

Law and the Grimms' *Children's and Household Tales*

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ABSTRACT

This paper explores the relationship between law and the Grimms' folk tales. Jacob and Wilhelm Grimm were originally students of Roman law, but later they took an interest in medieval German language and literature. However, they still applied the philological method of the historical school of jurisprudence to their researches. For the Grimms, poetry and law were closely linked in ancient German thought: ancient literary texts are all discussions about legal questions (robbery, murder, dispute, cannibalism, child abuse, etc.) Several critics have pointed out that the endings of the Grimms' tales are related to a certain form of severe punishment which corresponds to the crime the villain has committed earlier in the story. It seems that, in tribal society, oral tales (which were carriers of legal messages) functioned as precedents. In this paper I argue that at the beginning Jacob regarded *Children's and Household Tales* as the relics of ancient legal discourses (Germanic common law) and ancient German literature. He and Wilhelm attempted to construct upon this basis a national identity of the German people to resist the political and cultural threats from France. But, with a long history of transformation (nearly fifty years), the tales underwent a continual process of rewriting, omitting, and revising until it became a proper tool for cultivating good moral sense and establishing the authority of law.

KEY WORDS

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Charles Perrault's *Histories or Tales of Past Times* (1697)¹ and the brothers Grimm's *Children's and Household Tales* (first edition 1812, 1815)² are considered two classic models in the development of the folktale (or the fairy tale).³ Most people would think that folktales are short and simple stories which begin with "Once upon a time" and end with "They lived happily ever after." Although many folktales or fairy tales seem to resemble one another, each may convey a unique message: Charles Perrault's "Little Red Riding Hood" ("Le Petit Chaperon Rouge"), Jacob and Wilhelm Grimm's "Little Red Cap" ("Rotkäppchen"), and James Thurber's "The Little Girl and the Wolf" have different cultural significances. The purpose of this paper is to discuss the relationship between law and the Grimms' *Children's and Household Tales*. Several critics (Mueller, Jessen, and Zipes) have pointed out that the ending of the tales in Jacob and Wilhelm Grimm's collection, in addition to apparent didactic messages, is often related to a certain form of severe punishment or messages of law.

Legal subjects were very popular in the German Romantic period, the time when Jacob and Wilhelm Grimm set out to collect and write their tales. Goethe's *Faust*, in which the protagonist signs a contract with the devil, is an example. According to Theodore Ziolkowski, this interest in legal subject matters was caused by the fact that there were many important lawyer-writers in this period: Goethe, E.T.A. Hoffmann, Heinrich Von Kleist, Novalis, Arnim, Heinrich Heine,

and Jacob and Wilhelm Grimm were all trained to be lawyers (64-69). Hence, we may say that in nineteenth-century Germany, literature is closely related to the discipline of law. If we can examine the Grimms' *Children's and Household Tales* in the context of nineteenth-century literary and legal traditions of the German-speaking areas, we may find new interpretations of these tales.

I. Polysystem and the Historicization of the Folktale

The comparative method of the Finnish School—recording oral tales accurately and then classifying them according to motifs—was tremendously influential over nineteenth and twentieth-century folklore studies.⁴ Later, Russian theorist Vladimir Propp and French anthropologist Lévi-Strauss developed structural approaches, attempting to describe narrative structures in terms of linguistic models.⁵

Compared with thematic and structural studies, historical studies of the folktale did not receive sufficient recognition in the early years of the development of folklore research. Jack Zipes complains in the introduction to his translation of the Grimms's tales (*The Complete Fairy Tales of the Brothers Grimm*, 1987): "Curiously, most of the critics and most of the introductions to the English translation of the Grimms' tales say very little about the brothers themselves or their methods for collecting the tales—as though the Grimms were incidental to their tales" (XVII). For over one century, the Grimms' folktales have been very popular, but the relationship between these tales and the two brothers, the production and reproduction of these tales in different historical moments, the interaction between the folktale and genres of high literature, and the cultural significance and social function of these tales in nineteenth-century German-speaking areas, etc., have not been adequately explored.

Israeli scholar Itamar Even-Zohar proposes the concept of

polysystem for examining cultural heterogeneity. The polysystem is different from the traditional idea of a system as a closed set-of-relations. Literature, a system within the polysystem, is not autonomous or independent, but interacts with its neighboring systems, such as politics, economy, law, sciences, at any given moment. The boundaries between a system and another system, or between the center and the periphery of a system are always shifting. Moreover, an element in the margin of a system may move to the margin of an adjacent system or to the center of the system. The model of polysystem, consisting of dynamic and heterogeneous systems, enables the integration into research the objects previously unnoticed or bluntly rejected.

Even-Zohar explains that the systems are not equal, but hierarchized within the polysystem. He employs Jurij Tynjanov's idea of literary evolution and explains: "It is the permanent struggle between various strata, Tynjanov has suggested, which constitutes the (dynamic) synchronic state of the system. It is the victory of one stratum over another which constitutes the change on the diachronic axis" (14). The polysystem is both a synchronic and diachronic model which one must not think in terms of *one* center and *one* periphery, since several such positions are hypothesized. The awareness of the tension between various strata within a system makes many observations possible. In Even-Zohar's words:

This means that standard language cannot be accounted for without putting it into the context of the non-standard varieties; literature for children would not be considered a phenomenon *sui generis*, but related to literature for adults; translated literature would not be disconnected from original literature; mass literary production (thrillers, sentimental novels, etc.) would not simply be dismissed as "non-literature" in order to evade the recognition of its mutual dependence with "individu-

al" literature (13).

In this theoretical framework, the shift from one period to another can be explained in terms of the mutation of norms, not the "influence" of a great master. At any given moment there are canonized elements (those which have been accepted as legitimate by the dominant circles within a culture) and the uncanonized elements. Always being challenged by the uncanonized, the canonized repertoires have to keep adapting themselves, to justify their privileged status. This tension, caused by the competition between canonized and uncanonized elements, and the mutation of elements within the polysystem guarantee the preservation of vitality.

The folktale is, most of the time, a marginal genre in literary history, but this is not a static marginality. If observing carefully, we would discover that in each period due to its specific position in the polysystem, the folktale acquires different features. In late seventeenth century, while Charles Perrault was writing *Histoires* the Quarrel of the Ancients and the Moderns had turned bitter. The cultural significance of *Histoires* should be interpreted with its position in the huge corpus of Perrault's works, in terms of the discourses of the Ancients and the Moderns, in the context of keen competition among the members of the Académie Française, or even in terms of the power struggle involved in the architectural design of the Louvre.⁶

In a similar way, when we examine the Grimms' *Children's and Household Tales* in the framework of polysystem, we find a very different though not less complicated case. During the process of collecting and editing their tales, the Grimms lived in Hesse, a district then under Napoleon's control. The desire for consolidating German-speaking areas was quite strong in the areas ruled by the French troops. On the one hand, people became interested in "native" German culture: Jacob and Wilhelm Grimm were two of those who tried to popularize

native German literature. They experimented with a new literary form which suited the taste of the rising middle classes and hoped to bring it into every family through the developing commercial book market. On the other hand, the Grimms were living in a time when the debate on the philosophy of law, legal systems, and jurisprudence (natural law, empirical law, and historical studies of law) reached to a great height. Being the students of one of the most influential law scholars of the time, Friedrich Carl von Savigny, the Grimms received training in law, which later played an important role in their scholarly researches and publications.⁷

II. German Romantic Period and Law

In *German Romanticism and Its Institutions*, Theodore Ziolkowski observes various literary phenomena of the period in the context of five social institutions: mining, the law, the madhouse, the university, and the museum. Ziolkowski points out that in German literary history--especially the Romantic period--there are many lawyer-writers and that in German literature there is substantial discussion of legal cases. Law and literature: this combination is rarely seen in English or French literature of the Romantic period. The large number of lawyer-writers was due to the fact that law had been one of the four traditional disciplines at German universities--philosophy, medicine, theology, and law. Moreover, in the nineteenth century, law was considered *studium generale*, a discipline most closely connected to classical philology. For instance, Goethe's teacher encouraged him to pursue legal studies rather than philosophy (64-70).

Besides, in the eighteenth and nineteenth centuries, young aristocrats studied law in order to manage family property, while young bourgeois studied law to prepare for the admission to official careers. Before Napoleon's reform (1803-1813), there had been hundreds of principalities in

Germany, so there was great demand for officials, librarians, lawyers, and private secretaries.⁸ Contrary to the illusion that poets and heroes retreated to mountains or deep forests, withdrew from the society and from daily routines, for pursuing higher truths the Romantic writers, though with a passion for literature, still had to get administrative jobs in order to make a living. Consequently, in reality, Romantic poets, like Goethe and his young Werther, had to linger between the realm of imagination and the world of daily trivialities.⁹

However, in the nineteenth century, law was not only professional training but also a discipline closely related to the central debates of intellectuals of the time: Which legal system should the German people use? Is it necessary to codify a new law? Should there be a unified Germany, or should the principalities continue to exist? The war with Napoleon made these questions appear even more urgent. Due to these reasons, the importance of legal studies increased in the early nineteenth century and, directly or indirectly, influenced cultural production of the time.

Before the twentieth century, the legal system of Germany had been very confusing. Germanic common law had been used in the German-speaking areas by the middle ages. In medieval Europe, canon law was the only international law; however, due to the difference of languages, different legal systems competed with each other in local areas. Sometimes, several systems overlapped with each other and caused confusion.¹⁰ By the end of the middle ages, there were several legal systems in use. In the Renaissance, with commercial activities increased, there were calls for codifying an international law to protect the property of businessmen. Modern Germany, for certain reasons, used Roman law (written in Latin) rather than modify and use ancient Germanic law.¹¹

Due to political turmoil, the controversy over codification turned animated in the nineteenth century. In fact, in German-

speaking areas, there were two codes in use: *Allgemeines Landrecht* of Prussia¹² and Code Napoleon (used in the area under Napoleon's control).¹³ Except Prussia and the left bank of the Rhine where Napoleon's troops ruled, Roman law was in use and was complemented with local laws. Yet, in 1806, the demise of the Holy Roman Empire ended the symbolic continuation of the Roman Empire and the whole district which previously used Roman law fell into legal chaos. The principalities and duchies had to decide whether to choose a new legal system, to codify a new law, or to keep the existing chaotic system. Involved in this nineteenth-century codification controversy was a debate full of oppositions: the German (the ruled) versus the French (the ruler); legal theory versus legal history; the aristocracy versus the bourgeoisie; Latin (Roman Law) versus vernacular (a new code in German). Central figures in the controversy were: Anton Friedrich Justus Thibaut, who argued that a new code based on legal theory should be enacted, and Friedrich Carl von Savigny, who insisted that doing historical research on the common sources of German law was more urgent than codifying a new law.

Savigny criticizes Thibaut's rational jurisprudence that law should not be produced by the prescription of authority. He maintains that law has a specific character, "unique to its people, just like language and customs." In every place, law is unified by the feeling of the people: There is an organic connection between law and the folk (Ziolkowski 84). In short, the historical school emphasizes the philological aspects of law. Savigny maintains that legal professionals should have historical knowledge and a clear concept of system, because the spirit of a law can be comprehended only by tracing its origins to the development of the customs and language of the people and by paying attention to the changing historical context in which law developed. Savigny thinks that if people embarked on the codification, Germany would sink into

conflicts and chaos, and unification would become impossible; therefore, the most important task of the time was to research the German people's common source of law, not to codify a new law. As most Romantic writers and thinkers had similar opinions on this issue and Savigny himself was a powerful scholar, he was more influential than Thibaut.¹⁴

Being disciples of Savigny, the brothers Grimm not only maintain that there is an "organic connection" between law and the people but also claim that proverbs, folktales and legends also have such a connection with the people. This explains why Jacob and Wilhelm Grimm, throughout their lifetime, kept publishing collections of tales, proverbs, customs, legal antiquities and their findings on folklore, language and ancient law. They even conceived the first German dictionary. Behind the huge corpus of publications and researches are the training of the historical school of jurisprudence, the patriotism aiming at constructing a symbol of the German spirit for a unified, independent Germany, and an ambition to contribute to the "history of poetry" through preserving the remnants of folk poetry.

III. *Children's and Household Tales* and the Germanic Common Law

Born to the family of a district judge, Jacob and Wilhelm Grimm, as many other young bourgeois of the time, planned to pursue careers in law. Shortly after entering the University of Marburg, they drew the attention of Savigny with their diligence and excellent academic performances. Jacob, a student and an assistant to Savigny, accompanied this young professor to Paris in 1805 to do research on Roman law.¹⁵ Ironically, after returning from Paris, Jacob decided to give up legal studies and start studying Old High German and medieval German literature with Savigny's historical approach. In research and writing, the Grimms followed the tradition of Savigny's historical school: analyzing carefully the

object of research in its historical and linguistic contexts.

From Jacobs's and Wilhelm's points of view, poetry and law were closely linked in ancient German thought, because the poetic texts of ancient literature are all discussions about legal questions. The training of historical jurisprudence and their political attitude exerted great influence on the shaping of the tales. Criminologist Gerhard O. W. Mueller, following German scholar Jens Christian Jessen's research, argues that the Grimms' tales are unique because virtually all of the tales contain legal messages. (The messages are not necessarily about crime and punishment. Sometimes, they are just about social justice and pardon.) Etymologically, Mueller points out the German word *Märchen* comes from medieval Old German *Maere*, meaning "messages that are important and that are to be remembered"; lawyers today could hardly resist the temptation of regarding folktales as precedents. He also points out that although Jacob Grimm started historical study of legal antiquities with *Ancient German Law (Deutsche Rechtsaltertümer, 1828)*, and his seven-volume *Wisdom (Weistümer, a collection and interpretation of folk wisdom, the first volume published in 1840)*, the foundation of his researches on maxims, slogans, parables, tales, and proverbs as sources of law was on the two-volume collection of tales published in 1812 and 1815.¹⁶

Cruel punishment at the end of most Grimm tales is linked to the crime which the villain has committed in the story. For instance, after Little Red Riding Hood and her grandmother come out of the wolf's belly, the sleeping wolf is stuffed with heavy stones, which later makes this carnivore fall into the river and get drowned. After Cinderella's beautiful wedding feast, the eyes of the two false sisters (traitors) are pecked out by two pigeons. The stepmother of Snow White, a murderer, is forced to put on a pair of red-hot iron shoes and dances to death. The witch who has imprisoned Hansel and Gretel is pushed into the oven and burned to death. In other collections of folktales, we hardly find such dreadful punishments. And,

according to Mueller, it is interesting to note imprisonment, the most common penalty for modern criminals, does not appear in the Grimms' tales as a form of punishment, because imprisonment had not become a form of penalty by the fourteenth century, and by that time the oral folktale had acquired its fixed form and content.

Although law may be one important aspect of German oral tales, the Grimms emphasized this dimension and made it a distinct feature of *Children's and Household Tales*. Susan Stewart, in *Crimes of Writing*, labels epics, fables, proverbs, folktales, ballads, and parody as distressed genres. These six genres have been regarded as antiques and are often appropriated at different moments in history for different purposes. Basically, these genres are remodeled to fulfill the author's desire to "raise the dead, to hear what has vanished, to reanimate the scene", and to "fix one's own history in perpetuity--that is, to control the future of language as well" (66-101). In the case of the Grimms, working with a dying oral tradition, they attempted to preserve the collective past of the German people for resisting the threat of the powerful French culture.

Imbued with strong feelings of nationalism and Romanticism, the Grimms started documenting a dying body of "authentic" German traditions in proverbs, legends, tales, and legal antiquities. In the process of collecting oral tales, they often got more than one version of a story. Sometimes they combined different versions of a tale to construct one which they believed was closer to the original oral version; sometimes they used one of the versions they had collected and kept the rest in the annotations for the reader's reference; sometimes, when they had only got a fragmentary text, they tried to work out a complete tale close to the idealized oral type with their own imagination. In 1808, Jacob sent some tales he gathered to his mentor, Savigny, with a letter commenting that the most appealing part of the tales was the

beginnings, because the narrator remembered the opening parts best. The endings, by contrast, often "disintegrated into incomprehensible gibberish" (Ward 95).

Most of the tales they collected were fragmentary and, what was worse, some of them were not German and not from the tradition of the peasantry. Despite the fact that Jacob and Wilhelm Grimm claimed in the preface to the first edition of *Children's and Household Tales* that they had recorded the oral tales "faithfully," modern folklorists do not think so. In the 1980s, a lot of experts in Grimm tales joined the debate provoked by John Ellis. Ellis questioned the Grimms' scholarly fidelity by pointing out that they cheated the reader with fakelore,¹⁷ since the informants of most Grimm tales were not uneducated peasants but middle-class women associated with the French literary tradition. Alan Dundes also claimed that in the name of nationalism, Jacob and Wilhelm duped the reader by concealing the fact that some of the tales were from the French literary tradition.¹⁸

What, then, what was the Grimms' attitude toward these tales? In what terms should we conceive the relationship between Charles Perrault's seventeenth-century *Histoires* and the brothers Grimm's nineteenth-century *Children's and Household Tales*? In the following section, I am going to discuss these questions in terms of the transformation of the Grimms' tales.

IV. The Transformation of *Children's and Household Tales*

Both Jacob and Wilhelm Grimm were scholars of medieval German literature, and they taught ancient German literature at the University of Goettingen and the University of Berlin. For Jacob and Wilhelm, the folktale, like all genuine poetry, could never exist without reference to life. Although the brothers say little about Napoleonic rule in their publications, scholars doing historical studies believe political and social

experiences of the brothers were encoded in the tales. The Grimms claim that their tales have a part in "the epic element which developed with the history of the people" (quoted in Jäger 95). And in the preface to the first edition, they talk about their efforts in recording tales accurately: "We tried to collect these tales in as pure a form as possible. No details have been added or embellished and changed."¹⁹ It was passages like this that invited Ellis' and other critics' attack.

American folklorist Richard M. Dorson coined the term "fakelore" in the 1950s to distinguish real folklore from imitations,²⁰ and *Children's and Household Tales* was considered the representative of fakelore in the Ellis debate. Most of the charges against the Grimms seem to aim at the Grimms' claim in the preface to the first edition, and critics have not accorded special attention to the transformation of the collection in the subsequent six editions. Did the brothers really plan to cheat the reader? No, of course not. In my opinion, Ellis and his colleagues were adopting modern standards of folkloristic studies to evaluate an earlier and different scholarship. If we read the Grimms' words carefully, we find that even Charles Perrault's fairy tales were considered acceptable presentations of the oral tradition. "The merit of his [Perrault's] work rests on his refusal to add things and on his decision to leave the stories unchanged, aside from minor details. His manner of presentation deserves special praise for being as simple as was possible for him."²¹ And, since the second edition, the Grimms started to refine the language of the tales, no longer emphasizing the accuracy of their recording but claiming fidelity to the folk spirit.

From our point of view today, "uncontaminated oral tradition" as well as "pure German culture" are myths. And, all the texts, when they are transformed from oral to written media, no longer remain the same. The involvement of intellectuals (such as folklorists and literary writers) in the remodeling process brings the tales into a new direction. After

translating the prefaces into English, Maria Tatar says that the brothers had originally set their sights on producing a contribution to the "history of poetry" and had no intention of publishing an "entertaining volume." Yet in the end, Wilhelm Grimm found himself responding to popular demand and expectations rather than to scholarly needs. "With each new edition, the tales veered more sharply away from the rough-hewn simplicity of their first versions to a sanitized and stylized literary form that proved attractive to both parents and children" (204).

In fact, the idea that there is a pure oral tradition not affected by the written or literary tradition is problematic. The oral and written traditions are not isolated systems, but have always interacted with each other. For example, since its publication at the end of the seventeenth century, Perrault's *Histoires* had been so well-received that the sophisticated elements he invented to suit the taste of the aristocratic reader (c.g. the red hood of Little Red Riding Hood and the glass shoes of Cinderella) entered the oral tales and chapbooks of the eighteenth century, affecting the Grimms' tales directly or indirectly in the nineteenth century.²² Moreover, since *Children's and Household Tales* has been one of the most popular books in Germany, after its genesis, it created a new paradigm for folk literature, becoming the landmark for the comparative studies of the folktale and enriching the oral tradition of the coming generations (Dégh 69-72).

In the eighteenth and nineteenth centuries, in the areas occupied by Napoleon and at the court of the principalities, French was the language for the German bourgeoisie and the aristocracy. It is surprising that, according to recent research, the Grimms had never traveled into the mountains or remote countryside to look for informants of oral tales—another disillusion of a Romantic myth!—but always sent for a storyteller to tell them tales in their own living room or at a friend's house. Most of the stories were from educated

middle-class women. Some stories were even provided by a girls' storytelling group at a school organized by Lotte (Charlotte Amalie Grimm), Jacob and Wilhelm's little sister. The members of such groups often met regularly, drinking coffee and telling stories that they had heard in childhood. Even earlier, in pre-Goethean Weimar, the curious mixture of "a village and a home of the muses" had already existed. When Johan Karl August Musäus was gathering folktales, he was wont to fetch children or carters from the street or old women from their spinning rooms to his house to tell him tales. This is very different from what modern folklorists and anthropologists have done: going to remote areas to do field research (Scherf 178-83). These new findings may change our stereotyped impression of the Romantic obsession with antiquities and also demystify some myths about the Grimms.

If we accuse the Grimms of scholarly infidelity because they appropriated at will the oral materials they had collected, then generations of storytellers could also be charged with the same crime since they also appropriated the oral materials at hand to create their own versions. The only difference lies in the media: one written, the other oral. Whether a tale originated in oral tradition and whether it was derived from native German culture are relatively unimportant issues here in the Grimms' case, since oral and written traditions had already contaminated each other and cultures always bestride national boundaries. More important, the folktale is a distressed genre, which is doomed to undergo an endless process of rewriting and remodeling. We should accord our attention to the contact of French and German cultures during the eighteenth and nineteenth centuries and the way in which the Grimms remodeled their tales: They appropriated the upper-class cultural heritage of the enemy and then gave it a new twist of German nationalism, which not only made the tales part of the collective German experience but also an educational tool which helped foster a sense of justice among

the modern citizens of the future.

Let's briefly discuss the most studied tale, "Little Red Riding Hood." When the second edition of *Children's and Household Tales* appeared in 1819, "Puss in Boots" ("Der gestiefelte Kater") and ("Bluebeard") were omitted, due to their apparent French origin; however, "Little Red Cap" was *not* omitted from the new edition because of Perrault's well-known "Little Red Riding Hood." It is interesting to note that the Grimms gave the story a new meaning by giving the charming girl a red cap to replace her French cousin's red hood. They also rewrote the ending and added the part of a huntsman into the plot.

In Perrault's version, the beautiful and helpless girl violates the code of *decorum*, so she is doomed to be swallowed by the wolf. At the end, Perrault even drops some erotic hints that in the upper-class society, well-dressed, polite gentlemen may be wolves, too. In the Grimms' "Little Red Cap," the sophistication of the aristocratic society disappears; the little girl no longer wears the red hood which represents vanity, beauty, or even sexuality, but wears a plain cap, a symbol of the French Republican. Jäger is the first critic to read "Little Red Cap" from the viewpoint of political and literary history. First, he traces the usage of the word "wolf" in German literature from 1790 to 1810 to verify that "wolf" had been a word for the French invader. Then, by analyzing another version of the Red Riding Hood story—Ludwig Tieck's "The Life and Death of Little Red Riding Hood: A Tragedy" (1800)²⁸ he concludes that the sources of the Grimms's "Little Red Cap" may be Tieck's political tragedy as well as Perrault's fairy tale. The role of the huntsman and the red cap are both Tieck's inventions. However, Tieck's huntsman does not trigger the gun in time, so the girl is killed by the wolf. Jäger thinks that the moral of Tieck's tragedy was that young Germany is bewitched and finally swallowed by wicked France. The huntsman, the policeman of the woods whose

responsibility was to protect the king's property from being poached, is a symbol of German feudalism. But even he could not save the disobedient child. In other words: "Whoever—whether it be to keep in fashion or through the carelessness of youth—identifies too much with the idea of revolution will ultimately be seized and destroyed by the revolution itself" (quoted in Zipes 1993 : 36).

Jäger's reading uncovers the political aspect of the tale which readers today are unfamiliar with. In addition to political implications, the Grimms' "Little Red Cap" (in the seventh edition) has a very special double ending designed to fulfill an educational purpose. In the first ending, Little Red Cap and granny are saved by the hunter, and they stuff the wolf's belly with large stones. Later, the wolf wakes up, feels very thirsty and goes to the river, but it loses balance and gets drowned. Yet, curiously the tale does not end here. Several days later, Little Red Cap encounters another wolf in the wood. This time she knows that it is forbidden to talk with the wolf, so she runs to granny's house immediately. With the *assistance and instruction* of her grandmother, the little girl kills the wolf with boiling water.

This double ending reveals two messages. Zohar Shavit says that the point of the Grimms' tale lies in the idea of "don't make-the-same-mistake-twice" of children's education, but not in the sophisticated humor of Perrault: punishments or lessons are not ends but means (147-52). Second, the first ending of "Little Red Cap," in which the wolf gets drowned, is almost the same as that of "The Wolf and the Seven Young Kids" ("Der Wolund die sieben, jungen Geisslein"). Obviously, the Grimms did not faithfully write down the words from the mouth of the informants, but reorganized the materials in hand to convey specific messages. In "Little Red Cap," the Grimms, on the one hand, expressed implicitly their political position⁴² and, on the other hand, appealed to the issue which most interested the parents—children's education.

Overall, *Children's and Household Tales* was arranged to fulfill a nationalistic and educational function. According to Maria Tatar, French folktales focus on wit, Russian folktales emphasize the power of magic, while German folktales highlight simplicity, kindness, and family values. Grimms' heroes are often born with an obscure origin; but, if only they are compassionate to the oppressed or the weak, any problems they have encountered will get solved. The Grimms' heroines are usually beautiful and from a better family. (Cinderella, though she seems to have been born in obscurity, is actually nobler in blood than her two step-sisters.) All of them are good at doing domestic chores. For example, the good queen in "Snow White," when still alive, does needle work every day; Snow White, a princess, knows how to take good care of the seven dwarfs in the forest, the princess in "The Six Servants" ("Die Sechs Diener") even has to feed pigs. This strange mixture of elements from feudal society, the tradition of the peasantry, and the values of the bourgeoisie implied that with cooperation, tolerance, and the fulfillment of social responsibilities of each individual, the aristocracy, the bourgeoisie, and the peasantry, could work together to establish a new nation.

Despite the fact that the Grimms hoped their *Children's and Household Tales* would become an indispensable item on the bookshelf of every German family, Archim von Arnim, on receiving a complimentary copy of the first edition,²⁵ praised the brothers for their achievement, but at the same time responded that an excellent book though it was, without illustrations but instead with a lot of scholarly annotations, the Grimms' collection would have difficulty appealing to its target readership, the bourgeois family (Tatar xiv). Arnim's words came true, and the reactions of the market forced the Grimms to modify *Children's and Household Tales*. From a scholarly work to a popular literary work which aimed at educating the public and consolidating the principalities, the Grimms' tales underwent a long process of transformation.

For example, in the preface to the second edition, we find a voice expressing a new consideration for the child listener. "We are looking for innocence in the truth of a straightforward narrative that does not conceal anything wrong by holding back on it. Nonetheless, in this new edition, we have carefully eliminated every phrase not appropriate for children."²⁶ The most obvious examples are that several wicked natural mothers in the Grimms tales turn out to be stepmothers in later editions. The wicked queen in "Snow White" is the princess' biological mother except in the last edition (Stone 57-58); the mother who forces Hansel and Gretel's father to abandon his children is also a natural mother in the first three editions (Tatar 36). Although child abuse and abandonment were reality in medieval Europe and commonplace in folktales, when children became the intended reader, some reasons had to be offered to explain parental malice. Besides, Wilhelm, who was in charge of the editing since the second edition, seems to have been especially intolerant of themes such as pregnancy, nakedness, and incest, so he continued to omit or rewrite these elements (Tatar 7-10).

With a long history of transformation (nearly 50 years from the stage of collecting to the completion of the seventh edition), the Grimms continued to modify their attitude toward their tales. At the beginning, Jacob Grimm regarded these tales as the relics of ancient legal discourses (common law) and ancient German literature. He and Wilhelm attempted to construct upon this basis the national identity of the German people. However, the Germany of the nineteenth century was different from ancient tribal society in which folktales were supposed to function as law, so the significance of the folktale was accordingly changed. In tribal society, traditional folktales may function as carriers of legal messages, but in the industrialized Europe of the nineteenth century, the folktale was positioned in a marginal place in the cultural system. The legal messages which the tales carried were not applicable to

the operations of modern society. For the Grimms, the folktale, because it longer had the practical function of law, moved in to the education system, which was responsible for cultivating good moral sense and establishing the authority of law.

French cultural historian Philippe Ariès gives several examples in *Centuries of Childhood* to explain how the elements or tools of the adult would be transferred to the children's world. One interesting example is the wooden horse. Ariès believes that after being replaced by cars, the horse, no longer a tool for transportation, gradually became a toy in the nursery room. Such explanation of the transfer of a tool from one world to another shares a similar hypothesis with Even-Zohar's concept of polysystem. We may say that the folktale in the nineteenth century had moved out of the legal system and entered the education system, left the adult's daily life and entered the realm of children's literature.

The Grimms' *Children's and Household Tales* is an interesting case related to very complicated issues, such as historical jurisprudence, German nationalism, cultural interference, literary appropriation, the rise of the middle classes, children's education. Some tales in the Grimms' collection have long been canonized, but the historical study of the tales and the reading of these tales in the context of Grimms' other tales and publications have not started yet. Though discussions on the most popular tales ("Little Red Cap" and "Cinderella") can be found from time to time, to read all the two hundred tales in terms of their relationships to each other is still needed if we want to get a clearer picture of the cultural significance of these tales.

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Notes

¹ Perrault's "*Histories or Tales of Past Times (Histoires ou Contes du temps passé)*" is also known as *Tales of Mother Goose (Contes de ma mère l'Oye)*, since his written tales were considered reworkings of Mother Goose's oral tales. Mother Goose, a seventeenth-century old peasant woman, used to tell children interesting tales. For the formation of the legend of Mother Goose and her relationship with the oral tradition, see Maria Tartar, "Spinning Tales: The Distaff side," *The Hard Facts of Grimms' Fairy Tales* (Princeton, New Jersey: Princeton UP, 1987), pp. 106-33; Robert Darton, "Peasants Tell Tales: The Meaning of Mother Goose," in *The Great Cat Massacre and Other Episodes in French Cultural History* (New York Basic Books, 1984).

² The Brothers Grimm's *Children's and Household Tales (Kinder- und Hausmärchen)* has been translated into various languages and well received around the world; however, non-German readers can hardly find complete translations of the tales since most of the editions only include the most popular ones. In the twentieth century, the Grimms' tales have often been regarded as children's literature. In fact, they were not intended for children only, and

there are several distinct genres in the Grimms' collection: folktales, legends, jokes, religious tales, anecdotes, tall tales, fables, etc. Sometimes, the stories carry implications which can only be grasped by the adult. During the Grimms' lifetime seven editions of *Children's and Household Tales*, With 115 to 211 stories, were published. With such a great variety and a long history of rewriting, the Grimms' tales cannot simply be read as entertaining tales for children.

³ My purpose in this paper is not to discuss the problems of genres and generic terms, so for convenience's sake, I will use the umbrella term, the folktale, to refer to the tales written by Charles Perrault and the Grimms. Jack Zipes points out that the terms "folktale" and "fairy tales" have different social connotations. The term "folktale" (*Volksmärchen* in German) refers to oral tales of the folk or written versions of the peasants' oral tales, whereas "fairy tale" refers to "the literary production of tales adapted by bourgeois or aristocratic writers in the seventeenth and eighteenth centuries such as Basile, Perrault, Countess D'Aulnoy, Madame de Beaumont, Musäus and others, who wrote for educated audiences ..." For a brief discussion of such terms as *Märchen*, *Volksmärchen*, *conte de fées*, the folktale, and the fairy tale, see Jack Zipes, "Might Makes Right," *Breaking the Magic Spell* (Austin: U of Texas Press, 1979), pp. 20-40

⁴ The approach of the Finnish school is also called the "historic-geographic" method. By comparing various occurrences of lore (no matter whether it is a tale, a proverb, or a riddle), the scholar tries to determine its original form, path of dissemination, and patterns of variation. The representative Works of the Finnish School are: Antti Aarne and Stith Thompson's *The Types of the Folktale* (Helsinki: 1961, Folklore Fellows Communications no. 184, 2nd ed), and Stith Thompson's *Motif-Index of Folk Literature* (Bloomington: Indiana UP, 1955-58). Until the 1980s, this approach was still in use, but because it neglects historical background and cultural context of individual tales and tends to sacrifice distinct cultural differences for common thematic features, its validity has been questioned.

⁵ Propp makes an analogy between sentence structure and

narrative. Although the folktale is noted for its numerous plot variants, it follows certain structural rules. For Propp, what is immutable and uniform is not motifs but the linear sequence of the tale. See *morphology of the Folktale* (Austin: U of Texas Press, 1958, English translation; Russian edition, 1928). While Propp focuses on syntagmatic combinations (the sequential structure of the tale), Lévi-Strauss formulates the structure of paradigms of minimal units (mythemes) to highlight the underlying logic system in a given culture.

^o Charles Perrault is a very productive writer. The manuscript of *Histories or Tales of Past Times*, with five tales, was dedicated to Elizabeth-Charlotte d'Orleans, a niece of Louis XIV, in 1695. Later the complete text was published in 1697 with 8 tales total. From 1687, the year marked with the beginning of the Quarrel of the Ancients and the Moderns, Perrault's publications include: *The Age of Louis the Great*, a controversial long poem which provoked the Quarrel because the Ancients and the Moderns Provided opposite readings of this poem, *Parallel of the Ancients and Moderns* (the first book, published in 1688, is on arts and science; the second book is on eloquence, published in 1690; the third book is on literature, published in 1692; the fourth is on astrology, geography, navigation, war, philosophy, music and medicine, published in 1697); "The Ridiculous Wishes" (a story poem published in 1693); "Donkey-Skin" (Perrault's first verse tale based on folk tradition, 1694); *The Apology of Women* (1664, a response to Racine's *Satire X*); "Sleeping Beauty" (published in 1696 in a literary magazine, *Mercur Galant*); *Illustrious Men Who Have Lived in Our Century* (two volumes on the lives of seventeenth-century writers, artists, scientists, statesmen, and theologians, published in 1696 and 1700). All of these works have to be regarded as the realization of the Moderns' poetics since Perrault was the leader of the Moderns. In sharp contrast to the Ancients (such as Boileau and Racine), who embraced the achievements of classical literary tradition, the Moderns, in searching for modernity, praised the accomplishments of contemporary France in literature (including the oral literary tradition), sciences, politics, and so on.

Therefore, the elements which were criticized by Boileau as distasteful or vulgar—for example, the girl wears the skin of a donkey or the woman with a sausage nose—should be considered the embodiment of new literary norms and regarded as “Weapons” to attack the Ancients ...

⁷ Although the Grimms are well-known for their *Children's and Household Tales*, they, in fact, published substantially in the fields of jurisprudence, language, and literature.

⁸ The number of students who studied law increased dramatically in the Romantic Period. According to statistics, in the eighteenth century, the enrollment in law reached to thirty-five percent of the student population in Germany. And in universities famous for legal studies, e.g. Strasburg, the percentage reached well over fifty. At Heidelberg, the enrollments in law grew from twelve percent to seventy-five percent within one century. See Ziolkowski, 71.

⁹ Novalis was an engineer and administrator at a mine; E. T. A. Hoffmann was a judge at Prussian High Court; Goethe served in Saxe-Weimar kingdom in various institutions of administration, education, war, and theater for almost fifty years.

¹⁰ When there was confusion, basically local law was over territorial law, but imperial law was over both of the two. Ziolkowski says that a German proverb describes well this overlapping: “Stadtrecht bright Landrecht, Landrecht bright gemeines Recht.” Yet, the syntax of this proverb is so tricky that it makes two opposite interpretations possible. It is unclear which law is more powerful (74).

¹¹ There were three important decisions made in the formation of Germany as a modern nation, and they are called the 3 Rs: Renaissance, Reformation, and Reception (of the Roman law).

¹² Soon after Fredrich the Great was enthroned, Prussia started to codify their law in 1746. After decades of efforts, *Allgemeines Landrecht* was enacted by Friedrich Wilhelm II in 1794. Although Prussia's code was conservative (e.g. to win the support of the aristocracy it kept the institution of serfdom), it was written in concise German and became an important document of German

enlightenment and transferred the right of interpreting law from the hand of the elite to the bourgeoisie.

¹³ Napoleon believed that to control the land he had conquered, not only military power but also a unifying legal system was needed. Code Napoleon was in use from 1804 to the end of the nineteenth century. However, outside of the land occupied by Napoleon the Code was rejected, because it was considered the system of the enemy and because the aristocracy regarded it as a threat from the rising bourgeoisie.

¹⁴ Both Savigny and Thibaut were respected professors of Roman law, but they held different opinions on the issue of codification. Thibaut believed that the establishment of a new code would help consolidate Germany. In his opinion, Germanic common law was incomplete; it needed the assistance of Roman and common law. But the Roman law, with such a long tradition, was so complicated that even the most learned scholars could command it well. The best way to solve this problem, according to Thibaut, was to encode a new German law which everyone could read and understand. Savigny hated the democratic spirit of the French Revolution and objected to codification.

¹⁵ See Ziolkowski, *German Romanticism and Its Institutions*. (Princeton: Princeton UP, 1990), 109-9; Jack Zipes. "Dreams of a Better Bourgeois Life: The Psychosocial Origins of the Grimms' Tales," *The Brothers Grimm and Folktale* (Urbana: U. of Illinois Press, 1988), 205-19.

¹⁶ Jacob dedicated his late life to the study of the German language and law. He died in 1863, having just completed the fourth volume of *German Precedents (Deutsche Weistümer)*.

¹⁷ See John Ellis, *One Fairy Story Too Many: The Brothers Grimm and Their Tales* (Chicago: U of Chicago Press, 1983). The term fakelore was invented by Richard M. Dorson to distinguish "real" folklore and imitations created by the intellectuals. See Richard M. Dorson, "Folklore and Fakelore," *American Mercury* 70 (1950), 335-43.

¹⁸ There were numerous critics writing articles to argue for the Grimms (especially German scholars and some American scholars

doing historical research) and pointing out that Ellis misunderstood the Grimms' scholarship.

¹⁹ For a complete English translation of the prefaces to the first (1812, 1815) and the second editions (1819), see Maria Tatar, *The Hard Facts of the Grimms' Fairy Tales* (Princeton: Princeton UP, 1987), 203-222.

²⁰ Dorson's term *fakelore* was used in folklore studies from the 1950s to the 1980s. However, the dichotomy of folklore and fakelore itself is problematic.

²¹ This passage is from the preface to volume one of the first edition. See Tatar, p. 209.

²² The red hood of Little Red Riding Hood, the glass shoes of Cinderella, the birthday party of Sleeping Beauty, and the gentleman cat in "Puss in Boots" are all Perrault's inventions. Although the oral versions of these tales had had a long history before they got written down, the exquisite details which suit the taste of the audience of Louis XIV's court were new creations.

²³ For English translation of Tieck's "The Life and Death of Little Red Riding Hood: A Tragedy" see Jack Zipes, *The Trials and Tribulations of Little Red Riding Hood*, 2nd edition (London: Routledge, 1993), 99-128.

²⁴ The difference in the ending of Tieck's "The Life and Death of Little Red Riding Hood" and the Grimms' "Little Red Cap" can be explained in terms of the different political attitudes held by Tieck and the Grimms. Tieck preferred feudalism or monarchy while Jacob and Wilhelm supported the idea of a unified, democratic Germany.

²⁵ The brothers dedicated the first edition of *Children's and Household Tales* to Arnim's wife and son.

²⁶ These words are from the preface to the second edition of *Children's and household Tales* (see Tatar, 217). Starting from the second edition, Wilhelm took charge of the editing job because Jacob had turned to scholarly research and later began a diplomatic career (became a diplomat to Vienna) and was later elected representative of the congress.