

# Wild Justice

**Ian Johnston**

*If you prick us, do we not bleed? If you tickle us, do we not laugh? If you poison us, do we not die? And if you wrong us, shall we not revenge? If we are like you in the rest, we will resemble you in that.*

William Shakespeare, *Merchant of Venice*

*Revenge is a kind of wild justice; which the more man's nature runs to, the more ought law to weed it out. ... Certainly, in taking revenge, a man is but even with his enemy; but in passing it over, he is superior; for it is a prince's part to pardon.*

Francis Bacon, *On Revenge*

Stories involving justice and the law have long been well-established in our literary fictions in almost all genres (books, television, films, and drama). Their popularity obviously has something to do with the inherently antagonistic and often intriguingly complex dramatic interactions involved in police procedurals, courtroom dramas, detective stories, and legal matters generally, along with the fact that such stories usually have a gratifyingly clear plot line (a firm beginning, middle, and end), a wide range of different characters, and entertaining flashes of violence. No wonder so many of our most popular fictions are rooted in this tradition (consider, for example, the astonishing success of the *Law and Order* franchise or the number of crime novels in the most modest municipal library).

Many of us find such stories appealing also because they tend to evade any potentially disturbing questions about justice and the law. The police may have many rough edges and at times use questionable tactics, the lawyers may hide several clever tricks up their sleeves, judges may be unpredictably eccentric, and so on, but they are part of or allied to the “justice system,” and the success of those pursuing justice by prosecuting nasty criminals or rescuing innocent suspects enables good to triumph over

evil once again and reassures us that the system works.

Now and then, of course, awkward moments can arise, calling into question whether justice is always best served by a scrupulous attention to enforcing laws, but as often as not these are left unexplored in any detail. In the 2017 film *Murder on the Orient Express*, for example, Hercule Poirot, an ultra-rational believer in and servant of the law, solves the murder case with his customary brilliance, only to experience a Mr. Bumble moment, when he recognizes that the inevitable legal outcome will violate his and everyone else's sense of basic decency. So the famous revealer of the truth decides to lie and let the murderers go free, for in this instance justice trumps the law. At that point the film ends, so the effects of Poirot's action on his hitherto unswerving faith in the rational application of the law are unknown.

Of course, we viewers forgive the famous detective's lapse here because, as we have learned in the denouement, we are being asked to judge a murderous act of personal vengeance by a group of decent people against a vile criminal, and few of us, I suspect, no matter how timid or law-abiding or peaceful we may be in our everyday lives, are unfamiliar with the way in which imaginative stories of revenge in defi-

ance of existing laws can exert a powerful emotional appeal. Deep down where it really counts, our emotional sense of justice still responds to the ancient imperative: an eye for an eye. Evidence for that emotional pull is the enduring appeal of revenge stories – as popular nowadays as they were for the Ancient Greeks and the Elizabethans. Vengeance may be the Lord's business, but revenge tales, it seems, have always been part of our imaginative heritage.

And in one way, at least, that remarkable appeal is rather odd, because almost all revenge stories (leaving out of account those where the main character is avenging an injury done directly to him personally) are basically the same. Typically, there are three main characters: the victim (who may be dead before the story starts, but whose presence, sometimes as a ghost or a flashback, permeates the story), a villain, and an avenger. The victim and avenger are always closely linked – husband and wife, blood relatives (e.g., father and son or daughter, siblings), or close friends of long standing (police partners or war buddies). The villain's crime is always nasty (e.g., rape, or killing, or both – nowadays often involving drugs), and the avenger undertakes the task of punishing the villain as an individual responsibility, turning his back on the law, either because legal authorities have no interest in pursuing the crime or because they are complicit in it or because there are no competent legal authorities or because he just, well, feels like it.

The plot, too, follows a more or less predictable path. Once he has taken on the self-imposed role of vigilante, the avenger must first ascertain the identity of the villain (if he does not know that already) and then find some way of gaining access to him or her. For the genre demands that, at the end, the avenger confront the villain and administer punishment face to face. Typically, there are a number of obstacles to be overcome before this can happen (the villain is powerfully defended by numerous armed henchmen, lives in a remote place, is difficult to draw out of hiding, and so on). Rarely (but more interestingly) the avenger may be held back by scruples or doubts about the violence required to advance his cause (the Hamlet-Orestes prob-

lem). The number of such obstacles can easily be adjusted to suit the required length of the story: for example, the TV series *The Fugitive* (1963-67) spun the tale of Dr. Kimble into a 120-episode series (51 minutes per episode); the running time of the 1993 film of essentially the same story was 130 minutes. Once the obstacles are overcome, the tale almost invariably concludes with a gory celebration of killing, often (especially in revenge drama and western movies) with a pile of corpses littering the villain's palace or a dusty main street. In revenge tragedies, the avenger often lies among them; nowadays the endings tend to be more upbeat: once the killing is over, the avenger returns home and gets on with his life.

This boilerplate narrative can produce an apparently endless supply of commercially successful fictions (consider, for example, Charles Bronson's *Death Wish* films). The narrative does not usually explore in any significant way the ethics or justice of revenge (the story does not invite us to sympathize with the victims of the avenger's wrath, often portraying them as brutal, unshaven thugs, with accents from places east of the Iron Curtain or south of the Rio Grande). Sometimes the frequently murderous violence raises a question or two, as, for example, in *Harry Brown* (2009) – a film that might well have been named *Death Wish VI* – where Michael Caine's slaughter of drugged young men invites one to wonder about the probity of his actions in seeking to avenge a rather stupid friend. An exception to this lack of attention to the ethics of revenge does occur in *The Bravados* (1958), where Gregory Peck pursues his wife's killers, shoots three of them, and then discovers that they had nothing to do with the crime. However, any uneasy feelings we may experience are quickly assuaged: Peck's character repents before a priest, the three dead men have already been condemned to death for another homicide, the hero's comely new girlfriend (Joan Collins) is waiting, and the townsfolk are cheering him on.

I don't mean to criticize our most popular mystery, crime, courtroom, or revenge narratives unfairly, for they provide an endless source

of entertainment, and I'm a great fan, especially when I'm feeling in need of a relaxing, enjoyable diversion. Besides, if I wish to probe the issues more profoundly, I can always turn again to the ancient Greeks, especially to our most celebrated dramatic exploration of justice and revenge, Aeschylus' *Oresteia* (first produced in 458 BCE), in which the concept of justice within the Greek *polis* is transformed.

In the opening play of Aeschylus' trilogy, the community's sense of justice rests on a single tenet – the killer must be killed – a revenge principle enforced by long-standing traditions and by the Furies, ancient goddesses who hunt down murderers, especially those who kill members of their own family, or individuals who fail to avenge the killing of a close relative. By the end of the trilogy, a new form of justice has been established, a trial in which members of the human community adjudicate the guilt or innocence of someone accused of murder and reach a conclusion by rational persuasion. However, this transformation does not repudiate the old authority of the Furies but incorporates it in an intriguing and significant manner into the new understanding of justice and law.

The drama centres first on the appalling history of the rulers of Argos, our most famous literary royal family, the House of Atreus, in order to expose the problematic nature of a justice system based on revenge. At the start, the Chorus (the old men of Argos) await the return of their king, Agamemnon, who has been away for ten years fighting at Troy. They are full of apprehension because they know that in his absence his wife, Clytaemnestra, and her lover, Aegisthus, have seized royal power in Argos and are intending to kill Agamemnon as soon as he gets home. Clytaemnestra wants revenge for her daughter Iphigeneia, whom Agamemnon sacrificed in order to obtain from the gods a fair wind so that his army could sail to Troy, and Aegisthus wants revenge for the atrocious crime Agamemnon's father, Atreus, committed when, at a dinner supposed to mark a family reconciliation, he secretly fed his brother Thyestes the flesh of his own children (the notorious Thyestean banquet). In order to produce a male

avenger of this act, Thyestes raped Pelopeia, his own daughter, as a result of which she gave birth to Aegisthus.

The Chorus is morally paralyzed because they do not want Agamemnon to be murdered (he is, after all, the legitimate king, and political order requires his presence), but the only system of justice they know requires that he die. They bring out again and again the truth of the old adage: justice based on an eye for an eye ends up leaving everybody blind. And so they stand around exchanging uneasy thoughts and memories, hoping desperately that somehow things will work out all right.

Agamemnon duly arrives, bringing with him Cassandra, a captured Trojan princess, whom the army has awarded the king as a battle prize. Shortly thereafter, Aegisthus and Clytaemnestra murder Agamemnon in his bath and, for good measure, slaughter the entirely innocent Cassandra as well. Then the two murderers confront the Chorus and defy them to do anything about their actions. What is crucially important here is the attitude of Aegisthus and Clytaemnestra to what they have just done, because they both reveal that their motive was not (as they later claim) a sense of justice for past crimes but blood lust, a combination of hatred, deceit, and pleasure in slaughter – a combination unleashed by the ethic of revenge. Clytaemnestra is so intoxicated with the murders she has just committed that she informs the Chorus (and us) how much she is now looking forward to even better sex with Aegisthus. Shocked by this, the members of the Chorus, for all their moral confusion, finally begin to take a united stand against what has violated their sense of justice, and the first play ends with the ominous threat of a civil war.

The second play opens with the secret return to Argos of Orestes, Agamemnon's and Clytaemnestra's son. He has come to pray at the grave of his father, to rejoin his sister Electra, and to sort out his judicial responsibilities. For Orestes, unlike the other avengers we have met, is seriously conflicted: should he avenge his father by killing his mother (and her lover) or not? What is the right thing to do? The simple

revenge ethic is of little help, because whatever he decides, he will be incurring the wrath of the Furies. Orestes makes it clear that he wants to act justly rather than simply relying upon his feelings. He has consulted Apollo's shrine at Delphi, and the god has told him he must avenge his father. But still he is not entirely sure. And so he questions and seeks advice from his sister and the Chorus (slave women captured at Troy) – and together they pray for their success. The action is, in effect, a group purification ritual in which passionate hatred and blood lust are set aside so that they can foster their intense desire for justice. Once their doubts are resolved, they proceed with their plan and kill Clytaemnestra and Aegisthus. Orestes immediately feels the vicious presence of the Furies, begins to fall apart and, as the play ends, rushes off to seek refuge in the temple of Apollo.

The trilogy culminates with the trial of Orestes in Athens. Here, in an extraordinary development, Athena, goddess of wisdom and leader of the proceedings, announces that this matter is so complex that only a jury of citizens can resolve it. Justice is no longer a matter for the gods to determine. In fact, the best way to serve justice in a particular case is to apply human reasoning, argue the different sides, and settle the matter by a vote. This process takes place, the citizens' votes are equal, but Athena has cast her vote for Orestes, and thus he is acquitted. The Furies are outraged and threaten dire consequences for Athens, but Athena persuades them to set aside their objections and to join the judicial process by granting them an enormous power: while human beings will resolve the guilt or innocence of the accused in a reasonable jury process, unless they satisfy the Furies, the city will not thrive. We can only be truly just if we combine rational persuasion with the deepest irrational feelings: justice must not only be done; it must be seen (and felt) to be done.

Aeschylus, one should note, is not offering a practical blueprint but rather a visionary hope. The *Oresteia* ends with a profound and very emotionally charged sense that the community can move beyond a powerful but problematic emotional basis for justice and, with the

sanction of the divine forces of the world and through what Athena calls *persuasion*, establish a system based on group discussion, consensus, and juries, without angering the Furies, and thus unite a conceptual, reasonable understanding of justice with our most powerful feelings about it. This work is, as the poet Algernon Swinburne observed, one of the greatest visions of human life ever written, for it celebrates a dream we have that human beings in their communities can rule themselves justly, without recourse to blood vengeance but without neglecting its appeal, satisfying mind and heart in the process.

Our own justice system (in Canada and elsewhere) recognizes principles similar to these Aeschylean insights (for example, in the contested practice of jury nullification, where the feelings of the jury about a case and the applicable legislation can override the evidence and the law, as in the Morgentaler decisions). One of the more curious of these principles is the requirement that, before the sentence is pronounced, those most closely affected must be permitted to submit written or oral statements in court about their feelings.

The victim impact statements are usually very emotional, especially where the crime is really nasty, and reporters who broadcast news of what was said characteristically talk of how this part of the trial “brings closure to the victims,” an extremely stupid summing up of the process, since no close relative of a loved one who has met a violent death ever finds “closure” (whatever reporters mean by that term) thanks to a few speeches at the end of a trial. Victim impact statements, however, do bring (and are, in my view, designed to bring) a sense of closure to those who have no immediate connection to the case. The raw feelings on display reassure us that we have propitiated the ancient goddesses of blood revenge and thus helped our city to thrive. •

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