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### Clint Eastwood and Equity: Popular Culture's Theory of Revenge

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# Law in the Domains of Culture

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*Ann Arbor*

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# Clint Eastwood and Equity: Popular Culture's Theory of Revenge

*William Ian Miller*

Revenge is not a publicly admissible motive for individual action. Church, state, and reason all line up against it. Officially revenge is thus sinful to the theologian, illegal to the prince, and irrational to the economist (it defies the rule of sunk costs). Order and peace depend upon its extirpation; salvation and rational political and economic arrangements on its denial. The official antivengeance discourse has a long history even preceding the Stoics, taken up and elaborated by medieval churchmen and later by the architects of state building.

The state builders constructed two basic antirevenge accounts. One was given its final form by legal historians of the nineteenth century. They told an evolutionary story that saw blood revenge replaced by compensation payment and then compensation by the rule of law. For them revenge died naturally, suffering from obsolescence and inadaptability. The other main account is from contractarian political theory. Like the legal historical one, it supposes a vengeful world in times long past, but it departs from the legal historical model by seeing revenge not as disappearing by some inevitable force of human progress, but rather as something that must be continually overcome by acts of will, conscious political commitment, and wise social planning. If for the legal historian the order-threatening nature of honor and revenge doomed them by natural selection to extinction, then for Hobbes honor and revenge doomed humanity unless one worked to devise institutions to suppress them, for Hobbes knew that honor and glory were as much a temptation as they were a terror. Revenge still

plays the role of the *éminence grise*, the defining Other, in classic texts of liberal moral and political philosophy.

In contrast to a blood-feuding honor-based society in which revenge and honor are the center of one's public and psychic life, revenge for us operates mostly on the fantastic periphery. Among one repressed segment of us, for instance, revenges go on inside as fantasies of getting even, of dominating, of discomfiting those we envy, fantasies that are what Nietzsche supposed were the substance of *ressentiment*. And in another less repressed segment, revenge still thrives, but it is understood that that very thriving is the determinative characteristic of the ineffable vulgarity of young lower-class males.<sup>1</sup> In our world revenge becomes either small-minded or vulgarly loud and adolescent.

So revenge has died a death after a fashion. That is, the ruling elites officially gave up on it, substituting reason and cost-benefit analysis instead. But if the upper classes learned to walk away from fights with each other, the lower classes, whom by aristocratic ideology were denied the very capacity for honor, kept it alive in barrooms and in back alleys; even the children of the elite still cared about these things on the playground. Unofficially, of course, the upper classes still cared to get even, held grudges, and behaved like normally vengeful human beings, but their revenges were transmuted and took place in economic arenas and in routine social activities like gossip and slighting rather than in face-to-face confrontation. Honor and revenge did not disappear so much as become vulgar and unfashionable, a source of embarrassment to the refined and civilized that needed to be glossed over and carried out in disguise, if carried out at all.

No small part of the antihonor, antirevenge political and moral discourse was to distinguish revenge (bad) from retribution (justifiable). Retribution can still be mentioned in polite company and only with minor apology offered as a respectable reason for punishment of wrongs, administered as it must be by the state in a controlled, proportional fashion. Revenge, in contrast, is portrayed as crazed, uncontrolled, subjective, individual, admitting no reason, no rule of limita-

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1. I here make the obligatory move of noting that the judgment of vulgarity is an imposition of one class's view on another. That is obvious, yet I wonder if there isn't truly a Platonic form of vulgarity that allows the category to be serviceable for description. If we define the vulgar as a form of aggressive self-assertion, assertion that must recognize its own success solely by the fact that it disgusts the other, then we have liberated the notion of vulgarity from such easy relativistic dismissal.

tion. It is conceived of not only as lawless, but as unruled and ruleless. Revenge, so understood, is anathema to the rule of law. Criminal law books quote passages like this: "Vengeance is self-serving since it is arbitrarily (by its own authority) taken by anyone who feels injured and wishes to retaliate. Vengeance is not defined by preexisting rules nor proportioned to the injury avenged." That quote comes from a dedicated proponent of capital punishment eager to deny that capital punishment is merely revenge.<sup>2</sup>

Consider how Robert Nozick distinguishes revenge from retribution, turning revenge by definitional fiat into a pathology rather than a behavior upon which many societies we still think of as rather glorious based their moral and social order. (I take his distinction here as representative of the general antirevenge tradition of political, moral, and legal philosophy.)

1. Revenge is for an injury, retribution for a wrong.
2. Retribution sets an internal limit to the amount of the punishment, according to the seriousness of the wrong.
3. Revenge is personal; the agent of retribution need have no special or personal tie to the victim of the wrong for which he exacts retribution.
4. Revenge involves a particular emotional tone, pleasure in the suffering of another, while retribution need involve no emotional tone.
5. There need be no generality in revenge. Not only is the avenger not committed to revenging any similar act done to anyone; he is not committed to avenging all done to himself.<sup>3</sup>

Some might wonder whether retribution is preferable to revenge, even to a revenge so unfavorably defined. One might wonder whether a serious commitment to restoring the victim's dignity, rather than worrying more about how the victimizer might not be deprived of his, might lead us to prefer revenge to retribution in point 3. As to point 4, what do we suppose retribution without the accompaniment of emo-

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2. Ernest van den Haag, *Punishing Criminals* (New York: Basic Books, 1975), 10, quoted in John Kaplan and Robert Weisberg, *Criminal Law*, 2d ed. (Boston: Little, Brown, 1991), 29.

3. Robert Nozick, *Philosophical Explanations* (Cambridge: Harvard University Press, 1982), 366-68.

tions—like a sense of duty, indignation, disapproval, or outrage—would look like? How could retribution possibly be justified without an emotional accompaniment? Unemotional bureaucratic implementation of punishment looks much like law according to Kafka. The anti-revenger's problem more correctly must not be with emotions themselves so much as with particular emotions, namely *Schadenfreude*. (One might reasonably wonder whether *Schadenfreude* is in some real sense a necessary feature of corrective justice.) Point 5 prefers generality in the application of sanction, and there is much to recommend this position, but it comes at a cost: it rejects mercy in favor of dreary bureaucratic uniformity.

Let's put all this aside as raising issues both too complex and too divisive for quick disposition. What is clear is that revenge in the eyes of this tradition is merely a stand-in for anarchy and anomie. It is an uninteresting straw man. Of course no one wants to live around people carrying out revenge without measure for any imagined slight. Honor-based vengeance cultures found such people no less troublesome than bureaucratized societies fear them likely to be. And honor cultures knew how to handle such misfits with more than a slap on the wrist. The Norse called them berserks or *ójafnaðarmenn* (men of no measure) and found ways of rudely disposing of them. Revenge cultures don't dignify this straw man with the honorific of revenge, and neither, it turns out, do Clint Eastwood movies. There is, in other words, no meaningful distinction between retribution and revenge outside the confines of the antihonor discourse.<sup>4</sup>

One cannot help but notice that in American culture at least, in spite of more than a millennium of the antihonor discourse, revenge retains its allure. It still motivates more of our action than we like to admit, but that is nothing compared to how it motivates the plots of the movies we pay to see. We still hunger for revenge in one way or

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4. Robert C. Solomon (*Passion for Justice: Emotions and the Origins of the Social Contract* [Reading, MA: Addison Wesley, 1990]) is much kinder to the passion of vengeance: "[Vengeance] is a primal sense of the moral self and its boundaries. By denying the reality or the legitimacy of vengeance we deny this sense of the moral self and moralize away those boundaries of the self without which it makes no sense to talk about dignity or integrity. But these boundaries do not define just the individual. To the contrary, they for the most part enclose one's family and friends and the world that one cares about. . . . Not to feel vengeance may therefore be not a sign of virtue but a symptom of callousness and withdrawal. . . ." (41). See also Susan Jacoby, *Wild Justice: The Evolution of Revenge* (New York: Harper and Row, 1983).

another. If we can't take it ourselves because the law and other competing internal inhibitions won't let us, we still thrill to fantasies constructed around it. Even the authorities, the guardians and purveyors of the official discourse, are ambivalent about revenge. The very polity that will not allow its citizens to claim revenge as justification in its courts of law sees nothing strange about telling its people that revenge and honor are good reasons for invading another state. When God claimed vengeance to himself—"vengeance is mine, saith the Lord"—one senses he is not taking upon himself a burden but rather selfishly reserving to himself a pleasure, too good to share with mere mortals. It was because revenge was so alluring that barriers of sinfulness, criminality, and other forms of taxing it were felt to be necessary.

I do not mean to suggest that revenge is subject to a law of conservation. I do not believe that if you repress it here, it will pop up there, either as acne or as fiction. Or that the authorities will become more violent to the extent it is disallowed to the people. It is not, in other words, that the cultural fascination with vengeance stories is merely compensating us with fantasy for the loss of the reality. Real vengeance cultures couldn't get enough of these stories either. No conservation there. As an aside: The literature of revenge served more than just to amuse the denizens of heroic culture; it gave them heroic models to imitate. Fantasy also could be educative and aspirational. After all, vengeance taking was risky business, and not a few people would avoid it if they could. Conventional wisdom conceives of vengeance cultures as barely cultured at all, all id and no superego: big dumb brutes looking for excuses to kill. But it may be that we are less naturally *homo lupus* than *homo pullus*, not man the wolf so much as man the chicken. Prudence just may be more natural than foolhardiness. There is good reason to believe that it takes much more socialization labor to produce blood feuders than accountants.<sup>5</sup> Honor cultures assumed risk-averse man as the given. They thus developed elaborate means of goading, shaming, and humiliating to get people to do their dangerous duty.

Revenge and honor are not part of some presocial, precultural,

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5. See William Ian Miller, *Humiliation* (Ithaca, NY: Cornell University Press, 1993), 5; and Gilbert Herdt, "Sambia Nosebleeding Rites and Male Proximity to Women," in *Cultural Psychology: Essays on Comparative Human Development*, ed. James W. Stigler, Richard A. Shweder, and Gilbert Herdt (Cambridge: Cambridge University Press, 1990), 366-400. Herdt demonstrates the extraordinarily intense and intrusive socialization work that must be engaged in to maintain a culture of violence in the face of fear, risk aversion, prudence, and desires for ease and relaxation.



wolfish human nature. The story is more complex. We might reasonably assume that a desire for justice and the capacity for experiencing something like indignation at injustice are near universal features of human affective life, but we are not entitled to assume that the desire for justice will be played out in the same way cross-culturally. If we take revenge to stand for the extreme instance of killing those who dishonor us, then some cultures go in for it more than others. If we take revenge as a more generalized concept of simply meaning to pay back the wrongs done us, then we may be butting up against a necessary condition of human social arrangements: reciprocity and exchange.

In honor cultures, justice was inextricably tied to the notion of honor (and hence to revenge) although not entirely congruent with it. But let me put that aside as a matter to be dealt with at another time. For our present purposes it is sufficient to note that revenges were understood as ripostes to shames. Without being dishonored, there was no cause for revenge. The whole process of vengeance taking was, at least in the saga world, understood in metaphors of debt and gift exchange, of giving, owing, and paying back what you owed. You owed a man a return for the harms he inflicted on you. You were thus, strangely, considered to be in his debt for the wrong he had done you. And the cardinal rule of justice (and honor) was that debts must be reciprocated. Not to pay back is to be unmanly; it is to be perpetually the victim. The condition of owing someone is a privileging condition, for it was by paying back that you manifested your honor and revealed yourself as entitled to it.

Honor is not just about repaying harms. If someone does you a nice turn, honor also demands a return. Like a harm done you, a favor done you makes you a debtor, and you are a lesser moral being if you do not repay what you owe. In both cases, you are shameless and acting without justice. There is an elegance in this simple model of reciprocity; it is one, moreover, that still holds many of us in its grip. Notice that such a model does not allow for easy forgiveness of wrongs or harms; in fact, it makes it conceptually incoherent.<sup>6</sup> I can forgive what you owe me, but not what I owe you, and I owe you for what you have done to and for me. To forgive is thus to act like a coward, or a welsher.

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6. Forgiveness of course was possible in cultures of honor, but it was an option available only to the powerful, that is, to those for whom it would look like a grand gesture precisely because they had the power to carry out a strategy of nonforgiveness if they so chose.

We too at some level accept the model of positioning the wronged person as debtor. Payback time, we say. But we also use the notion of indebtedness and repayment to describe the wrongdoer's position. We say he owes the victim or he owes a debt to society; we speak of him as having to pay for what he did, to atone for, to expiate his wrong. This paradigm competes with the one of the preceding two paragraphs. It transposes the roles of creditor and debtor. In this second paradigm the strategy of forgiveness is morally possible since it is no longer the victim who owes. This paradigm, however, tends to ignore the victim and focuses instead on the wrongdoer. It looks to what the wrongdoer must suffer, rather than to what the victim must do to even up the score. This is the notion that underlies the idea of penance, sin, and state-defined crimes. If we look only at what the wrongdoer should suffer, then it is not important that he be made to suffer by his victim just so long as he be made to suffer by some authority charged with punishing him. Although this paradigm is perfectly consistent with revenge, as a historical matter it came to be part of the justification for giving a monopoly on vengeance to the state.

In the first paradigm—victim as debtor—we speak of paying back; in the second—wrongdoer as debtor—we speak of paying for. This can mark a notable difference.<sup>7</sup> The notion of paying for focuses on the wrongful act, which provides the grammatical object of the verb. Lost in this grammar of payment is the idea that the act created or modified a relationship between specific people, between, that is, the wrongdoer and the victim. In the usual way “paying for” is institutionalized, one doesn't pay for the wrong one did by paying something to the victim, but by propitiation of some abstraction or fiction, like the state or God or the Furies, which then literally cash in on the discords of the society over which they claim authority. In the paying-for paradigm, the victim pretty much disappears as an object of interest. The notion of paying back, however, makes no sense unless the victim or his representative is there to hit back. Under this paradigm, it is not the wrongful act that is the focal point. The focus is rather on the victim, who now has both the right and the obligation to repay the wrong done to him by retaliating against either the wrongdoer or someone closely connected to him. In this account, creditor and debtor, wrongdoer and victim are now bound

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7. Compare Herbert L. Packer (*The Limits of the Criminal Sanction* [Stanford: Stanford University Press, 1968], 38–39), who finds each view simply different figures of speech for the same retributive principle.

together in an exchange relationship. This is a model we recognize only too well. It may not be the criminal law's model, but it still holds us in our grip.

But the two competing paradigms, which seem utterly antithetical regarding who stands in the debtor's shoes, are not mutually exclusive. Paying back does not, for instance, preclude seeing the wrongdoer as having paid for his wrong once he has been paid back. (Even blood-feuding cultures could understand paying back someone in revenge to be not entirely inconsistent with letting the wrongdoer pay compensation to the victim to buy off vengeance.) In some respects the two models march quite well in tandem. One model sees events from the avenger's perspective, the other from the wrongdoer's.

This intermingling of idioms, however, represents more than just a simple shift in perspectives, for the shift can have substantive consequences. The first perspective, paying back, is a pure model of revenge; the second, paying for, as just indicated, although consistent with revenge, has come to undergird a retributionist model of state-delivered justice in which the victim has little or no role to play; it is a model of a neutral arbiter administering deserved punishment to the wrongdoer but undertaking no obligation to the victim, who must find solace, like any other citizen, in seeing order maintained and some kind of small justice done. Still we talk rather loosely; even when we focus on the wrongdoer's hurt at the victim's hands, we are capable of rapid alternation between the idiom of both paradigms without feeling very troubled by mixing our metaphors. We thus can say he got paid back (the victimcentric model), he got what he had coming (an expression ambivalently hovering between the two models), and he paid for what he did (the straight expiatory model) in virtually the same breath. And this kind of loose talk suggests what the representations of justice in popular culture seem to bear out: subject to a few qualifications to be adduced subsequently, we are rather indifferent as to which model governs as long as justice gets done. We would be perfectly pleased to accord to the state our right and duty to take vengeance if in fact the state did not renege on its promise to take it. The payback model remains so attractive partly because the state is not able or has not seen fit to make wrongdoers pay for their wrongs.

Whatever else revenge may be, it is a style of doing justice. The apologists for state building and the rule of law never denied that. It was not

injustice, but in Bacon's formulation "a kind of wild justice."<sup>8</sup> But can there be justice divorced from the passions? Can justice, corrective justice at least, ever be a coldly rational process, mere deliberation, say, behind a veil of ignorance? Justice is inextricably caught up in an emotional economy whose constraints must be satisfied, or there is no satisfaction. Note that satisfaction is both an emotion and a quasi-judicial state representing the fact of justice having been done; that is, we speak of the satisfaction of a claim and the *sense* of satisfaction at having the claim rightly or justly satisfied. Without a sense of just satisfaction there is no justice. Justice, if it means anything, means having people feel the sense of it. The ultimate legitimacy of the institutions charged with administering justice depends on this sense. Without it there is demoralization, despair, and cynicism.

The sense of justice being done can be experienced in different ways: it can range from a purposeful and even grim moral sense, through various shades of *Schadenfreude*, to a triumphant ecstasy. Revenge drama depends on this sense of satisfaction, too, and within the broad category of the revenge genre we can find those that play to the grim and tragic rightness of necessary revenge (*The Iliad*, *Njáls saga*, *Hamlet*, *Unforgiven*) and those that elicit ecstatic triumph that usually manifests itself in the observer by an almost involuntarily uttered, "yeah, right." It is this end of the spectrum that provides the emotional and moral economy of so many classic revenge films of the last couple decades: for example, *Death Wish*, *Dirty Harry*, and low-budget rape-revenge films.

The modern revenge film is characterized by a specific emotional economy that marks the genre, in fact determines it. Emotion-based theories of narrative genre are as old as Aristotle.<sup>9</sup> Tragedy takes us through pity and fear to catharsis; the modern Eastwood-style revenge narrative takes us from indignation and outrage at a wrong, via fear and loathing of the wrongdoer, to a sense of satisfaction of having the wrong righted on the body of the wrongdoer.<sup>10</sup> The outrage and sense of satisfaction are crucial and definitive of the genre, but along the way

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8. "Of Revenge," *Essays*.

9. See *Poetics*, chap. 13.

10. Note that this distinguishes the revenge genre from Aristotle's model of tragedy, which should leave us emptied, rather than exhilarated. For a treatment of the relation of comedy to the emotions of embarrassment and relief, see my "'I Can Take a Hint': Social Ineptitude, Embarrassment, and *The King of Comedy*," *Michigan Quarterly Review* 33 (1994): 323-44.

from outrage to satisfaction we also expect to experience some mix of apprehension, hopefulness, anxiety, frustration, despair, terror, disgust, and suspense. The indignation that gets the revenge story moving is the purest of moral emotions, triggered by the experience of injustice and more often than not more readily experienced on behalf of another than on one's own behalf, where it often gets mixed up with various self-interested envies and resentments.<sup>11</sup>

An aside: In our time the experts at emotion-genre theory are video store managers or the people at Blockbuster who shelve the titles. They understand that people pay to see a film in the expectation of experiencing certain emotions, and the films are classified accordingly. Thus some genres even take their name from the emotion bargained for. Horror and suspense<sup>12</sup> are clearly referenced to emotions, but we have come to understand that comedy, drama, and action-adventure have less to do with describing the substance of the film than the range of sentiments we are paying to experience. We thus understand action-adventure, for instance, to be, in effect, an emotion term.

The modern revenge film is about justice, doing justice. It is related to action and horror films, but there are crucial differences that distinguish the genres. In the revenge genre, the hero hunts down the wrongdoer; in action-adventure or horror, the hero is usually trying to escape a wrongdoer intent on harming him or her. In that genre he is the fugi-

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11. Hobbes, in fact, defines indignation as "anger for great hurt done to another when we conceive the same to be done by injury" (*Leviathan* Part I, chap. 6, emphasis added). Indignation and resentment are commonly collapsed into one moral emotion, but that may miss some important distinctions between the two. Resentment is harder to experience vicariously than indignation. Resentment seems bound up with envy; it is perhaps a kind of rightful envy. Indignation is bound up with anger. Resentments can be nursed, not indignations. Part of the confusion is that indignation has no nonobscure verb formed from the same root, and *to resent* has come to fill the void. So we say we resent things we are indignant about; still, at the level of the noun, we discern a difference. We seem to feel the difference between indignation and resentment. See John Rawls's account of resentment and its relation to envy and distributive justice in *A Theory of Justice* (Cambridge: Harvard University Press, 1971), 531–34; for a much less sympathetic account of resentment, largely subsuming it to Nietzsche's *ressentiment*, see Robert C. Solomon, *The Passions: The Myth and Nature of Human Emotion* (Garden City, NY: Anchor Press, 1976), 352–58.

12. For one attempt to connect the horror genre with a specific emotional economy, see Noel Carroll, *The Philosophy of Horror* (New York: Routledge, 1990) and the critique of his theory of emotions by Robert Solomon, "The Philosophy of Horror, or, Why Did Godzilla Cross the Road?" in *Entertaining Ideas* (Buffalo: Prometheus Books, 1992), 119–30.

tive,<sup>13</sup> unjustly accused, or she, more likely, is the final girl in various slasher films<sup>14</sup> or big-budget action-horror films such as the *Alien* and *Terminator* movies.<sup>15</sup> Villains in the action-horror genre often pretend to a claim of right; they fancy themselves as avengers in their own revenge dramas. This is Max Cady in *Cape Fear* or the villains in *Patriot Games*. These are would-be avengers aspiring to the status of avenger but who are not granted it. We, the third-party observers, are the arbiters in this matter. And the chief reason we do not grant them legitimacy is that we judge them to be acting in accord with the straw man model of revenge. They are not reacting to wrongs, but either to punishments that they deserved or to imagined insults. In the hero-as-hunted genre in which they find themselves, their claims are recognizably without right, their methods of revenge pathologically disproportionate, and their motivation inappropriate. They have idiosyncratic notions of their own right, and as a result, they do not engage us sympathetically.

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13. For an interesting instance of genre confusion, consider *The Fugitive*, which mixes and redoubles the hero-as-hunted with hero-as-hunter genres and then superimposes them on a mystery plot. The film has a hunted hero (played by Harrison Ford), who in turn must play detective and hunt for the killer of his wife so as to exculpate himself. He is a reluctant avenger, if one at all, seeking his wife's killers less for revenge than for his own exculpation. This causes some problems for the revenge aspects of the film, which get lost in the shuffle. The wrongdoer turns out to be less the killers of his wife than the inept legal system (again) that unjustly punished him. But the film also has a typical hunting hero (Tommy Lee Jones), whom the plot disables from fulfilling the expectations of that role because he is hunting an innocent man. He is only able to reclaim a kind of avenging status when his and Ford's missions coincide to apprehend the killers.

14. The term comes from Carol Clover's definitive study of the slasher genre in *Men, Women, and Chain Saws: Gender in the Modern Horror Film* (Princeton: Princeton University Press, 1992), chap. 1.

15. These genres are not rigidly bounded, however, and can flow by degrees into one another, depending, often, on certain ebbs and flows in the hero's fortunes. Dirty Harry can hunt Scorpio as Scorpio hunts him, or the hunted hero can defend herself by getting into the avenging style and mimicking it, as with Sarah Connor (Linda Hamilton) at the conclusion of *Terminator* ("You're terminated."). Genre confusion seems to confuse Quentin Tarantino, who takes great objection to the conclusion of *Patriot Games* in which the Harrison Ford hero hits the villain, who then dies by falling on an anchor. "As far as I'm concerned, if you're going to make a revenge movie, you've got to let the hero get revenge. There's a purity in that. So you set it up: the lead guy gets screwed over. And then you want to see him kill the bad guys—with his bare hands, if possible. . . . [T]he minute you kill your bad guy by having him fall on something, you should go to movie jail. You've broken the law of good cinema" (*Harper's* [August 1994, p. 22]). Tarantino is holding the hero-as-hunted to the standards of the hunting hero. The former as a reluctant and defensive avenger is granted more leeway in the lethal competence of his revenge taking. If Ford's character were a true avenger in the Dirty Harry or Charles Bronson style, the villain's death by accident would indeed be unforgivable.

Look how thoroughly we reject the straw man conception of revenge constructed by political and moral philosophers. We do not call Max Cady in *Cape Fear* or Frank Miller in *High Noon* avengers; we do not even call them evil avengers. We simply call them villains. We value the avenger status too much to accord it promiscuously to anyone with some crazed unconfirmed sense of his own wrong. The avenger status carries with it right and legitimacy, and thus we confer it on those whose claims are deserving. As in honor-based societies, revenge must be bound up with publicly sustainable claims of right. Yet in this very pretension of the villain to the avenger status, homage is paid to the virtuousness and justifying power of revenge.

In the violent real world of honor and revenge, it is not always clear who is villain and who is good guy, for each side takes its turn harming the other and each side can usually construct a story in which they are the victims who have the obligation to pay back wrongs done them; but fiction seldom fails to make that clear, even if some of our heroes and nice guys are not always the nicest of guys and by a common film cliché come to resemble their opponents. Gray as they may be, we know to root for Clint Eastwood in *Dirty Harry* and even in *Unforgiven* and Charles Bronson in the *Death Wish* movies.

We are all readily manipulated by narrative techniques that keep us partisan to the gray hero, even though that grayness must inhibit to some extent the ease with which we can be moved to support the hero's claims for revenge. The usual move, of course, is to make his point of view the controlling one. Our sympathies will tend in his direction, not so much because he is good as because he is familiar. And then our allegiance is nicely assisted by making his opponent evil, or if not uncomplicatedly evil, then an utterly unremorseful doer of an avengeable wrong. The narrative is thus bracketed in time so as not to provide us a basis for excusing or justifying the wrongs of the villain. He will be the first mover in the chunk of time deemed relevant for the narrative, the upsetter of an uneventful and moral equilibrium. The wrong must be the first act, the necessary condition to there being a story to tell at all. The hero will thus be a reactor, which is precisely the role the deliverer of corrective justice must take. He does not aggress; he responds. And our loyalties to him are locked in as long as he meets two minimal criteria: (1) getting the right guy and (2) having the right guy having the proper mental state to justify his being hit.

This second criterion means that the villain cannot experience

remorse. Regret, yes, for getting caught or for having failed, but not remorse for the wrongness of his deeds. In fact, our pleasure at justice being done is not unconnected to the wrongdoer experiencing regret. His regret is the purest sign of his terror at the hero closing in for the kill. His remorse, however, would befuddle us somewhat, and so the genre obliges us by making him too hardened to feel it. The indignation of third parties that prompts the passion for revenge has a hard time sustaining itself in the face of the wrongdoer's true remorse. Revenge might still be necessary, might still be rightful, but it now changes its style. The "yeah, right," the tone of triumphant exhilaration, would be unseemly in these circumstances and is properly replaced by a sense of the tragic, a grim sense that doing right does not always mean feeling good and must even carry out its mission as our sympathy shifts from the victim to the wrongdoer. The sense of justice done is not always exhilarating; in the tragic genre, it is spiritually draining.

The revenge genre as we have come to know it in film distinguishes two broad types of avenging hero: the one is the victim who rights the wrongs done to himself. Slow to anger, uncertain about violence, he finds himself less choosing revenge than having it pushed upon him by the inability or refusal of legal institutions to give satisfaction. He is also urged on almost magically by the audience, whose sense of outrage and indignation confirms the rightness of vengeful action. Charles Bronson in *Death Wish* stands as an easy example. The other type is the quasi-professional avenger, usually a tough cop, who looks to right wrongs done to others because by some understanding that is what his job is. This is Dirty Harry, who looks to take revenge because he *knows* that legal institutions will not give satisfaction unless he controls the institution's response. The first type of hero follows the payback model; the second, because he is taking revenge on behalf of someone else and because he is often himself a state functionary, mixes an attenuated payback with making the villain pay *for* it. Like the state, he claims vengeance as his; unlike the state, he has not quite forgotten the victim's and the indignant observer's claim for justice. Like us in the audience, this type of hero is technically a third-party observer. His indignation is ours, but he insists on acting on it. He acts for us; he is the state as it would act if it were understood that justice makes certain substantive demands that are inconsistent with a narrow devotion to pure legal form.



The position of popular culture is not just that wild justice is real justice. It doesn't stop there. Implicit in stories of revenge is that revenge is a criticism of state-delivered justice. Films like *Death Wish*, *Dirty Harry*, and their sequels and imitations justify the private justice of revenge precisely because the law is variously inept, corrupt, or blind to the just claims of victims and of indignant observers. In these films, Miranda warnings, Fourth Amendment search-and-seizure rules, short prison terms and easy parole frustrate justice again and again. The constitution is understood to have been trivialized by the law itself, providing nothing but a bag of lawyer's tricks designed to let predators continue to prey. Good cops can't be good cops and still be legal cops. So the good cop must strike out on his own to do justice against laws that prevent justice, as is the case with *Dirty Harry*; or if there are no cops willing or able to protect the citizenry and bring criminals to justice, then the private citizen must undertake to do it himself as in the *Death Wish* movies.<sup>16</sup>

It is not just those films explicitly proclaiming the virtues of wild justice that evidence little confidence in law and legal institutions. The films that show justice being delivered by the legal system show it being delivered only by the heroic efforts of one particularly courageous or miraculously skillful player. It takes Atticus Finch, Kelly McGillis in *The Accused*, Perry Mason, Charles Laughton, Henry Fonda; it takes genius, cunning detectives, brilliant lawyers, or jurors willing to nullify or violate their oaths (as in *Suspect*) or heroically to defy group pressures (*Twelve Angry Men*). When a film uses the cliché "don't take the law into your own hands" and argues for recourse to legal process, it isn't the routine administration of legal justice that will provide relief. The just result is only available by extraordinary measure, which often involves breaking the law,<sup>17</sup> for the usual bureaucratic structures are inept and blind, given to form not substance, preferring smooth administration to justice. Left to its own devices, the law produces bad results. In a way, this style of film is more antilaw than the revenge and urban vigilante genres. It implies that the law always needs heroes; it requires the extraordinary, the fortuitous, the trick, to produce right results.

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16. A movie like *Falling Down* plays off these expectations, too, but avoids difficult issues by making the protagonist manifestly crazy.

17. See Robert C. Post, "The Popular Image of the Lawyer," *California Law Review* 75 (1987): 379-89 for a discussion of the "classic American theme" of the lawyer who "must be lawless in order to uphold the law" (382).

Without heroic interposition, law and justice have at best only occasional random convergence.

The avenger's position vis-à-vis the law is less cynical about law. The avenger does not view himself as providing a complete alternative system to formal bureaucratic law. He views his role as interstitial. He comes to remedy and complete the law, not to replace it. He has no problem with the idea of legal rules when they deliver justice, with justice conceived in terms of satisfying the rightful indignation and remedying the harms of victims rather than in terms of complying with the procedures designed to protect victimizers. He gets the law to fulfill its central mission when legalism prevents it.

Dirty Harry, in other words, does equity. He is not a law unto himself. He works where the law fails to deliver justice. Like a chancellor, his right to intervene depends on the law getting a chance to get the right result; his actions are in every sense derivative of the law, secondary, complementary, and equitable. In fact, the idea of Harry would make no sense in a world of no law, for what drives his style of heroism in particular is its implicit critique of the legal system. Like the chancellor, too, he acts upon the body of the wrongdoer, the person unjustly benefiting from legal rules that are producing offensive, shocking, and unconscionable results. It takes a viewer especially unwilling to suspend prior commitments not to feel the equity of Harry grinding the loathsome Scorpio's injured leg with his foot.<sup>18</sup> The equity that motivates Harry does not deny the emotional economy that drives justice. Rightful indignation demands to be compensated with a sense of satisfaction. Harry would lose his moral force (and box-office allure) if he could not satisfy this most moral of emotions.

In another view, common to many Westerns and to the urban vigilante film, it is not so much that the law will get it wrong, as that the law, even when working as it was meant to, only gives second-rate or second-best justice. That is because the interposition of legal form dissipates and delays satisfaction; heroic possibility is taken from the victim or avenging cop and claimed in vitiated form by the lawyer. Fists

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18. Popular culture has not yet gotten around to blaming juries for failings in the system. The failings are still a matter of corrupt and inept officialdom, not lay people who are just trying to do their best but getting it wrong. Surely one could make films blaming the five or six Menendez jurors who were willing to give credence to any claim, no matter how unsubstantiated, of child abuse, or the jurors who acquitted O. J. Simpson in the face of a mountain of evidence, but that has not happened. Rather, I suspect, the critique will continue to follow the *Dirty Harry* and *Death Wish* line.

and bullets, the ability really to terrorize the villain, are transposed into talk and the promise of prison. Law is slow, it is prudent, and, unless it ends in execution, it always leaves open the prospect for the villain to get out and get back. Carol Clover asks us to compare the knowing smile of satisfaction on the face of the avenging rape victim that closes out *I Spit on Your Grave*, a low-budget pure rape-revenge film, with the picture of a courthouse, the closing shot of *The Accused*, a big-budget softening of the rape-revenge genre.<sup>19</sup> She notes that too many real-world stories of convicted rapists coming back to stalk, torment, and kill the complaining victim undercut such “happy” endings in the style of *The Accused*. I would add that legal endings usually make for a distinctly weaker sense of satisfaction. Satisfied, yes, but still looking over your shoulder. The death of the wrongdoer brings serious closure to the business at hand; a guilty verdict is only a stay, a promise of closure. Imagine a tragedy in which the protagonist or the villain went off to prison rather than to death. It is comedy and romance that hold the prospect of return, rebirth, and reintegration; the formal demands of revenge stories, like tragedy, require something more than a weak climax of prison.

The notion of revenge that plays the straw man for various traditions of legal and political theory is, as indicated earlier, by definition anarchical, uncontrolled, unprincipled, unbalanced. But the revenge of movie-hero avengers is not without normative constraints. Recall first that the avenger functions in equity. He does not deny law, he improves it. And he does not improve it by some standardless personal set of rules. We as moviegoers understand precisely that he rights wrongs, wrongs that we as an audience agree are wrongs. And not just any wrongs either. Since the avenger is likely to punish the wrongdoer capitally, the wrong must be serious. He thus is not imposing a different set of rules of right and wrong than we hold ourselves. That is what villains do. In his view, as well as ours, it is thus wrong to steal, to rape, to bully, to extort, and to kill without just cause. He, in other words, accepts much of the substance of the law. Note too that the avenger must not strike us as crazy except in his willingness to take risks to get villains. This is why Martin Riggs (Mel Gibson) in *Lethal Weapon* falls on the right side of the line but the protagonist (Michael Douglas) of *Falling Down* does not. The Douglas character is just the kind of person we do not trust to get it right, and while we delight in him blasting the

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19. Clover, *Men, Women, and Chain Saws*, 148–49. The chapter on rape-revenge films (chap. 3) is a must-read.

franchise burgers for their failure to look as good as advertised, we know we are in the world of farce and pure fantasy when he does so. Clint, Bronson, and Gibson are different. They do get it right both as to the identity of the target and the quantity of deserved punishment. The pure revenge genre makes the avenger a very morally discriminating soul. If his risk seeking seems beyond the norm, his judgments about just desert, praise and blame, are much less controversial.

Let me take a detour for a moment into how revenge might be regulated in a stateless honor-based culture. Honorable people did not undertake revenge lightly. Revenge was never properly an individual matter; people consulted with their kin and friends before taking it, thus socializing the decision-making process. It was not just up to the individual who felt himself wronged. Kin and others would let you know if you were being supersensitive, and they would goad you to do your duty if you were not being sensitive enough. What they were concerned about was the appropriateness of your response, and they were there to help you get it right. You also needed your kin and friends for more than just advice. Most likely, you needed their help in carrying out the revenge, and you would surely need their aid when it was your turn to be on the defensive. Above all you needed the audience, the public, the uninvolved, to recognize that you were behaving appropriately and not being supersensitive. For the uninvolved were the possible class of supporters of your enemy, and support him they would if you were simply being asocial. If your cause was just, you would have an easier time getting third-party support; if it wasn't, it was easier for your enemy to get that support.

Since revenge left not only you but also your kin open to reprisal, those kin had a genuine interest in your vengeance-taking designs, and you might rein in your vengeful desires to accommodate their interests. Remember that in most vengeance cultures, you were not required to kill the person who had wronged you; his brother, cousin, uncle, son, or father could serve just as well. The principle of group liability, somewhat counterintuitively, actually did much to constrain wild revenge. If you could get killed for your uncle's jokes or your cousin's womanizing, then you had a very keen interest in your uncle's sense of humor and your cousin's sex life. You policed those with whom the other side was likely to lump you.<sup>20</sup>

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20. For a full discussion of these issues, see William Ian Miller, *Bloodtaking and Peacemaking* (Chicago: University of Chicago Press, 1990), chaps. 5–6.

We in more advanced cultures have somewhat different views on group liability. Officially the criminal law, except for a few strict liability offenses involving relatively minor monetary sanction, is very concerned only to punish people who have in fact done a prohibited act with a guilty mind.<sup>21</sup> Without any fuss or sense of frustration, our avengers accept the law's rules of liability. They will only kill wrongdoers or in self-defense. They do not kill the fathers or sons or cousins of wrongdoers unless they also are wrongdoers. The individualizing of punishment helps create a set of expectations that liberate our avengers from having to think all that precisely about members of their own party who might be put at risk by their actions. In fact, it is rather remarkable how the story line saves them the problem of having to worry about others. Either they are loners who make it a business to take risks to do justice, like Dirty Harry, Arnold, or Rambo, or, in another genre, they are peaceful men compelled to become avengers because family or friends have been victimized by the villain (*Death Wish*).

In either case, the avengers of the movies are often strangely detached from family, from friends, often having neither. They are men who are more likely to have had family than to have it. Clint is the Man with No Name; or he is Dirty Harry and William Munny, widowers, who are mostly careful to avoid sexual encounter. Harry's occasional lapses in this regard are brief and inconsequential. These are men, in other words, for whom there is little inducement to consult with others about their course of action. They might be ordered by superiors or begged by friends to desist or save themselves, but they do not consult. They are individuals, almost grotesque parodies of American commitment to the ideology of individualism. The genre compromises their isolation only to give the avenger a tiny bit of vulnerability. Harry and Riggs have partners who along with the partners' families are put at risk, and this leads to some consternation, but not to doubt or to consultation. Partners, inevitably, are there to die so as to give the professional avenger a cause in his own right rather than merely as a surrogate for incapable victims.

But even if the avenger does not consult diagetically, that is, with characters to whom they are linked in the film itself, they in fact consult with us, the audience, who must agree with their commitments to find

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21. I wish to avoid here certain modest hedges we might have to make for doctrines of felony-murder and conspiracy.

them worth rooting for. That may not be much constraint since, by some views, the entertainment value of the form depends on a release from constraint. But the avengers do justice, and that is one very serious constraint on their action, not only as to choice of vengeance target but even as to the methods of death. Harry especially, but even Arnold, Rambo, and Steven Seagal are often more constrained than the teenage boys who make up so much of the audience would wish the heroes to be. No teenager myself, even I experience some disappointment when the good guy dispatches the most evil of villains surgically with a bullet. Too quick and easy, in my opinion, not a sufficient payback for the terror he caused and the evil he did. Shouldn't Scorpio have suffered more? But it is a hallmark of villainy to prefer slow death for one's victims. James Bond movies turned this into high comedy, but they also revealed the irrationality of the preference: it gives the victim the opportunity for rescue, the hero the opportunity for escape. The avenger does not allow us to fulfill our worst fantasies. He plays an edifying role for the teenagers and types like me in the audience. He will meet our demands for justice, but not our desires for cruelty. A little *Schadenfreude*, maybe, but no torture.

I don't wish to overstate the case. The avenger has some serious disagreements with the law. I note some of the more salient ones:

1. Avengers will hear of no insanity defense for the nonpathetic insane, that is, for those whose insanity makes them objects of fear and loathing rather than pity. In the same vein, notions of diminished capacity that concede too much to determinist models of human behavior are not acceptable. No riot syndrome, junk-food defenses, and so forth.
2. There is no presumption of innocence to people who don't deserve it. The hostility to the presumption of innocence is succinctly captured in *Unforgiven* by the tough sheriff, Little Bill, when he is accused of having "just kicked the shit out of an innocent man." Responds Bill: "Innocent? Innocent of what?" Bill's wittiness changes the meaning of innocence to guilt and makes it the condition to be accounted for, if not quite to be proven. Moreover, Bill was right. The "innocent man" had violated his firearm ordinance and had done so because he intended to kill. Innocence in this genre is a true moral and social condition, not a legal conclusion. Innocence means decent

- people minding their own business; innocence is emphatically not just having the fortune of being found not guilty because of a jury's generous notion of reasonable doubt.
3. There is a general view that the law is too narrowly concerned with wrongful acts rather than with evil characters. That teeming assemblage of awful people who continually give offense without ever being sufficiently sanctionable for any particular offense, such as the bully, the pimp, and the sadist are thus justifiable targets for the avenger. And under this rubric the avenger can legitimately go after people whose wrongs are omissions in the law's eyes rather than commissions.
  4. The Fifth Amendment right against self-incrimination is serviceable mostly to rogues. The case is seldom convincingly made that the right confers benefits as weighty as its costs.
  5. The criminal law's notions of proportionality do not accord with the demands of justice. Not all first-degree and second-degree murders are worse than all rapes. The notion that rape could never be a capital offense unless the victim is also killed is not an acceptable ranking of wrongs, which ranking must depend not on the internal coherence of the law, but on the sense of indignation and outrage the act elicits in third parties.

What the avenger rejects are largely procedural matters; his cause must still satisfy some sense of substantive justice. If he fails in that, then he is not an avenger. He becomes the villain. Villains kill people against whom they have no claim; villains take hostages and threaten innocent dependents of their prey. It is a nice trick of the genre that if the avenger gets the wrong man, we are not in a revenge movie anymore. He then becomes a lyncher and we are in another genre when that happens. Here *The Oxbow Incident* (1943) is the classic instance. The fact that in the revenge genre there is never a doubt as to who deserves to die, of course, allows us to indulge our vengeful desires without too much worry about what it might mean to institutionalize revenge when we are not reasonably sure of who deserves to die or when we must face the reality and the smell of death rather than celluloid representations of it.

Avenging heroes are thus constrained by the formal demands of the genre to take care to kill only those who deserve it; but lest we be deprived of our own blood lust, the various revenge subgenres make

sure to provide us a delightfully large number of people who deserve to die. Monstrous villains usually have a myriad of monstrous minions. Action-adventure films are notoriously overpopulated by the chief villain's aiders and abettors, flunkies and soldiers, all of whom are characterized, on the one hand, by their utter inability, no matter how many rounds they fire, ever to hit the hero and, on the other, by their serviceability in dying from whatever the hero throws in their path. We are inured to feeling anything for these stick figures, pure cannon fodder who die in a bad cause. Their deaths do nothing to assuage the indignation generated by the crimes of their superior, and their deaths give little satisfaction beyond the apprehension they may cause the chief villain and an occasional "ooh" and "aah" from the teenage boys in the audience at the comic and cartoonish grotesquerie of seeing these expendable souls blown up or shot down. In this way popular culture makes up for the narrowing constraints of its own principles of liability. If only monstrous wrongdoers and evil predatory people can rightly be killed, then what we need is to populate the film with enough of them to make up for the fact that we would find it wrong to shoot their innocent relatives.

Yet it is true that some avengers push the limits of who may serve as a proper object of revenge. If *Dirty Harry* only kills people for what they in fact have done or are doing, some avengers cast a wider net. This is a crucial issue that is problematized explicitly in *Unforgiven*, which we discuss in detail in the second part of this chapter. For now consider Paul Kersey (Charles Bronson) in *Death Wish*. His wife is killed and his daughter gang-raped and sodomized by three young thugs. Contrary to the usual expectations of revenge films, Kersey never finds these killers and rapists. Instead he knocks off surrogates for them. He walks the streets of New York hoping to be mugged so he can blow away the creeps. Yet it hardly matters that he fails to get the guys who killed his wife and thus transformed his life (not to mention hers). The movie demands, and only the willfully obstreperous viewer could resist, that we find his actions fully justified. Each encounter with a mugger of course justifies some recourse to self-defense, but it is not self-defense that justifies Kersey: it's his dead wife and catatonic daughter. Somehow the enormity of the wrong done them and him, the enormity of his and our outrage at the crime, means above all that something has to be done. Cursing God or collecting life insurance or hoping for the police to bring the thugs to justice are inadequate



responses to the demand the outrage makes. Outrage makes a demand on us to *do* something.

The film suggests there are moral and emotional costs in letting the state act for us, even granting the state success in its action. The view is that the state's claim to a monopoly on retributive violence reduces the decent citizen to a moral shell of his or her preindustrial self. No amount of official discourse ever seems to convince us that denying our vengeful desires and letting the state act for us is *doing* something in the same way that taking revenge is *doing* something. There are, of course, obvious prudential problems with enabling revenge societywide without embedding the avengers, like their blood-feuding predecessors, in kin groups that forced them to consult and confirm the justifiability of their outrage. But the movie is more concerned with the demoralization costs borne by the sufferers of predatory wrongs than with the costs such avengers would impose on the rest of us. *Death Wish*, in fact, makes a simple utilitarian claim that avengers are cost-effective: mugging rates drop significantly in New York once the knowledge of the avenger's activities becomes general. The demand to do *something* is, however, not a demand to do *anything*. The demand is not a blank check, but is itself subject to rich normative constraints. Kersey cannot use his grief and rage to justify preying on innocent people or on someone who negligently smashed into his car.<sup>22</sup> The avenger can pull only those into his sights who do wrongs that are predatory and unprovoked. He cannot deem people guilty who carry no guilt, but he can augment the punishment of those guilty beyond the slap on the wrist the law provides.<sup>23</sup>

But for all the official hand-wringing over our delight in depictions of vengeful justice, that justice, critical as it is about the legal administration of justice, the leniency and uncertainty of punishment, the lack of concern with victims and their satisfaction, is as a matter of substance not all that opposed to the law. If the avenger's rules for establishing

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22. These are precisely the kind of discriminations the protagonist of *Falling Down* is incapable of making and so rightfully he must die in the end.

23. He actually augments the punishment more than just by inflicting pain or death where the law would give probation or five years, for we must discount for the law's abysmal record in bringing wrongdoers to justice. The avenger gives us certain justice, and his quarry loses the benefit of the discount of simply not getting caught.

who and what are eligible for expiation are somewhat broader than the law's, they are still not all that broad. You still have to have done wrong or harmed another. You still have to convince the neutral observer that you have right. In other words, there are still rules, very strict ones. The wild justice of revenge, for all its so-called wildness, is still recognizably justice. The filmic form in which this justice is portrayed depends on winning the support of viewers to the avenger's claims. We must be indignant, we must be outraged on behalf of victims and then satisfied by justified payback. To the end the genre forces us into the responsible role of Adam Smith's impartial spectator. The avenger cannot go it alone, inventing his own rules, his own theory of offense and injury. If he does, he goes over the edge into psychopathology and then, lo and behold, we find ourselves in a different genre from the classic revenge film. Clint and Bronson are not Jake LaMotta (*Raging Bull*), Max Cady (*Cape Fear*), Michael Douglas's character in *Falling Down* or Travis Bickle (*Taxi Driver*)—"Who you lookin' at? You lookin' at me?"—who finds avengeable offense in the mere existence of others. But is it only an irresponsible fantasy to wish the avenger to settle matters on behalf of Nicole Simpson, Ron Goldman, and Mr. and Mrs. Menendez when the law fails?

### *Unforgiven and Problematizing Revenge*

Clint Eastwood directed and starred in *Unforgiven*. The film won Oscars for best picture, Eastwood for best director, and Gene Hackman for best supporting actor. The film is a spectacular piece of work, subtle, self-reflective, serious without pretentiousness, witty and mature. It puts in issue and complicates the assumptions of the revenge genre by troubling itself about the fact that the demands of heroism and of being at the center of heroic narrative may put one in a position that compromises perfect justice. Yet the film makes this critique without abandoning its commitment to the revenge genre, for in the end revenge is taken, and in spite of the critique, or maybe even because of it, it remains the most satisfying outcome, surviving completely certain ambiguities of just desert. The movie reveals that justice, the satisfaction of seeing it done, can tolerate certain failings as to its substance if it is mediated properly, that is, if it adheres to the expectations of genre and narrative convention. More concretely, less-than-perfect heroes

and charming villains are still heroes and villains, and the fact that these are complex characters does not undo the demand for or the delivery of heroic vengeance. Vengeance still must come, even if not without some moral ambivalence. And it still satisfies.

The film easily merits a monograph-length explication. I am not about to tax your attention for so long. I mean to confine my observations to the themes raised in the first part of this chapter. I will focus in detail on two scenes and even then not in all their suggestiveness: the killing of Davey, a cowhand, and the killing of Little Bill Daggett, the sheriff. One of the moves that *Unforgiven* makes is to test the principles of just who is legitimately eligible as a vengeance target by making the hero's victims something less than evil. Consider the case of Davey. The film begins with two cowhands from the Bar-T ranch—one, Davey, a nice young kid, the other, Quick Mike, a thick brute—taking a tumble in Greely's, the local saloon and brothel. Mike slashes the face of the whore he is with (Delilah) when she gets the giggles at his small equipage. Davey ends up inadvertently complicit. In the confusion Mike orders him to hold the whore "or I'll cut her tits off," but when Mike starts slashing, Davey releases her, desperately beseeching Mike to stop ("Don't Mike; don't; Mike, Jesus, don't Mike"). The sheriff, Little Bill (Gene Hackman), offers to whip them both, a solution unsatisfying to the other whores ("A whipping? Is that all they get after what they done?") and to Skinny, too, the proprietor who has "an investment of capital" in Delilah, having paid her way out from the East. Bill then assesses compensation, five ponies from Mike and two from Davey, to be paid over to Skinny in the spring.

The slashed woman doesn't figure in Bill's compensatory scheme; he agrees with Skinny in seeing her as property, or at least not sufficiently individualized so as to have a compensable claim in her own right. When the time comes to hand over the ponies, Davey brings an extra pony, "the best of the lot," which he offers to Delilah, a gesture which individualizes him for us. She is clearly touched, but the other whores prevent the gift by pelting him with rocks, disgusted that he could think a pony could compensate for the loss of her looks. The whores make no distinction as to the culpability of the cowhands, something that Bill was able to do, at least minimally, when he assessed Davey a lesser compensation payment than Mike. The scene of the rejected gift is a painful one, provoking the kind of discomfort and embarrassment that attends failed ritual action and "awkward situa-

tions." A rejected gift creates a kind of mini-anomie<sup>24</sup> and we end up blaming the unforgiving whores for making us uncomfortable. It is Davey who gets our sympathy, even if we are perfectly able to understand the women's motivation.<sup>25</sup>

We should not condemn too quickly the whores' refusal to make distinctions between the two cowboys. The women have interests that justify their vengefulness on behalf of Delilah. They are vulnerable and they know it. They have no interest in seeing their faces bargained for horses, and they do not want their colleague touched into forgiveness. Her forgiveness means their faces are cheap for the taking. They want blood for their sister, who herself was willing to settle for a horse.<sup>26</sup> Revenge is utterly rational for the uncut whores. So they gather a fund and put out the word that \$1,000 is available for anyone who kills the two cowhands. There is no evidence that the whores are especially upset that the horses are paid over to Skinny rather than to Delilah. What troubles them is the type of sanction. They want blood, not money. This too is rational. The cowboys they service are largely judgment proof when it comes to monetary assets, but they are as well funded with blood as the richest man in the world. But one senses that it is more than rationality that motivates them. There is something particularly egregious about disfigurement that suspends rational calculation. A beating would not have engendered the same resolve, nor even, one suspects, a murder.

The inducement of the bounty draws bounty hunters, dangerous men and would-be dangerous men, like the Schofield Kid who seeks out William Munny (Clint Eastwood) to assist him in the enterprise. Munny is an aging and impoverished pig farmer who as a young man held to wicked ways, a drunk, a known thief and murderer, trans-

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24. See the discussion in Miller, *Humiliation*, chap. 1.

25. Frances Fisher, who plays the vengeful prostitute, Strawberry Alice, speaks of the movie presenting different points of view neutrally: "And who is to say who is right? The sheriff? A lot of people will see the events through his eyes. Others will think the women are right" (quoted in Hilary de Vries, "Clint Eastwood," *Los Angeles Times*, 2 August 1992, cover story, "Calendar" section).

26. The whores pun on *whores* and *horses*, showing that the equation is too readily made in the culture already and they mean to resist it: "they may ride us like horses, but though we may be whores, we ain't no horses." And if the whores fear the culture's tendency to morph them into horses, horses too have to suffer for the connection. Will Munny calls his horse, when balking at letting him mount her, a whore, showing perversely that horses are whores for not being ridden, whereas women are horses for being ridden. Will apologizes to his mount.

formed and reformed into troubled decency and sobriety by his wife, who has recently died and whom we see Will burying in the credit sequence. In his prefilm life, Munny was a violent predator who is said to have killed women and children by dynamiting trains. His past is something he has rejected, although grim visions of the maimed bodies of his victims resurface and torment him around campfires at night or when sick with fever. The young Munny was, it seems, a villain who should have been dispatched by a heroic avenger had one been available. That movie, however, never got made, and the fact that it didn't get made makes Munny distrust the existence or meaning of just deserts. But it is also his past as predator that gives him the kind of steely skills he needs to jump to the other side of the fence, to play the heroic avenger.

Munny kills Davey, the remorseful cowboy, in a disturbing scene in which, due to Munny's incompetence with a rifle, death is slow and excruciating, accompanied by the boy's terror and anguish. Munny, to his credit, is clearly unhappy, even shamed by the suffering of his quarry, by the dirtiness of the business: "Give him a drink of water, Goddamn it. Will you give him a drink of water, for Christ's sake?" The scene is lingered on and is painful for the viewer.<sup>27</sup> The boy is decent, clearly well liked and even loved by his workmates: "You murdering bastard," shouts one, "you killed *our Davey boy*." Davey is innocent, to all but Strawberry Alice, the most formidably vengeful of Delilah's coworkers: "He had it coming for what he done." Here, as in Adam Smith's moral philosophy, the rightness of the avenging action must depend on the degree of outrage and indignation experienced by the impartial observer. The impartial observer feels Davey an inappropriate object of lethal retribution. For the viewer, the offer of the pony to Delilah should indeed have spared him the avenger's rifle.

Dirty Harry's world is morally easier. His targets are utterly reprehensible and leave no one mourning their deaths. Munny seems unnerved by finding himself in a situation that Clint Eastwood should not be in. Heroes of a certain ilk, especially ones that Clint Eastwood plays, aren't supposed to look ashamed, and they are supposed to be good shots, like Dirty Harry, and kill scum, like Harry does. The ugliness of the business makes rooting for Munny a harder proposition than rooting for Harry, even handicapping Harry for his politically

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27. This was the scene that led reviewers, with Clint himself joining in, to claim the movie an antiviolence film; see interview with Eastwood in de Vries, "Clint Eastwood."

incorrect commitments. Moreover, Munny's sidekick, Ned Logan (Morgan Freeman), who is a good shot with a rifle and could have killed Davey cleanly, simply cannot steel himself to kill the boy. Scruples prevent him, and that, I suppose, is why he is a sidekick. If heroes have scruples—and they do, as heroes must—they cannot be scruples that prevent heroic action. We would not forgive a hero who killed the movie by not killing men. We partially excuse Munny, in other words, because he is Clint Eastwood in a movie whose conventions require him not to be overly scrupulous about killing, at least not *before* he kills.

But Ned does not get all that much credit for his scruples. That they are a sidekick's scruples shows them, though scrupulous, to be a sign of a failure of nerve, of an incapacity for heroism. He is moved by a general reluctance to kill, not by a reluctance to kill undeserving people. He doesn't know, any more than Will does, that Davey is as undeserving of death as we know him to be. Still, Ned raises the moral stakes for Munny simply by questioning their moral authority as avengers of a wrong that only minimally concerns them, especially when money is no small part of their motivation. Munny, a hero, will kill even when he has doubts. Yet we also see that Munny has the moral issue thrust upon him by his own inner lights, not just by Ned's inability to shoot Davey. Munny has never been able to rest easy with his prior killings. The movie gives us good reason to believe that this might be the first time he has ever killed without being too drunk to remember what he's done.<sup>28</sup> His first sober killing is ugly business for him as well as for us.

As a general matter, agents have a more tenuous claim to rightful revenge than a principal unless the agent acquires some legitimation from another source.<sup>29</sup> Will's right to kill the cowboys on behalf of the whores is a weaker moral right than his own right to avenge his friend Ned. In the first case he is an agent, in the second he is the principal aggrieved party. The agent's moral authority is harder to come by. Dirty Harry, for instance, as an initial matter, legitimates his claim to act on

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28. In fact, before Will is actually called on to kill, he first descends into a kind of private hell for three feverish days before he can be resurrected as the killer he was before his wife had reformed him. The parody of the Passion is obvious. Unlike Christ, who arises to give eternal life, Will arises to send people to eternal death: "I will see you in hell William Munny," says Little Bill, who knows quite well where Will is sending him.

29. Notice that this sentiment is deeply held, and it is part of what state justice stumbles up against when it claims that it has the *sole* right to act against the wrongdoer's body.

behalf of others by his authority as a police officer; we do not accord the bounty hunter the same moral ground. There is, nonetheless, a moral side to Munny's action. It is more than just calculating bounty hunting. He is helping the most vulnerable of people, the prostitutes, secure reasonable safety for their bodies. And this goal is in no way compromised by killing the boy along with his bad companion. He also needs the money for his children, and by chance the Schofield Kid's attempt to recruit him for the expedition coincides with a fever that is killing all his pigs.

Yet there is some indication that it is more than just money that calls him back to his killing ways. He is also motivated by a call to do justice. The account narrated to him by the Schofield Kid, the teenage would-be killer, is that a woman has had her face cut, her ears and breasts cut off, and her eyes cut out. "Jesus!" says Will.<sup>30</sup> What is alleged to have happened to the woman is a deed beyond the pale, admitting those who encompassed it to the class of "those who got it coming." Someone has to take it upon himself to make sure they get it. Will is merely enforcing broadly held moral and social norms of right action. And if we sense that Dirty Harry enjoys killing a little too much, that is not the case with Will Munny, who scarcely takes pleasure in anything and who had to drown out his knowledge of the deaths he caused with drink. The problem with Munny is not his cause or his motive, but his lack of knowledge regarding the extent of Davey's involvement in Delilah's disfigurement.

The scene in which Davey is killed is presented in a much more complex and nuanced fashion than can be adequately accounted for by the explanation of the preceding few paragraphs. We learn later that Munny believes in making rather precisely individualized distinctions in the distribution of punishment and retribution, as long as he is in a position and has the desire to make such individualizing distinctions. He is shocked and incredulous when he hears that Little Bill killed Ned:

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30. The account is vastly embellished. The prostitute's face was cut, and she has disfiguring scars. When Will goes to recruit his old buddy Ned Logan to the expedition, he further embellishes the mutilation by adding fingers to the other severed body parts. A consistent theme of the movie is how stories and legends are built and altered in transmission, and the verbal dismemberment of Delilah is connected thematically to the construction of a reputation for heroism, whether it be English Bob's, Little Bill's, or William Munny's.

"So Little Bill killed him for what we done."<sup>31</sup> Ned is Davey's analogue; each is the least culpable member of the group he is associated with. And in each case, other commitments and imperfect knowledge prevent their being distinguished from their group. We know more than Will. We know that Davey was appalled at what happened to the girl, that he meant no harm, that he tried to make amends for himself and his violent mate, but Munny does not know that. The movie puts the avenger in an unusual situation. Dirty Harry or Charles Bronson never know less than we know when it comes to the identity of villains and their level of culpability. They only get people who deserve it, who "got it coming." But *Unforgiven* gives its hero incomplete information. This cuts two ways: if it excuses somewhat Will's not individualizing Davey, it also undercuts the justifiability of action that does not take the audience's information into account, for it is indelibly the case that the audience perceives a tragedy in Davey's and Ned's deaths. More information would surely have spared Davey and perhaps Ned. Still, we are a long way from the broad notions of liability that would have justified killing any Bar-T boy for the actions of one of its members. This is not the world of, say, the Mafia or the Icelandic sagas. The "them" subject to retaliation is a much narrower class.

The relation among the bounty hunters—Will, Ned, and the Schofield Kid—further contrives to drive the situation toward its tragic outcome. Ned's failure to kill and the Kid's impatient nearsighted doubting of the old guys' skill and resolve complicate the micropolitics that are driving their actions. Will knows that Ned feels unmanned and ashamed by his inability to kill, and that makes for an embarrassing situation, one that makes demands on Will. For one, it means he has to do the killing. Ned, the good shot, would have made it clean; now he must do it dirty. For another, he must concern himself with his friend's dis-

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31. If Munny is unwilling to concede Little Bill the right to group Ned with him and the Kid, he himself is willing to include Ned when it comes to splitting the bounty. The dispute is thus over who gets to define group membership for what purposes. Ned, after all, shot the horse out from under Davey, which fell on him, breaking his leg and making him a sitting duck for Munny. He is legally completely complicit. Here too we see that popular culture, which is usually more bloodthirsty than the law, is also much more forgiving in certain settings. Ned's genuine rejection of the group's mission excuses him to us and to Munny and, in our minds, ought to have excused him to Little Bill had he possessed our knowledge. Like Munny, however, we are not willing to excuse Little Bill's lack of knowledge as willingly as we excused Will's. Villains seem to be held to higher standards in some respects, at least when they are sheriffs.



grace, which pains Munny not only because he empathizes with his friend's misery, but also because he can't help but feel that Ned's dishonor redounds to him in the eyes of the Kid. If Munny's motivation had heretofore been gaining lucre in a good cause, it now becomes not losing face before the Schofield Kid, who already has expressed doubts about Munny's courage and commitment. This comical nearsighted young wanna-be has manufactured a past for himself as a Dangerous Man, in which he claims to have killed five people. Neither Ned nor Munny believes his tales, but what Will cannot tolerate is that the Kid should think the reputations of these aging heroes to be as illusory as the one the Kid has constructed for himself.

Will must maintain Ned's and his own honor against an epidemic of fraudulent reputation building, against the corrosive effect of fiction on the honor of hard fact. This is an especially important matter in the world of *Unforgiven*, in which dime novelists collude with willing aspirants to Dangerousness in constructing tall self-serving tales of prior accomplishment. It is Will Munny's peculiar distinguishing trait that he never builds his reputation through his own recountings of his past. He was always too drunk to know what he did and even *whether* he did. So it is left for others to tell him of his exploits, which he hears with a kind of dim indifference, or a vaguely regretful sense of dis-ease. And what his drunkenness didn't leave him unaware of, his wife made him penitent for. The movie, as we see, makes the killing of Davey a richly motivated act.

Whatever the precise source of Munny's shame, or Ned's scruples for that matter, it is *not* a function of Davey's lack of culpability, for, as we have seen, Will and Ned have no reason not to think him culpable. His shame is at the ugliness of the business, even if it is justified. And in what precisely lies the ugliness? The lack of purity in motivation? Or just the plain ugliness of slow death? Consider in this regard that one of the few memories from his past Munny is able to recall is the grotesquerie of blowing a guy's teeth out of the back of his head; and consider *Unforgiven's* comic leitmotiv of the unreliability of 1880s lethal technology. Guns misfire, and few people, if any, can shoot them straight. Little Bill constantly holds forth on this theme, correcting the improbable view presented in dime novels (and Westerns) of the quick-draw, hip-shooting marksman. The film subsidizes Little Bill's account in numerous ways: the Schofield Kid is so nearsighted that he cannot see a target more than ten feet away; and Munny is so rusty with a pistol that he

must take a shotgun to the conventional tin can atop the fence post, a consciously comic parody of the preparation topos of Western movies. Here the comic funds the tragic, for it is precisely the blunderbuss nature of the weaponry, the lack of skill, the bad eyesight and what not, that helps make the killing of Davey shameful for Will and painful for us. It is slow and messy.<sup>32</sup> Clean and quick killing would have spared Will most of his shame. And I also think that a quick death would have done much to assuage our scruples about the injustice in Davey's death. We would surely trouble ourselves a lot less about the morality of Will's act if it went by in the flash of an eye and a quick cut to the next scene.<sup>33</sup>

Davey's death does not quite follow the conventions of revenge films in the style of Dirty Harry and Charles Bronson. These men do not make mistakes about whom they kill. No matter how smart their adversaries, they are smarter, gutsier, braver, and, above all, better shots. William Munny is not a man of such parts. He was never precise about his choice of victim, being too drunk really ever to fix on them, or using means of killing, like dynamite, that made distinguishing among victims impossible. He is rumored to have killed women and children. Unlike Harry, he has limited capacity for irony, and what self-consciousness he has plays itself out in tormenting visions of the mayhem he caused in the past. Taciturn in the best Eastwood style, he can only intone that he is no longer wicked and regrets that he ever was: "I ain't like that no more." Harry has a kind of gallows wit that makes him charming in spite of himself; Will Munny has none when sober, and when drunk in the final scene, even the wit of his Clintlike quotables are witty for reasons Munny seems unaware of:

*Little Bill:* Well, sir, you are a cowardly son of a bitch. You just shot an unarmed man.

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32. Messiness increases our sense of the violence, and thus even of the wrongfulness, of the act. See my discussion on violence and the perception of it in Miller, *Humiliation*, chap. 2.

33. When the avenger is a tough guy, a Dirty Harry or a Charles Bronson, we expect efficiency from him and he rarely disappoints. In some sense Munny's shame is the shame of someone with the expectations of having to live up to Clint Eastwood's past roles: Munny is at this moment imagining himself failing by the standards of the Man with No Name and Dirty Harry. When, however, the avenger is put to his role by having the misfortune of being preyed upon (as in the hunted-hero genre), then we tolerate more inefficiency. The rules are thus different for final girls in horror films or for accidental avengers like Harrison Ford in *Patriot Games*; see note 15.

*Will*: He should have armed himself if he's going to decorate his saloon with my friend.

Or:

*Will*: I've always been lucky when it comes to killing folk.

Charm, it turns out, is a feature of most all the other male characters. English Bob (Richard Harris) is loaded with it in his witty flamboyance. And Little Bill, the sheriff, has a brutally calibrated wit best revealed in one of the finest humiliation scenes in film, when he deflates every pretension of English Bob, the "Duck" of Death. His energetic wit makes him likable despite his brutality, which, even though he enjoys inflicting pain, is never undertaken without the purpose of maintaining public order. His goal is to sit with his pipe and his coffee on the porch of the house he is building and watch the sunset. He is, in this frontier setting, the progenitor of the suburbanite, and he is dedicated to providing the kind of order that will make the suburbs possible. Consider how ultimately unvillainous a sheriff must be who enforces a very strict gun-control ordinance with utter success. Whatever bad deeds Little Bill might do, he is a far cry from the cartoon evil of Scorpio. If anything, he resembles Dirty Harry with the misfortune of being cast in a movie in which he is a supporting actor and in which Clint Eastwood is the lead and in which the plot has the lead's friend succumb to the supporting actor's rough interrogation techniques. Little Bill is also Gene Hackman, an actor of stature whom we are used to seeing as a hero—as, in fact, an avenging hero, like Popeye Doyle in the *French Connection* films.

All these things make the final scene in which Will dispatches Little Bill, Skinny, and three others a little more problematic than the lethal conclusions that end the *Dirty Harry* and *Death Wish* films. But somewhat perversely, *Unforgiven's* denouement is more powerful for the film's equivocations on the morality of revenge. Part of the satisfaction of the conclusion comes with the resolution of that very equivocation in favor of vengeful action. Isn't that also the case with *Hamlet*? As a thought experiment, imagine how silly *Hamlet* would seem if all Hamlet's equivocations led to no revenge. We are in a revenge drama, after all. We recognize its signs, its forms, and its substance. And so we thrill to Will grabbing the whiskey bottle and taking a drink when he hears of Ned's death and the humiliation of his corpse. With whiskey comes res-

olution and a rejection of action-numbing moralizing and self-doubt; with whiskey the prefilm William Munny returns: a consummate and unconscious killer, lucky at little else except killing. Ethics gives way to aesthetics, or, more exactly, they merge seamlessly into each other, for both the conventions of the narrative form and justice and honor demand revenge for the death of a friend and the desecration of his corpse. William Munny, not unlike Achilles, has stopped sulking in the tent, although his tent is an allegorical one woven of his wife's teetotalling and her stern moral principles. And we know what must happen, for this is one of the oldest (and best) stories ever told.

Justice is not just a set of substantive outcomes we feel naturally appropriate; it comes mediated via the expectations raised by the narrative setting detailing the occasion for it. This is a Clint Eastwood movie, and that means something for the range of expectations we consider appropriate to the story's conclusion, for actors (and directors) do not come to us without histories that influence our expectations for what we are watching no less than the conventions of plot and genre. It is also a Western of a particular sort, and a revenge story of a particular sort with rather striking parallels to *The Iliad*. We are in the world of epic, where the attractiveness of the killer of your friend cannot excuse your duty of paying him back, whether he be Hector or Hackman.

If the aesthetic constraints of the narrative form counsel revenge that does not make revenge any less a moral demand. Will's revenge is also impelled by the norms of honor, honorable justice, and the ethic of reciprocity or paying back what you owe. But I wish to construct another aesthetic argument, an argument based on poetic justice, one that the film constructs for itself independent of the aesthetic motor that drives the revenge story. To preempt myself a bit, this argument requires that a certain kind of heroism triumph against other styles of the heroic that are revealed as either fraudulent or pretentious, or simply as too self-indulgent and verbose. Clint has to win not only because he is the star and it is his movie, but because his kind of heroism has greater dignity; it is a triumph of a certain Anglo-Saxon understated style beleaguered of late by the onslaughts of a noisy self-asserting overstatement.<sup>34</sup>

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34. Overstated styles have a long tradition, from the boast speeches of Beowulf, to Rap and the dozens, to Mel Gibson in the *Lethal Weapon* movies and Bruce Willis in the various incarnations of *Die Hard*. But in spite of Beowulf, Gibson, and Willis, overstatement has come to bear the marker of a certain urban black male style to which Willis (for sure), Gibson (somewhat less), and Beowulf (not at all) are indebted.

First, by the rules of honor and the ethic of reciprocity that drives it, Will is justified in killing Little Bill and Skinny and then the others who shot at him. Ned's death outrages Will, and the exposure of his body is another outrage, designed to humiliate and offend. The difference between these two uses of outrage should be clear: Will's outrage is the emotion that motivates him. We sympathize with it, and he is justified in taking action to pay it back, even though we recognize that he does not have the cleanest hands. The manner of Ned's death violates norms of propriety that excuse Will's lack of purity. Ned is tortured, whipped to death, the whipping being the only time the movie suggests that Ned's blackness is an issue at all.<sup>35</sup> The second outrage—the display of the corpse—is a formal ritualized act. It may or may not lead to outrage, the emotion. In fact it does just that, but it needn't have, for the ritual itself justifies the return blow for it, whether or not the pay-back is actually accompanied by the emotion. One does not desecrate a body lightly in vengeance narratives. And the desecration is such an egregious act that it broadens the class of possible expiators who can be made to atone for it. The owner of the saloon, a slime to begin with, thus expiates the outrage.<sup>36</sup> Recall the lines quoted above:

*Little Bill:* Well, sir, you are a cowardly son of a bitch. You just shot an unarmed man [Skinny].

*Will:* He should have armed himself if he's going to decorate his saloon with my friend.

Munny does not kill without indicating which corpse is to pay for what. Skinny is paid back for the desecration and Little Bill for the death of Ned: "I'm here to kill you Little Bill for what you did to Ned." The three others who go in the cause only go because they shoot at Will and his luck takes over: "I was lucky in the order, but I've always been lucky when it comes to killing." The heavens, it seems, are not quite empty; they just have a rather grim sense of humor, for luck was no less

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35. Little Bill first suggests whipping the cowhands for cutting Delilah but desists. He may be an equal-opportunity whipper. Yet the fact remains that it means something rather different to whip a black man and a white man in 1880.

36. That Skinny owns the saloon before which Ned is on display is sufficient cause in Munny's mind for dispatching him, but it would not be sufficient cause for the audience without Skinny also being a slime. He thus becomes, even to us, an appropriate vengeance target in accordance with the revenge genre's rules making such creatures expendable in a good cause.

with him when killing as a young man without just cause. Or in Will Munny's estimation, it can only be in the very short run that there is desert, for in the long run, "deserve's got nothing to do with it," just luck.

Like so many Clint lines, "deserve's got nothing to do with it" is rather delphic. Munny has a cocked rifle to the head of Little Bill, who is already flat on his back bleeding from a wound to his chest: "I don't deserve this; to die like this. I was building a house." Munny replies, "Deserve's got nothing to do with it." In context Munny can be understood to be simply denying Little Bill's claim of unmerited death. But he chooses to cast that thought in language that detaches itself from the context and seems to reflect a kind of cynical despair regarding the justice of his own actions at the same time he is fulfilling the precise demands of the revenge genre and delivering exactly its kind of justice. Munny's self-doubts about his life of violence, the fact that no one ever brought him to justice for his past evil deeds, makes him think the delivery of justice purely random, a matter of good or bad luck. Ironically, it is the cynic and realist, Little Bill, who is expecting more from the heavens here. Any divine order worth the name would let him finish his house. But since in Munny's view "we all have it coming," no one is situated so as to be just all the time, nor the villain all the time. Only if we narrow the time frame to very particular circumstances do things sort themselves out enough so we can indicate who has the right to play the avenger in the particular story.

In this revenge narrative, however, justice and the constraints of the narrative form demand Munny kill Little Bill; and there is a third overdeterminant of the same outcome: Recall the role of W. W. Beauchamp, the biographer and dime novelist who first appears with English Bob and who is last seen looking worshipfully at William Munny as he rides out of Big Whiskey, Wyoming, in the final scene. Beauchamp puts front and center the issue of heroic style in the Wild West, its relation to fact and its relation to fiction, and its relation to some ultimate truth as evidenced by its lethal effect, its competence at killing, that is, killing so that it satisfies, so that it can actually bring closure to films like this one. The presence of Beauchamp makes the movie into something more than a revenge story. It also becomes an essay on competing heroic styles and the manner of heroic self-fashioning. The movie thus gives us English Bob, Little Bill, William Munny, and even the Schofield Kid. And inevitably, following the lead of Beauchamp, we

compare and contrast their styles and decide on their authenticity. It will come as no surprise in a Clint Eastwood film that it will be his style that wins. And we know that it must.

Let me play this out quickly, much more quickly than it deserves. English Bob (Richard Harris) fashions his accounts of his own actions in the style of the dime novelist: a kind of lowbrow chivalric knight errant. Thanks to Bill's brutal deflation of Bob, we learn the way things really happened. They were neither pretty nor noble. Beauchamp is attracted to Bob's accounts because Beauchamp only knows the heroic from the books he reads and then reproduces. English Bob is no coward and he is a good shot, but he is not a hero in the romantic mold he claims for himself. Little Bill shows him in fact to be rather purely rational, something no pretender to romantic heroism can be.<sup>37</sup> Mr. Beauchamp abandons English Bob for Little Bill, his next true hero.

Little Bill contrasts himself in every way to English Bob. He is the realist, the antiromantic, the debunker of the exaggerated Western commonplaces of the quick draw, of pistols that work and don't seem to need reloading, of preternatural accuracy in shooting, of grand motive and frontier chivalry in white hats. Little Bill's brand of the heroic means winning, not just winning in any way, but in a willfully antiromantic way. His "realism" is ultimately parasitical on dime-novel romance. Its heart is in debunking and undoing it. His style thus becomes a kind of inverted romanticism. Unsentimentality, opportunism, ruthlessness, and sadism become as obligatory as the spurious chivalry of the dime-novel style.<sup>38</sup> Moreover, Bill finds himself as smitten by the opportunity to build an image for the masses as English Bob had been. What started out as a discourse on the emptiness of English Bob's pretensions designed solely to humiliate Bob ends up becoming a claim to true heroism on his own account. The existence of Beauchamp in the world is no less corrupting to realists than to senti-

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37. I have in mind the game Bill proposes he and Bob play in which he gives Bob a gun and lets Bob make the first move. Bob assumes, knowing Little Bill's penchant for unfair play and opportunism, that the gun is not loaded. He is wrong. Little Bill guesses the way Bob would guess, and he is able thus to show Bob either risk averse or risk neutral, both traits that utterly deflate English Bob's pretensions as a devil-may-care swash-buckling hero.

38. Note that Little Bill's one great sin against true heroism might be that he is not an avenger; he does not punish to pay back, but to warn off others. He is a pure adherent to the deterrence theory of punishment, a model utilitarian.

mental romantics. The novel turns it all to fiction, to pretense, and to collusion between the media and the subjects of its attention.

We are being too hard on Bill. The movie also punishes him because he is a good storyteller, a real raconteur. It punishes him because it pairs him off against and contrasts him with the style of Will Munny, who says nearly nothing and tells no stories. We and Beauchamp see enough of Bill's actions to know he can back up his words with deeds as well as any man. His problem is that the movie favors an aesthetics of taciturnity, especially as to your own deeds and your own past. Taciturnity turns out to be a virtue of such magnitude that it overcomes all Munny's anti- and mock heroic failings: his inability to get on his horse, his wrestling in the mud with pigs, and, above all, his almost tearfully whimpered expression of his fear of dying. Until the final scene, William Munny does little to remind us he is Clint Eastwood except in his reluctance to talk. Munny never talks about his deeds. It is others who tell his tale, and this saves it from being self-serving. We get his story in bits and pieces from the Kid when he tries to get Will to confirm stories he had heard, but Will was always too drunk to remember, and what he does remember he misremembers in the direction of understatement.<sup>39</sup> Eventually, Munny's full story is told offstage by Ned, extracted under prolonged torture after all Ned's previous attempts to cover it up were beaten out of him. What better emblem for the tenacity with which Munny's style of heroism resists being put in words?

But can we believe a story extracted under torture? Ned in his agony promises that Munny will come and kill Little Bill, and that turns out to be true. So why not trust everything else in Ned's account? His partner is William Munny out of Missouri who killed women and children and later shot a U.S. marshal, etcetera. When Will shows up in Greely's Saloon to kill Little Bill, it is Bill who states Munny's legend to him; Munny need only repeat it back.

*Little Bill:* You be William Munny out of Missouri that killed women and children.

*Will:* That's right. I've killed women and children, killed just about everything that walks or crawled at one time or another and I'm here to kill you, Little Bill.

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39. *Ned:* I remember it was three men you shot, Will, not two.



Munny, however, is not averse to telling the story others have told about him when the telling of it constitutes a threat, a threat that achieves its creditability not only because it is told right after Will has killed Little Bill and four others, but also because he never colluded in the tale's production. So when William Munny leaves the saloon, concerned that people might be waiting to shoot him as he rides out of town, he issues a threat, the substance of which is simply a retelling of what others have already told about him unassisted by his input.

All right I am coming out. Any man I see out there I'm gonna kill him. Any son of a bitch takes a shot at me, I'm not only gonna kill him, I'll kill his wife and all his friends, burn his damn house down.

There is of course an easy deconstructionist joke here. If the duel between Little Bill and Will Munny is one concerning just how much one should be consciously involved in building one's own legend, it might be of some interest to observe that W. W. Beauchamp is a stand-in for Clint Eastwood the director. He is the one who holds the power to tell the story any way he wants to. And if Munny is above colluding with Beauchamp to manufacture a persona, he is incapable of resisting collusion with the true descendent of the dime novelist: Clint Eastwood himself.

It's time to tie up some loose ends and draw this to a close. With Little Bill, Clint Eastwood at last opposes a competent representative of state-delivered law. No Keystone Cops here, nor is Bill corrupt. He is a little exuberant and excessive in maintaining order in Little Whiskey, and that is sufficient to make him the villain whose death alone will allow the movie to end. What has happened here? We finally get a representative of the law who takes care of business and he still can't get us to root for him. We want the outlaw to shoot the sheriff. We have come a long way from *High Noon*. But Little Bill isn't law as we want it either. Not because he is brutal; we would go much further with brutality than we would probably like to admit if we could be certain that it was in the service of right and if we were sure it would be freedom enhancing societywide. His mistake was the one popular culture believes all state-delivered law makes. He doesn't care about victims. The law has other goals that preempt satisfying the righteous indignation of victims or of third parties indignant on their behalf. Had Bill assuaged the whores, he would have lived to enjoy many sunsets from his porch.

In the minimal state of Big Whiskey in 1880, the law, in the guise of Little Bill Daggett, prefers order to the satisfaction of indignation; in *Dirty Harry*, and other films like it, set in the present, the law seems to prefer itself, its own internal purity, to order in the society it supposedly is ordering, to remedying the claims of victims or satisfying the rightful indignation of third parties. Bill prefers order to justice; our law prefers to indulge in an obsessive anxiety about its relation to wrongdoers, rather than get justice for the victims of crime or preserve order. In either case, there is plenty of remedying the law needs in order that it deliver justice and be able to end narratives about justice in a satisfactory way. No wonder popular culture welcomes the avenger.

### *Unconcluding Postscript*

It is not just that popular culture invents the avenger, that it invents a more efficient style of justice for us, frustrated as we are by our fears, our anxieties, and our perceptions of violence and crime. Popular culture is also largely responsible for creating our image of the avenger's straw men: the legal system and the styles of villainy we love loathing. There is, of course, some connection of this image to reality, but for most of us it is very hard to get at that reality unmediated by popular culture. Those who reject the construction of law as portrayed in the revenge genre can only oppose it with the law as constructed in other genres.

Even those who should know better, those, for instance, trained in law, still have a hard time not mediating at least some substantial part of their knowledge through the constructs of popular culture. It is, after all, the heroic images of law in popular culture that help motivate so many undergraduates at a loss for what to do to try their hand at law school. Law teachers play into this imagery—those that is, unlike myself, who have had practice experience. They distill, from years of routine, fifteen to twenty good stories that remarkably track the expectations for what makes a good legal story as such stories are constructed by shows like *L.A. Law*.<sup>40</sup> *L.A. Law* consciously turned its back on the improbabilities of Perry Mason, creating instead a glamour of real topical cases sans the drudgery of preparing them for trial and

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40. This is more complex a story of influence and feedback than I am representing. According to a thesis advanced by Carol Clover, it is the legal form that determines the pop culture form of narration, more than the other way around. See Clover, *Trial Movies and the Adversarial Imagination* (Princeton University Press, forthcoming).

spicing the remaining drudgery with the erotic allure of beautiful people and their problems. But the most seamless merging of the law of popular culture and the "real" thing is now taking place on Court TV, where real law becomes real entertainment, just as, I might add, law was in saga Iceland.<sup>41</sup>

What is our stake in supporting, sometimes resisting, but mostly creating, conniving in, and re-creating a popular culture that constructs images of a largely inept law and in turn constructs a view of a society barely pacified, if at all, a society, in other words, desperately in need of efficient and effective mechanisms of maintaining social control? Just because popular culture constructs an image doesn't mean that that image must be false or wishful or exaggerated because of passions like fear, frustration, and racial hatreds. Fears are not always a product of inner demons. Sometimes popular culture might just be getting at something. A desire for avengers may be largely a fantasy to satisfy perceived failures of justice and breakdowns in public order, a fantasy easy to indulge because most of us are ignorant of death, especially violent death, and because ultimately we suspect that we can push off the responsibility for our vengeful desires on the state, which we will then come to loathe as the hangman. But is it a fantasy that our streets aren't safe, that women can't, without foolhardiness, walk home alone at night even in small towns, that we (both black and white) kill more, carry more lethal weaponry, rape more, rob more than any other industrialized nation? Popular culture just might not be all that wrong in its view of a law blind to its mission of keeping an orderly society in accordance with just principles.

It seems we must credit truth with some of the reason for our perceptions of inept legal institutions, but that is only one piece of a complex story. Popular culture's construction of law and legal institutions is driven in part by the formal demands of the various genres of narrative we listen to. We have come to feel that good stories are much harder to generate about institutions that run smoothly by simple and efficient

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41. See Miller, *Bloodtaking and Peacemaking*, chap. 7. What effect will TV have on law? How will the public stand for excluding evidence that is clearly relevant from the jury while allowing the judge and television viewers to hear it? Will lawyers be pressed to conform more with popular images of flashy examinations at the expense of building a record? But why assume that the entertainment value has nothing to do with the intricacies of procedure? It may well be that the mysterious perversity of legal form has a kind of entertaining allure all its own. In any event, what is clear is that there is an ever smaller area of the so-called real thing that is experienceable independent of the mediation of popular culture.

bureaucratic structures. No heroes there. Heroes require a backdrop of mediocrity, of a normal world in which glitch, hitch, incompetence, and inefficiency are the norm. We thus have heroic lawyers and heroic cops who are actually within the system, but whose excellence requires them to have at least one big foot outside of it. When the official systems operate efficiently, then, strangely, they are not the objects of praise, but rather they become monstrous and villainous: evil empires, lawless intelligence agencies, totalitarian horror. It is thus in some sense that the rule of law is damned if it does, damned if it doesn't. It's either Keystone Cops or Big Brother. We are stuck with two completely inconsistent myths about state law-enforcement capability. The fantasy of the avenger assumes the problem is Keystone Cops. Against that backdrop of unindividuated government mediocrities we pose Dirty Harry. But when the backdrop is Big Brother, we experience genre bending. The avenger is metamorphosed into a hunted hero, not the hunter.

The usual evolutionary story we tell ourselves is that revenge gives way to law and is inconsistent with it. Popular culture sees revenge as a necessary supplement to law, and it might well be that popular culture is not wrong as a matter of legal history and social theory. We could lull ourselves into the belief that revenge was outmoded and that the progress of civilization and pacification were inevitable until the meteoric and geometric rise in urban homicide rates that began in the late 1960s put an end to any complacency regarding the success of the state in maintaining minimal expectations of public order.<sup>42</sup> (It can hardly be an accident that *Dirty Harry* and *Death Wish* are movies made in the early 1970s and that the modern revenge genre dates from that time.) The success of the antirevenge discourse depended on a pacified population. The breakdown in social control, in the view of the revenge genre, reveals the antirevenge discourse and surely the discourse of rights of the accused to be luxuries of a society already pacified for reasons that had nothing to do with its mildness toward wrongdoers. The revenge genre, however, is not irresponsible: it only urges revenge when revenge is guided by the same large principles of culpability and liability that inform the law itself. Popular culture admits the law's priority. But it also sees the law as having been captured by procedural innovations that put the law at the service of injustice. There is a sense implicit in the genre that the law and lawyers are responsible for the

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42. Beginning roughly in 1968, urban homicide rates spiraled upward well into the 1980s before leveling out at as much as seven to ten times higher than they were in the 1950s.

breakdown in public order by making it so hard to punish manifest wrongdoers.

Yet in some ways popular culture is not all that unkind to the law. It still makes it an arena of choice for the most favorite of entertainment shows: the trial. It even has it delivering acceptable justice at times when competent lawyering and good-minded jurors combine forces; it provides the enabling conditions for making lawyers and cops heroes. Above all, it limits the role of its most antilaw fantasy, the avenger, so that he is not against law at all. Avengers, who, as we saw, only get people who deserve it, are thus distinguished from vigilantes, who never do. As I have claimed in this chapter, revenge is perceived as a reform of the law, not a revolution displacing it. It is meant to supplement and fulfill the law, not to undo it. Above all, stories of revenge are meant to give us a chance at experiencing the delicious sense of satisfaction of justice, true justice, being done. But in the meantime we, not altogether ungladly, suffer an overly formal, inept law, blind to the substantive demands of justice, because it is that very failure that enables a certain style of good story we love so much.

One final point about good stories: Love and "wild justice" (fornicating and fighting) are the two great themes of Western narrative, with stories of the former never quite breaking away from stories of the latter until the novel, as *Medea*, *Othello*, and *Malvolio*, among many others, bear witness. It would be interesting to track the variation in the relative popularity of stories of fighting as against stories of fornicating. Revenge stories are not always as popular at some times as at others, but they never seem to go away, either. We still reread them as classics if we happen not to be producing any of our own. And then revenge has a way of being promiscuous across a wide range of genres. It is essential to epic, the substance of much, but not all, tragedy, and stubbornly a feature of the comedic universe, too. Corrective justice (and thus revenge) is simply the stuff of good narrative, whether epic, tragic, comic, or romantic. Funny how distributive justice does not make for good stories outside of sentimental and melodramatic forms. We simply have a hard time making the themes of distributive justice the substance of the highest art. We leave these matters to political and moral philosophers instead. And most would admit they are not generally the most engaging of narrators. And why is that?