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On Justice: An Origin Story

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Legal scholars have written countless words on the place of stories and storytelling in the law¹—so many that even the most prodigious reader could never read them all. I could add to that pile with another fifteen or twenty thousand words of my own, beyond what I've previously written.² But instead, I'll follow the example of Richard Delgado³ and tell you a story.

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1. As Linda Edwards explains, over the past four decades:

[S]cholars have explored narrative's relationship with law by examining topics of at least three types: (1) the jurisprudential role of narrative as a universal preconstruction, underlying most forms of human thought, including rules of law; (2) the role of narrative in public law talk— what we say and how we reason in briefs and judicial opinions; and (3) the role of narrative in the lawyering task of persuasion.

Linda H. Edwards, *Speaking of Stories and Law*, 13 LEGAL COMM. & RHETORIC: JALWD 157, 159 (2016) (summarizing the scholarship in detail); *see also* GUYORA BINDER & ROBERT WEISBERG, LITERARY CRITICISMS OF LAW 266–79 (2000) (critiquing some of the scholarship).

2. *See, e.g.*, Stephen Paskey, *Telling Refugee Stories: Trauma, Credibility and the Adversarial Adjudication of Claims for Asylum*, 56 SANTA CLARA L. REV. 457 (2016), <https://digitalcommons.law.scu.edu/lawreview/vol56/iss3/1>.

3. Delgado has published numerous pieces in the form of dialogues between a professor and one of his students. For one example, see Richard Delgado, *Rodrigo's Homily: Storytelling, Elite Self-Interest, and Legal Change*, 87 OR. L. REV. 1259 (2009).

Because if superheroes have an origin story, why not Justice?

* * *

Once upon a time, in a land not far from here, there lived a capricious King whose daughter loved stories. Each day, she would go to the market and listen while villagers, one by one, told her a story.

At first, the villagers told stories they learned from their parents and grandparents, stories about faraway places and fantastic beasts; stories filled with kings, queens, rogues, thieves, werewolves, dragons, elves, dwarves, and all manner of magical things. Some villagers were gifted at telling stories, and the King's daughter laughed, smiled, frowned, and gasped with surprise or delight at each twist and turn in a tale.

But then, one day, a thin woman appeared, dressed in rags and carrying a crooked stick. She patiently waited her turn, then stepped forward, stooped to one knee, and spoke:

"Your highness, I have no story to amuse you. My heart is heavy, for my son is dead, and the man by whose acts he perished walks freely through these streets. May I tell you my son's story, the story of how he lived and how he died?"

The King's daughter paused a moment, then nodded. "Certainly. You may proceed."

The woman then told her son's tale, and named names, and when she was done she looked the King's daughter squarely in the eye—something no villager had ever done quite so boldly—and then she said: "Your highness, I cannot bear that my son's story should end this way. I ask that you change the ending, that you finish the story in a way that will bring me peace."

The King's daughter was silent for a long while, and a strange look came over her face. She turned to her guards. "This woman has accused another of being responsible for her son's death. I cannot let the matter rest. Bring the other here three days hence, and bring also someone who can tell

his story.”

And so it was done. When the sun rose three days hence the King’s daughter went to the market. A great crowd gathered, and the man was brought before her with a storyteller, and the King’s daughter heard his story. And when the storyteller finished she called the two of them to stand, the woman whose son was dead and the other, and she declared how the son’s story would end.

From that day forward, the villagers no longer came to the market with stories of faraway places or fantastic beasts. They came with the stories of their lives, with tales of some misfortune: a field flooded, a spouse unfaithful, a debt unpaid, a home robbed or burnt to ashes. And with each story the person accused of some wrong came also and told their story, and when the stories were finished the King’s daughter pondered for a while, and the endings of some stories she changed, while the endings of others she let be. And because her endings were fitting and fair, the villagers were satisfied.

And when the old King died at last, and the King’s daughter became the Queen, she named others to hear stories in her place. She called them “story-changers,” and because the kingdom had grown the Queen sent story-changers to other villages, and in the market of each village she commanded that a temple be built to stories, and that stories told there should be written down. And because the texts and the temples could be forbidding, a class of professional storytellers emerged, and the people employed these storytellers to speak on their behalf.

In time, the story-changers agreed that certain types of stories should end a certain way, and this, too, was written down. And senior story-changers were chosen to oversee the others and correct their endings as needed, and these endings, too, were written, and the many texts were studied by the storytellers. And because the story-changers were learned and their endings were fitting and fair, the people of the kingdom were satisfied.

And when the Queen died in her sleep, many years after her father's death,⁴ the kingdom was filled with grief, and after a year of mourning the story-temples were dedicated in her honor and were given her name, which was Justice.

* * *

But that, of course, is only one account. The man falsely accused of killing the thin woman's son—the man executed by order of the King's daughter—would tell a rather different story if he could.⁵

4. Lest you doubt the power of stock stories, consider this: I rose from my bed at 4 a.m. and wrote the initial draft of this story lest I forget what I was thinking. When I read it again a few hours later, I realized I had subconsciously improvised on the spare bones of E.M. Forster's paradigmatic story: "The king died, and then the queen died." FORSTER, E.M., ASPECTS OF THE NOVEL 40–42 (1963).

5. When you read this last sentence, did you believe some injustice had been done in the world of the story, that an innocent man had been executed? You might ask yourself why that is so. Who's to say if the narrator is reliable? And when faced with competing narratives, how should we judge between them?