

BOOK REVIEWS

Il était une fois... analyse juridique des contes de fées, Marine Ranouil and Nicolas Dissaux, eds. Paris: Dalloz, 2018. Pp. 400. ISBN: 978-2-247-16837-8. UK£39.00

Edited by Marine Ranouil and Nicolas Dissaux, *Il était une fois ... Once Upon a Time* inhabits the most tempting theory of Gramscian hegemony: Law codifies the people's desires, especially those imparted to them through books; through the written word.

Reading *Once Upon A Time* brought to mind Bertrand Barère and his explanation of the French Revolution of 1789. Books did it all because they brought enlightenment into all classes of society. This seems pretentious and partially inaccurate. The Revolution was also ignited by filth and hunger, which made the masses part with their innate fear of death and bravely fight for such abstractions as the Rights of Men.

To the extent Barère is correct, as the elite group of contributors to *Once Upon A Time* expertly tell us, fairy tales retold by literate authors helped build what then was the new world of capitalism and nationalism. Fairy tales contributed to the smooth transition from a feudal society centered on the autocratic rule of a prince, to the bourgeois society whose demand for unquestioned obedience came in the name of individual freedom. Fairy tales talked about assumed obligations and consequences when said obligations were not fulfilled. Think only about Cinderella's contractual duty to leave the ball when the clock struck midnight, or what happened to Pinocchio when he broke promises to Geppetto.

Once Upon A Time is a unique lens on legal history. Its collection of essays explains how fairy tales molded the youth of the eighteenth century into the caste demanded by the bourgeois nation-building projects. They achieved that masterfully using the same structure as legal texts, as Pierre-Yves Gutier points out (15–20) also assisting in select transition was the narrative focused on specific behavior, such as the criminalization of incest in *Donkeyskin* (Perrault, 1697), as Muriel Fabre-Magnan (291–298) points out.

The collection of twenty-nine essays is organized into two sections: "To each his right," and "To each his story." The generic use of the masculine pronoun in the English translation is literally correct in this instance. Women were legally ignored objects at that time. This intriguing and informative collection of essays offers a legal analysis of well-known fairy tales. It focuses on the works of Charles Perrault (1628–1703), a lawyer's son, of the Grimm Brothers, Jacob (1784–1863) and Wilhelm (1786–1859), both students of law, and that of Hans Christian Andersen (1805–1875), whose *Emperor's New Clothes* remains one of the most successful works of political satire (F. Pollaud-Dulian, 166 et seq). Reading the essays brings one into a world of worldliness, knowledge, and sophistication, which we often take for granted.

The collection is superbly executed. The only criticism I have is the perceived lack of ironic self-awareness. I find it both ironic and sardonic that children's stories have so much in common with the continental codification, be it in Germany, in France, or in the Nordic countries. Using a non-continental metaphor, from J.M. Barrie's work, like Tinker Bell who needs our clapping to survive, the Rule of Law needs our belief and obedient behavior to exist. Continental fairy tales, as the contributors to this magnificent collection made clear, shaped out beliefs with bourgeois fairy dust. Nowhere in this collection I saw such a discussion.

Nevertheless, *Once Upon A Time* represents an essential resource for scholars interested in comparative legal theory, social studies of law, history, and more. Personally, because of its interdisciplinary comparative nature,

I welcome it open heartedly: its cultural and academic innovation is yet another example of teaching law while touching hearts.

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The Code of Capital. How the Law Creates Wealth and Inequality. Pistor, Katharina. Princeton: Princeton University Press, 2019. ISBN: 978-0-69118-943-7 UK£29.95.

In “The Little King,” Salman Rushdie’s prize-winning take on corruption and the opioid crisis, as published in *The New Yorker* (July 29, 2019), the law is described as “an ass,” but a useful one:

The law is useful, in fact. It tells you who is the correct person you need to convince. Otherwise, you can waste money convincing people who don’t have the stamp. Waste not, want not. We are like this only. We know what is the oil that greases the wheels (Rushdie, 59, 2019).

The Code of Capital. How the Law Creates Wealth and Inequality is a prize-winning take on the usefulness of law confined to the international financial market. Katharina Pistor elucidates how the core institutions of private law – contract, property, collateral, trust, corporate, and bankruptcy law – are the building blocks of the financial system, including its newer financial instruments.

Pistor achieves the impossible. She dispenses with legalese and focuses on the substance, which she then explains in a language that is both informative and unthreatening to the financial novice (a category in which I include myself). Pistor brings together legal analysis that is interdisciplinary, historical, and comparative. She is compelling and never pedantic nor boring.

Like someone who once noted they could not be a Marxian because their Conscience determined their Being and not vice versa, Pistor makes a similar argument. You do not have to be a revolutionary to want to stop the capitalist march toward imminent collapse. Arrestingly, Pistor assumes the task of writing the preamble of a guide to leaders, including the unsophisticated financial and legal analysts, on how to assist them decyphering our current circumstances and devising a plan to avoid disaster. Financial crises are periodical but their impact, Pistor disputes, need not be feudal stratification. Capital improves everyone’s life in a multitude of ways. Assets such as land, gold, songs, are nothing without law. For instance, anything found can be used, but the ability to exchange the asset in any other way requires society’s acceptance. Acceptance is achieved through well-established rules, generally referred to as *private law*, which when broken, is enforced through litigation in the courts, for instance, through *public law*. The central issue raised by Pistor is that *private law* is partial to *capital*, not people, and disregards all societal consequences.

The Edwin B. Parker Professor of Comparative Law and director of Columbia Law School’s Center of Global Legal Transformation, Katharina Pistor, magisterially explains how *law* codes *capital* and thus, the existential ground with revolutionary potential. In other words, the coded capital pre-determines what Marxists would call the material conditions for social revolutions. *The Code of Capital* is an Amazon bestseller, thus potentially educating both masses and leaders. Not only does Pistor’s book enable the reader to gather depth of knowledge, until now limited to few experts, but it challenges the reader to embrace innovation. For my part, the challenge became to teach legal research imbedded in financial regulations, because that is the intellectual locus where the battle for the soul of our law students takes place.

Not since the advent of the Critical Legal Studies movement has the American legal academy seen something so brilliantly coherent challenge the status quo. In a highly readable manner, Pistor explains the current fountain of wealth – *capital* – and its accumulation in ever smaller numbers of corporate entities. We learn how derivatives work, what repos, swaps, and close-out netting are. We also acquire, if we do not already possess, a conscience. This seminal book raises deep concerns about the ability of capitalism to continue in a democratic society.