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CHENXI TANG

## **The Transformation of the Law of Nations and the Reinvention of the Novella: Legal History and Literary Innovation from Boccaccio's *Decameron* to Goethe's *Unterhaltungen deutscher Ausgewanderten***

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**E**VEN PRIOR TO ITS PUBLICATION in Friedrich Schiller's literary journal *Die Horen* in 1795, Goethe's novella cycle *Unterhaltungen deutscher Ausgewanderten* had already been assigned an eminent place in literary history: in a letter dated November 7, 1794, Schiller informed his friend Christian Körner that Goethe "ist jetzt beschäftigt, eine zusammenhängende Suite von Erzählungen im Geschmack des Decameron des Boccacaz auszuarbeiten."<sup>1</sup> Indeed, the structural borrowing from the *Decameron* is so undisguised in *Unterhaltungen* that it is undoubtedly meant to revive, under entirely new historical conditions, the genre of the novella as established by Boccaccio (1313–75). As evident as Goethe's indebtedness to Boccaccio is, and as dutifully as informed readers of *Unterhaltungen*, from its first reviewers to recent scholars, note this indebtedness,<sup>2</sup> neither the structural continuity between the *Decameron* and *Unterhaltungen* nor the variations and innovations undertaken by the latter have been subjected to historical and theoretical scrutiny. As a consequence, both the historical conditions making Goethe's reinvention of the novella possible and the functions performed by this reinvention remain in the dark.

This essay approaches Goethe's reinvention of the novella from a legal historical perspective. The novella first came into being as a legal genre, referring to *novellae leges* or new laws that were issued by the Roman emperors of late Antiquity after previous imperial enactments or *constitutiones* had been compiled into the *Codex Theodosianus* (438 CE) and *Codex Justinianus* (529 CE).<sup>3</sup> After the completion of his monumental codification project in 529, Emperor Justinian issued new legal rulings on individual cases that could be resolved neither by means of existing imperial enactments collected in the *Codex* nor by the jurists' doctrines collected in the *Digesta* (533 CE). These new legal rulings, variously referred to as *leges post codicem*, *novellae constitutiones*, or *novellae leges*, were later collected under the title *Novellae*. Along with the *Codex*, *Digesta*, and *Institutiones*, the *Novellae* makes up the fourth part of the *Corpus*

*Juris Civilis*. In later legal development, “novella” became a *terminus technicus* referring to a new law that amends an existing law with regard to individual issues. The invention of the novella as a literary genre in fourteenth-century Italy by Boccaccio—a jurist turned poet—took place at a specific juncture in the reception of Roman law when jurists, engaged in legal practice in a new social reality, tried to come up with innovative solutions to legal cases in accordance with the law of Justinian as well as various local statutes. In a bold challenge to jurists endeavoring to consolidate social order by means of juristic reasoning, Boccaccio sought to constitute social order anew by means of novelistic storytelling. The *Decameron*, a text written during the years following the great plague that decimated the city of Florence in 1348, shows how *jus gentium* or the law of all peoples, that is, the law informing social life in general, collapses under the great plague, and how in this general anomie a new social order can be imagined by the narration of extraordinary cases. The reinvention of the novella at the end of the eighteenth century by Goethe—a jurist turned poet as well—took place in the wake of the transformation of *jus gentium*, during the intervening centuries, from the law of all peoples within the paradigm of Roman jurisprudence into international law within the paradigm of natural jurisprudence. It responded to the crisis of international law by proposing the aesthetics of storytelling as a means of imagining world order.

### **From the Legal Novella to the Literary Novella: Justinian, the Reception of Roman Law, and Boccaccio**

When Justinian ordered the compilation of all the enactments of Roman emperors as well as all the significant texts of Roman jurists, which eventually came into force under the titles of *Codex* and *Digesta* respectively, he meant to lay the legal foundation for his empire for all eternity. Yet at the same time he admitted that neither the enactments of emperors nor the doctrines of jurists could stop the flow of time:

Now things divine are entirely perfect, but the character of human law is always to hasten onward, and there is nothing in it which can abide forever, since nature is eager to produce new forms. We therefore do not cease to expect that matters will henceforth arise that are not secured in legal bonds. Consequently, if any such case arises, let a remedy be sought from the Augustus, since in truth God has set the imperial function over human affairs, so that it should be able, whenever a new contingency arises, to correct and settle it and to subject it to suitable procedures and regulations.<sup>4</sup>

Because the world was not frozen in the *Corpus Juris*, new laws were needed to tackle new circumstances that never ceased to arise. Indeed, no sooner was the codification project completed than Justinian began to make new laws. Starting on January 1, 535, he issued a total of 168 new legal rulings in the space of about thirty years. These new laws, the so-called novellas, all concern individual cases not easily adjudicated by means of the

codified body of laws.<sup>5</sup> They all have the same format, starting with a preface, in which the case in question is described, followed by the actual legal ruling divided into various chapters, and concluding with an epilogue that gives instructions to authorities regarding the legal ruling and sometimes also specifies when it goes into effect. Moving from the descriptive or narrative account of an individual case to the proclamation of a general legal ruling, the formal structure of the novella already indicates its function: it seeks to turn factual contingency into a stable normative order. This function is often explicitly stated. In the second novella, for instance, after a detailed account of a case of property conflicts ensuing from the second marriage of a woman, the emperor concludes the preface: "Having repeatedly examined all these circumstances and having considered the whole doctrine as to preference and as to such inheritance, we have thought it appropriate to draw up a law on this matter, which at the same time should also serve to reach a decision on the present case."<sup>6</sup> There follow the paragraphs of this new law. Instead of simply making a decision on a concrete case, Justinian issues a general statute that regulates this case as well as many hypothetical cases. The task of ruling on an individual case is taken as an occasion for legislation. The facts of the case are thus not merely subsumed under an existing law affirmed by a judgment, but sublimated into a normative order established by a new law.<sup>7</sup>

The novella as a literary genre emerged at the height of the reception of Roman law in fourteenth-century Italy. Justinian's *Corpus Juris*, with the exception of the *Institutiones*, fell into oblivion soon after his reign ended. Its reception did not take place until the eleventh century, when the founding of the first European university in Bologna inaugurated academic legal studies. Driven primarily by theoretical interests, the first generation of legal scholars, the so-called Glossators, occupied themselves with the exegesis and didactics of the *Corpus Juris*. Among their achievements was an edition of Justinian's novellas called *Authenticum*.<sup>8</sup> In the time around 1300, jurists gravitated towards legal practice. There began the age of Postglossators or Commentators. The most famous of all Commentators were Boccaccio's contemporaries in Northern Italy: Cino de Pistoia (ca. 1270–1336), Bartolus (Bartolo da Sassoferrato, 1314–57), and Baldus (Baldo Ubaldi, 1327–1400). As teachers, the Commentators had to continue the theoretical work of the Glossators on the texts of Justinian, but it was in providing legal counsels or *consilia* that they mastered and developed the law of Justinian as well as local statutory laws, thereby becoming the true creators of European *ius commune*. For this reason, they are also called Consiliators.<sup>9</sup> Commissioned by parties to legal transactions, by people entangled in litigation, and sometimes also by law courts, a *consilium* is an opinion based on expert legal knowledge. It usually starts with an account of the case at hand or *casus*, also referred to as the *factum* or *thema*, then proceeds to formulate the question of law at stake or *quaestio*, then moves on to its treatment through arguments *pro* and *contra*, and finally concludes with a decision or *solutio*. This five-step schema *casus-quaestio-pro-contra-solutio* is not always strictly followed, often with one step or another curtailed or omitted, but it does represent the general rhetorical

procedure of the *consilium*.<sup>10</sup> In fact, rhetoric plays a constitutive role in the *consilium*. Apart from the rhetorical procedure of its composition, the writing of a *consilium* requires considerable rhetorical skills in dealing with the texts of the law, as it is only through dexterous reasoning and interpretation that the jurist can make the old texts fit a new situation and serve the interests of his client. The innovative interpretations of the *Corpus Juris Civilis* by the jurists eventually made their opinions a major source of legal development in Europe, transforming the law of Justinian into European *ius commune*.<sup>11</sup> For all their innovative reasoning and interpretation, however, the Consiliators pursued the goal of subsuming concrete cases under existing legal axioms, following a generalizing principle by which the texts are extracted from their original contexts and applied to concrete cases at hand.<sup>12</sup> In this sense, the *consilium* is exactly the opposite of Justinian's novella: whereas the novella takes a concrete case as the occasion for making a new law, the *consilium* seeks to subsume a concrete case under existing laws.

Boccaccio studied law, tried his hand at the legal profession, was involved in governmental affairs, and went on numerous diplomatic missions on behalf of Florence. In his youth, he made the acquaintance of Cino de Pistoia, the first great representative of the school of Commentators, but a poet as well. He was thus intimately acquainted with the jurist's profession and legal culture of his time. Yet he held the poets in the highest esteem, defending their impecuniary endeavors against "these gorgeous interpreters of the law."<sup>13</sup> Poets may be poor, but jurists are afflicted with "the second kind of poverty—that of the imagination" (31). They merely master certain rhetorical skills: "Lawyers, in their practice of law, are skilled in mere memory of what is written, and dispense the decisions and rulings of legislators literally, but without intelligence." Poets, by contrast, possess a truly imaginative mind that enables them to attain divine wisdom, a mind "which transports us on high, instead of that which bears us down to earth; a mind firmly established instead of one tottering on the verge of a fall; a mind which offers lifelong benefit rather than briefest felicity. At any rate the poets have chosen a science or pursuit of knowledge which by constant meditation draws them away into the region of stars, among the divinely adorned dwellings of the gods and their heavenly splendors" (25). By means of their rhetorical skills, jurists attempt to explain reality and make decisions in light of the law without realizing that the law that they value above all is actually susceptible to constant change: "the Slav, for example, knows not the same civil laws as the African. In the toil of war men feel less the authority of the law than in the happy tranquility of peace. Then too city ordinances and statutes of the realm may greatly increase or diminish the power of a law; and the proclaimed adjournment of court may silence them. Laws even become antiquated and sometimes actually dead. . . ." Poetry, by contrast, "constitutes a stable and fixed science founded upon things eternal, and confirmed by original principles; in all times and places this knowledge is the same, unshaken by any possible change" (25-26). Having compared jurists with poets from these as well as other perspectives, Boccaccio concludes: "Poets sing their songs in retirement; lawyers wrangle noisily in the

courts amid the crowd and bustle of the market. Poets long for glory and high fame; lawyers for gold. Poets delight in the stillness and solitude of the country; lawyers in office buildings, courts, and the clamor of litigants. Poets are friends of peace; lawyers of cases and trials." To lend more force to his argument about the superiority of poets, he cites "the authority of Solon, himself a most learned lawyer, who, when he had finished his tables, forsook the law for poetry" (32).

Boccaccio paints a sarcastic yet accurate picture of the jurists of his time. As professionals providing expert opinions on various legal matters, they capitalized on their rhetorical skills. With their knowledge of legal texts, they sought to resolve concrete cases by subsuming them under the law, even though the law was constantly changing. Actually their own juristic reasoning, which involved interpreting old legal texts for specific practical purposes, produced new texts, thereby contributing to the development of the law. The antipode to the jurist, the poet is portrayed as a creative mind who strives to discern the true, eternal law of the world in the solitude of nature. This diametrical opposition between the jurists and the poets implies that the latter must approach fact and norm, contingency and order in radically different ways. Instead of trying to force facts of life into an existing, textually embodied normative order by means of rhetorical manipulation and textual interpretation, poetry is supposed to elevate contingent facts, by means of meditation and imagination, into normative order as such, an order that Boccaccio characterizes as eternal. Boccaccio thus assigns poets a legislative role that foreshadows the romantic eulogy of poets as the "unacknowledged legislators of the world."<sup>14</sup> Such a role pits the poets against the jurists—the Commentators—and allies them with the legislator Justinian, whose novellas aim to transform contingent facts into a stable normative structure. Yet poetry aims higher than Justinian's novellas: whereas a novella, always occasioned by a specific case, establishes a normative structure that covers many yet by no means all hypothetical cases and therefore has a necessarily limited scope—for instance a normative structure regarding only property and inheritance issues associated with the second marriage of a woman—poetry aspires at nothing less than the eternal order, or order itself. Such an aspiration can be realized only if one abstracts from the subject matter of legislation and attends to the act of legislation as such, i.e. the act of creating order. It is the challenge of realizing this aspiration that gives rise to a new literary genre—the novella, as exemplified by the *Decameron*. Boccaccio's literary novella resembles Justinian's legal novella in that both make a normative order out of the factual circumstances of singular cases. At the same time, it goes beyond Justinian's legal novella in that it thematizes, or rather stages, the act of transmuting factual cases into a normative order. In the legal novella, this act is simply carried out. The literary novella, by contrast, moves this act into the center of attention by setting up a context within which it takes place and by demonstrating the modes of its operation. In so doing, the literary novella conjures up that which transcends both existing laws and laws yet to be made, that which is eternal, namely order itself, thus fulfilling what Boccaccio takes to be the mission of poetry.

## **The Dissolution of *Jus Gentium* and the Invention of the Novella in the *Decameron***

The key poetic device by which the *Decameron* stages the act of the creation of order is narrative framing, a device that is to become the most prominent structural feature of the novella as a literary genre. The hundred tales or *novelle* collected in the *Decameron* are framed in multiple ways.<sup>15</sup> In the main frame, that is, the introduction to the hundred tales, the narrator first provides a sweeping description of the great plague of 1348, and then focuses in on ten Florentine youths who, gathering in the midst of terrifying devastation, decide to leave Florence and withdraw to a series of secluded country retreats in order to tell each other stories and enjoy themselves for two weeks. The description of the plague centers on the dissolution of the social bond sustained by law. Against this background of complete anomie, the narrator sets the stage for the telling of one hundred stories. All of them present exemplary cases of human relationships, as the author puts it in the preface: "In these novellas pleasant and bitter cases of love and other exciting incidents can be seen" (*Nelle quali novelle piacevoli e aspri casi d'amore e altri fortunati avvenimenti si vederanno*).<sup>16</sup> Narration of exemplary cases, then, is brought directly to bear on the issue of normative order. The act of narration takes place in the tranquility and verdant beauty of nature—the site of poetry.

In the description of the plague, the narrator mentions briefly its physical symptoms in order to turn to its devastating effects on the social body: "In the face of so much affliction and misery, all respect for the laws of God and man had virtually broken down and been extinguished in our city. For like everybody else, those ministers and executors of the laws who were not either dead or ill were left with so few subordinates that they were unable to discharge any of their duties. Hence everyone was free to behave as he pleased" (52–53). The plague plunges Florence into general lawlessness. The narrator lists a wide array of examples. First, property has disappeared: "for people behaved as though their days were numbered, and treated their belongings and their own persons with equal abandon. Hence most houses had become common property, and any passing stranger could make himself at home as naturally as though he were the rightful owner" (52). Second, along with the suspension of social intercourse, the family bond dissolved: "the scourge has implanted so great a terror in the hearts of men and women that brothers abandoned brothers, uncles their nephews, sisters their brothers, and in many cases wives deserted their husbands. But even worse, and almost incredible, was the fact that fathers and mothers refused to nurse and assist their own children, as though they did not belong to them" (54). Third, with all age-old customs scorned, funeral rites were abandoned as well: "nor did the priests go to the trouble of pronouncing solemn and lengthy funeral rites, but, with the aid of these so-called sextons, they hastily lowered the body into the nearest empty grave they could find" (55). "So when all the graves were full, huge trenches were excavated in the churchyards, into which new arrivals were placed in their hundreds . . ." (57). Fourth, economic activity came to a halt: people "all behaved as though each day was to be their last, and far from



making provision for the future by tilling their lands, tending their flocks, and adding to their previous labours, they tried in every way they could think of to squander the assets already in their possession" (57).

Property, family duty, burial, and economic activity, as well as other phenomena depicted by the narrator, all belong to what is called *jus gentium* in Roman jurisprudence. Roman jurists distinguished two main branches of law: public and private. Public law concerned the establishment of the Roman Commonwealth, whereas private law concerned individuals' interests. Private law was tripartite, consisting of *jus naturale*, *jus gentium*, and *jus civile*. *Jus naturale*, or natural law, was that which nature has taught to all living beings, including both animals and human beings. *Jus gentium*, or the law of nations, was common only to human beings among themselves, not to other animals. *Jus civile*, or civil law, was that which every people has made for itself. *Jus naturale* pertained to the union of man and woman, the procreation of children, and their rearing, among other things. *Jus civile* included the statutes drawn up by a particular nation. Distinguishing human beings from animals on the one hand, and humanity in general from citizens of a particular nation on the other, *jus gentium*, "the law which all nations observe,"<sup>17</sup> concerned a wide range of legal matters such as the worship of God, funerals, obedience to parents, the right to self-defense, slavery and manumission, commerce, and all kinds of contractual relationships, the recognition of property, the delimitation of farmland, the assignment of construction sites, war and peace, the founding of kingdoms. According to the *Digesta*, "as a consequence of this *jus gentium*, wars were introduced, nations differentiated, kingdoms founded, properties individuated, estate boundaries settled, buildings put up, and commerce established, including contracts of buying and selling and letting and hiring (except for certain contractual elements established through *jus civile*.)"<sup>18</sup>

By focusing on the dissolution of *jus gentium* rather than municipal statutes of Florence, the frame narrative of the *Decameron* suggests that the lawlessness caused by the plague is not merely a catastrophe befalling this particular city, but rather represents the collapse of the normative structures sustaining human life in general.<sup>19</sup> The telling of the hundred stories, then, ought to perform the function of reestablishing the normative order valid for humanity at large. The title *Decameron*, meaning "of the ten days," recalls the familiar "Hexaameron," the name given to patristic and scholastic treatises on God's six days of work in *Genesis*. One prominent example is *Collationes in Hexaameron* (1273) by the scholastic philosopher and theologian Bonaventura (1221–74), published just one generation before Boccaccio. In analogy to God's six days of work, the ten days of storytelling are supposed to have universal significance. "[Taking] place in both ancient and modern times," the hundred exemplary cases are drawn from a variety of sources, as Boccaccio tells us in his preface.<sup>20</sup> Formally, they assemble and elaborate a number of existing narrative genres, as the author freely admits: "I shall narrate a hundred stories (*novelle*) or fables or parables or histories or whatever you choose to call them" (47).<sup>21</sup> However, assigned the function of remedying the disruption of normative order through the imposition of the narrative frame, they all become exemplars of one novel literary genre: the novella.

The ways in which the novella establishes normative order are foreshadowed in the *mise-en-scène* of the storytelling framework. After having decided to withdraw to the countryside to enjoy themselves, the ten Florentine youths come to the conclusion that their storytelling should proceed in an orderly manner. To this end, the group or *brigata* agrees to choose a leader for each day, with the leader for the first day elected by all and the leader for each following day appointed by the previous day's leader. This way everyone will have the "opportunity to experience the burden of responsibility and the pleasure of command associated with sovereign power" (65). Decision making by a leader is to be based on consultation with the *brigata*, as Filomena, the queen for the second day, puts it: "I do not intend, in shaping the manner in which we should comport ourselves, merely to follow my personal judgment, but rather to blend my judgment with yours" (111). The monarchical yet democratic constitution of the *brigata*, though founded on the rule of law, seems always ready to tolerate its transgression. In her capacity as queen, Filomena proposes to impose restrictions on the subject matter of the stories. Dioneo, however, wishes to be exempted from this law. His request for permission to violate the law is granted by the group on the grounds that this will prevent monotony and enliven the conversation. When his own day comes, he orders the group to discuss "the tricks which, either in the cause of love or for motives of self-preservation, women have played upon their husbands, irrespective of whether or not they were found out." This topic invites stories about the transgression of marital law. When the ladies demur to the topic, he reminds them of his role as "king and law-giver" who expects obedience. His admonition against disobeying the law, however, is accompanied by a plea for the right to transgressions. In a time when "the laws of God and man are in abeyance," he argues, it should be acceptable to "go slightly beyond the bounds of decorum" (515). Dioneo thus treads on the boundary of law, moving back and forth between the inside and the outside. The symbolic order established by the *brigata* to counter the anomie ensuing from the plague apparently maintains itself through its disturbance. The only valid law seems to be one that allows its own transgression.

Dioneo's case demonstrates not only the flexibility with which the *brigata* treats law or legal restrictions, but also—and more importantly—the *modus operandi* of the institution of law and order in the *Decameron*: the novellas do not posit one or the other law to plug the normative vacuum left behind by the collapse of *jus gentium*, but throw normative order as such into relief by problematizing it, that is, by recounting the multifarious ways in which laws as well as other norms are transgressed, circumvented, contested, compromised.<sup>22</sup> The euppeptic reading of the novellas as what creates "order from chaos"<sup>23</sup> does not do justice to them, because hardly any novella unequivocally asserts the absolute validity of a particular legal or ethical norm. They present rather a panorama of cases in which norms, legal or otherwise, are under siege, violated and restored, upheld and undone, negotiated and renegotiated. Nor, however, does the skeptical reading that debunks the "myth of order" do justice to them, because it is precisely through narrating the violation and restoration, upholding and undoing, negotiation and renegotiation of laws—that is, through "prob[ing] rather than resolv[ing]

the issue represented by posited law<sup>24</sup>—that the novellas draw attention to the existence of normative order. Against the background of lawlessness, the novellas told by the *brigata* serve as constant reminders of the significance of normative order without ever insisting on any one particular law or norm as unquestionable or inviolable. With normative order thus shining *ex negativo*, as it were, through its problematization, the novellas prove to be the epitome of poetry that, according to Boccaccio, aspires to capture the law as such, in contrast to jurisprudence that is bogged down in particular laws. However, it must be noted that Boccaccio's novellas are all concerned with the private interests of individuals such as personal relationships, property, contractual obligations, that is, issues falling within the purview of private law. The normative order that they thematize, then, ultimately pertains only to the world as seen from the perspective of private law. The political world is missing in the *Decameron*.

### **The Transformation of *Jus Gentium* into International Law: Legal Historical Presuppositions of the Frame Narrative in Goethe's *Unterhaltungen***

Goethe's *Unterhaltungen deutscher Ausgewanderten* borrows from the *Decameron* the device of narrative framing that stages a storytelling situation against the background of the disintegration of law and order. "I say, then, that the sum of thirteen hundred and forty-eight years had elapsed since the fruitful Incarnation of the Son of God, when the noble city of Florence, which for its great beauty excels all others in Italy, was visited by the deadly pestilence" (50). With this opening sentence, the frame narrative of the *Decameron* depicts the great plague that Boccaccio himself witnessed. With a similar opening sentence, the frame narrative of *Unterhaltungen* recounts a cataclysmic event, that is, the War of the First Coalition against Revolutionary France triggered by the execution of the French King Louis XVI in January 1793, a war in which Goethe himself participated: "In jenen unglücklichen Tagen, welche für Deutschland, für Europa, ja für die übrige Welt die traurigsten Folgen hatten, als das Heer der Franken durch eine übelverwahrte Lücke in unser Vaterland einbrach, verließ eine edle Familie ihre Besitzungen in jenen Gegenden und entfloß über den Rhein, um den Bedrängnissen zu entgehen, womit alle ausgezeichnete Personen bedrohet waren."<sup>25</sup> This opening sentence also introduces the storytelling group: Boccaccio's *brigata* now takes the form of a German aristocratic family that flees from the French army, leaving behind its property on the west bank of the Rhine. Disgruntled and abrasive, the various members of this family tease and offend each other. The tension within the group climaxes in an acrimonious political debate between Karl and the Privy Councilor, a family friend. Unnerved by the bad manners and lack of sociability within the group, the Baroness—the head of the family—bans political discussions when all are present. Everyone agrees on storytelling as a means of providing entertainment and improving sociability. There follow seven stories, the last of which is entitled "Märchen."

Behind the obvious formal parallels between the *Decameron* and the *Unterhaltungen* is a legal historical rupture. The plague of 1348, which forms the backdrop of the storytelling in the *Decameron*, is presented in terms of the dissolution of *jus gentium*, as discussed above. The War of the First Coalition, which forms the backdrop of the storytelling in the *Unterhaltungen*,<sup>26</sup> is also a matter of *jus gentium*, but in the sense of international law. During the centuries that separated Goethe from Boccaccio, *jus gentium* had gone through a profound semantic transformation. Whereas in Boccaccio's time *jus gentium* still retained its meaning in Roman jurisprudence, designating a particular field of private law that applies to all peoples, from the seventeenth century onwards it came to mean the law that governs the relationship between sovereign states: international law. War is a key concern of international law, posing as it does a particularly serious threat to world legal order. First of all, war collapses the legal order maintained in the time of peace. Second, even though there is a set of legal norms concerning the conduct of war, this law of war is more often than not disregarded by warring parties. Indeed, war is often associated with the violation of all legal norms. Johann Jakob Moser, one of the first public jurists who paid attention to the actual legal status of the interactions among European states, observed in the mid-eighteenth century:

Kriegs-Raison heißt entweder, was unter souverainen Völkern in Kriegszeiten üblich ist. Oder aber, wann etwas, nach Erforderung derer gegenwärtigen Umstände, geschiehet, welches auch in dem Krieg selbstem nicht erlaubt wäre, und als eine Grausamkeit passieren würde, wann nicht ermeldte Umstände es unvermeidlich machten. . . . Zuweilen aber solle die Kriegs-Raison auch ein Mantel seyn, die allerschändlichste und gegen allen Begriff von Recht und Erbarkeit anstössende Dinge zu bedecken. Lezteren Falles führet man öfters Beschwerden über den Gegentheil, welche aber gemeiniglich ohne Würckung seyn.<sup>27</sup>

In a word, war implies lawlessness. Set in the midst of war, with cannonades roaring intermittently in the background, the storytelling in the *Unterhaltungen* is supposed to remedy the lawlessness in the political world, just as storytelling in the *Decameron* is supposed to remedy the lawlessness in the world of private affairs.

The transformation of *jus gentium* from a field of private law into international law started around 1600, when the discovery of the New World and the rise of sovereign states in Europe made the relationship among peoples and states into an urgent legal problem. The most decisive factor in this transformation, however, was the formation of a new paradigm of natural-law theory, which took shape in the works of Thomas Hobbes and was to dominate European jurisprudence until the early nineteenth century.<sup>28</sup> In a radical departure from all previous doctrines of natural law, which in one way or another assert an objectively given lawful order of nature, Hobbes' conception of natural law proceeds from the subjective right that each and every individual has by nature—liberty. "The Right of Nature, which Writers commonly call *Jus Naturale*," he states in *Leviathan* (1651), "is the liberty each man hath, to use his own power, as he will himselfe, for the preservation

of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own Judgement, and Reason, hee shall conceive to be the aptest means thereunto."<sup>29</sup> Not only are men by nature free to do whatever best serves their individual interests, they are also "equal to each other by nature" in this freedom.<sup>30</sup> Natural liberty, coupled with natural equality, means that every man has a right to every thing. In the state of nature, then, there is a war of all against all. From this notion of subjective natural right, Hobbes derives a new concept of natural law. "As long as this naturall Right of every man to everything endureth, there can be no security to any man. . . . Consequently it is a precept, or generall rule of Reason," that is, a "fundamental Law of Nature" that every man ought "to seek Peace, and follow it." From this fundamental law of nature follows the second law of nature that every man ought to be willing "to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe."<sup>31</sup> Man lays down his natural right either by renouncing it or by transferring it. In both cases, he acts voluntarily in the hope of procuring some good for himself. The ultimate good is peace. The second law of nature, then, consists in each man's willingness to enter into a contract with others that limits and transfers the individual's natural right for the sake of peace. From these two laws of nature—the pursuit of peace and contracting for the sake of peace—follow a number of other natural laws, including justice, gratitude, mutual accommodation, the facility to pardon, prohibitions against contumely, pride, and arrogance, efforts to be equitable, and equal use of things in common.<sup>32</sup> After having thus deduced laws of nature from man's natural right, Hobbes points out that all of these laws, "without the terror of some Power, to cause them to be observed," are of no avail, and "Covenants, without the Sword, are but Words."<sup>33</sup> In order to have the laws of nature honored and to reach true peace, each individual must transfer his natural right to one man or an assembly of men, and authorize this man or assembly of men to act on his behalf, on the condition that everyone else do the same. When a multitude of men enter into such a covenant, they are united in one artificial person and thereby become its subjects. This artificial person is the state. The laws posited and enforced by the state ensure civil peace. As the person to whom the multitude of men have transferred their natural rights, however, the state now assumes and asserts this natural right—that is, the liberty to use one's power for the purpose of self-preservation and to do any thing that, in one's own estimation, is conducive to this purpose—over against other states. Once instituted, states as artificial persons face each other in the state of nature.

Hobbes' theory of natural law effected a fundamental restructuring of *jus gentium*. First of all, it eliminated *jus gentium* as a source of law. Roman jurisprudence, as mentioned above, distinguishes three sources of law: *jus naturale* or the law that nature teaches to all living beings, *jus gentium* or the law that natural reason establishes among all human beings, and *jus civile* or the law that a particular commonwealth sets up for itself. The criterion of distinction is the scope of application. Hobbes recognized only laws of nature established by reason and positive laws made by the state, leaving no room for *jus gentium* in the Roman sense. At the same time, however, Hobbes's

theory created a new legal subject, i.e. the artificial person of the state, and the law that applied to this new legal subject—the law concerning the relation among states—now took over the name *jus gentium*. This new *jus gentium* in the sense of international law overlapped with the *jus gentium* in the Roman sense in certain areas, for instance with regard to such issues as war, peace, and legation.<sup>34</sup> But it acquired an entirely new significance, defined not as a source of law but as a law with the sovereign state as its distinctive subject. Since in Hobbes's theory the states face each other in the state of nature, *jus gentium* understood as international law is identical with the law of nature. "As for the law of nations," he concludes in *The Elements of Law* (1650), "it is the same with the law of nature. For that which is the law of nature between man and man, before the constitution of commonwealth, is the law of nations between sovereign and sovereign, after."<sup>35</sup> Because the laws of nature have no force "without the terrour of some Power, to cause them to be observed," international law that is nothing else than the law of nature is always shaken by the terror of power. In the international arena, there is the war of all against all.

Hobbes inaugurated the modern paradigm of natural law and, along with it, the modern conception of *jus gentium* as international law. During the one and a half centuries from Hobbes to the turn of the nineteenth century, natural law went hand in hand with international law.<sup>36</sup> Whatever new doctrines the authors of natural jurisprudence in this period might have developed, the parallel that the Hobbesian theory draws between the fictive person of the state and the individual person in the state of nature remained undisputed.<sup>37</sup> This parallel implies that the state has the same subjective rights of liberty as those given to man by nature.<sup>38</sup> Without a higher authority regulating them, subjective rights are bound to trigger war. This is a logical conclusion hard to deny even for those who did not share Hobbes's view of the state of nature as the state of war—such as the French Revolutionaries and their spiritual father Jean-Jacques Rousseau.

Rousseau accused Hobbes of having designed a "horrible system" that postulates the state of nature as a state of war.<sup>39</sup> Yet even this abhorrence betrayed his affinities with Hobbes, as he shared the fiction of the state of nature. Following a similar logic of argumentation, Rousseau constructed the civil state out of the state of nature only to return it as an artificial person to the state of nature. Whereas he differed from Hobbes in maintaining that the relationship among naturally free and equal men "is not sufficiently stable to constitute either a state of peace or a state of war,"<sup>40</sup> he concurred with Hobbes that civil states as free and equal artificial persons are caught up in a permanent state of war. This is so because the state, "being an artificial body, has no determinate measure, it is without definite proper size, it can always increase it, it feels weak so long as some are stronger than it. . . . For the hands of nature set bounds to the inequality among men, but the inequality among societies can grow endlessly, until one absorbs all the others."<sup>41</sup> Unequal in power, yet laying claim to their natural rights nonetheless, civil states cannot help colliding with each other head-on. "As for what is commonly called the right of nations," Rousseau concluded, "it is certain that, for want of sanction, its laws are nothing but chimeras even weaker than the law of nature. This

latter at least speaks to the heart of individuals, whereas the right of nations, having no other guarantee than its utility to the one who submits to it, its decisions are respected only as long as self-interest confirms them" (163).

The legal doctrines of the French Revolution add one more reason for war. True to the modern natural-law theory that equates the civil state with the individual man in the state of nature, the Revolutionaries maintained that "the peoples and the states as individuals are in possession of the same natural rights and subject to the same rules of justice as are the individuals of the partial and secondary societies."<sup>42</sup> In the state of nature, in which civil states co-exist with each other, there should be peace. However, out of the conviction that "the aim of every political association is the preservation of the natural and imprescriptible rights of man"<sup>43</sup>—a conviction in keeping with the Rousseauian model of the civil state—the Revolutionaries viewed their own form of government, i.e. the republic, as not only the guarantor but also the very embodiment of natural liberty. This naturalization of the republican form of government generated the urge to bestow it on other peoples as well. In the "Decree of the National Convention on the policy on countries occupied by the Republican Armies," issued on December 15, 1792, generals are instructed to "announce to the people that they bring to them peace, succor, fraternity, liberty, and equality," and to take measures to install the republican form of government. "The French nation," the decree concludes, "promises and engages not to sign any treaty, nor to lay down its arms until after the consolidation of the sovereignty and independence of the people into whose territory the troops of the Republic have entered, who shall have adopted the principles of equality and have established a free and popular government."<sup>44</sup> This missionary zeal culminated in Robespierre's decree on permanent intervention: "Men of all countries are brothers and the different peoples ought to aid one another, according to their powers, as if citizens of the same state."<sup>45</sup> In spite of declarations against the war of conquest and proclamations of the principle of non-intervention—for instance in the "Decree of the National Convention on the Principle of Non-Intervention" issued on April 13, 1793—there was a strong tendency in the French Revolution to invoke natural liberty itself as a reason for war.<sup>46</sup>

To sum up, it was modern natural-law theory that brought about the semantic transformation of *jus gentium* into international law. Intrinsic to this conception of international law was the idea of the inevitability of war, however differently this inevitability was theorized from Hobbes to the French Revolution. The war in the frame narrative of Goethe's *Unterhaltungen* implies lawlessness, but it is not a lawlessness ensuing from the collapse of international law, but one endemic to it. The crisis of world order as manifested in war in fact represents a crisis of international law. The *Unterhaltungen* presents the novella as the aesthetic remedy to this crisis.<sup>47</sup>

Apart from the occasional mention of the "Donner der Kanonen" (1000), Goethe depicts war in oblique ways. Worth noting, first of all, is the site of the action in the frame narrative: the area around the river Rhine, across which the refugees flee at the very beginning of the narrative and the French army is pushed back as the action unfolds. It is the border area. The border is not merely a geographical space, but also symbolizes the space between

civil states, namely the international arena, in which states fight for their rights. Insofar as international law within the paradigm of modern natural law conceives of the space between civil states in terms of the state of war, the border is the very symbol of war. War is thus inscribed in the frame narrative by means of its locale. Second, the condition of the refugees is portrayed as the state of nature, in which everyone insists on his or her subjective rights. The Baroness likens the civil state or *die bürgerliche Verfassung* to a ship—an age-old topos—and the present time to the condition of shipwreck, in which individuals carry along with them “stolzen Anforderungen, Eitelkeit, Unmäßigkeit, Ungeduld, Eigensinn, Schiefheit im Urteil und der Lust ihrem Nebenmenschen tückisch etwas zu versetzen” (998–99). It is the state of nature in which individuals do not cohere into a unity but inexorably collide with each other in pursuit of their natural liberty. Since civil states as artificial persons face each other in the state of nature, enjoying the same natural liberty as individuals do, the condition of the refugees stands for the international arena perpetually caught up in the state of war. Finally, the state of war is illustrated by the quarrel between Karl and the Privy Councilor. The occasion for the quarrel is the siege of Mainz and the status of the Mainz Jacobins. The Privy Councilor represents the viewpoint of the allies, viewing the actions of Revolutionary France from the perspective of *raison d'état*, claiming that it uses the Mainz Jacobins as mere “tools” to be thrown away once its tactical goals are reached, and thus denying that “die große Nation . . . weniger stolz und übermütig sein werde, als irgend ein anderer königlicher Sieger” (1002). Karl, by contrast, subscribes to the conviction of the Revolutionaries that their republican form of government perfectly realizes natural liberty, and that this natural liberty should be brought to other peoples, by means of war if necessary. The quarrel between Karl and the Privy Councilor thus replicates in miniature the ongoing war of the allied monarchies against Revolutionary France, while the Baroness tries in vain “wo nicht einen Frieden, doch wenigstens einen Stillstand zuwege zu bringen” (1003).

Smarting from the emotional deprivation caused by the angry departure of the Privy Councilor and his wife—the effects of war, as it were—the Baroness complains bitterly about the men around her, once again comparing their egocentrism and self-righteousness to the state of nature: “Müssen denn eure Gemüter nur so blind und unaufhaltsam wirken und drein schlagen, wie die Weltbegebenheiten, ein Gewitter oder ein ander Naturphänomen?” (1006). She particularly remonstrates with them for their incapacity for renunciation or *Entsagung*. Renunciation, emphasized by Goethe in both the *Unterhaltungen* and *Wilhelm Meisters Wanderjahre oder die Entsagenden* (1821/1829), is a concept that already figures prominently in Hobbes' natural-law theory. Because in the state of nature everyone has a right to everything, man should renounce at least some of his natural rights for the sake of peace. Most laws of nature, in particular those regarding mutual accommodation, readiness to pardon, and prohibitions against contumely, pride, and arrogance, presuppose renunciation.<sup>48</sup> Even though the value of renunciation is apparent to reason, Hobbes points out, it is rarely heeded. The Baroness shares the Hobbesian observation that renunciation is highly desirable but unfortunately lacking in the state of nature. Yet there is a key difference between the



*Unterhaltungen* und the Hobbesian theory. For Hobbes, the only remedy to the lack of renunciation lies in the institution of a sovereign authority that enforces law and order. Goethe's text, however, does not give up renunciation as altogether unrealizable. The Baroness's remonstrance prompts an effort on the part of all those around her to probe, by means of storytelling, the possibilities of renunciation—with positive results. In telling stories that point the way toward renunciation, the *Unterhaltungen* also points the way out of the Hobbesian dilemma in conceiving world order. If no one is capable of renunciation and the only possibility of order resides in a sovereign authority, as Hobbes maintains, then there can be no peaceful world order, simply because there is no sovereign authority in the international arena. With the possibility of renunciation affirmed through narrative imagination, the *Unterhaltungen* envisions a model of lawful order and sociability beyond sovereign authority. This model applies to individual persons in the state of nature and, by analogy, also to civil states as artificial persons. As such, it figures as an antidote to the state of war, in which civil states are perpetually entangled.

The *mise-en-scène* of the storytelling framework in the *Unterhaltungen* thus stands in a complex formal and historical relationship to that in the *Decameron*. Both texts set up storytelling as a countermeasure against an acute crisis—in Goethe's text, the war that puts international law to the test; in Boccaccio's, the plague that shatters the law valid for all human beings. Behind this formal homology lies the historical transformation of *jus gentium*, which took place after the mid-seventeenth century in the wake of the modern natural-law theory inaugurated by Hobbes: the plague in the *Decameron* is associated with *jus gentium* in the sense of Roman jurisprudence, i.e. a branch of private law that applies to all peoples, whereas the war in the *Unterhaltungen* is associated with *jus gentium* in the sense of international law, i.e. a branch of public law concerning the relations among civil states. The replacement of plague by war as the background of storytelling in the *Unterhaltungen* poses a serious challenge to the narrative form, as war and international law concern the relationship between civil states as artificial persons, but artificial persons elude the narrative mode tailored to representing the character and action of individual persons. Therefore, war as well as international order must be represented obliquely. One strategy is to substitute the individual person in his natural liberty for the artificial person of the civil state. Such a strategy, already employed in the frame narrative, derives its efficacy from the conceptual design of modern natural-law theory, which equates the artificial person of the civil state with the individual person in the state of nature. It is this need to represent actions and events in the state of nature that necessitates the revival of the novella, insofar as the novella, in the words of August Wilhelm Schlegel, "erzählt . . . merkwürdige Begebenheiten, die gleichsam hinter dem Rücken der bürgerlichen Verfassungen und Anordnungen vorgefallen sind."<sup>49</sup> The six novellas that follow the frame narrative deal with the vicissitudes of the natural liberty of individual persons as analogues to those of civil states, whereas the fairytale, with which the *Unterhaltungen* concludes, manages to narrate the actions of artificial persons by allegorical means. Told against the backdrop of war, all of them perform the function of imagining a lawful international order.

## **Renouncing Natural Rights: Imagining World Order in the Framed Tales**

With the explicit aim of achieving sociability, the six novellas told in response to the Baroness's remonstrance are notable for the conspicuous absence of civil authorities in the fictional worlds. The protagonist of the Procurator-novella is a lawyer at the local magistracy, but the actions of the narrative take place, remarkably enough, outside of the purview of the magistracy. The fictional worlds, therefore, can be best understood in terms of the state of nature. Accordingly, the actions in these tales circle around natural liberty. In deference to generic conventions of the novella, the narrators often give this natural liberty an erotic tinge. Seen in this light, the six novellas turn out to be logically connected episodes of one overarching narrative rather than a haphazard collection of unrelated tales: the first two novellas are concerned with the dire consequences of the subjective claim to natural rights and liberty, the pair of novellas in the middle demonstrate the necessity of renouncing such a subjective claim, and the final two lay out the ways in which renunciation can be realized. Taken together, they form a narrative of the transition from natural liberty to a social order based on renunciation. This narrative, offering a provocative contrast to the natural-law construction of civil order, points toward the possibility of a peaceful international order, insofar as civil states as artificial persons are analogues to individual persons in the state of nature.<sup>50</sup>

The first story, told by the Abbé, hews closely to the concern of the frame narrative with natural liberty and war. Revolving around the amorous affairs of a beautiful Neapolitan singer by the name of Antonelli, it evokes the Mediterranean ambience and the erotic subject matter of a Boccaccio tale. Yet this semblance of Boccaccio proves to be a deceptive stratagem used by the narrator to tell a rather different kind of story. In Boccaccio, erotic adventures are usually brought into relief against marriage or other contractual bonds, for instance as adulterous violation of the marital contract. In the Antonelli novella, by contrast, neither erotic appetite nor marriage matters. The self-confident singer chooses lovers at her will, and chooses a Genoese merchant—the male protagonist of the novella—as her friend because in addition to a lover she also needs a friend. Marriage is never on the horizon. At stake, then, is her freedom—the freedom to satisfy her needs without being bound by marriage or any other contractual obligations. The Genoese merchant, for his part, insists on his rights as a friend and later also as a lover. This presumption to possess her entirely collides with her jealously guarded freedom: “Dies aber war keineswegs nach dem Sinne des lebhaften Mädchens; sie konnte sich in keine Aufopferung finden, und hatte nicht Lust irgend jemand ausschließliche Rechte zuzugestehen. Sie suchte daher auf eine zarte Weise seine Besuche nach und nach zu verringern, ihn seltner zu sehen und ihn fühlen zu lassen, daß sie um keinen Preis der Welt ihre Freiheit weggebe” (1020). The Genoese merchant's presumptuous attempt to curb her freedom prompts Antonelli to make an adamant decision never to see him again, not even to grant his request, made on his deathbed, for a last farewell. Antonelli's intransigence proves to have serious consequences. Some time after his death, on one evening when Antonelli is entertaining her guests, there sounds a plaintive,

alarming, echoing cry. Such a hair-raising cry now comes to haunt her every night at around the same hour. After a period of time has elapsed, the cry turns into something even more frightening, namely a pistol shot fired at a certain hour wherever she happens to be. Because she declines to listen to him during his lifetime, he demands to be heard in death. The mysterious sounds, narrated with maximum dramatic effects in the second half of the novella, are characterized by fortuitousness, violence, and terror. As hostile means of enforcing demands that cannot be satisfied by negotiation, they are tantamount to war. The novella as a whole, then, demonstrates how the uncompromising insistence on natural liberty leads to war.

The second tale, told by Fritz, similarly sheds light on the necessary connection between the assertion of subjective rights and violence, albeit in a slightly different manner. It is a story about an orphan girl adopted by a noble family. When she turns fourteen, suitors start to show up. Yet the noble family does not accept any of them, and she does not show any interest either. Suddenly, wherever the girl goes in the house, a knocking is heard under her feet. This knocking becomes more and more alarming. Thrown into a rage by the knocking, the master “griff zu einem strengen Mittel, nahm seine größte Hetzpeitsche von der Wand und schwur, daß er das Mädchen bis auf den Tod prügeln wolle, wenn sich noch ein einzimal das Pochen hören ließe. Von der Zeit an ging sie ohne Anfechtung im ganzen Haus herum, und man vernahm von dem Pochen nichts weiter” (1029). With its focus on the mysterious sound, Fritz’s story is meant to be a parallel to the Antonelli-novella. The sound, however, has a rather different significance here. Now that she has reached maturity, the girl’s natural needs and rights—implicitly her sexual awakening—demand to be heard. But the unconscious expression of this demand—the mysterious knocking under her feet—is suppressed by the master’s threat of violence. The subjective demand for natural rights does not lead to the eruption of violence as is the case in the Antonelli-novella, but to the threat of violence or sanction. Such a plot makes it clear that what characterizes the state of nature is not necessarily open warfare, but the constant threat of war. As the state of nature, the international arena is not always shaken by armed conflicts, because they are often held at bay by sanction. But sanction, i.e. the readiness to make use of violence at any time, is anything but peaceful order.

After the first two novellas draw attention to violence, either actually exercised or merely threatened, as the necessary consequence of natural liberty, the following two stories, told by Karl on the basis of Marshal de Bassompierre’s memoir, caution against natural liberty. In Karl’s first story, Bassompierre encounters a beautiful shopkeeper at a time when there are outbreaks of plague. She wishes to spend a night with him in the same bed. They have a good time together, although she asks to be separated from him by a sheet. They agree to meet again at her aunt’s house. On the night of their second meeting, when he enters the house after some difficulty, he does not find the girl. Instead, he sees two people in the room burning bedstraw and, in the firelight, two naked bodies stretching out on the table. Clearly, the girl arranges the second meeting in order to warn Bassompierre of the dangers of pursuing pleasure in the time of plague. Instead of gratifying his desire, she shows him what dire consequences the gratification of his desire

would have, implicitly admonishing him to renounce the affair. Her ploy has the anticipated effect: Bassompierre flees the scene, drinks a remedy against the plague, and leaves town on the following day.

Karl's second story has a similar structure. One of Bassompierre's ancestors regularly meets with a beautiful woman in his summer house. His wife becomes suspicious, and one day she finds him sound asleep with his mistress in the summer house. Thereupon she removes the veil from the mistress' head and spreads it over the feet of the sleeping pair. When the mistress awakes and notices the veil, she cries out, vowing never to see her lover again. She leaves behind three gifts for his three daughters. Later, the descendants of the three daughters attribute their good luck to these three gifts. With its extraordinary brevity—the story is only about a dozen lines in length—the ancestor-novella stages a semiotic play: by her act of unveiling and re-veiling, the wife discreetly lets her husband and his mistress know that she has discovered their affair and expects them to cover it up. The mistress takes the hint, renouncing the affair and contributing to the preservation of her lover's family through the bestowal of gifts. That these gifts prove to bring good luck to the family demonstrates the salutary effects of renunciation. At the center of both of Karl's stories is thus a warning against the unrestrained pursuit of liberty, as well as a recommendation of renunciation. In this sense, they can be characterized as cautionary tales.

The cautionary tale metamorphoses into a pedagogical program in the following pair of stories told by the Abbé. In the first one, the strong desire for family and children prompts a fifty-year-old merchant in an Italian port city to marry a young wife. One year after the marriage, still childless, wanderlust seizes him by the throat again. He informs his wife of his decision to return to sea, giving her explicit permission to take a lover during his absence. In other words, he temporarily releases her from the vow of marriage, leaving her to the promptings of natural needs. After his departure, she sets her eyes on a young Procurator. In response to her unambiguous request for an affair, the Procurator draws on his legal knowledge to confirm the lawfulness of her action, declaring his eagerness to become her lover. However, he claims that in gratitude to the Mother of God for helping him recover from a severe illness, he has sworn an oath to fast and abstain from carnal pleasure for a whole year. Ten months have already elapsed since he started fasting. If the young woman will share the burden of fasting with him for one month, then they can consummate their affair in half the time. She reluctantly agrees to the oath. After a couple of weeks of fasting, prayer, and work that have completely exhausted her physical vigor, she believes she has realized the purpose of the Procurator's regimen: "Sie haben mich fühlen lassen, daß außer der Neigung noch etwas in uns ist, das ihr das Gleichgewicht halten kann, daß wir fähig sind, jedem gewohnten Gut zu entsagen und selbst unsere heißesten Wünsche von uns zu entfernen" (1056). The Procurator certainly offers a pedagogical program designed to bring out the moral dignity of the human being through the renunciation of natural needs, as the young woman rightly recognizes. But it is also a pedagogical program that demonstrates the paradox inherent in the exercise of natural liberty. In order to satisfy one natural need, i.e. sexual pleasure, the young woman must curb

her other natural needs such as food and drink. This leads to the loss of body heat, which eventually extinguishes sexual desire. More important, the pursuit of natural liberty is paradoxically bound to a contractual obligation, as the young woman must agree to the terms set by the Procurator in order to obtain him. In fact, this paradox also informs the actions of the other characters. The merchant's natural desire for children leads him to search for a marital contract, which has all the trappings of a business transaction. He leaves his wife to the call of nature during his absence—perhaps motivated by a secret wish to thereby obtain an heir for himself<sup>51</sup>—without forgetting to set the contractual terms for her search for a lover. The Procurator justifies the potential union between himself and the young woman in legal terms: because she is an “ins Freie gefallene Sache” (1051), they are at liberty to enjoy each other. Natural liberty is always already constrained by law.

The following story also offers a pedagogical program, but one designed by the narrator rather than by one of the characters of the novella. The protagonist is a young man by the name of Ferdinand who grows up with a strong sense of entitlement. Still dependent on his parents, he lacks the material means to satisfy all his needs, all the more so because he tries to please a girl he is infatuated with. The frustration of his needs leads to resentment against his parents and to various “Sophistereien über Besitz und Recht, über die Frage, ob man ein Gesetz oder eine Einrichtung, zu denen man seine Stimme nicht gegeben, zu befolgen brauche, und in wiefern es dem Menschen erlaubt sei im Stillen von den bürgerlichen Gesetzen abzuweichen” (1064). In this condition, he starts trying to satisfy his impulses against his conscience, behaving like a lawless, savage man by taking money from his father's unlocked drawer. Yet shortly thereafter, it dawns on him “daß nur Treue und Glauben die Menschen schätzenswert machen, daß der Gute eigentlich leben müsse, um alle Gesetze zu beschämen, indem ein anderer sie entweder umgehen, oder zu seinem Vorteil gebrauchen mag” (1067). Ferdinand then begins to redress his wrong. After much complication he manages to admit to his mistake openly and replace not only what he has taken but also what his father has lost through mismanagement. The omniscient authorial narrator identifies in the human being a conscience that challenges the presumption to satisfy all natural needs and that prompts the individual to renounce his natural liberty. Renunciation proves to have a most beneficial effect, enabling Ferdinand even to surpass his father.

The two imaginary scenarios of renunciation offered by the Procurator-novella and the Ferdinand-novella imply a model of social order radically different from the civil order based on positive laws. After having shown the paradoxical character of natural liberty, the Procurator-novella ends with the young woman's remark: “Sie warden mehr als der erste Staatsmann und der größte Held den Namen Vater des Vaterlands verdienen” (1057). Whereas statesmen and heroes teach people to obey laws, the Procurator teaches renunciation as the means of achieving moral dignity. In giving the Procurator precedence over statesmen and heroes, the young woman implicitly places moral dignity above positive laws as the true foundation of social order. She sees him at first as the object by which to gratify her natural needs, but by the end he has become in her eyes the true founder of social order. In

effecting this change, the pedagogical program designed by the Procurator leads her, and the reader along with her, from natural liberty towards a social order superior to what even “the most distinguished statesman” is able to create. The narrator of the Ferdinand novella presents the reader with a pedagogical program which appeals to the conscience as the agent for the renunciation of natural liberty. Because the conscience recognizes the value not merely of laws, but also of justice and goodness—that which “put all laws to shame”—the social order enabled by renunciation transcends mere laws. Such a model of social order beyond positive laws, outlined in both novellas, represents an alternative to the Hobbesian natural-law theory that sees the only possibility of order in the positive laws made and enforced by a sovereign authority. Whereas the Hobbesian theory is incapable of accounting for world order because of the lack of a sovereign authority and positive laws in the international arena, this model of social order enabled by renunciation and transcending positive laws can be easily applied to international relations, serving as a model of world order. As such, it provides the remedy to the crisis of world order as depicted in the frame narrative.

In sum, the six novellas in the *Unterhaltungen* come in three pairs. The first pair is illustrative, showing how the pursuit of natural liberty leads to violence or sanction; the second pair is cautionary, delineating situations in which the individual is confronted with the consequences of the pursuit of natural liberty and induced to renounce it; the third pair is pedagogical, pointing the way towards renunciation. They combine to form an overarching narrative that moves consistently from a diagnosis of the crisis of social order towards a remedy: the first pair uncovers the cause of this crisis—the insistence on natural liberty; the second pair presents a case for the renunciation of natural liberty; and the final pair offers a program for realizing this renunciation. Given the parallel between the individual person and the civil state, this narrative about the social order of individual persons is also one about the order of civil states, i.e. world order. The crisis of world order coming to the fore in the frame narrative is resolved through narrative imagination.

### **Building Bridges: Imagining World Order in the Fairy Tale**

The *Unterhaltungen* ends with a fairy tale, told by the Abbé, without returning again to the frame narrative. By means of a complex array of allegorical imagery, the fairy tale envisions a general rejuvenation of the world, which transforms the lawlessness of war into the beautiful lawfulness of the work of art.

The fairy tale begins with an image that directly refers back to the beginning of the frame narrative: a river. In the frame, this is the river Rhein, which as a territorial border symbolizes the relation between civil states and hence also war. In the fairy tale, it is an unspecified great river that “eben von einem starken Regen geschwollen und übergetreten war” (1082). As such, it likewise signifies the excessiveness and chaos characteristic of war. It is a symbol of division. Indeed, the world narrated by the fairy tale is out of joint. Because the two large will-o'-the-wisps do not pay the ferryman for their

river crossing in the required currency—three cabbages, three artichokes, and three large onions—they entangle the world in a web of debts, obligations, and violence. They extract from an old woman—the wife of the old man with the lamp—the promise to bring the required payment to the ferryman on their behalf, before the gold they have brought kills her dog. On her way to the ferryman, the old woman is intercepted by a giant, who takes one of each of the vegetables from her basket. The ferryman does not accept the incomplete payment, forcing her to make a pledge to the river and acknowledge herself as a debtor. He asks her to put her hand into the river. Thereupon she sees her hand turn black and begin to shrink. The injury of the old woman's hand may be the clearest reference yet to the impact of the war that is raging in the frame narrative. As further signs of the general disarray of the world, four kings—golden, silver, iron, and of composite metal, respectively—are buried in an underground rotunda, while the fair lily, with whom the young man is in love, kills every living being that she happens to lay her hands on. In the meantime, the lily is grieving over the fortuitous death of her favorite canary. In the face of so much misery, she intones a sad song. When the young man jumps at her to demonstrate his devotion, her hands touch him and he dies.

Amidst this general crisis of the world, the old man with the lamp cries in a mighty voice: “Es ist an der Zeit” (1089). This gnomic utterance resounds throughout the fairy tale, lending it a distinct eschatological aura. The *kairos* comes when the green serpent decides to sacrifice herself. The lily places her left hand on the serpent and her right hand on the body of the young man. Thereupon the young man comes to life again, while the serpent dissolves into thousands of shining gems. After these gems are poured into the river, they eventually become a splendid bridge spanning the river with many arches, a bridge with arcades on both sides for foot travelers and with a great highway in the center alive with mules, riders and carriages. The bridge overcomes division. It connects two sides, bringing opposing parties—be they individual persons or artificial persons—in communication with one another and thereby unifying them into a lawful order. If the river symbolizes division, war, and crisis, the bridge symbolizes unity, peace, order. Both the frame narrative of the *Unterhaltungen* and the fairytale open with the image of the river and culminate in the image of the bridge towards the end. The plot of both is thus structured as a movement from war and division to a peaceful world order.

The peaceful world order symbolized by the bridge is an aesthetic state as conceived by Schiller, in which the past and the present, spirit and nature, the ruler and the ruled are all brought into a harmonious unity.<sup>52</sup> The golden, silver, and iron kings, apparently referring to the three past ages of the world according to Hesiod, are brought into the present, whereas the king of composite metal, referring probably to the recently executed Louis XVI, collapses into an amorphous lump. The underground rotunda in which the kings are buried rises up and becomes a magnificent temple. The ferryman's hut falls into its middle, turning into a small temple that makes a worthy altar. The image of a ferryman's hut as the altar for the royal temple manifests the political ideal of the aesthetic state. In the meantime, the golden, silver, and

iron kings invest the young man with royal power. The young man, whose eye “glänzte von unaussprechlichem Geist” (1110), throws off the veil of the fair lily, whose “Wangen färbten sich mit der schönsten unvergänglichsten Röte” (1111). This loving marriage of spirit and nature, joined with the wisdom, luster, and power bestowed on the young man by the golden, silver, and iron kings respectively, reigns henceforth as the formative force of the world. Under the gentle rule of love, the populace thrives. Unruly forces in the world, exemplified by the giant who wreaks havoc wherever he goes, are aesthetically tamed, as the giant turns into a colossal, mighty statue of ruddy shining stone, and his shadow tells the hours inlaid on a circle on the ground. Such a complete transfiguration of the world has an eschatological character. “Alle Schulden sind abgetragen” (1109). The old woman is rejuvenated and becomes more beautiful than the maidens attending the fair lily. When she caresses her husband (the old man with the lamp), he says that he would gladly live on with her “in das folgende Jahrtausend hinüberleben” (1112), while everyone and every place is “von einem himmlischen Glanze erleuchtet” (1114).

The aesthetic state with its salvational promise comes about as a result of the self-sacrifice of the green serpent. “Gedenke der Schlange in Ehren,” says the man with the lamp to the new king, “du bist ihr das Leben, deine Völker sind ihr die Brücke schuldig, wodurch diese nachbarlichen Ufer erst zu Ländern belebt und verbunden werden. Jene schwimmenden und leuchtenden Edelsteine, die Reste ihres aufgeopferten Körpers, sind die Grundpfeiler dieser herrlichen Brücke, auf ihnen hat sie sich selbst erbaut und wird sich selbst erhalten” (1111). This reminder to the king of the role of the serpent is also a reminder to the reader of the nature of the aesthetic state. First, the plural forms “peoples (*Völker*)” and “countries (*Länder*)” make it clear that the aesthetic state is anything but a particular, delimited state that may come into conflict with another state. Rather, it encompasses all peoples and countries, ensuring the peaceful order of the entire world. Second, the aesthetic state is sustained by the remains, i.e. the works, of the self-erased poet. Overloaded with mythic meanings, the serpent figures as an image of the poet in Goethe’s fairytale. She is woken up by the will-o’-the-wisps or *Irrlichter*, the unsteady ideas of the Enlightenment. But after swallowing the gold that they have scattered, she glows from within herself, resembling inspired poets as opposed to all those who depend on illumination from without. She traverses first the historical world—the buried rotunda of the kings—and then the natural world—the garden of the fair lily. The studies of history and nature represent important stations in the formation of the poet. At the end of the long trajectory of formation, confronted with all-pervasive misery and crisis, she decides to sacrifice herself.

In attributing a peaceful world order to the works of the poet, the Abbé, the narrator of the fairytale, completes his theory of the novella. In the frame narrative, he proposes the telling of stories characterized by novelty, i.e. the novella, as the most wholesome entertainment in wartime, a remedy against war. The vision of the peaceful world order as the aesthetic state resulting from the self-sacrifice of the poet implies that the novella has now been elevated to the very epitome of the poetic work of art. This exaltation of the novella



returns it to its origin: the invention of the novella by Boccaccio was supposed to realize the mission of poetry as the custodian of the true, eternal law.

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## NOTES

1. Friedrich Schiller, NA 27:80.

2. In one of the very first reviews of this text upon the release of the first issues of *Die Horen*, August Wilhelm Schlegel observes that “Der Eingang [der *Unterhaltungen deutscher Ausgewanderten*] erinnert an einen ähnlichen, zu einer sonst noch genug von dieser verschiedenen Reihe von Erzählungen, dem *Decameron* des Boccac.” “Rezension der *Horen*,” *Allgemeine Literatur-Zeitung*, 6 January 1796. Quoted from Johann Wolfgang Goethe, FA 9:1531. Literary scholarship both on the novella in general and on *Unterhaltungen* in particular rarely fails to note Goethe’s indebtedness to Boccaccio. For the most recent examples, see Andreas Gailus, *Passions of the Sign: Revolution and Language in Kant, Goethe, and Kleist* (Baltimore: The Johns Hopkins UP, 2006) 74–106; Andreas Beck, *Geselliges Erzählen in Rahmenzyklen. Goethe—Tieck—E.T.A. Hoffmann* (Heidelberg: Universitätsverlag Winter, 2008) 13–15.

3. In legal English, *novellae leges* are called *novels*, whereas in German and Romance languages they are called *Novellen*, *nouvelles*, *novelle*, etc. The German *Novelle*, the French *nouvelle*, and the Italian *novella* also designate a literary genre which is called *novella* in English. That is to say, German and Romance languages use one and same term to designate both a legal and a literary genre, whereas English has two terms: the legal *novel* and the literary *novella*. In order to avoid confusion, I use *novella* as both a legal and a literary term, dispensing with the term *novel*.

4. “The Confirmation of the Digest,” *The Digest of Justinian*, Latin text edited by Theodore Mommsen, English translation edited by Alan Watson (Philadelphia: U of Pennsylvania P, 1985) lv–lxiv; here lxi.

5. On Justinian’s novellas, see Friedrich August Biener, *Geschichte der Novellen Justinians* (Berlin: Ferdinand Bümmler, 1824); Pierre Noailles, *Les collections des Nouvelles de l’Empereur Justinien. Origine et formation sous Justinien* (Paris: Larose & Tenin, 1912); Leopold Wenger, *Die Quellen des römischen Rechts* (Vienna: Verlag Adolf Holzhausen, 1953) 652–79 (“Die Novellen Justinians”).

6. *Novellae, Corpus Iuris Civilis*, volume 3, edited by Rudolf Schoell, 8th edition (Berlin: Weidmann, 1963) 12.

7. For a detailed functional analysis of Justinian’s novellas, see Marie Theres Fögen, “Gesetz und Gesetzgebung in Byzanz. Versuch einer Funktionsanalyse,” *Ius Commune* 14 (1987): 137–58; here 140–48.

8. See Franz Wieacker, *A History of Private Law in Europe*, translated by Tony Weir (Oxford: Clarendon Press, 1995) 28–46 (“The Beginnings of European Legal Science”).

9. These remarks on the Commentators summarize Wieacker 55–67 (“The Development of Medieval Legal Science: The Commentators”).

10. On the *consilium*, see Norbert Horn, “Die legistische Literatur der Kommentatoren und der Ausbreitung des gelehrten Rechts,” in *Handbuch der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte. Erster*

*Band: Mittelalter (1100–1500)*, ed. Helmut Coing (Munich: Beck, 1973) 261–64; here 336–41.

11. On jurists' opinions as a major source of legal development, see Alan Watson, *The Evolution of Western Private Law* (Baltimore: Johns Hopkins UP, 2001) 19–53. Watson provides an example of Bartolus' rhetorically versed interpretation of two passages from the *Digest* to illustrate his general observations (29–30).

12. For an exemplary study, see Helmut Coing, "Die Anwendung des Corpus Iuris in den Consilien des Bartolus," in *L'Europa e il Diritto Romano. Studi in Memoria di Paolo Koschaker*, vol. 1 (Milan: Giuffrè, 1954) 71–97.

13. *Boccaccio on Poetry, Being the Preface and the Fourteenth and Fifteenth Books of Boccaccio's Genealogia Deorum Gentilium*, translated by Charles Osgood (Princeton: Princeton UP, 1930) 23. Further quotations within this paragraph cite this text by page number only.

14. Percy Bysshe Shelley, *A Defence of Poetry*, in *The Major Works*, ed. Zachary Leader and Michael O'Neill (Oxford: Oxford UP, 2003) 674–701; here 701.

15. For book-length studies of narrative framing in the *Decameron*, see Joy H. Potter, *Five Frames for the Decameron: Communication and Social Systems in the Cornice* (Princeton: Princeton UP, 1982); Jan Söffner, *Das Decameron und seine Rabmen des Unlesbaren* (Heidelberg: Winter, 2005).

16. Giovanni Boccaccio, *The Decameron*, translated by G. H. McWilliam (Harmondsworth: Penguin Books, 1972) 47. Translation is modified. Further quotations cite this text by page number only.

17. *The Digest of Justinian*, 2.

18. *The Digest of Justinian*, 2. On *jus gentium* in Roman law, see Max Kaser, *Jus gentium* (Cologne: Böhlau, 1993).

19. Giuseppe Mazzotta draws attention to "the collapse of the social order and the failure of legal institutions" without specifying what law it is that collapses under the plague. *The World at Play in Boccaccio's Decameron* (Princeton: Princeton UP, 1986) 218.

20. Boccaccio, *Decameron* 47. On the sources of the tales, see for example A. C. Lee, *The Decameron: Its Sources and Analogues* (New York: Haskell, 1972).

21. On the various narrative genres that feed into the making of Boccaccio's novellas, see Hans-Jörg Neuschäffer, *Boccaccio und der Beginn der Novelle* (Munich: Fink, 1969).

22. For a catalogue of legal themes in the *Decameron*, see Bernd Kannowski, "Giovanni Boccaccio und die Juristerei. Rechtshistorische Aspekte des Dekameron," in *Von den Leges Barbarorum bis zum ius barbarum des Nationalsozialismus*, ed. Hans-Georg Hermann et al. (Cologne: Böhlau, 2008) 48–59.

23. See Marga Cottino-Jones, *Order from Chaos: Social and Aesthetic Harmonies in Boccaccio's Decameron* (Washington: UP of America, 1982).

24. See Robert Hollander and Courtney Cahill, "Day Ten of the *Decameron*: The Myth of Order," *Studi sul Boccaccio* 23 (1995): 113–70; here 118.

25. Johann Wolfgang Goethe, *Unterhaltungen deutscher Ausgewanderten*, FA 9:993–1114; here 995. Goethe accompanied the Duke of Weimar on the Campaigns of 1792 against Revolutionary France, as well as during the War of the First Coalition. These war experiences were documented later in *Campagne in Frankreich* and *Belagerung von Mainz*, FA 16:386–612.

26. Even though the very first sentence of the *Unterhaltungen* makes it amply clear that the backdrop of the storytelling is the War of the First Coalition, interpreters of this text have persistently ignored this fact, referring instead generally to the French Revolution. This is the case with both traditional, philologically oriented scholarship such as Joachim Müller, "Zur Entstehung der deutschen Novelle. Die Rahmenhandlung in Goethes *Unterhaltungen deutscher Ausgewanderten* und die Thematik der Französischen Revolution," in *Gestaltungsgeschichte und Gesellschaftsgeschichte*, ed. Helmut Kreuzer (Stuttgart: Metzler, 1969) 152-75, and recent, theoretically oriented scholarship such as Andreas Gailus' *Passions of the Sign*. Highlighting similarly the significance of the French Revolution, Hannelore Schläffer goes so far as to claim that "Goethe macht seine Novellenrunde zu Repräsentanten eines welthistorischen Umsturzes, in dem auch die Novelle untergeht." *Poetik der Novelle* (Stuttgart: Metzler, 1993) 17. Crucial to the argument developed in the following is the observation that what is at stake in the frame narrative is war rather than the French Revolution in general.
27. Johann Jakob Moser, *Grund-Sätze des Europäischen Völcker-Rechts in Kriegs-Zeiten* (Tübingen: Johann Georg Cotta, 1752) 81-82.
28. See Heinhard Steiger, "Völkerrecht," in *Geschichtliche Grundbegriffe*, ed. Otto Brunner, Werner Conze, and Reinhart Koselleck, vol. 7 (Stuttgart: Klett-Cotta, 1997) 97-140; here 112-23.
29. Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge UP, 1996) 91.
30. Thomas Hobbes, *On the Citizen*, ed. and trans. Richard Tuck and Michael Silverthorne (Cambridge: Cambridge UP, 1998) 26.
31. Hobbes, *Leviathan*, 91-92.
32. See Hobbes, *Leviathan*, chapter 15, 100-11.
33. Hobbes, *Leviathan*, 117.
34. On these areas in the Roman *jus gentium*, see Kaser, *Ius gentium*, 23-39.
35. Thomas Hobbes, *The Elements of Law: Human Nature and De Corpore Politico*, ed. John C.A. Gaskin (Oxford: Oxford UP, 1994) 182.
36. See Jan Schröder's account of the relationship between Hobbesian natural law theory and the emergence of the modern concept of international law, with extensive references to natural jurisprudence in the period from Hobbes to the late eighteenth century, "Die Entstehung des modernen Völkerrechtsbegriffs im Naturrecht der frühen Neuzeit," *Jahrbuch für Recht und Ethik* 8 (2000): 47-71. See also Wilhelm Grewe, *The Epochs of International Law*, translated and revised by Michael Byers (Berlin and New York: Walter de Gruyter, 2000) 349-60 ("The Law of Nations in the Natural Law System of Rationalism"); Merio Scattola, "Models in History of Natural Law," *Ius Commune* 28 (2001): 91-159, esp. 129-32 and 157-58.
37. On natural jurisprudence in the wake of Hobbes, see Karl-Heinz Ilting, "Naturrecht," in *Geschichtliche Grundbegriffe*, ed. Otto Brunner, Werner Conze, and Reinhart Koselleck, vol. 4 (Stuttgart: Klett-Cotta, 1978) 245-313; here 178-298; Knud Haakonssen, "German Natural Law," in *The Cambridge History of Eighteenth-Century Political Thought*, ed. Mark Goldie and Robert Wokler (Cambridge: Cambridge UP, 2006) 251-90.
38. On the implication of this parallel for international law, see Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford and New York: Oxford UP, 1999).

39. Jean-Jacques Rousseau, *The State of War*, in *The Social Contract and Other Later Political Writings*, ed. and trans. Victor Gourevitch (Cambridge: Cambridge UP, 1997) 162–76; here 163.
40. Rousseau, *Of the Social Contract*, in *The Social Contract and Other Later Political Writings*, 39–152; here 46.
41. Rousseau, *The State of War*, 169.
42. “Draft Declaration by Deputy Volnay against the War of Conquest on May 18, 1790,” *Fontes Historiae Iuris Gentium*, ed. Wilhelm Grewe, vol. 2 (Berlin and New York: Walter de Gruyter, 1988) 646.
43. *Declaration of the Rights of Man and of the Citizen* (1789), [http://www.elysee.fr/elysee/elysee.fr/anglais/the\\_institutions/founding\\_texts/the\\_declaration\\_of\\_the\\_human\\_rights/the\\_declaration\\_of\\_the\\_human\\_rights.20240.html](http://www.elysee.fr/elysee/elysee.fr/anglais/the_institutions/founding_texts/the_declaration_of_the_human_rights/the_declaration_of_the_human_rights.20240.html).
44. *Fontes Historiae Iuris Gentium*, 2:653, 655.
45. “Draft by Robespierre for a decree on permanent intervention on April 24, 1793,” *Fontes Historiae Iuris Gentium*, 2:659.
46. On the doctrines of international law in the period of Revolutionary Wars, see Marc Belissa, *Fraternité universelle et intérêt national (1713–1795): Les cosmopolitiques du droit des gens* (Paris: Kimé, 1998) 253–436.
47. With his university education in law and a long juristic career in the administration of a princely court, Goethe was familiar with natural law and international law, as can be seen already in the *Positiones Juris* (nr. 1, 47, 56) for his doctoral exam. See Alfons Pausch und Jutta Pausch, *Goethes Juristenlaufbahn: Rechtsstudent, Advokat, Staatsdiener* (Cologne: Verlag Otto Schmidt, 1996) 97–103. On Goethe’s professional experience in international law, see Pausch 181–82, 207–9.
48. See Hobbes, *Leviathan*, chapter 15, 100–11.
49. August Wilhelm Schlegel, *Vorlesungen über die romantische Literatur (1803–1804)*, *Kritische Ausgabe der Vorlesungen*, ed. Ernst Behler (Paderborn: Ferdinand Schöningh, 1989–2007) II/1, 1–194; here 190–91.
50. The *Unterhaltungen* has yet to be studied in relation to legal history. Friedrich Vollhardt draws attention to the relationship between the *Unterhaltungen* and natural law without, however, providing an analysis of this relationship. See his *Selbstliebe und Geselligkeit. Untersuchungen zum Verhältnis von naturrechtlichem Denken und moraldidaktischer Literatur im 17. und 18. Jahrhundert* (Tübingen: Niemeyer, 2001) 335–36.
51. This point is made by Hans Rindisbacher in his “Procurator as Procreator: Goethe’s *Unterhaltungen* as Ironic Genre Praxis,” *Goethe Yearbook* 7 (1994): 62–84. The fact that despite his strong wish for progeny the marriage remains childless after one year does suggest that he may be impotent due to old age. However, there is no evidence for Rindisbacher’s conjecture that the Procurator is also impotent.
52. See Katharina Mommsen, “Märchen des Utopien: Goethes Märchen und Schillers Ästhetische Briefe,” in *Literaturwissenschaft und Geistesgeschichte: Festschrift für Richard Brinkmann*, ed. Jürgen Brummack et al. (Tübingen: Niemeyer, 1981) 244–57; Bernd Witte, “Das Opfer der Schlange: Zur Auseinandersetzung Goethes mit Schiller in den *Unterhaltungen deutscher Ausgewanderten* und im Märchen,” in *Unser Commercium: Goethes und Schillers Literaturpolitik*, ed. Wilfried Barner et al. (Stuttgart: Cotta, 1984) 461–84.