYTH AS FAIRY TALE 49 (1994).

32 To aid in making such a comparison, I recommend reading Jack Zipes' chapter entitled *Rumpelstiltskin and the Decline of Female Productivity*, in FAIRY TALE AS MYTH, *id.* at 49-71.

initially sets him apart on the basis of his size[33] and ability to practice magic,[34] but later learns that he also lives outside the city,[35] and does not ever appear to the representatives of the power system, the King and miller. Sympathy for Rumpelstiltskin seems quite understandable in this light: in a similarly oppressed situation himself, he shows sympathy to the now-Queen -- first, in giving her a way out of certain death at the hands of the King and her father, then by taking pity on her and providing her with a way out of the very bargain she made with him.

The degree to which revenge plays a role in *Rumpelstiltskin* can be viewed in different extremes, depending on whom the audience views as the injured party. If Rumpelstiltskin is viewed as the one to whom harm has been done, he never receives his revenge for the broken contract, but is instead driven mad to the point of taking his own life. If the miller's daughter/Queen is considered to be the one wronged by being forced into an unwanted bargain, and Rumpelstiltskin is determined to be the character who has wronged her, she gets her revenge by outsmarting him and causing him to take his own life. But while Rumpelstiltskin may be the clear symbol of evil in this story, he is not the character who is the true cause of her dilemma. Her father and the King serve as almost identical figures of male oppression in the story, and are the ones who forced her into a position where she had little choice but to accept the bargain offered by Rumpelstiltskin.

The miller's daughter/Queen's revenge against these characters is far more subtle: she dissolves their power over her by solving the problem they created for her without having to appeal to their supposed strength. This tale, like many traditional fairy tales, indirectly suggests a strategy for the dissolution of the power of oppressive forces. In the case of gender oppression, such fairy tales suggest overcoming domination not by an inversion of the power roles, but by a combined effort of both sexes to bring the female character to the same level as the male in power. *Rumpelstiltskin* follows the traditional pattern: a bright young woman, in this case the miller's daughter/Queen, takes action despite persecution to dissolve the power difference between herself and the highest male power, represented here by her father and the King. She is aided by a caring older male, often a father or brother, but in this case the messenger who brings

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33 He is almost always referred to as the "little man." *See* THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM, *supra* note 15, at 227-230.

34 For the discussion of his changing straw into gold, *see id.* at 229.

35 Instead of the city, a symbol of the existing power structure, Rumpelstiltskin chooses to live in a small cottage on "a high mountain at the edge of the forest, where the fox and the hare say good night to each other." *Id.* at 230.

her Rumpelstiltskin's name, who benevolently saves the young woman, also conceivably in an effort to dissolve the power difference.

Rumpelstiltskin, like many of the tales, highlights both a gender interplay and a power struggle between adults and children. Men and adults are both implicated as using their power, not to aid and preserve the well-being of women and children, but to dominate and suppress them. It is in this type of scenario that the revenge justice system is often called into play.

Like *Rumpelstiltskin*, the classic *Bluebeard* story,[36] and similar tales regarding secret chambers that are not to be entered, deals with the culpability of a person who breaks a promise to a villainous character.[37] Unlike *Rumpelstiltskin*, however, it is a tale about female curiosity, very similar to the stories of Pandora, Psyche, Lot's wife and Eve, all of whom are punished for violating comparable commands.[38]

In the Perrault rendition of the *Bluebeard* story,[39] the reader is introduced to a man widely considered to be very ugly, in part because of his blue beard.[40] He wished to marry one of the two daughters of a local

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[36] *Bluebeard* is a story invented by Perrault for which there is no known direct folk tale antecedent. *See* BRUNO BETTELHEIM, THE USES OF ENCHANTMENT: THE MEANING AND IMPORTANCE OF FAIRY TALES 299 (1976). The tale, which is somewhat different from Perrault's version, appeared in only one collection of Grimms' tales (1812) and was then dropped as being "too French." *See* RUTH B. BOTTIGHEIMER, GRIMMS' BAD GIRLS AND BOLD BOYS: THE MORAL AND SOCIAL VISION OF THE TALES 109 (1987).

[37] The classic *Bluebeard* tale also offers an interesting legal perspective as it is easily read as a logical extension of a battered woman's experience. As Marcia Lieberman states, "[t]his widely-known story established a potent myth in which a helpless woman violates her husband's arbitrary command and then is subject to his savage, implacable fury." Marcia K. Lieberman, *Some Day My Prince Will Come: Female Acculturation through the Fairy Tale, in* DON'T BET ON THE PRINCE: CONTEMPORARY FEMINIST FAIRY TALES IN NORTH AMERICA AND ENGLAND 199 (Jack Zipes ed., 1986). *See also* my discussion of Tanith Lee's *Wolfland* in section III of this article.

[38] Ruth Bottigheimer notes that while heroines are punished for violating these types of specific prohibitions, heroes are rewarded, or at least exonerated. GRIMMS' BAD GIRLS AND BOLD BOYS, *supra* note 36, at 82.

[39] As there is, other than the magic key, no real supernatural element to this tale, Perrault viewed it more as a "legend imperfectly recollected," than a true fairy tale. IONA & PETER OPIE, THE CLASSIC FAIRY TALES 133 (1974). Alternately, *The Fichter's Bird*, the Brothers Grimm's version of the tale, clearly plays to the supernatural elements associated with fairy tales, involving a wizard and other uses of magic.

[40] While it is typically agreed that fairy tales present a sharply stylized, black-and-white world of absolutes (*see, e.g.*, THE FAIRY TALE AS ART FORM AND PORTRAIT OF MAN, *supra* note 25, at 152-154), this seems less the case in these stories identified here as existing somewhere along the midpoint of the culpability continuum. This article has already discussed the sympathy the reader has for the devil-like character of

woman, both of whom initially found him very displeasing. One of the daughters, however, eventually grew convinced that he was a gentleman and so agreed to marry him. Soon after they were wed, Bluebeard left her alone in the house, providing her with keys to all the rooms. He told her that she was able to enter almost all of them freely, but forbid her from opening one small closet. By assuring him that she would not open the door, and thus making a foolish promise with no real intention of keeping it, Bluebeard's wife, like the miller's daughter in *Rumpelstiltskin*, sets herself up for a fall (albeit a temporary one). No sooner had he left than her curiosity got the better of her and she went almost immediately to the closet. Upon opening the forbidden door, she found in the room a pile of dead women, all former wives of her now-husband, and all of whom met their death, she is somehow certain, by disobeying him. In horror, she dropped the door key, and it fell into the blood of the women. When she picked it up, she found it was hopelessly stained. Soon, her husband returned home, and although she attempted to evade his requests for the key, she eventually had to return it to him. Upon seeing the blood stain, he informed her that he would have to kill her. She begged for some time to say her prayers, and waited with her sister, hoping for the quick arrival of her brothers, who were to visit her that day. Just as she had given up hope, and her husband was standing over her with a cutlass, ready to remove her head from her body, the brothers arrived and killed the blue bearded husband. As she was her husband's only heir, she, her mother and her siblings all lived happily on his estate thereafter.[41]

The Grimms' version of the *Bluebeard* story, *Fichter's Bird*,[42] is a folkloric variant on the tale. Similar in many ways to the Perrault version, the main distinctions are (1) that *Fichter's Bird* involves more true magic/ supernatural behavior in the storyline and, (2) that the female protagonist is an active, clever character who does more than sit around and wait passively to be saved from her doom. The tale tells of a sorcerer with a power to catch beautiful girls. He appeared one day at the house

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Rumpelstiltskin, and the initial representation of Bluebeard as a man isolated from society by his appearance similarly tugs at the heart-strings. There has even been sympathy expressed for the wolf in *Little Red Riding Hood*, for it was only, after all, doing what was in its nature to do, regardless of how distasteful the reader would have considered its success in the matter.

41 For the tale in its complete form, *see* THE CLASSIC FAIRY TALES, *supra* note 39, at 137-141.

42 For the translation of Grimms' *Fichter's Bird* used here, *see* THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM, *supra* note 15, at 182-186. *Fichter's Bird* is also known as *Fowler's Fowl*. *See* MARIA TATER, GRIMM'S GRIMMEST 14 (1997).

of a family with three beautiful daughters. He kidnapped one of the daughters, brought her to a house, and enticed her to make a promise not to enter a particular room should she wish to preserve her life.[43] The sorcerer then provided her with an egg, which she was told to carry with her at all times, and all of the keys to the rooms in the house. He thus gave her the means to enter the forbidden room, should her curiosity overcome her good sense in keeping her promise and maintaining her faithfulness to him. Like Bluebeard, the sorcerer then left for a trip. The girl entered the room, dropped the egg in shock upon seeing a basin of blood and body parts, and in doing so stained the egg with blood. When the sorcerer returned and saw the blood on the egg, he knew that she had entered the forbidden room. He then killed her and put her body parts with the others. The story repeats itself with the second daughter, and then the sorcerer returns for the third. But the third daughter was far more clever than the others, as is always the fairy tale way. Before exploring the house, she put the egg carefully away for safe-keeping. When she entered the room and saw the bodies of her sisters, instead of recoiling in fear and horror, she put their pieces back together and reanimated them. When the sorcerer returned and found no trace of blood on the egg, he insisted on marrying her. She, however, tricked him into carrying her sisters to safety, then saved herself. The sorcerer and his wedding guests were ultimately burned to death in the house by the bride's relatives.

Bruno Bettelheim interprets the appearance of blood on the dropped egg (or key, as in Perrault's *Bluebeard*) as evidence that the wife has committed a "sexual indiscretion," and explains away the room with the corpses of women who had been killed for giving in to similar sexual temptations as an "anxious fantasy." He continues:

> However one interprets "Bluebeard," it is a cautionary tale which warns: Women, don't give in to your sexual curiosity; men, don't permit yourself to be carried away by your anger at being sexually betrayed.[44]

While Bettelheim's interpretation seems sexist, it is at least in part affirmed by some recent versions of the tale, such as Angela Carter's *The*

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[43] Here again a promise is used as a type of verbal contract, as in *Bluebeard* and *Rumpelstiltskin*.

[44] THE USES OF ENCHANTMENT, *supra* note 36 at 302.

Bloody Chamber.[45] Although the reader in Carter's revision is assured of the reality of the previous wives in this tale (rather than finding them to be mere "anxious fantasies"), he or she is also convinced of the sexual infidelity of the female protagonist. Carter's heroine is presented with a kind, male hero lover[46] as an alternative to her beastly husband, and the relationship between the two is clearly sexual in nature.[47]

In each of these versions of the *Bluebeard* tale, revenge is taken against the Bluebeard man/monster, but the avenging characters vary widely. Only in the Grimms' version does the woman who is actually threatened with death by the Bluebeard-character outsmart and defeat him. Even in Carter's feminist retelling, it is the woman's mother who upsets his plot, and she is presented as an unusual woman from the very start.

Each of the different endings can be read as playing into a different strategy for the dissolution of the power of forces of gender oppression. In all the versions, as in *Rumpelstiltskin*, the reader is presented with a clever young woman -- perhaps a little less clever in the Perrault version, slightly more so in the Grimms -- who attempts, through her curiosity, to achieve the same level of power/knowledge as her husband or fiancé. Why such different portrayals of the female protagonists? Much depends on the corresponding roles of the male counterparts -- the Grimms' heroine, for example, *has* to be the smartest: she has no caring older male to help her to defeat the sorcerer. Perrault's young female character, while not as clever, nonetheless succeeds in dismantling the power structure because she has the assistance of her two kindhearted brothers. The counterparts need not be equally balanced, however, and occasionally, as is the case in the Grimms' version, one can even work alone. Several feminist authors of revised fairy tales, whose works will be discussed later in this paper, suggest the value of just this, and focus on the worth of the bright young woman succeeding alone, while discrediting the role of the "benevolent" male as having a very different agenda from gender equality. Carter's feminist telling of this tale, however, does not choose to put forth this theory. Her young heroine does not destroy the

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[45] Angela Carter, *The Bloody Chamber in* THE BLOODY CHAMBER 7 (1979).

[46] Although, notably, this hero-figure is not able to save either one of them from their approaching death--it takes the woman's mother, with gun in hand, to rescue the pair.

[47] The female protagonist repeatedly refers to him as her "lover," and her husband obviously assumes that the two have slept together, calling her a "whore" when they arrive together for punishment. THE BLOODY CHAMBER, *supra* note 45, at 38. The two go on to live together, along with her mother, after the death of her husband. *Id.* at 40.

power imbalance on her own, or even with the assistance of "good" male power for equality. Instead, she succeeds with the help of her mother, stressing the importance of female solidarity and presenting an option that traditional fairy tale tellers, despite all their grasp of the impossible, never anticipated as a plausible solution.

The story of *Little Red Riding Hood* falls much further along the continuum of culpability and responsibility than do *Rumpelstiltskin* and *Bluebeard/Fichter's Bird*, but it is nonetheless similar in many of the issues that it presents. While the story is much more of a cautionary tale than those previously discussed, it is also a tale which can be viewed through the lens of a bargain between heroine and evildoer. In summing up the significant changes Perrault made to the original oral tale upon which *Little Red Riding Hood* is based (a tale of a smart, young woman who is able to overcome the challenges she faces), Zipes states:

> First she is donned with a *red* hat, a *chaperon*, making her into the type of bourgeois girl tainted with sin since red, like the scarlet letter A, recalls the devil and heresy. Second, she is spoiled, negligent, and naive. Third, she speaks to a wolf in the woods -- rather dumb on her part -- and *makes a type of contract with him*: she accepts a wager which, it is implied, she wants to lose. Fourth, she plays right into the wolf's hands and is too stupid to trick him. Fifth, she is swallowed or raped like her grandmother. Sixth, there is no salvation, simply an ironic moral in verse which warns little girls to beware of strangers, otherwise they will deservedly suffer the consequences. Sex is obviously sinful. Playful intercourse outside of marriage is likened to rape, which is primarily the result of the little girl's irresponsible acts.[48] (emphasis added).

Zipes' statements provide insight into the rationale behind viewing Red Riding Hood as at least somewhat more culpable for the problems she later has to face than are the miller's daughter and Bluebeard's wife.

But the bargaining that Zipes marks as occurring between the wolf and Red Riding Hood is not even the most significant contractual aspect of the work. Unlike the miller's daughter and Bluebeard's wife, whose

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[48] DON'T BET ON THE PRINCE, *supra* note 37, at 229-30. Zipes continues throughout the essay to develop this notion of the conversation between Little Red and the wolf as a contract: most illustrations of the tale, he later writes, "imply that she willingly makes a bargain with the wolf, or, in male terms, 'she asks to be raped'." *Id.* at 239.

temporary downfalls arise because of their forced dealings with villainous characters, Little Red is punished for an earlier promise broken: that which she made to her mother, who, at least in the Grimms' version, explicitly warns: "be nice and good and don't stray from the path."[49] Her mistake lies in the very act of speaking to the wolf at all. The reader may understand why the miller's daughter had to make the promise to give Rumpelstiltskin her first born child -- after all, her life was at risk -- and might even sympathize with the curiosity of Bluebeard's wife, who was presented with the prospect of an impending marriage and understandably inquisitive about the background of the sorcerer who kidnapped her. Red Riding Hood, however, offers no such plausible excuse. She clearly breaks the promise she made to her worthy mother, and does so out of idleness and indolence rather than true need. The tale is one of responsibility and Little Red Riding Hood must be held accountable for her actions.[50]

Little Red Riding Hood as it is currently told is perhaps the best known example of a cautionary tale. An examination of the many different versions of the tale helps to illustrate the ways in which a cautionary message was added to the original version as society became obsessed with finding a motive for everything, including violence in stories.[51] Original folk versions of *Little Red Riding Hood*, Maria Tatar tells us, were more concerned with entertainment than with establishing a moral lesson:

> Red Riding Hood begins by unwittingly eating the flesh and blood of her grandmother; she then performs a striptease for the wolf, gets into bed with him, and engages in a dialogue that leads up to

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[49] THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM, *supra* note 15, at 110.

[50] Zipes, in describing the change in the tale from oral versions to written renditions, focuses on the importance of the responsibility theme, writing that the transformation is of "an oral folk tale about the social initiation of a young woman into a narrative about rape in which the heroine is obliged to bear the responsibility for sexual violation." DON'T BET ON THE PRINCE, *supra* note 37, at 227.

[51] *See* Tatar's discussion of the role played by the Age of Reason in hastening "the process of identifying psychological causes for brutal or tragic effects." She states that "[t]hat era marked the rise of the cautionary tale as we know it today. Everything became motivated: A child devoured by a wolf was guilty of self-indulgence, idleness, and disobedience. A girl punished for opening a door was seen as suffering from excessive curiosity. Another girl, turned by a witch into firewood, is censured for disobedience and audacity. Representations of what had previously functioned in many cases as the random, senseless violence in a world in which human beings were hostages to powers beyond their control were mobilized to serve the purpose of moral education." OFF WITH THEIR HEADS!, *supra* note 26, at 49.

a terrifying threat; in the end she escapes by pleading with the wolf for a chance to go outdoors and relieve herself.[52]

One such folk version, the oral tale "The Story of Grandmother,"[53] is included by Zipes in the beginning of his essay, *A Second Gaze at Little Red Riding Hood's Trials and Tribulations.*[54] Both to help clarify Tatar's statement and to make clear how much the story has been modified since the time of the oral tale, I will include it here in its entirety.

The Story of Grandmother

There was a woman who had made some bread. She said to her daughter:

'Go carry this hot loaf and bottle of milk to your granny.'

So the little girl departed. At the crossway she met *bzou*, the werewolf, who said to her:

'Where are you going?'

'I'm taking this hot loaf and bottle of milk to my granny.'

'What path are you taking,' said the werewolf, 'the path of needles or the path of pins?'

'The path of needles,' the little girl said.

'All right, then I'll take the path of pins.'

The little girl entertained herself by gathering needles. Meanwhile the werewolf arrived at the grandmother's house, killed her, put some of her meat in the cupboard and a bottle of her blood on the shelf. The little girl arrived and knocked at the door.

'Push the door,' said the werewolf, 'It's barred by a piece of wet straw.'

'Good day, Granny. I've brought you a hot loaf of bread and a bottle of milk.'

'Put it in the cupboard, my child. Take some of the meat which is inside and the bottle of wine on the shelf.'

After she had eaten, there was a cat which said: 'Phooey! . . . A slut is she who eats the flesh and drinks the blood of her granny.'

'Undress yourself, my child,' the werewolf said, 'and come lie

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52 *Id.* at 37.

53 Interestingly, the oral tale, in title at least, focuses on the grandmother rather than the younger girl.

54 DON'T BET ON THE PRINCE, *supra* note 37, at 228-29. The story is also contained in JACK ZIPES, THE TRIALS AND TRIBULATIONS OF LITTLE RED RIDING HOOD: VERSIONS OF THE TALE IN A SOCIO-HISTORICAL CONTEXT (1993).

down beside me.'

'Where should I put my apron?'

'Throw it into the fire, my child, you won't be needing it anymore.'

And each time she asked where she should put all her other clothes, the bodice, the dress, the petticoat, and the long stockings, the wolf responded:

'Throw them into the fire, my child, you won't be needing them anymore.'

When she laid herself down in the bed, the little girl said:

'Oh, Granny, how hairy you are!'

'The better to keep myself warm, my child!'

'Oh, Granny, what big nails you have!'

'The better to scratch me with, my child!'

'Oh, Granny, what big shoulders you have!'

'The better to carry the firewood, my child!'

'Oh, Granny, what big ears you have!'

'The better to hear you with, my child!'

'Oh, Granny, what big nostrils you have!'

'The better to snuff my tobacco with, my child!'

'Oh, Granny, what a big mouth you have!'

'The better to eat you with, my child!'

'Oh, Granny, I've got to go badly. Let me go outside.'

'Do it in bed, my child!'

'Oh, no, Granny, I want to go outside.'

'All right, but make it quick.'

The werewolf attached a woolen rope to her foot and let her go outside.

When the girl was outside, she tied the end of the rope to a plum tree in the courtyard. The werewolf became impatient and said: 'Are you making a load out there? Are you making a load?'

When he realised that nobody was answering him, he jumped out of bed and saw that the little girl had escaped. He followed her but arrived at her house just at the moment she entered.[55]

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[55] Zipes, in *The Trials and Tribulations of Little Red Riding Hood,* credits the research of Paul Delarue with researching and recording this version of the tale in around 1885. THE TRIALS AND TRIBULATIONS OF LITTLE RED RIDING HOOD, *supra* note 54, at 21. Although many of the elements of this version were not incorporated into Perrault's version of the tale, Zipes believes Perrault was familiar with them. *Id.* at 18. Zipes further supports Tatar's belief that the moral reading of the tale came later, writing that: "In the 15th and 16th centuries, violence was difficult to explain on rational grounds. There was

Told this way, the story seems to be one of initiation -- it is a sign of Red Riding Hood's maturity for her to take the path of needles, for it is the path of womanhood.[56] While it also serves as a cautionary tale, it is very different from both Perrault's moralizing tale, embedded in burgeoning discourse on manners, and the Grimms' sanitized, sexist happy ending.

Other versions of the oral *Red Riding Hood* tale do not include this intentionally shocking reference to the consumption of the grandmother's flesh and blood by Red Riding Hood;[57] it instead becomes the wolf that commits the sin of devouring her whole, and is in turn punished for doing so. Charles Perrault's 1697 version of the tale,[58] on which the Grimms' rendition is based, makes this revision, as well as several other significant changes.[59] One of Perrault's most notable changes is the ending: contrary to the *Story of Grandmother*, as seen above, Perrault tells of Red Riding Hood being "gobbled up"[60] and

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a strong superstitious belief in werewolves and witches, uncontrollable magical forces of nature, which threatened the lives of the peasant population. Since antiquity, tales had been spread about vicious creatures in France, and they continued to be spread. Consequently, the warning tale became a stock oral repertoire of storytellers." *Id.* at 23.

[56] See Jack Zipes, *Epilogue: Reviewing and Re-Framing Little Red Riding Hood*, THE TRIALS AND TRIBULATIONS OF LITTLE RED RIDING HOOD, *supra* note 54, at 348. ("[T]he maturing young woman proves she can handle needles, replace an older woman, and contend with the opposite sex.")

[57] Posner, in discussing revenge issues in *Oedipus Tyrannus*, states that the protagonist of the story "is guilty of parricide and incest, and must be punished terribly even though he neither knew nor had reason to know that the man he had killed was his father and the woman he had married was his mother. Oedipus's punishment is an effective metaphor for the human situation. We frequently suffer as a result of acts that we do in warranted ignorance of the possible consequences; in other words, we may be 'punished' for 'innocent' . . . violations of the order of things." LAW AND LITERATURE, *supra* note 5, at 35-6. The protagonist in this version of the *Red Riding Hood* tale, however, is not punished for her unknowingly-committed crime of eating her grandmother's flesh and drinking her blood, but instead is able to use her wits to escape a doom that seems unavoidable. Is her situation really that different from that of Oedipus, or has the notion of this type of strict liability become more lenient over the centuries?

[58] Perrault's version of the tale is the earliest known European, written version. *See* LITTLE RED RIDING HOOD: A CASEBOOK 3 (Alan Dundes ed., 1989), or PERRAULT'S COMPLETE FAIRY TALES 71 (A.E. Johnson trans., 1962), for the translation of Perrault's rendition of the tale as used here.

[59] *See* my reference to Zipes' discussion of some of these changes, *infra* note 48 and accompanying text.

[60] This is almost certainly a change from the oral tale on which Perrault originally based the story, as it would have been highly unusual for the original victim to have been permanently killed in an oral tale. *See* LITTLE RED RIDING HOOD, *supra* note 58, at 3.

includes a moral compelling young women not to listen to strangers.[61] This ending allows the story to serve as a paradigmatic cautionary tale.

Perrault's changed ending is not the final or best known of the many versions of the tale, however, for the Brothers Grimm take the ending still one step further from the original oral tale.[62] The Grimms' version adds the now-familiar huntsman, who, when passing by the grandmother's house, heard the satiated wolf snoring and decided to stop by to make sure everything was all right. He discovered the sleeping wolf and was ready to shoot it, but then wisely considered that the wolf could have eaten the grandmother whole, and that she could possibly still be saved. So he instead cut the wolf open with scissors, and out came Little Red and the grandmother. Little Red then filled the wolf with stones, and when it awakened and tried to run away, the stones were too heavy and it fell down and died.[63]

The Grimms' well-known revision of the *Little Red* story leaves little that would appear familiar to the original tellers of the tale. No

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61 Perrault's moral is as follows:
From this story one learns that children,
Especially young lasses,
Pretty, courteous and well-bred,
Do very wrong to listen to strangers,
And it is not an unheard thing
If the Wolf is thereby provided with his dinner.
I say Wolf, for all wolves
Are not of the same sort;
There is one kind with an amenable disposition
Neither noisy, nor hateful, nor angry,
But tame, obliging and gentle,
Following the young maids
In the streets, even into their homes.
Alas! who does not know that these gentle wolves
Are of all such creatures the most dangerous!
PERRAULT'S COMPLETE FAIRY TALES, *supra* note 58, at 77.

62 For the translation of Grimms' *Little Red Cap* used here, *see* LITTLE RED RIDING HOOD, *supra* note 58, at 7, or THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM, *supra* note 15, at 110.

63 As a postscript to the version of *Little Red Cap* in Grimms' collected tales, the Grimms' write of "another tale" of Little Red returning to bring baked goods to her grandmother. In this version, which is closer in many respects to the oral tale, *The Story of Grandmother*, Little Red didn't stop to talk to the wolf, but instead hurried ahead to her grandmother's house. When the wolf arrived and waited for Little Red to leave, the grandmother and Little Red tricked it into falling into a trough of sausage-scented water and drowning. *See* THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM, *supra* note 15, at 110, 113-14.

longer does a smart, young girl escape from the wolf using her own wiles. Instead, a male father figure must come to rescue her. Nor does this Red Riding Hood commit the horrifying act of eating the flesh and drinking the blood of her grandmother, or of performing a strip-tease for the wolf: she simply breaks a promise to her mother, gets into trouble, is saved, and learns a lesson. Very little of what originally made the story effective remains in today's version. But despite what the Grimms took away from the story, they nonetheless added something in return: an element of revenge. Whereas in the oral tale, Red Riding Hood escapes through her own cleverness, but without avenging the death of her grandmother, and in Perrault's version, she pays for her mistake with her own life, in the Brothers Grimms' version, she is saved, through no ingenuity of her own, and then explicitly takes her revenge on the wolf by killing it with the stones she places in its stomach. The huntsman who saves her plays no apparent role in her decision to take such revenge, nor does he assist her in actualizing it. The revenge is hers alone.

The effect this focus on revenge has on the theme of dissolution of power in the tale does not distinguish it from *Rumpelstiltskin* and *Bluebeard*. Like the Grimms' *Fichter's Bird*, the original oral tale, *The Story of Grandmother*, tells of a young girl who is able to obliterate the gender power structure using only her own quick wits.[64] In Perrault's version of the *Little Red* story, the attempt to dissolve the power structure fails, and Red Riding Hood is consumed -- by the male system. The Grimms' version of the tale, like the final wise woman's wish for Brier Rose, softens this brutal ending, yet fails to bring back the original full power of the oral tale. In this version, as in *Rumpelstiltskin* and Perrault's *Bluebeard*, we see the fairy tale strategy for the dissolution of the power of oppressive forces as existing, not through the strength and cleverness of the young female heroine, but through the balance between the efforts of the clever young woman and the benevolent older man.

III. MODERN FAIRY TALES -- REFLECTIONS OF NEW ASPECTS OF THE LAW

Fairy tales are currently receiving a renewed focus, both in the study of past tales and the authorship of new ones. The line between fantasy novel and fairy tale has been blurred by collections such as Ellen Datlow and Terri Windling's *Snow White, Blood Red*, and by many other

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64 Gender is clearly implicated here as the wolf as rapist is at least symbolically male.

authors who are writing tales incorporating fairy tale themes for adults as well as for the traditional audience of children. New collections attempt to offer nontraditional views on issues of violence, sexual bias, and exploitation,[65] and utilize both traditional and modern tales to do so. Today's fairy tale authors and editors recognize that while we should continue to read and revere the classic tales, we must also continue to rework and create new tales to reflect social changes and modern views of utopian dreams.

A. DISNEY'S MODIFICATIONS FOR MODERN AUDIENCES

When today's audiences think of fairy tales, Charles Perrault and the Brothers Grimm are not usually the first names to come to mind. Instead, children and adults alike associate stories like *Cinderella* and *Snow White* with the animated films of Walt Disney. While many folklorists have expressed distaste at Disney's "theft" and modification of the traditional tales, his treatment of the tales is actually not so different from that of the Grimms or Perrault, who collected and altered the tales we now revere from the constantly evolving versions told by the original storytellers.[66] Fairy tales are nothing if not fluid and changing; adaptable by different authors to diverse societies and changing generations.

For the purposes of this article, however, Disney has had a negative effect on the fairy tales he has revised. While the revenge aspect of fairy tales, so prevalent in the classic Grimms' tales, has been continually changed and modified by different authors writing for a variety of intended audiences, Disney is the best known, and thus most influential, of the revisionists. His versions of these classic tales are unquestionably cleanly-scrubbed and unambiguously presented. Vengeance in Disney tales, if it comes at all, comes by accident, rather than as an affirmative action taken by a character. Consider the endings of some of his best known films: in *Cinderella*, Disney's treatment of the stepsisters, who we never see after the Prince's servant fits the glass slipper on Cinderella's foot, is very different from the treatment of these characters by the

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[65] *See, e.g.*, THE OUTSPOKEN PRINCESS AND THE GENTLE KNIGHT: A TREASURY OF MODERN FAIRY TALES (Jack Zipes ed., 1994).

[66] As Neil Bennett writes, "search[ing] for authenticity by trying to get as far from Disney as possible is itself ironic ... for the Disney films are as authentic as the works of Angela Carter or Tanith Lee in this field. Faerytales are open to any change the storyteller wishes to make upon them, even if that change is to make them into rubbish." Neil Bennett, *The Modern Fairytale: A Work In Progress?* (last visited Feb. 13, 1998) <http://www.qmw.ac.uk/-english/cb1/project/taz/fairy.htm>.

Brothers Grimm, in whose version of the tale they are eventually blinded, after first attempting to make the glass slipper fit by cutting off parts of their feet.[67]

Disney also notably changed the punishment of the queen/witch in *Snow White:* rather than forcing her to dance in red-hot iron shoes at Snow White's wedding, Disney has her killed while trying to crush the kindly dwarves with a boulder. The witch/queen's punishment thus no longer occurs out of a desire by Snow White for vengeance, but instead becomes merely a necessary occurence in order to prevent her from committing further wrongs.[68]

Disney, in modifying these conclusions, attempts to remove the stories from their places within revenge theory with the apparent hope of instead sending a message of idealistic, and ultimately unrealistic, forgiveness.[69] As Zipes puts it, "Disney wants the world *cleaned up*, and

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[67] Note, however, that the Disney version does not claim to be based on the Grimms' tale, but rather Perrault's version, where Cinderella, "who was as good as handsome," sets aside apartments in the palace for her sisters and marries them to gentlemen of the court. *See* Robert Samber's translation of Perrault's tale, *in* THE CLASSIC FAIRY TALES, *supra* note 39. Maria Tatar, however, notes that "Perrault's ending was the exception rather than the rule: other printed versions of *Cinderella* (including French ones) show the stepsisters and their mother in agonizing mental or physical pain." Tatar, OFF WITH THEIR HEADS!, *supra* note 26, at 7. Interestingly, Tatar also notes that in Grimms' first printed version of *Cinderella*, the stepmother and stepsisters only are "horrified" and "turn pale" when the slipper fits Cinderella. Only after the tale was a hit with children did the Grimms add the "lesson" associated with the violent punishment of the villains. *Id.* As Tatar writes in her Introduction to GRIMM'S GRIMMEST, *supra* note 42, at 13, "children, who invariably count themselves among the downtrodden and underprivileged, identify and empathize with the protagonist. The more Hansel and Gretel, Cinderella and Snow White are victimized by the powers of evil, the more sympathy they elicit and the more captivating their triumphs are for children. "

[68] The endings of these tales, while particularly important for our purposes of discussing revenge and punishment, are only a small part of the changes implemented by Disney. For a more specific analysis of the multitude of changes, *see* Jack Zipes' chapter, *Breaking the Disney Spell,* in FAIRY TALE AS MYTH, *supra* note 31, at 87-93.

[69] Consider too, Disney's version of *The Little Mermaid,* in which the mermaid gets out of her contract with the scheming sea witch by killing her. While not a revenge tale per se, either in the original Anderson version or the Disney revision, the tale provides another example of manipulation by Disney of the ending of a tale to make it easier for the audience to view. Disney carefully sets it up so that the witch, in turning herself into a beautiful princess to compete with the mermaid for the Prince's love, acts, if not in explicit violation of the terms of the contract, certainly in bad faith. This makes the mermaid's attempts to avoid her contracted fate more sympathetic. Additionally, the sea witch's ultimate death (never an issue in Andersen's original story) comes in self-defense, not as revenge for her actions. Disney does the unthinkable and completely changes the meaning of the tale by unabashedly manipulating the somber Hans Christian Andersen

the pastel colors with their sharply drawn ink lines create images of cleanliness, just as each sequence reflects a clearly conceived and preordained destiny for all the characters in the film."[70] Disney's thorough cleansing and disinfecting of the Grimms' tales leaves no room for unpleasant images which may alienate the audience. Revenge is a theme with which many are uncomfortable, fearful of it in even its least extreme and most well-deserved manifestations. It has no place in Disney's idyllic fantasies.

B. THE ROLE OF WOMEN IN A REVENGE SOCIETY

> It was standard practice in the nineteenth and first half of the twentieth centuries to "care" for children by making certain they were sharply disciplined and trained according to rigid social and religious precepts that favored male privilege. Therefore, it is not by chance that most classical fairy tales up to World War II, including the Disney versions, conveyed moral lessons that reinforced patriarchal rule.[71]

Posner defines the role of women in a revenge society as "almost completely dependent on their male relatives for protection."[72] Revising this role has been the focus of much feminist scholarship and has sparked many of the modern fairy tales. Feminist viewpoints of law and legal issues are apparent in, and perhaps have led to the emergence of, new fairy tales. Such viewpoints also offer additional insights on the re-evaluation of traditional tales. While revenge and punishment play as significant a role in these new tales as they did originally, the punishments themselves -- as well as the person is who is actually being punished and the crime for which the punishment is occurring -- have been somewhat changed and refined. Additionally, the tales take on a new dimension as

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tale to create a happy ending where the mermaid gets her Prince and, of course, lives happily ever after. For Andersen's version of the tale, *see* HANS CHRISTIAN ANDERSEN: THE COMPLETE FAIRY TALES AND STORIES, 57-76 (Erik Christian Haugaard trans., 1974).

70 FAIRY TALE AS MYTH, *supra* note 31, at 92-93.

71 THE OUTSPOKEN PRINCESS AND THE GENTLE KNIGHT, *supra* note 65, at xvii. Zipes has also stated, regarding the role of fairy tales by the end of the nineteenth century: "Although the plots varied and the themes and characters were altered, the classical fairy tale for children and adults reinforced the patriarchal symbolic order based on rigid notions of sexuality and gender." FAIRY TALE AS MYTH, *supra* note 31, at 74.

72 LAW AND LITERATURE, *supra* note 5, at 29, n. 6. In making this statement, Posner also notes that literature contains many "famous female revengers," and that literature often deals with women destroyed as a by-product of male revenge.

legal issues which are commonly characterized as women's issues, such as domestic violence and rape, become intertwined with the revenge rhetoric of these new fairy tales.

1. Revised Versions of Classic Tales: *Sleeping Beauty*

Anne Sexton's *Briar Rose*[73] provides a disquieting take on one of the earliest recorded Italian versions of the *Sleeping Beauty* tale. In this telling, the princess is awakened "not by a kiss but by the suckling of the twin children she has given birth to, impregnated by the prince while she lay in her enchanted sleep."[74] In Sexton's revision, the female protagonist is afraid to go to sleep, fearful of the similar wrongs that could be done to her by her drunken father. Sexton writes:

> Daddy?
> That's another kind of prison.
> It's not the prince at all,
> but my father
> drunkenly bent over my bed,
> circling the abyss like a shark,
> my father thick upon me
> like some sleeping jellyfish.[75]

Rape and incest, always difficult themes, seem even more disturbing in literature associated with an audience of children. A perfect scenario for the revenge described in the first section of the paper, Sexton's *Briar Rose* presents a situation where the legal system clearly will not function. Not only does the law try to avoid interference in family matters, but many children may not recognize that a legal solution to their problems may exist, and would be too afraid and embarrassed to act on such a solution even if they are made aware of one.

Sheri Tepper has also written a revised version of *Sleeping Beauty*, but one in which the sleeping, passive princess is replaced by a look-alike, and the real one instead actively travels through land, time, and imagination in an effort to prevent the eventual demise of magic in the twenty-first century.[76] In Tepper's version, Beauty was enchanted, not for

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73 ANNE SEXTON, TRANSFORMATIONS 107 (1971).

74 *See* Terri Windling, *White as Snow: Fairy Tales and Fantasy, in* SNOW WHITE, BLOOD RED 1 (Ellen Datlow and Terri Windling ed., 1993).

75 TRANSFORMATIONS, *supra* note 70, at 112.

76 BEAUTY, *supra* note 18.

revenge, but so as to allow a type of *Noah's Ark* of magic to be preserved to start over again after the destruction of the world. Unlike the Grimms' version of the tale, the wish for revenge comes not from the desire of the thirteenth wise woman, who "wanted to get revenge for not having been invited,"[77] but from Beauty herself, raped in the twentieth century, and pregnant from that rape. Beauty is very clear about her desire for personal vengeance, as well as her wish to act in order to protect other innocents from being subjected to similar experiences.[78] Her case, however, is somewhat different from the earlier revenge scenarios. Unlike the fairy tale heroine who inhabited the world "once upon a time," Beauty has an option of pursuing rape charges in the twentieth century and rejects this course of action as providing an inadequate remedy. Personal revenge is the only way she believes she can achieve her goal of making sure that the evil-doer does not repeat his crime.

While this is a harder case, as it involves an active, seeking-out of revenge rather than a reversion to it in the absence of a legal remedy, the situation nonetheless involves a woman's struggle against the male power structure. Beauty rejects what the predominantly male legal system has identified as a fitting penalty for a crime against women, and instead implements her own form of punishment. One can applaud her goal without condoning her means of achieving it.

2. Revised Versions of Classic Tales: *Bluebeard*

In Tanith Lee's *Wolfland*,[79] revenge provides the backdrop for the rest of the tale. This modern fairy tale implicates spousal abuse in much the same way as does the classic *Bluebeard* tale. In the story, Lisel's grandmother, Anna, tells Lisel that she became a werewolf in order to kill her abusive husband and save herself and her child. The motive Anna presents is very similar to that of Tepper's *Beauty*: both personal revenge and the prevention of future wrongs. Lee writes:

> '*If* it's the truth,' said Lisel primly, 'you will go to hell.'

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77 THE COMPLETE FAIRY TALES OF THE BROTHERS GRIMM, *supra* note 15, at 202.

78 *See, e.g.*, BEAUTY, *supra* note 18, at 292 ("I want vengeance against the cause of all this pain."), 300 ("I know you think it's only for vengeance, but it's not only that! It isn't vengeance when you kill a poison snake in the yard where children play, to keep it from killing someone else. I need to make sure he hurts no more people, fathers no more children like Elly."), 309 ("He had chided me for wanting vengeance."), 314 ("Am I revenged? It's very strange, but I don't know.").

79 Tanith Lee, *Wolfland*, *in* DON'T BET ON THE PRINCE, *supra* note 37, at 122.

'Oh? Don't you think me justified? He'd have killed your mother at the very least. *You* would never have been born.'

Lisel reviewed this hypothetical omission. It carried some weight.

'You should have appealed for help.'

'To whom? The marriage vow is a chain that may not be broken. If I had left him, he would have traced me, as he did the child. No law supports a wife. I could only kill him.'[80]

Anna's view of the law is no doubt very similar to that of many women caught in abusive relationships today. As we saw in Tepper's *Beauty*, not all fairy tales begin once upon a time and far away, however much easier such a view may make it to dismiss these matters of revenge and the cruel ways in which such revenge may be inflicted. Tanith Lee's version brings the tale very much up to date, and in doing so plays out many of the elements of the debate regarding the use of battered woman's syndrome as a legal defense. If battered woman's syndrome does not seem to fit precisely as a defense within our legal system, it is perhaps because it is too close to the private justice of revenge for the comfort of lawmakers. In *Wolfland*, Anna reverts to private revenge as a substitute for a male-centered, legal system that, in her view, would never stand against her villainous husband to come to her aid. In doing so, she subverts the traditional power structure and sets the groundwork for her female heirs to continue to combat the system of oppression throughout future generations.

3. Modern Interpretations of Classic Tales: *Little Red Riding Hood*

While not a revised tale itself,[81] *Red Riding Hood* has recently received renewed attention due to the interpretation of the story as a rape narrative. Section II of this article addressed this tale in some detail, but only touched on this aspect of it. As it has emerged as a defining

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80 *Id.* at 145.

81 Many good revisions of the tale do exist: *see, e.g.* Olga Broumas, *Little Red Riding Hood, in* DON'T BET ON THE PRINCE, *supra* note 37, at 119; Anne Sexton, *Red Riding Hood, in* TRANSFORMATIONS, *supra* note 73, at 73; Barbara G. Walker, *Little White Riding Hood, in* FEMINIST FAIRY TALES (1996); Wendy Wheeler, *Little Red, in* SNOW WHITE, BLOOD RED, *supra* note 74, at 131; Sally Miller Gearhart, *Roja and Leopold,* & James Thurber, *The Girl and the Wolf*, both, along with many others, *in* THE TRIALS AND TRIBULATIONS OF LITTLE RED RIDING HOOD, *supra* note 54, at 331 and 229.

characteristic of the story, further discussion is warranted here. *Red Riding Hood* is increasingly being viewed as a narrative characterized by what Jack Zipes refers to as "an obvious sexual act, symbolizing the uncontrollable appetite or chaos of nature,"[82] and what Susan Brownmiller calls rape.[83] Brownmiller writes:

> Rape seeps into our childhood consciousness by imperceptible degrees. Even before we learn to read we have become indoctrinated into a victim mentality. Fairy tales are full of a vague dread, a catastrophe that seems to befall only little girls. Sweet, feminine Little Red Riding Hood is off to visit her dear old grandmother in the woods. The wolf lurks in the shadows, contemplating a tender morsel. Red Riding Hood and her grandmother, we learn, are equally defenseless before the male wolf's strength and cunning. His big blue eyes, his big hands, his big teeth -- 'The better to see you, the better to catch you, to eat you, my dear.' The wolf swallows both females with no sign of a struggle. But enter the huntsman -- he will right this egregious wrong. The kindly huntsman's strength and cunning are superior to the wolf's. With a twist of a knife Red Riding Hood and her grandmother are rescued from inside the wolf's stomach. 'Oh, it was so dark in there,' Red Riding Hood whimpers. 'I will never again wander off into the forest as long as I live. . .'
>
> *Red Riding Hood* is a parable of rape. There are frightening male figures abroad in the woods -- we call them wolves, among other names -- and females are helpless before them. Better stick close to the path, better not be adventurous. If you are lucky, a good *friendly* male may be able to save you from certain disaster.[84]

Brownmiller further offers three main ways in which the *Red Riding Hood* tale fits within the rhetoric of male myths of rape. Her first rationale is that the tale, and myths similar to it, tends to blame the victim for the crime -- to make women appear as willing participants in their own defeat.[85] Brownmiller also states that stories such as that of the Grimms'

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82 THE TRIALS AND TRIBULATIONS OF RED RIDING HOOD, *supra* note 54, at 55.

83 SUSAN BROWNMILLER, AGAINST OUR WILL: MEN, WOMEN AND RAPE 343-44 (1975).

84 *Id.*

85 *See* Jack Zipes, *A Second Gaze at Red Riding Hood's Trials and Tribulations, in* DON'T BET ON THE PRINCE *supra* note 37, at 232.

Little Red imply that women *want* to be raped, thus obscuring the true nature of the crime.[86] Finally, Brownmiller argues that the tale fits within the rhetoric of male myths of rape in that it asserts the supreme rightness of male power either as offender (wolf) or protector (huntsman).[87]

Zipes maintains that while the fairy tale need not be interpreted as a rape narrative, "the sexual motif has been dominant in the minds of most writers."[88] Brownmiller's notion of the tale as a rape narrative should thus be seen as a vital modern interpretation which has significant legal consequences. Recent feminist scholarship, especially that of Brownmiller, has introduced the notion of rape as a method of revenge rather than eroticism. Brownmiller may, however, provide slightly too dark of a spin to the tale.

Susan Jacoby, in *Wild Justice*, writes that "[r]ape is, in fact, the most powerful example of a violent act uniting passion, possessiveness, and vengeance -- the possession of women by men, vengeance toward all women enacted upon the body of one."[89] As a result, the rape of a woman has traditionally set in motion the pursuit of vengeance by the male relatives of the violated woman. We do not, however, see this male vengeance in *Red Riding Hood* -- the revenge taken against her attacker is her own. While she needs the assistance of the woodcutter to extract herself from the stomach of the wolf, the woodcutter leaves the wolf alive.

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86 *Id.*

87 *Id.*

88 *Id.* at 230. Illustrators of this tale, too, seem caught up in representing the tale as one of male seduction and protection. *See*, especially, Gustave Doré's famous, erotic engravings of Perrault's *Little Red Riding Hood. See also,* Erich Fromm's analysis of the Grimms' version of the tale, which, while very different from Brownmiller's reaction as expressed above, nonetheless underscores the same importance of sexuality in the story: "This fairy tale, in which the main figures are three generations of women (the huntsman at the end is the conventional father figure without real weight), speaks of the male-female conflict; it is a story of triumph by man-hating women, ending with their victory, exactly the opposite of the Oedipus myth, which lets the male emerge victorious from this battle. Erich Fromm, THE FORGOTTEN LANGUAGE 241 (1957). Fromm also wrote: "The hate and prejudice against men are even more clearly exhibited at the end of the story . . . . We must remember that the woman's superiority consists in her ability to bear children. How, then, is the wolf made ridiculous? By showing that he attempted to play the role of a pregnant woman, having living things in his belly. Little Red-Cap puts stones, a symbol of sterility, into his belly, and the wolf collapses and dies. His deed is punished according to his crime: he is killed by the stones . . . which mock his usurpation of the pregnant woman's role." Fromm's analysis of the tale seems far less applicable to the readings of the modern audience than does that of Brownmiller.

89 WILD JUSTICE, *supra* note 10, at 193.

It is Little Red herself who punishes him for the "rape."

By revising and reinterpreting those traditional fairy tales that reinforce patriarchal myths of the role of women, particularly those tales involving situations of rape and spousal abuse, and by continuing to write new tales to help to combat these old stereotypes, authors of fairy tales can help to create a series of new responses for the next generation. Such tales, written or newly interpreted by feminists, present a different strategy for the dissolution of gender oppression. They rely less on the assistance of a caring, older male whose benevolent assistance is "necessary" to overcome domination, and more on the bright young woman herself. In all of these cases, the woman succeeds quite well, and quite believably, alone.

IV. CONCLUSION

Understanding the revenge justice system presented in fairy tales can be a crucial step in the evaluation of the principles of law governing today's society. One of the important lessons fairy tales teach is that when a legal system fails to provide redress for individuals within particular groups, "wild justice" may offer the only apparent solution. Revenge thus manifests itself as one of the dangers of an ineffectual justice system. It is not an alternative to the ideals of justice, but rather an unattractive alternative to the current legal order, lying suppressed at the core of our justice system as a reminder of what could be. We do ourselves and our legal system a disservice if we ignore the reality fairy tales reflect in their illustration of the consequences of blocked remedies, for the types of situations presented in fairy tales do not take place "once upon a time" for many of the women and children of our society.