Myth, Folklore and Ancient Ethics

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THE SOCIAL GUIDANCE OF MYTH, FOLKTALE AND FAITH

Introduction

From time before time Man[1] has found his inner and external understanding of life through imagination, observation and memory, with memory one of man's supreme endowments. In pre-literate times human groupings invented myths to explain phenomena that in their state of knowledge were otherwise unintelligible. These myths would assign super-human power to diverse gods to explain weather, natural disaster, human and animal, agricultural plenty or paucity, and human sagacity or folly.

Belief in such myths were typically manifest sacramentally, with subjection to such super-human forces demonstrated by sacrifice (human, animal and agricultural) and costumed rites enlisting fire, water, dance and bodily mortification. These pagan and polytheistic observances represented the faiths of these preliterate cultures many generations prior both to monotheism and to the particularized adorations of traditions, beliefs and spiritual practices found in Buddhism, Hinduism and Taoism. And adherence to such faiths and underlying rituals served as a social compact that would require or at least invite behavior thought to enhance the health, welfare and prosperity of these human groupings.

Discussion

Social communities are "norm-governed in their very nature."[2] Some norms are or are interpreted as mandatory, while others are aspirational, or hortatory. Even without organized articulation, much less strictures, for

[1] "Man" is used to convey both men and women.

[2] Roy A. Clouser, *Norms and the Development of Society*: The 2007 Kuyper Lecture: *Norms and the Development of Society* 2007, https://cpjustice.org

departure for a norm, there would exist an "ethical norm of love (love your neighbor as yourself)"; or for doing what is "morally right," or for being "fair,"[3] Such norms constitute "principles" that underlay all activities, even when implicitly, actors "engaged in those activities or communities deny and/or disobey them."[4] Thus, notwithstanding Gordon Gecko of the *Wall Street* movie and his infamous claim "Greed is good," a society may yet have hoped that even a state that supports illegal or immoral acts "will still have a legal structural purpose led by the norm of justice."[5]

Additional considerations come into play when a norm has been promulgated as law, which is to say, a mandatory norm. Karl Llewelyn wrote that the principal purpose of "law" distinguishes it from implicit sanctions or prohibitions attributable to myth. Law's central purpose, to Llewelyn, is "to channel behavior in such a way as to prevent or avoid conflict," while having simultaneously the antidotal authority to "clean up social messes when they have been made."[6]

Thus a legal norm involves first an aberrant behavior that strains the social fabric gravely, and second, the government's "doing something about it," *i.e.*, taking enforcement action.[7] Llewelyn distinguishes a serious departure from society's "right ways" that requires state intervention "from norms whose disregard has no such consequence." [8] The latter norms that would "bring about only supernatural sanctions, and where people are following or not following cultural practices, are not law."[9] To be distinguished are legal or "right ways" norms, "departure from which involves somebody's doing something about it."[10] And the "somebody" here, of course, is the state.

And yet between norm violation involving only supernatural sanctions and "right ways" transgressions triggering official enforcement lay religious delicts that trammel or disregard articles of faith. In ancient and even many modern communities alike, departure from a normative religious standard can result in an adherent's expulsion from the whole, involving formal or informal ostracism that can have decisive and material

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[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] Karl N. Llewellyn and E. Adamson Hoebel, *Case Law in Primitive Jurisprudence,* 29 L. AND SOC. INQUIRY No. 1 (2004) at 179-217 (Wiley-American Bar Foundation).
[7] *Id.* at 185.
[8] *Id.*
[9] *Id.* at 188.
[10] *Id.*

consequences for the transgressor. As religious delicts, depending upon their gravity, may be therefor potentially as consequential as would be violation of a rule enforced by the state, the acts or forbearance of acts a person may take to avoid penalization deserve very much to be considered religious "norms" affecting individual or group behavior.[11]

The Social Guidance of Myths and Folktales

Myths and folktales[12] have been born, adopted, adapted, and passed on for perhaps the 10,000 years of Man's recollected past.[13] Mythic characters have been personified as beings who have dwelled in the sky in manlike form with fantastic powers; sea serpents or other fantastical creatures; keepers of the afterlife, or Hell, residing in the bowels of the earth; and as benign or malign, corporeal or incorporeal, actors roaming on land. In sharp contrast, folk tale protagonists ordinarily possess no such fantastic attributes. Rather, many tend to possess the orthodox folk-tale qualities of intelligence, courage, kindness, and luck,"[14] while others feature the ironic or metaphorical mien of caprice, deceit and retribution.

Whether in the form of myth or folklore, these stories all essay to give social guidance, in the form of norms that inform or demand behavior conforming with the story's message. From prehistoric time onward, social groups have hewn to spoken and written myth and story for two principal reasons: (1) to permit them to give logic, however primitive, to nature and natural forces[15]; and (2) to reinforce norms the common weal

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[11] Untreated in this discussion are exhortative goals that may be expressed by religious leaders such as a Papal request that nations abandon nuclear weapons, or an influential lay encomium of neighborly concord such as was famously presented on television's Mr. Fred Rogers Neighborhood.

[12] As will be seen, there are important distinctions between myths and folktales. However, in this PRÉCIS, when the reference is made to generalized imagined being or phenomenon, I will sometimes use "myth" to include folklore.

[13] Epic poems have, by one estimate, been dated only as far back as 4,000 years. ROBERT E. ANDERSON, THE STORY OF EXTINCT CIVILIZATIONS OF THE EAST 44 (George Newnes, Ltd. 1898).

[14] Alison Lurie, The Passion of C.S. Lewis, 53 N.Y. REV. BOOKS 10, 12 (2006) (reviewing *The Chronicles of Narnia: The Lion, the Witch and the Wardrobe*) (Walt Disney Pictures 2005).

[15] For the purposes of this section, "primitive man" means preliterate human social groupings. "Ancient man," in turn, is used to describe ancient literate societies, such as those of the ancient Egyptians or Greeks.

has adopted as consistent with an ordered, safe, and productive community. As such, the effects of myth, folklore and faith on social systems is the primary focus of this PRÉCIS. More specifically, the objective is to identify a representative selection of myths and folk tales, and to explain their obvious or arguable-relation to communities' norms of deterring bad behavior and creating incentives for good behavior.

A leading dictionary provides defines myth as: "a story that is usually of unknown origin and at least partially traditional, that ostensibly relates historical events usually of such character as to serve to explain some practice, belief, institution, or natural phenomenon."[16] The definition continues by assigning a principal signification of myth to its role in religious rites.[17] However, as this section will address, the reach of myths as stories, the guidance and uncritical acceptance of which affects a culture, is not confined to a group's sacred rites.

The universality of myths and folk tales is evidenced by the central role they play in giving cultural guidance, particularly when such stories or beliefs pertain to themes of justice, or notions of right and wrong. The myths and folklore of virtually all cultures contain a rich vein of such stories.

As to both natural and social mediating roles governing conflicts between expectation and phenomenon, it is generally accepted that ancient myths were born and not made. This is to say that primitive or ancient Man did not as a matter of course objectify a certain external event or sequence of external events and then consciously proceed to construct a mythic structure responsive thereto. Rather, as generally indisposed to or incapable of disassociating the external world from himself, primitive Man projected his own binary mental faculties upon the natural world, imposing mythological explanations for events that without such projection would be inexplicable. Thus myth would serve to explain human interaction if the normatively optimal - or rational - conduct actually occurred. Myth would also make contrary or irrational conduct comprehensible by providing a rationalization for it, *i.e.,* by describing a god who was generally good and predictable but whom was sometimes given to capricious or erratic behavior.

Myth, therefor, has served to provide men a means of avoiding such chaos, as it offers a "logical model" by means of which the human mind can evade unwelcome contradictions and so provides a means of "'mediating'

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[16] WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1497 (16th ed. 1971).
[17] *Id.*

between opposites that would, if unreconciled, be intolerable."[18] The overarching significance of this mediating role of myth is further revealed in the understanding of a particular Man's psychological relationship with the external world and with the actions of others: Man needs an explanation for things. As put by Langer, Man can "adapt himself somehow to anything his imagination can cope with; but he cannot deal with chaos."[19] Myth is one means of avoiding such chaos, as it "provides a 'logical model' by means of which the human mind can evade unwelcome contradictions and so provides a means of 'mediating' between opposites that would, if unreconciled, be intolerable."[20]

Thus myth can be defined as a complex of alternately factual or counter-factual stories which, for various reasons human beings regard as demonstrations of the inner meaning of the universe and of human life,"[21] an "aesthetic creation of the human imagination."[22] It has been described as one of the three elemental forms of human expression, along with language and art.[23] Regarding the lattermost engine of communication as it would relate to communicating religious norms, consider the early masters portraying the divine to the literate and illiterate alike with paintings of Biblical sacraments, scenes and stories.[24]

The structure of the human mind, the reasoning goes, is binary, *e.g.,* life/death, hunter/hunted, just/unjust. Thus, myth mediates between and resolves such "conflicting opposites."[25] As suggested, such binary opposites often present themselves in man's perpetual desire to rationalize nature. Of greater interest for present purposes, some of the opposites, such as truth/falsehood or justice/injustice, confront man in his dealings with other individuals or social groups. Whether the myth's instructive

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[18] MARK P.O. MORFORD & ROBERT J. LENARDON, CLASSICAL MYTHOLOGY 10 (7th ed) (2003).

[19] SUSANNE K. LANGER, PHILOSOPHY IN A NEW KEY 287 (1951) (quoted in CLIFFORD GEERTZ, THE INTERPRETATION OF CULTURES 99-100 (1973).

[20] MORFORD & LENARDON, *supra* at 10.

[21] ALAN W. WATTS, MYTH AND RITUAL IN CHRISTIANITY 7 (London 1953).

[22] RICHARD VOLNEY CHASE, THE QUEST FOR MYTH 73 (Baton Rouge 1949).

[23] Lucien Levy-Bruhl, *How Natives Think* chap. 7 (Cambridge, MA 1942), discussed in Phillip Wheelwright, *The Semantic Approach to Myth*, 68 J. AMER. FOLKLORE 473 (1955).

[24] *E.g.,* Rembrandt Harmenszoon van Rijn, *The Presentation of Christ;* Leonardo DaVinci, *The Last Supper*; and Jacopo Tintoretto (ne Jacopo Comin Tintoretto, *The Deploration of Christ*).

[25] MORFORD & LENARDON *supra* at 7 (synopsizing the work of Claude Levi-Strauss).

value is natural or societal, it is labile and malleable, and may change over time.[26]

A societal belief in a myth or in a norm derived therefrom need not have the force of law in order to effectively regulate behavior. Indeed, some norms seem to have controlled social activity even more effectively than laws on the same or similar themes. Oftentimes characterized as "ruling ideas," a myth's "exemplary" ideas "draw a distinction between society and that which lies below it, in an underworld of seedy chaos."[27] In this latter role, even without a society's means of enforcement, myth, as well as norms and customs, can be seen to represent deontic logic, or the logic of imperatives,[28] which is to say the myth identifies necessary relations of opposition and concomitancy.[29] Understood as such, myth is not simply "the preserve of story tellers and performers of ritual," but rather and more importantly provides for Man "an accessible and regular mode of being in the world, as a mode of making the deepest truths of life generally operative."[30]

Myth has always been imparted by means of symbol or language, and has historically been conveyed by symbolic or oral storytelling. Mythological thought "builds structured sets by means of a structured set, namely, language."[31] Evaluation of the societal role of any myth cannot be complete without reference to its primary means of transmission—the oral tradition. Anthropologist A. Raphaël Ndiaye explains that while "there are multiple suitable definitions of oral tradition, despite numerous nuances, it represents the complete information deemed essential, retained and codified by a society, primarily in oral form, in order to facilitate its memorization and ensure its dissemination to present and future generations."[32] Oral tradition appears, Ndiaye continues, as a heritage that displays the many dimensions of humanity, including reason, intelligence and spirituality - a

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[26] *See* FITZPATRICK, *supra* at 26.

[27] J. B. Thompson, *Introduction* to C. LEFORT, THE POLITICAL FORMS OF MODERN SOCIETY: BUREAUCRACY, DEMOCRACY AND TOTALITARIANISM 17 (1986), quoted in FITZPATRICK, *supra* at 38.

[28] *See generally* GEORG HENRIK VON WRIGHT, NORM AND ACTION (Ted Honderich ed., 1963) (discussed in M.D.A. FREEMAN, LLOYD'S INTRODUCTION TO JURISPRUDENCE 205 n.36 (7th ed. 2001)).

[29] BENTHAM, *supra* at 97.

[30] FITZPATRICK, *supra* at 22.

[31] CLAUDE LEVI-STRAUSS: THE SAVAGE Mind 21 n. * (1996) (unnumbered footnote).

[32] A. Raphaël Ndiaye, *Oral Tradition: From Collection to Digitization*, available at http://www.ifla.org/IV/ifla65/65m-e.htm

willingness to live on, allowing Claude Levi-Strauss in particular to affirm that there are no children among people - all are adults."[33]

In preliterate societies, although deference was owed the words or tales of great Men and village elders—or in matriarchal societies, their Female counterparts—decisions were arrived at communally, or horizontally. "Within such societies, oral tradition guarantees its own reproduction by spreading in two directions, vertically and horizontally: vertically from the elders and the past to the present; horizontally, in a synchronous process between members of the contemporary society."[34] As one means of this reproduction, children played an essential role in the nurturing of the governing myth from one generation to another, in that they seemed to be as infused with a recognition of their participation in the collective as were their adult counterparts. Thus, the oral transmission of myth reinforced the peer-to-peer horizontal aspects of primitive societies, including their horizontal decision making and law giving.

Man's Life in Nature and Society

To some, a culture's adoption of mythic ideation at its inception is a function of primitive or ancient man's incapacity to analyze reality. Others, such as Claude Levi-Strauss and Edmund Ronald Leach have rebuffed the idea of a proto-analytical "myth-making faculty" in which mankind "turn[s] its back on reality,"[35] suggesting that a culture's myths, taking into account the limitations of natural science available to any given era, seem perfectly in step with many of natural and social "truths" generated in elevated form by later societies.

Even though primitive man's exploration and explanation of the natural world predated the development of modern natural science, Levi-Strauss suggests, it is not for this reason "less scientific," nor are its postulates "less genuine."[36] However, as later explained by Clifford Geertz, there is reason to disagree that man's mental disposition was essentially fixed prior to the development of culture, and that his current rational capabilities are merely enhancements thereon. To these social

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[33] *Id.*
[34] *Id.*
[35] A. Raphaël Ndiaye, *id.*
[36] MIRCEA ELIADE, MYTHS, DREAMS AND MYSTERIES: THE ENCOUNTER BETWEEN CONTEMPORARY FAITHS AND ARCHAIC REALITIES (Philip Mairet trans.) (Harper & Row 1960).

scientists, "tools, hunting, family organization, and, later, art, religion, and 'science' molded man somatically; and they are, therefore, necessary not merely to his survival but to his existential realization."[37] To these thinkers, the "principal value" of a culture's myths has been "to preserve until the present time the remains of methods of observation and reflection which were (and no doubt still are) precisely adapted to discoveries of a certain type: those which nature authorized from the starting point of a speculative organization and exploitation of the sensible world in sensible terms."[38] Thus to anthropologist Bronislaw K. Malinowski, far from the product of unsophisticated and credulous minds, myths have typically represented "a hard-worked active force[,] a pragmatic charter."[39]

In the end, it is probably most circumspect to assign both scientific and nonscientific attributes to myth. As Levi-Strauss concedes: "Mythical thought for its part is imprisoned in the events and experiences which it never tires of ordering and re-ordering in its search to find them a meaning. But it also acts as a liberator by its protest against the idea that anything can be meaningless with which science at first resigned itself to a compromise."[40] Any examination of myth, therefore, reveals myth and corresponding actual phenomena in a dialectic minuet.

All myths relate a story. The form of the myth's conveyance may be a story, dance, or song; the myth may employ symbols, totems, or almost invariably, rituals. The choice and manner of utilizing such forms can greatly affect the power of the message and even the message itself. Whatever the form chosen, a myth's ritual, symbolism, totemism or otherwise "function[s] to synthesize a people's ethos - the tone, character and quality of their life, its moral and aesthetic style and mood - and their world view - the picture they have of the way things in sheer actuality are, their most comprehensive ideas of order."[41] Accordingly, the relation between law - either ancient or modern - and the myths of antiquity is best understood when one evaluates not only the content of the story but also the form of its portrayal.

For example, the dress of ritual participants might provide a subtext, as exemplified by the Navajo elders to represent the myth of their original people by garb recollecting the original animals chosen to guide them.

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[37] *Id.*
[38] B. MALINOWSKI, MAGIC, SCIENCE AND RELIGION AND OTHER ESSAYS 101 (1954).
[39] *Id.*
[40] LEVI-STRAUSS, *supra* at 22.
[41] GEERTZ, *supra* at 89.

Further, they might involve ceremony, dance, or the erection of totems or even buildings.[42]

From the earliest times ceremonial representation, story-telling and accompanying ritual presentation of myths and folktales represent a sum that is greater than its parts in terms both of believability and indelibility, a phenomenon that is true to this day.[43] It is no surprise that so many of today's binding "legal" actions are enveloped in ceremony - one need only consider the sacrament of marriage. Indeed, Scandinavian Realist Axel Hagerstrom sought to prove that, prosaic as the oral exchanges of purchase and sale under the Roman system of *jus civile* may have been, the incantations were still part of "a system of rules for the acquisition and exercise of supernatural powers,"[44] and that the words and rituals had a "magical effect."[45] And, as M.D.A. Freeman paraphrases Frederick Pollack, "ritual is to law as a bottle is to liquor; you cannot drink the bottle, but equally you cannot cope with liquor without the bottle."[46]

Natural law, to Bertrand Russell, "decides what actions would be ethically right, and what wrong, in a community that had no government;

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[42] A remarkable feature of the religion of the Chaldeans has been used to explain the shape of their palaces and temples. They "lifted their eyes to the hills" on the northeast, 'the Father of countries,' and imagined it the abode of the gods, the future home of every great and good Man The type of the holy mountain was therefore reproduced in every palace and temple, sometimes by building it on an artificial mound with trees and plants watered from above." ANDERSON, *supra* at 34.

Of this phenomenon in modern popular culture, *see* Richard K. Sherwin. *Law in Popular Culture*, in BLACKWELL COMPANION TO LAW AND SOCIETY 95, 99 (Austin Sarat ed., 2005):

> Images do not simply 'add' to the persuasive force of words; they transform argument and, in so doing, have the capacity to persuade all the more powerfully. Unlike words, which compose linear messages that must be taken in sequentially, at least some of the meaning of images can be grasped all at once. This rapid intelligibility permits visual messages to be greatly condensed (it takes a lot less time to see a picture than to read a thousand words) and allows the image creator to communicate one meaning after another in quick succession. Such immediacy of comprehension enhances persuasion.

BERTRAND RUSSELL, A HISTORY OF WESTERN PHILOSOPHY at 857-58 (1945).

[43] M.D.A. FREEMAN, *supra* at 857 (referencing AXEL HAGERSTORM, DER ROMISCHE OBLIATIONSBERGRIFF (1927)).

[44] *Id.*

[45] *Id.* at 857-58.

[46] *Id*

and positive law ought to be, as far as possible, guided and inspired by natural law."[47] However, the diplomatic delicacy that militates against analyzing religion *qua* religion as myth does not preclude taking note of the frequent correlations diverse religions have made between natural law and the belief in one or more particular gods. Such an analysis seems to step off the diplomatic tightrope with the expectation of distinguishing fact from fiction within a particular faith, for although most religious followers credit their sacred texts and stories as largely factual, they are inclined equivalently to assess the beliefs of others as fantastic. Therefore, it can be said that at least from the perspective of a substantial minority of persons, the sacred underpinnings of faith not their own are footed in myth or fantasy.

What does this approach, if credited, permit us to do? To be sure, it urges thinkers to examine a pattern among faiths of assigning god's will as responsible for, or at least consistent with, natural law or natural rights.[48] The basic structure of natural law proposes that (1) the plan for Man in society is the pursuit of what is good, just, and moral; (2) a perfect god is responsible for this plan, from which Man deviates only at his peril; and (3) there is an unbreakable teleological connection between god's will and natural law.[49]

If this much is true, then the conclusion is almost inescapable - where diverse and heterogeneous faiths co-exist, one faith's perception of goodness, justice, and morality is based upon myth. This can be true even if the compared faiths share essentially similar sacred conclusions.

As suggested earlier, when a society has believed in myth, that myth has remained a means of social control, despite the fact that it has not been officially recognized as law.[50] Myth has long existed in societies that simultaneously adhered to independent social norms, or even written law.[51] Indeed, examples abound in which the power of myth, however

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[47] BERTRAND RUSSELL, WESTERN PHILOSOPHY 628 (1945).

[48] This inquiry puts aside Jeremy Bentham's legendary dismissal of natural law as "nonsense upon stilts." Jeremy Bentham, *Anarchical Fallacies, Being an Examination of the Declaration of Rights Issued During the French Revolution*, in NONSENSE UPON STILTS: BENTHAM, BURKE AND MARX ON THE RIGHTS OF MAN 53 (Jeremy Waldron ed., 1987).

[49] *See* Mark Murphy, *The Natural Law Tradition in Ethics,* STAN. ENCYC. PHIL. (2002), available at http://plato.stanford.edu/entries/natural-law-ethics; Ralph McInerny, *The Moral Theory of St. Thomas Aquinas*, J. OF MED. ETHICS 13, 31-33 (1987) , available at https://jme.bmj.com › content › medethics › 31.full.pdf

[50] *See* M.D.A. FREEMAN, *supra* at 205.

[51] An important distinction between societies governed by law versus those governed by value or custom has been that "value judgments do not state facts but

inexact, to regulate a society's behavior has equaled or exceeded the power of its laws. As systematic significance along these lines, the mythological trappings of equality among mortals does not mean that primitive civil justice was immune to considerations of status or personage. For example, when discussing the legal tradition of the Plains Indians, anthropologist Edward Adamson Hoebel writes: "By the very reason of their special characters and social status the litigious behavior of such personages does not give a full picture of law at large. Justice may wear a blindfold and every man be equal before the law, but in every society - primitive and civilized - personality and social status color and influence every legal situation."[52]

The following mythical stories reveal the approach individual cultures have taken to rendering comprehensible the second type of myth referred to throughout: stories that pertain less to man's life in nature than to man's life in his culture. In practically all of these tales it will be possible to see a strong suggestion as to optimal behavior within that society. In the main, the stories are sincere and industrious encomiums about individual behavior that encourage the preservation of a peaceful, just, and prosperous community.

At the same time, in some of these myths or folktales the outcome is contrary to that which the individual or the society might fairly aspire. When this happens, as often as not, the result is attributable to the acts of a capricious, willful, or displeased deity or spirit. As unfortunate as this result may seem in absolute terms, it is by virtue of this latter type of story that primitive and ancient man could, when phenomena did not seem to align reasonably with desired results, locate a soothing rationalization.

A central role of myth is to advance a cultural ideation that explains the external world. It follows that considered alone this explanation will provide that fairness, justice, comfort, and prosperity ought to prevail. However, perhaps just as often, those noble ideals will not obtain. This again is part and parcel to the rationalizing, mediating role of myth. The foci of this PRÉCIS are myth and folk tale, not as they interpret, accurately or inaccurately, natural phenomena, but rather as they illuminate beliefs or

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indicate choices or preferences," and therefore can be "so vague and subject to so much qualification, as to be vacuous" whereas societies governed by law characteristically have the power of physical coercion which in effect creates value and custom. LORD LLOYD OF HAMPSTEAD, INTRODUCTION TO JURISPRUDENCE 106-07 (M.D.A. Freeman ed.) (4th ed. 1979).

[52] HOEBEL, *supra* at 44.

customs of ethics, morality, and justice.[53] The following recites representative myths and fables that illustrate many such standards of conduct, avoiding a formal separation of myth and folklore.

Truth and Falsehood

Fire and Water

The East African tale of *Fire and Water* speaks of the "eternal struggle between truth and falsehood,"[54] and recounts Truth, Falsehood, Fire, and Water journeying together, only to discover a herd of cattle. They decide it will be just to divide the herd into equal shares. This, however, is not enough for greedy Falsehood. He seeks to set his fellow travelers upon themselves by first turning to Water and claiming that Fire intends to burn all nearby vegetation, thus driving the cattle away. Falsehood advises Water to extinguish the fire right away. Water unwisely heeds Falsehood's counsel and does so.

Falsehood approaches Truth and claims that on the basis of what Water has done, he is not to be trusted and that he and Truth should flee with all of the cattle and head into the mountains. Truth is fooled, and agrees. As Truth and Falsehood take the cattle uphill, Water cannot follow. Atop the mountain, Falsehood reveals his mendacity and claims Truth as his servant. Truth defies him and the two fight amidst the rumble of thunder. Neither can destroy the other. They both call in Wind to decide the conflict but Wind responds that it is not for him to decide. In language that conveys a clear, normative preference for Truth, Wind states:

> Truth and Falsehood are destined to struggle. Sometimes Truth will win, but other times Falsehood will prevail, and then Truth must rise up and fight again. Until the end of the world. Truth must battle Falsehood, and must never rest or let down his guard, or he will be finished once and for all.[55]

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[53] *See* THE BOOK OF VIRTUES FOR YOUNG PEOPLE: A TREASURY OF GREAT MORAL STORIES 277-79 (William J. Bennett ed., 1997).
[54] HOEBEL, *supra* at 44.
[55] *Id.* at 279.

Reincarnation

Thoth, Osiris and the Book of the Dead

One of the repeating patterns of myths from culture to culture and from age to age is that upon his death, a man's good deeds will be weighed against his bad deeds. In the tale *Thoth, Osiris and the Book of the Dead* we are told that if a Man's good deeds outweighed the bad, the Man would travel to a heaven-like place. If not, a version of hell awaited. Similarly, in Egyptian mythology, Thoth, the God of Letters, dwelled in the underworld, where he recorded the weights of each Man's soul, and delivered them to Osiris, the stork-like bird. The sum total of a Man's good deeds, in comparison to his sins, were measured in a confession in which a Man's heart (morality) was finally weighed, and which account would become part of a The Book of the Dead. In ancient Greek culture, a belief in reincarnation held that one who had lived a meritorious life would be reincarnated into some noble beast, such as a horse, whereas the unethical or unjust man would be reincarnated as, let us say, a dung beetle. Clearly, at its core, a belief in a final accounting, is a strong incentive to peaceful, ethical behavior.

Good, Evil and Violence

The Good Twin and the Evil Twin

The road to most delicts is paved with bad intentions, and thus it is no surprise that primitive mythology contains variations on the most infamous story of the introduction of intentional violence into the world, that of Cain and Abel, or the tale of *The Good Twin and the Evil Twin*.[56]

A common mythic thread is that of evil being portrayed as a trickster. This is true in the following Aztec myth of *Quetzalcoatl*, and in the Norse myth of *Balder*. In the Aztec tradition, the myth of *Quetzalcoatl* may be "a combination of fact and myth."[57] In history, *Quetzalcoatl* was thought to have been "*Topilitzin* (Our Prince)," who brought ethics and laws to the Toltec nation. In one version of the myth, his counterpart, *Tezcatlipoca*, is not characterized as the Evil Twin of *Quetzalcoatl*, but for all intents he might as

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[56] *Id.*

[57] DONNA ROSENBURG, WORLD MYTHOLOGY: AN ANTHOLOGY OF THE GREAT MYTHS AND EPICS 609 (1999).

well be, and "represent[s] all the evils that test the moral fiber of human beings." Fittingly, *Tezcatlipoca* is invisible, having no corporeal presence.

The themes between the two principals include the tensions between temptation and forbearance, temperance and excess, and reason and emotion. In this version, *Tezcatlipoca* holds a mirror to *Quetzacoatl*'s face, and persuades him that his image "is wrinkled like that of an ancient creature."[58] *Tezcatlipoca* convinces the now insecure *Quetzacoatl* that he can regain his vitality and handsomeness by adopting a ridiculous raiment of quetzal bird feathers, a red and yellow painted face, a feathered beard, and a turquoise mask. He then urges *Quetzacoatl* to drink an inebriating beverage, of which he and his followers partake in excess.

When he is again sober, *Quetzacoatl* realizes that among other immoral acts, he has committed incest with his Sister. Even though he is ashamed, *Quetzacoatl* rationalizes temporarily that with his new wisdom of himself, he can lead his people. However, *Tezcatlipoca* continues his evil work by imposing illness and privation upon the tribe of *Quetzacoatl*, and ultimately *Quetzacoatl* leaves in a self-enforced exile and dies alone.

The Woman Who Fell From the Sky

Again, against the backdrop of a *Good Twin and an Evil Twin*, an Iroquois creation myth develops the origins of the divide between good and evil. In the story of the Iroquois, there existed an Upper World inhabited by the Divine Sky People, and a Lower World covered by Great Water.[59] The Great Darkness comprised the world between the Great Water and the Upper World. In the myth of *The Woman Who Fell From the Sky,* Earth Woman became pregnant by the West Wind and gave birth to Good Twin and Evil Twin. Evil Twin was so competitive in desiring to be born before Good Twin that he burst from Earth Mother's side, killing her. As time passed, Evil Twin sought to sabotage each beneficial act Good Twin sought for Great Island. *Evil Twin* shrunk Good Twin's fruit-bearing Sycamore into a tree bearing only shrunken and inedible pods, used his evil imagination to create the great mountains and the sharp rocks that hurt people's feet, and made game animals so large that they could not be safely hunted.

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[58] *Id.* at 611 (the text following the footnote recounts the myth of *Quetzalcoatl*).
[59] *Id.* at 627 (the text following the footnote recounts the myth of *The Woman Who Fell From the Sky*).

Eventually, Evil Twin concluded the obvious –that he and Good Twin could not coexist—and proposed a fight. Good Twin, wishing to avoid violence, proposed a race. Then, Evil Twin asked Good Twin what could hurt him, and the Good Twin answered: "the Wild Rose." Asked the same question, Evil Twin answered: "Buck's Thorns." Thus, along the proposed racing course, Evil Twin placed the branches of the Wild Rose, while Good Twin gathered Buck's Thorns from the forest and strew them along Evil Twin's side of the path. The race began, and as it progressed, whenever Good Twin tired, he stopped, picked a Wild Rose, and ate it for renewed energy. Evil Twin had nothing to refresh himself, and was increasingly hobbled by the thorns in his feet. Upon his collapse, Evil Twin begged for mercy, but Good Twin resolved to treat him as he would have been treated had Evil Twin prevailed, and beat Evil Twin to death with a branch of Buck's Thorns. Evil Twin's spirit left to become the spirit of the dead, and eventually became the Evil Spirit.

Tale of Balder

To the Norse, Balder - the son of Odin and Frigg—represented the apogee of purity and virtue.[60] One Norse Tale of Balder exemplifies this genre and emphasizes the punishment that the treacherous may expect. Inevitably Evil, in the personage of Loki, would seek a way to kill him. Traveling the world, Balder's Mother, Frigg, sought and received a covenant from all living things not to harm her son, save the little mistletoe bush, which she thought too small and young to bring harm. Loki, in disguise, tricked Frigg into conceding this omission. Fashioning a mistletoe twig into a weapon, Loki joined a group game in which Frigg's success was tested by having the participants hurl objects at Balder, only to have them bounce off him harmlessly.

Through trickery, Loki persuaded Hoder, Balder's blind brother, to take the mistletoe and throw it at Balder, killing him. In shock, Frigg asked Hermod the Bold to enter Niflheim, the Kingdom of the Dead, to confer with Hel, Loki's Daughter, to seek conditions of Balder's release. Hel required proof that all creatures and forms in nature weep over Balder's death. Only one Giantess refused, but it turned out that the Giantess was Loki in disguise. Loki then fled for his life by taking the form of a fish. Thor, engaging in the search, captured him. Loki was

[60] *Id.* at 468 (the text following the footnote recounts the myth of *The Death of Balder*).

bound to three huge rocks with his slain Son's intestines, beneath a giant venomous snake. When drops of the venom touched Loki's skin, he writhed in such pain that the earth shook.

Unsurprisingly, in other cultures, the intentional killing of a member of one's own family, clan, or tribe has been considered the most horrific of evils. For example, among the Cheyenne the killing of one tribe member by another Cheyenne "was a stain on the tribal 'soul'" revealing itself by a "miraculous appearance of blood on the feathers of the Medicine Arrows," one of two important sacred totems (or fetishes) of the Cheyenne.[61] While the blood remained on the feathers "bad luck dogged the tribe's" hunters, bearing his internal organs rotting with such a stench as itself to drive away the game.[62]

The Wages of Vice

Gold-Tree and Silver-Tree

The wages of vice, vanity and envy are the subjects of the Celtic tale *Gold-Tree and Silver-Tree*.[63] In this tale, a particularly prideful *Silver-Tree* - the Queen and Gold-Tree's Mother - returns time and again to a Trout in a well and asks if she is "the most beautiful queen in the world." The Trout, unimpressed by the Queen, responds consistently that she is not, and says that the most beautiful is Gold-Tree. The Queen then devised a plan to kill her Daughter in which she feigned illness, and told her King that the only way for her to recover would be to eat the heart and liver of Gold Tree.

Unprepared to so provide her, the King sent out hunters who killed a he-goat, and presented it to the Queen, who ate its heart and liver and declared herself well. A year later, she was alarmed to learn that Gold-Tree was still alive, had married a Prince, and lived abroad. At her request, the King prepared a long ship to permit Silver-Tree to voyage to the land in which Gold-Tree now dwelled. Upon her Mother's arrival, Gold-Tree hid in a locked room; however, Silver-Tree successfully importuned her Daughter to at least put her finger through the keyhole so that she might kiss it. Of course, Silver-Tree did no such thing, and instead stabbed it with a poisoned pin. When her Husband, the Prince, found her dead, rather

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[61] HOEBEL, *supra* at 156-57.
[62] *Id.*
[63] JOSEPH JACOBS, CELTIC FAIRY TALES 88 (1968) (the text following the footnote recounts the myth of *Gold-Tree and Silver-Tree*).

than begin burial rites, he placed her in a room and locked it. He eventually remarried. One day, the Prince's new Wife gained access to the room and discovered the beautiful Gold-Tree. Noticing the poisoned stab in her finger, she removed it and Gold-Tree arose, as alive and as beautiful as ever.

At the end of the year, Silver-Tree returned to her Trout in the well, and was again enraged to learn both that she was not the most beautiful Queen in the world, and that Gold-Tree was alive. Again Silver-Tree set out for the land of Gold-Tree, her Prince, and the second Wife (as the Prince had decided to keep them both). The three went to the shore to greet her. Silver-Tree offered Gold-Tree a special drink, which was poisoned of course, but the second Wife reminded the Queen that the custom of the land was for the person offering a draught to drink first. When Silver-Tree put the goblet near her mouth, the second Wife struck the goblet, causing some of the drink to go down Silver-Tree's throat. The vain and covetous Queen fell dead, and the Prince with his two Wives lived peacefully thereafter.

King O'Toole and His Goose

The virtue of honesty is the lesson of the Celtic folktale *King O'Toole and His Goose*.[64] Honesty or truth-telling has always been a mainstay of mature societal goals. Accordingly, in myth and folklore, there is no want for examples of good blessing the truth-teller and ill befalling the deceiver. In the story of *King O'Toole and His Goose*, a happy and good King O'Toole has grown old, and has resorted to buying a Goose as his sole diversion. Eventually, the Goose is stricken by old age and the King is left feeling utterly alone.

One day St. Kavin, appearing simply as a Young Man, greets the King by name. The King asks the visitor questions such as his identity and the basis of the Man's knowledge of the King's regal status, but St. Kavin answers only: "I am an honest Man." St. Kavin does, however, state that his trade is that of "makin' old things as good as new," and adding, "what would you say if I made your old Goose as good as new?" The King is overjoyed at the prospect, and after a brief negotiation, agrees to give the Young Man "all the ground the Goose flies over." The matter settled, St. Kavin. makes the sign of the cross over the Goose, holds it up in his hands, tosses it into the air, and the Goose flies like a swallow.

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[64] *Id.* at 93.

At this point St. Kavin asks, "Will you gi`e me all the ground the Goose flew over?" to which King O'Toole answers he will, "though it's the last acre I have to give." St. Kavin then replies: "It's well for you, King O'Toole, that you said that for if you didn't so state, the Devil the bit o' your Goose would ever fly ag'in."

Only now St. Kavin reveals his Saintly origin, and that he came to the King to "try" him.[65] Having shown his honesty, the King lived out his days with his Goose. Even afterwards, the Goose was blessed, in a sense, in that one day in diving for a trout, it instead struck a horse eel, which killed the Goose. However, the eel would not eat the Goose because "he darn't ate what St. Kavin had laid his blessed hands on."

Deceit

The Indian Cinderella

A linchpin of all justice systems has been the elevation of truth over falsity. Numerous primitive myths support the ethos of honesty, and a Hebrew saying has it that "[t]he worst informer is the face,"[66] suggesting the near impossibility of being able to facially conceal a deceit.

A myth of certain Eastern Woodlands Indians fortifies a moral that truth is rewarded. This myth has sometimes received the anglicized title of The Indian Cinderella.[67] It begins on the shores of a bay, where there lived a great Warrior, once among the helpers of Glooskap, a Native American mythic hero. This Warrior, who was known as Strong Wind the Invisible, used this skill to sneak among enemies and learn of their plans. The Warrior lived with his Sister, who could see him when others could not. Many Maidens wished to wed this Warrior, and as Sisters are wont to do, she helped him evaluate the candidates. In the early evening, she would walk to the beach with any Girl wishing to wed him. The Warrior would approach in his invisible form, and the Sister would ask the suitor: "Do you see him?" The Girl would invariably respond falsely: "Yes."

The village chief, a widower, had three Daughters. The youngest was beautiful, and the two older Sisters were jealous, so they dressed her in rags, cut her hair, and burned her face with coals. They lied to Strong

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[65] *Id.* at 98.

[66] A TREASURY OF JEWISH FOLKLORE 638 (Nathan Ausubel ed., 1948).

[67] THE BOOK OF VIRTUES FOR YOUNG PEOPLE, *supra* at 259-62 (the text following the footnote recounts the myth of *The Indian Cinderella*).

Wind's Sister that they could see him, but went home disappointed. One day, the youngest patched her tattered clothes and adorned herself in such modest ornaments as she had, and went to visit Strong Wind's Sister. "Do you see him?" The young Maiden answered: "No." Again Strong Wind's Sister asked: "Do you see him now?" This time she answered: "Yes, and he is very wonderful." "With what does he draw his sled?" The Maiden responded: "With the Rainbow." "Of what is his bowstring?" She answered: "His bowstring is the Milky Way." It was now that Strong Wind's Sister knew that the Maiden had spoken the truth when she had said that she had seen him, as he had made himself visible after her first truthful answer. As for the cruel Daughters, Strong Wind learned of their acts and turned them into Aspen Trees. The story concludes:

> And since that day the leaves of the Aspen have always trembled, and they shiver in fear at the approach of Strong Wind, it matters not how softly he comes, for they are still mindful of his great power and anger because of their lies and their cruelty to their Sister long ago.[68]

Unjust Enrichment

Caught in His Own Trap

Deceit and the social penalties therefor are a frequent subject of Hebrew folk tales. Together with malicious conspiracy, it is the subject of a certain Hebrew story concerning a Jewish tenant farmer living in a Polish village, who was a pious and good man, but whom in his affairs had the misfortune to encounter a scheming Nobleman whom, as fortune would have it, was ultimately caught in his own trap.[69] One day this young Nobleman entered the village, and after wasting his money on wine, women, and song, he determined that he should displace the Farmer from his land and till it himself. The young Nobleman's efforts first to cajole and then to menace the Farmer into abandoning his land were fruitless, and so he offered several peasants money and drink, and persuaded them to lay in wait for the Farmer and murder him as he passed through the woods.

On the Farmer's trip through the woods, he was full of foreboding. Rain fell as night closed in, and he could not see his way. Yet he continued, and repeated the psalm. "God is our refuge and strength.

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[68] *Id.* at 262.

[69] A TREASURY OF JEWISH FOLKLORE, *supra* at 581 (the text following the footnote recounts the myth of *Caught in His Own Trap*).