

The Litigating Dead: Zombie Jurisprudence in Contemporary Popular Culture

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1. Capitalism, catastrophe and the critical cry for ‘fresh brains’: the zombie as juridico-political metaphor

‘Fresh brains’: that *could* be the cry of any number of zombified undead which seem, of late, to have overrun popular culture¹. It *is*, in fact, the tart riposte of one of the mid-twentieth century’s most well known analysts to his eminently distinguished analyst—the latter being, here, famous Freudian rival, Ernst Kris.² In this case (see Kris 1975, 237-251), Kris’s analysand was a university lecturer who suffered

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² Ernst Kris (1900-1957) was an art historian and psychoanalyst. Born in Vienna, his early career included a working relationship with Freud. In 1938, he fled to England and, in 1940, he moved to New York. In both places, he continued to work in psychoanalysis and art/art history, including as a training analyst at the London School of Psychoanalysis and as a lecturer at the New York Psychoanalytic Institute.

from a block: he could neither publish his academic work nor, eventually, write up his scholarly findings, all owing to his obsessive fear of putative plagiarism (Kris 1975, 244). Even when Kris pointed out to him—after conducting his own extensive library research—that, far from being plagiarised, his work was highly original (Kris 1975, 244), the analysand remained unconvinced, clinging to his fantasy of scholarly theft. When Kris further explained, in full-blown psychoanalytic fashion, that this (mis)appropriative fantasy may have been founded on an infantile wish for a successful father (Kris 1975, 245), the analysand responded that, after each therapy session, he would wander along a nearby street full of attractive restaurants and bistros in New York, scrutinising their menus for his favourite dish: ‘fresh brains’ (Kris 1975, 245). For subsequent critics of Kris and his school—such as, most notably, French Freudian, Jacques Lacan—this encephalic vignette served, perfectly, to expose the poverty of a certain kind of psychotherapy³: namely, that of ego psychology which, with all its normalising imperatives, entirely missed the point of this, admittedly, cryptic but vividly vivisected reply. From Lacan’s vantage, ‘fresh brains’ was a powerful sign of the analysand’s desire, signalling his rejection of Kris’ facile reality checks, all the while calling for a new perspective, a different approach: in short, another way of *thinking* about his case, hitherto unexplored by the standard course of treatment (Fink 2004, 52-62; Nobus 2002, 168-171).

Why start with this vignette from psychoanalysis⁴ when the topic of this article, as its title indicates, is ‘the litigating dead’—that is, zombies? Aside, of course, from the obvious fact that the principal players in each storyline are very much linked by a mutual desire; more than anything else, zombies, as much as Kris’ analysand, yearn for ‘fresh brains.’ That desire, however, is not only literal (for cranial sustenance) but also figural (for new forms of analysis). Consequently, this article’s central argument is as follows: whether they be on page or screen—and whether that screen be big (cinema) or small (television)—what popular culture’s current crop of the ‘walking dead’ call forth, on our part, is a different sort of hermeneutic, an alternative interpretation. That is, a critical perspective capable of parsing the (re)animating tropes of zombie fictions which figure, both metaphorically and metonymically, varying approaches to ordering and organising, indeed governing the world as we know it. In making this claim, this article differs markedly from prominent Lacanian-Marxist philosopher, Slavoj Žižek, who sees in this pervasive ‘undead’ phenomenon an attitude of resignation, even an abdication of ethical responsibility: ‘It’s easier to imagine the end of the world,’ said Žižek, ‘than it is to imagine the end of capitalism.’⁵ Extrapolating from this bleak observation, Žižek’s reading would hold that there are no other options to our present institutional arrangements—runaway globalisation,

3 Lacan discussed Kris’ article twice in his seminars (1953-1954, 52-61; 1955-1956, 73-88) and returned to it twice in his writings (1966, 318-333, 489-542).

4 For a superb application of this vignette to the field of law, policy and jurisprudence, see Maria Aristodemou’s masterful ‘A Constant Craving for Fresh Brains and a Taste for Decaffeinated Neighbours’ (2014).

5 Žižek has repeated this claim in a number of books, articles and interviews. See, for example, the documentary film *Zizek!* (2015). As is also well known, the claim is first attributed to Fredric Jameson (1994; 2003).

pitiless neo-liberalism, growing inequality, geopolitical instability—*unless* it is the *degree zero* of zombie apocalypse. So, here, zombies come to signify two stark choices: either Capitalism or catastrophe.

While there is much to recommend the position taken by Žižek and innumerable others of his persuasion (Shaviro 2002; Newitz 2006; McNally 2012; Lauro & Embry 2008; Zimbardo, 2014), this article would take the opposite tack. That is, in their relentless pursuit of ‘fresh brains,’ zombies evince an overarching *desire* that goes well beyond the imaginative limits of Capital’s compulsively repetitive drives, one which emboldens us to reconceive the juridical bottom line organising not only its methods of exchange (contract, property), but its modes of governance (representation, rights and rationality): to wit, a *desire* for a reconfigured *law*, as much as a *law* of revitalised *desire*. What is this ‘law of desire’—that, in turn, desires law above all else—but a radical rethinking of the intersubjective tie; specifically, the way in which ‘the One’ (the self, the subject) is connected to ‘the Many’ (the Other, the socio-Symbolic). To resituate this problematic in terms of historical political theory, that of Hobbes, Locke and Rousseau: how is the social contract formed? What are its terms and conditions? Who is negotiating it? And, most important of all, to what end?

The generically diverse zombie fictions privileged by this article—principally, comic book and TV series, *The Walking Dead*,⁶ with asides to trail-blazing pulp fiction, *The Rising*⁷ and, on both big screen and page, *World War Z*⁸—stage for their respective audiences a dark socio-legal allegory of what Freud would call ‘the group and its psychology’ by speculating on how juridico-political authority, indeed, leadership (be it charismatic, traditional or bureaucratic⁹) is legitimated and maintained. This article will trace and track these forms of leadership, and the juridical nature of the societies which they lead, linking regimes of property, personality and process with specific kinds of governance: dictatorial, paterfamilial, conciliar. The fact, however, that each of these regimes not only fail, but fail spectacularly, should by no means be read as a symptom of the situation’s hopelessness. On the contrary and counter-intuitively, quite the reverse: because, here, governmentality’s serial combustions—of the individual and the collective, of the miraculous and the rational—are tremendously productive, the disastrous sum total of each effectively clearing a space for an encounter between zombie and human which is neither antagonistic nor identitarian. As *entre deux morts*—or between two deaths,¹⁰ this encounter models, relationally, an ‘ethics of the Real’ which, in sidestepping the genre’s false dichotomies

6 *The Walking Dead* television series (October 2010–ongoing, Season 8 forthcoming at the time of writing). This series is based on the comic book series by Robert Kirkman (w) and Charlie Adlard et al (a).

7 *The Rising* is the first in a series of zombie horror novels written by Brian Keene (2003). In 2004 it was optioned for film and video-game adaptation. A sequel was also published in 2005: *City of the Dead* (Keene, 2005).

8 *World War Z* is an apocalyptic horror novel by Max Brooks. Published in 2006 it was also published as an (abridged) audiobook and released as a film (of the same name): *World War Z* (2013).

9 This template of authority is of course Weberian, and is drawn from ‘The Three Types of Legitimate Authority’ (Weber 1978).

10 For a more developed definition of this term of psychoanalytic art, please see below note 25.

(e.g., neo-liberal status quo vs. zombie apocalypse) points a way forward beyond the fundamental fantasy that the zombie, as political, economic and juridical metaphor, at once occludes but also discloses: specifically, Capitalism-*as*-catastrophe.

2. Know thy zombie: the prisoner's dilemma, decision-making and the indeterminacy of human identity

Before, however, exploring any further the juridico-political economic thematics of leadership, governmentality and an 'ethics of the Real' beyond Capital, this article will address, as a core philosophical issue and its ontic condition precedent, the depiction of the basic human bond's emergence in zombie fictions. Simply put: in the wake of an apocalypse, how do we tell the difference between a human friend and a zombie enemy? The former is, of course, a potential subject of the socio-Symbolic, in fact its core relational agent; while the latter, by definition, is inimical to that very subjectivity, it being destructive not only of the socio-Symbolic writ large, but the self which is its basic building block. *The Walking Dead* proffers grounds for such a decision that are epistemologically surprising, even confounding of our normal expectations. I say so because, in terms of *knowing* each other, zombies clearly have the upper hand over humans: they recognise each other almost immediately—by sight, by shuffle, but above all by smell—while humans remain uncertain, doubting whether the other is one of us (human), one of them (zombie), or somewhere in between (one of the infected).

To put in in slightly different terms: zombies *know* and *act*, while humans *hesitate* and *decide*. Of course, this is not to suggest that while we're perpetually paralysed, zombies are always proactive, knowing exactly what to do and when to do it. This is because as the series shows, time and again, zombies can be *fooled*. Much is made of this in *The Walking Dead*, many of its episodes containing a scene in which Rick and his band, in an effort to infiltrate zombie-dominated territory, will disguise themselves as the 'Walking Dead' ('Guts', Ep.2, S.1, *TWD*) smearing their clothes and skin with blood ('No Sanctuary', Ep.1, S.5; 'Start to Finish', Ep. 8, S.6, *TWD*) draping themselves with body parts and, otherwise, stinking of rot ('Guts', Ep.2, S.1, *TWD*). And the ruse often succeeds, at least, initially and for a time; however, it can never be sustained, a fresh wind blowing away the stink as well as the body parts, or a downpour of rain washing away the blood stains ('Guts', Ep.2, S.1, *TWD*), leaving each metaphorically naked in his or her humanity—which, naturally, the zombie senses instantly and seizes upon, pouncing on its victim like an animal instinctively devouring its prey. Humans, however, operate very differently: instead of an immediate affective response, dependent upon one's own senses, their reaction is cognitive, evaluating, weighing and judging the reactions of others before rendering a decision as to whether one is a friend or enemy, human or zombie.

Knowledge, then, for humans comes from outside the self and is dependent on context. This is clearly the case in the 'prisoner's dilemma' hypothetical beloved of management consultants, philosophers and psychologists (Kuhn 2014). In its

psychoanalytic version—that of Jacques Lacan’s¹¹—three people are assembled in a room, each with an affixed marker—either black or white—which none can see of their own, but only of the others (Lacan 2006, 161-162). The test, here, is who can work out the colour of their own marker and, presumably, go free by judging the reactions of the other two (Lacan 2006, 162, 167-169). For, of course, the other two are the only ones who *know* what one’s marker’s colour is and, in order to access that knowledge, one must ‘read’ the other’s gestures, parse their attitude, analyse their behaviours because the usual grounds for certitude here (Lacan 2006, 167-169), such as the senses (e.g., ‘seeing is believing’), are conspicuously absent in this case. Such a situation would seem to put humans at a tremendous disadvantage. While we agonise over decision-making, they—the zombies—simply get on with what they do best: simply, devouring fresh brains and, in the process massifying their numbers to such an exponential extent that they threaten the social contract, as much as its contracting, rights-bearing subjects. Yet what seems to be, initially, a human weakness (uncertainty, hesitation) can in fact be a source of strength. For doubt, indeed contingency is necessary for judgment, decision-making and leadership (Lacan 2006, 170-171), as well as, by extension, the formation of the *socius* through the foundational legality of its social contract.

3. Post-apocalyptic social contracts: zombie fictions’ competing communities of property, personality, and process

Consider the increasing fragility, indeed vulnerability of those societies, the leaders of which would neutralise uncertainty, even abolish difference. The case of Alexandria in *The Walking Dead’s* Season 5 is instructive here. With its impregnable walls, its well networked power sources, and its ample stockpiles of food and ammunition, it appears to be—and is—the safest of safe havens (‘Remember’, Ep.12, S.5, *TWD*), enabling the illusion of pre-apocalyptic *bourgeois* suburban life to continue: of book clubs and cocktail parties (‘Forget’, Ep.13, S.5, *TWD*), of manicured lawns and extramarital affairs (‘Forget’, Ep.13, S.5; ‘Try’, Ep.16, S.5, *TWD*). There is, however, a fatal flaw in Alexandria’s Stepford-style world. Like the contemporary ‘gated community’ which it so clearly stands for, Alexandria screens its applicants, recruiting only those candidates, shortlisted by various scouting missions, that it deems suitable (‘The Distance’, Ep.11, S.5, *TWD*), all the while rejecting or expelling the unsuitable (‘Remember’, Ep.12, S.5, *TWD*)—something like a parody of elite school/university admissions or, better yet, exclusive club or secret society initiation (‘Try’, Ep.15, S.5, *TWD*). So Alexandria, and its leadership (Deanna, Aaron, et.al.), *know* precisely the kind of person they want: principally, someone who will respect, uphold and defend their values of possessive individualism, euphemised as ‘sustainability’ (‘Remember’, Ep.12, S.5, *TWD*). Within the universe of *The Walking Dead*, Alexandria is *the* neo-Lockean community of property *par excellence*, one

11 See Lacan’s discussion of the prisoner’s dilemma in his key chapter, ‘Logical time and the assertion of anticipated certainty’ in his *Ecrits* (Lacan 2006, 161-175).

where every inhabitant is, seemingly, safe and secure in their own possessory beds, and each enjoys an autonomy that renders his or her sense of selfhood separate and distinct: a community, effectively, of strangers. No wonder, then, so many of the ills that afflict today's mainstream culture—alcoholism ('Spend', Ep.16, S.5, *TWD*), domestic violence ('Spend', Ep.16, S.5; 'Try', Ep. 15, S.5, *TWD*), mental illness ('Start to Finish', Ep.8, S.6, *TWD*)—persist in Alexandria, and are tacitly tolerated as long as these problems remain private and behind closed doors ('Try', Ep.16, S.5, *TWD*), such as the open secret of Dr Peter Anderson's spousal abuse of wife, Jessica ('Spend', Ep.14, S.5, *TWD*). It is so because, in this society, every man's home is still his castle—even if that castle contains, for some, a *dungeon*.

Contrast Alexandria's attitudes here with Rick's ragtag-and-bobtail group. While the Alexandrians are in deep denial about the precariousness of their context—not only looking the other way when confronted with local problem ('Try', Ep.16, S.5, *TWD*), but, even more, remaining absolutely convinced about who does and does not belong ('Try', Ep.16, S.5, *TWD*)—Rick and his fellow travellers are so indifferent to any sort of selective filter that they comes to incarnate, in their composition, *difference* itself. For Rick's cohort are not only diverse in terms of race, class and gender; they span a capacious range of skill sets, as much as varied personality types, ranging from the utterly useless (e.g., Fr. Gabriel, Eugene) to the absolutely effective (e.g., Abraham, Sasha, Maggie and Glenn), with the remainder equivocating between these two poles—and, more often than not, holding diametrically opposed views which, at times, erupt into open conflict: e.g., recall the fiercely fought Carol/ Morgan disagreement over the sanctity of human life ('Start to Finish', Ep.8, S.6, *TWD*).

Despite such storms and stresses, this group of stragglers and misfits, hangers-on and survivors always manages to rise above their internal tensions, and coalesce into something far more intimate than Alexandria's *faux* community of alienated and atomised individuals. For what Rick's group instantiates is nothing less than what the ancient Greeks would call a *nostos*¹²; that is, a household to call home, as much as home to come back to, at the very heart of which is a *family* ('Remember', Ep. 12, S. 5, *TWD*) that even the most self-absorbed narcissists of Alexandria would see as unique, special and worthy of emulation. The question that arises, however, is whether there is an appropriate *nomos*—that is, law—by which to order and organise this *nostos* (Sage Heinzelman, 2010, xi-xiv) into a community that encompasses, through the founding legality of social contract, the self and the Other, the individual and the group. Certainly, the principal candidate for this role of nomic law-giver, this figure of legitimate authority is former sheriff ('Days Gone Bye', Ep.1, S1, *TWD*), Rick Grimes himself, who already functions as the group's *paterfamilias*; that is, its father figure, prescribing its norms, setting its guidelines and otherwise laying down, as psychoanalysis would have it, the 'Law of the Father's Name' (Evans 1996, 62-64, 101-102, 122, 140-141).

12 For the path-breaking revival and redeployment in cultural legal studies of this ancient term—and concept—please see Susan Sage Heinzelman's law-and-literature classic, *Riding the Black Ram: Law, Literature and Gender* (Sage Heinzelman 2010, xi-xiv).

If, though, Rick is that law-bearing Father, then he is a peculiarly vacillating, even ambiguous one. For no clear patriarchal command—the ‘No’ of the Nom-du-Pere, as French Freudians’ version of Oedipus would have it (Evans 1996, 122)—issues from him. Instead, Rick oscillates back and forth, sometimes taking on the mantle of paternal leadership (as he does in Seasons 1 and 2), sometimes rejecting it (as he does in Seasons 3), then doing both (in Seasons 4 and 5). In short, Rick *wavers*, even questions his phallic authority, doubting his claims to legality as much as paternity. Compare Rick’s uncertain attitude and shifting status with that of his obscene counterpart and the monstrously Leviathanic, Phillip Blake, *aka* The Governor—the group’s key antagonist in Seasons 3 and 4—who runs his fiefdom, Woodbury, like something out of a Mad Max film¹³—though one seemingly co-directed by Thomas Hobbes as much as George Miller. With its highly contrived (and rigged) gladiatorial games (‘Say the Word’, Ep.5, S.3, *TWD*) between chained zombies and armed human praetorians (*omnium bellum omnes?*¹⁴), Woodbury could *easily* be a televisual equivalent of Auntie’s Bartertown from *Beyond Thunderdome*, both being awash in pleasure-in-pain. So, unlike Rick, the Entity-like Governor sends an unequivocal and unambiguous message: that is, ‘Enjoy!’ By ‘Enjoy!’, I mean ‘enjoyment’ in the sense of that dark and driving force of a disturbing *eros*; that is, a perverse sexuality that the Lacanians and the post-Lacanians call *jouissance* (Evans 1996, 91-92; Wright 1992, 185-187), tintured with all manner of paraphilia, especially sadism.

This is precisely the Governor’s psycho-sexual/social position, because he urges us to give vent to our desire for retribution and enjoy our blood lust. In this role, the Governor assumes a paternal function that Slavoj Žižek might call the ‘anal’ father (Žižek 1991, 53-57; 1992b *passim*), an inversion of Rick’s phallic fatherhood. While the latter is always puzzling through the Law, tentatively, even painfully trying to reach the right decision, the former is, unequivocally, laying down the ‘Law to Enjoy’. As the Žižekian Father-Enjoyment, the Governor never wavers and, certainly, never doubts. This is, of course, his fundamental problem—*and* pathology: unlike Rick, forever debating his judgment, the Governor never questions his decisions. In so doing, the Governor not only marks himself as authoritarian personality—the Fascist Master (Evans 1996, 105-106)—but as a psychotic (Ibid., 155-157). For the psychotic has complete faith in his fantasy, the delusions of which he misapprehends (Ibid., 33-34, 77), with the full strength of his deranged convictions, as the real. Think how easily the Governor mistakes the dead for the living, misrecognising his own zombified daughter, Penny (‘Say the Word’, Ep.5, S.3, *TWD*), for the person of the young girl she previously was (‘Walk With Me’, Ep.3, S.3, *TWD*), and insisting that is who, ontologically, she still is by keeping her with him, secreted away, chained in his office cupboard (‘Made to Suffer’, Ep.8, S.3, *TWD*). Not that Penny is the only

13 *Mad Max* (1979). *Mad Max* was followed by *Mad Max 2* (1981); *Mad Max Beyond Thunderdome* (1985) and *Mad Max: Fury Road* (2015).

14 Literally, the ‘war of all against all’, characterising the state of nature in Hobbes’ *Leviathan* (Freeman 2008, 142).

(un)dead curio here, the Governor displaying such ghoulish trophies as the severed heads of his victims, as well as other corporeal bits and bobs, in what amounts to a chamber of horrors ('Walk With Me', Ep.3, S.3, *TWD*). With this fetishism of the 'body in ... pieces' (Wright, 1992, 36)—the Lacanian *corps morcélé*—the Governor looks to be something like a 'Bluebeard' figure from Grimm's (and grim) fairy tales, a nightmare 'Daddy' who, in his strong associations with death and decay, seems to have stepped straight out of Gothic fiction.

No wonder, in Series 3, Rick abdicates paternal leadership of the group, especially if this is where it leads: from the Symbolic Phallic Father who says 'No!' to the Real Anal Father, urging a deranged 'Enjoy!', the two being flipsides of the same coin. This is why those Series 3 and 4 episodes set in the abandoned prison that Rick and his group take over, with the aid and assistance of some remaining inmates, are crucial. Because this storyline models a leaderless mode of governance ('This Sorrowful Life', Ep.15, S.3, *TWD*); namely, an acephalic sovereignty in which authority is disseminated from the One (Rick-as-Rousseau) to the Many (the group-as-'General Will'). How, though, is this dissemination effected? What is the governing modality that replaces Rick's patriarchal autocracy? Nothing less than through a supreme 'council' ('30 Days Without An Accident', Ep.1, S.4, *TWD*) which operates along such strictly democratic centralist lines that even Lenin himself (or Jodi Dean herself¹⁵) would be satisfied; specifically, attend the meeting, vote, abide by the majority decision. End of story: no subsequent debate, no follow-up discussion and, certainly, no breakaway splits or deviations. Here, then, is rule by the party and, especially, its central committee, the processes and procedures of which displace, and indeed do away with any sort of singular authority—despite the prison location, even the panoptic gaze of the warden, ordinarily watchful. The irony of which is that, even if the prison residents are no longer themselves watching, then someone else certainly is; specifically, the Governor and his minions, not only watching ('Internment', Ep.5, S.4, *TWD*), but waiting—for what? Simply, to storm the prison, exact their revenge and release the zombie hordes ('Welcome to the Tombs', Ep.16, S.3; 'Too Far Gone', Ep.8, S.4, *TWD*).

This drives home the need for a mode of leadership that has its source *in*, and is, in turn a source *of* liberal-legal *law*-giving, as much as Schmittian-political theological *decision*-making (Schmitt, 1985, *passim*). By this, I mean a leader who, through his or her decisional authority, will not only ensure security but, who, through his or her commitment to Rule of Law imperatives, will respect democratic process: at once representing, yet also bringing into dialogue the individual and the group. This is not only a key challenge confronting *The Walking Dead's* fictional universe, it is our world's central issue as well. Given such global crises as climate change, financial mayhem, geopolitical uncertainty, the key question facing the world is what form of governance will deliver it from this parlous state of affairs. Certainly not the dysfunctional options on offer from the current law/politics nexus

15 For Dean's uncompromising rehabilitation of what some might think as the least palatable aspect of Marxist-Leninist praxis—the vanguard party—see her now germinal *Crowds and Party* (Dean 2016).

as imaged in the series: for example, Alexandria's precarious model of possessive individualism, desperately clinging to its things (a metaphor for the neo-liberal West); or the prison's vulnerable template of process and procedure, perilously distributing leadership amongst a bureaucratised managerialism that strains responsibility and leaves decision-making compromised (a figure for the old socialist East, its 'revolution betrayed' by party *nomenklatura*); finally, the truly scarifying blueprint of the charismatic 'cult of personality', where the 'great helmsman' of the ship of state turns out to be a psychotic demagogue (an allegory of Clive Palmer in Australia,¹⁶ Nigel Farage in the UK¹⁷ and, of course, Donald Trump in America¹⁸), one who will save us from ourselves even if it means killing us all.

4. Miracles, marxism and monsters: towards a zombie jurisprudence of critique

So, the stakes are high in zombie fiction because, *contra* Žižek and others, they force us to rethink our *nomos* but also our *nostos*, our law *and* society. Here, narratives such as *World War Z* (Brooks 2006; *WWZ* 2013) are instructive, especially in the radically discrepant logics proposed by its respective cinematic and textual versions as a response to the zombie crisis. For the former, filmic solution, the proposal turns on what might be called 'the miraculous'. Now miracles are, usually, theological; that is, a sign from God recorded in many faiths' sacred scriptures, including the Upanishads, the Koran, and the Old and New Testaments. That theological miracle informs one of the first of the present wave of zombie fictions, Brian Keene's *The Rising Series*, where blessed release from a zombie apocalypse—who, themselves are demons, rebel angels from another dimension, Hell—comes in the form of an afterlife, presided over and protected by God (Keene 2005, 'Epilogue' 355-357). That, however, is not the miracle of the film, *World War Z*; instead, it is scientific rather than religious, a 'Eureka' moment on the part of UN investigator, Gerry Lane, who observes, during the heart-stopping fall of Jerusalem (*WWZ*, Sc. 9), how the highly mobile zombie swarms sidestep and ignore the terminally ill: in this case, a cancerous child (*WWZ*, Sc. 9). This fieldwork insight leads to Lane's Jonas Salk-like discovery, later at a beleaguered British research institute (*WWZ*, Scs. 13-15): the inoculating effects of deadly (but curable) pathogens, the presence of which, in the body, will repel the zombies and, possibly, save humanity (*WWZ*, Scs. 15, 16).

What is interesting here is how much *World War Z*, the film, departs from *World War Z*, the book. At first blush, the most glaring departure appears to be in

16 Queensland-based mining magnate, and maverick Australian politician with a penchant for the eccentric bordering on the bizarre (e.g., one of his current pet projects is building a replica of the Titanic), Palmer is the founder of the populist Palmer United Party.

17 As the leader of the anti-EU, anti-immigrant UK Independence Party (UKIP), Nigel Farage was, until recently, Britain's leading Eurosceptic, having paved the way—ironically for a sitting MEP—for 2016's Brexit vote.

18 Famously, the 45th & current president of the United States and widely known—and decried—as a populist, protectionist and *Volk*-ish nationalist.

terms of narrative structure, the former being focalised by one character, Gerry Lane being a star vehicle for Hollywood ‘himbo’ Brad Pitt¹⁹; whereas the latter is told, in the manner of a Studs Terkel-style oral history ‘from below’,²⁰ being vocalised in the multiple viewpoints of those who lived through, and triumphed over, eventually, the zombie apocalypse. That formal-narratological departure is, however, upstaged and, ultimately, overwhelmed by a substantive-thematic one: specifically, when Max Brooks’ book flatly rejects the miracle of intervention, scientific, theological, and otherwise; and plumps, instead, for a solution to the crisis that is collective rather than individual, involving as it does full mobilisation of the material and mental resources of global humanity (Brooks 2006, 137-186, 187-269) in order to prosecute a ‘total war’ against the zombie apocalypse (Brooks 2006, 270-327). In so doing, according to Brooks’ *World War Z*, global society must undergo a radical restructuring by installing, surprisingly for an American text, a version of the old ‘communist idea’²¹—‘from each according to their abilities, to each according to their needs’ (Marx 1978, 531)—that would put the now defunct command economies of the passé Soviet bloc to shame.

The problem, though, with *World War Z*’s two solutions to the zombie apocalypse is that each repeat rather than reconcile the divide between the individual (the ‘Eureka’ moment of the film) and the collective (the ‘communist idea’ of the text). By way of contrast, *The Walking Dead* opts for, at least I maintain, a solution that encompasses both the individual and the collective and all the other antinomies for which this binary stands: security/democracy, decision-making/dissemination, leadership/consensus. But what will bring these sets of opposition together? Naturally, the solution must involve the law, that great mediator between right and utility, the individual and the common good. Yet what kind of law is it? I would argue that it is a law that takes ethics seriously, putting it, squarely, front row and centre. Namely, a legality that valorises an ethical care and concern for, as Levinas would put it, ‘the Other’ (Levinas 1998), the duty to whom we can never resile from, can never disavow, can never give up on, no matter what the consequences. Given this definition, surely the most ethical figure in Western jurisprudence is Antigone,²² Oedipus’ celebrated daughter, who refused to obey the order of her uncle, Creon, King of Thebes.²³ For Creon, infamously, barred any citizen from properly burying,

19 It was Pitt’s production company, Plan B Entertainment, which secured the screen rights for the film. Pitt is also one of the Producers of the film (with Dede Gardner, Jeremy Kleiner and Ian Bryce).

20 See, for example, Studs Terkel’s oral histories of the Great Depression (Terkel 1970) and World War II (Terkel 1984).

21 Of which everything old is new again, the ‘communist idea’ being brushed off, put on display and re-circulated as a viable political option, a branding process amply attested to by trail-blazing collections such as Costas Douzinas’ and Slavoj Žižek’s *The Idea of Communism* (Douzinas and Žižek 2010) and Jodi Dean’s provocative *The Communist Horizon* (Dean 2012).

22 For the definitive reading of Antigone as the *ur*-figure of jurisprudence, see Julen Etxabe’s superb *The Experience of Tragic Judgment* (2014).

23 *Antigone* is one of the three Theban plays (and Oedipal dramas) by Sophocles, following on in terms of plot from *Oedipus the King* and *Oedipus at Colonus* (Sophocles, 1984). It was written and performed first, however, around 441 BC.

according to the rites and rituals of the gods, his nephew, Polynices, recently dead from having taken up arms against Thebes (Sophocles 1984: *Antigone*, lines 26-30, 215-231). In performing what amounts to a burial—sprinkling dust over Polynices' body (Sophocles 1984: *Antigone*, lines 277-281, 417-489)—Antigone not only honours her brother but the gods themselves, following their 'higher' law instead of that posited by the state through the 'command of the sovereign' (Sophocles 1984: *Antigone*, lines 499-524).

5. My zombie, (not) my self: the 'ethics of the real' as laying the living dead to rest

Something like Antigone's Sophoclean drama is played out in Series 5 of *The Walking Dead* when Sasha, a female character of great Antigone-like resolve and determination who, after losing, dispatching and burying her dead brother Tyrese ('What's Happened and What's Going On', Ep.9, S.5, *TWD*), symbolically joins him by lying down in a shallow mass grave of disposed and truly dead zombie cadavers, identifying with each ('Conquer', Ep.16, S.5, *TWD*). Why do I say identifying? Because, in so doing, Sasha knowingly honours the zombies, as well as the memory of her brother, elevating both of them to the dignity of the dead 'Thing',²⁴ to be put to rest, buried ritually, even prayed over. Is this not the ethical moment of the series: an ethics, as Alenka Zupančič might put it, of 'the Real'? (Zupančič 2000, *passim*). That is, an ethics where we identify with 'the Real' of the zombie, not in order to become one of them—this is the fatal mistake of the Terminus cannibals (Seasons 4 and 5) or the roving Wolves (Seasons 5 and 6) who misrecognise the 'Walking Dead' as living subjects to be mimicked, *i.e.*, *Imitatio Zombii*—but to end, mercifully, an existence that is well and truly '*entre-deux-morts*', between two deaths.²⁵ After all, when all is said and done, we are all zombies, at least, potentially. We know this because, as Rick later reveals ('Beside the Dying Fire', Ep.13, S.2, *TWD*), Dr Jenner whispered to him, in the final, intense scenes set at the end of Series 1 in Atlanta's Centre for Disease Control, that all of humanity had been infected with the virus ('TS-19', Ep.6, S.1, *TWD*).

This startling revelation is recalled *in*, and makes sense of Rick's despairing lament in Series 5 that 'we are all the "Walking Dead"' ('Them', Ep.10, S.5, *TWD*). But one should not necessarily read this utterance as fatalist resignation, quiescently accepting one's inevitable fate; that is, ceding dominion of the planet to the zombie

24 Borrowing from Lacan (Lacan 1959-1960, 21, 42, 80, 98, 151), via Žižek (Žižek 1999, 263; 2000, 95), Zupančič equates *das Ding*, 'the Thing' with the 'the Real' and, as such, as affording access to the ethical event, rearranging the coordinates of our existence: 'The Real Happens to us (as we encounter it) *as impossible*, as the 'impossible thing' that turns our symbolic universe upside down' (Zupančič 2000, 235).

25 That of the body's biological (Real) death and its ceremonial (Symbolic) death, thereby opening up the space in which the death drive prevails, evacuated of desire, but animated by a demand—the emblematic literary example is the ghost of Hamlet's father, who, as neither fully dead nor as one of the living, haunts his son with a demand for vengeance. The terminology is, of course, Lacanian (Lacan 1959-1960, 248; Evans 1996, 32-33) and the point Žižekian (1992a, 23), on which has been picked up in and disseminated widely in the critical literature (e.g., Dima 2016; Sigurdson 2013; Mullen 2014; Larson 2010).

hordes by becoming one of them. On the contrary, the presence of the virus in all of us presents us with a *free choice*: we can either join the dead, participating—like the current subjects of global capital—in their never-ending and iterative loop of consumption, metaphorised cinematically in the ‘fresh brains’ demanded in innumerable zombie flicks; or we can make a conscious effort, like Kris’ analysis and impliedly invited in his nosological anecdote of ‘fresh brains’ (Kris 1975, 245), to break with this chain of consumption by embracing our uncertainty, hesitation, difference to become an alternative version of humanity, one that would challenge the hegemony of the ‘Walking Dead’, calling them into question, putting them on trial, judging them and finding them wanting. To that political, ethical and, above all, *juridical* end, *The Walking Dead* invites us to become nothing less than ‘The Litigating Dead’.

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‘Say The Word’, Episode 5: Angela Kang, Writer; Greg Nicotero, Director.

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‘Welcome to the Tombs’, Episode 16: Glenn Mazzara, Writer; Ernest Dickerson, Director.

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‘30 Days Without an Accident’, Episode 1: Scott Gimple, Writer; Greg Nicotero, Director.

‘Internment’, Episode 5: Channing Powell, Writer; David Boyle, Director.

‘This Sorrowful Life’, Episode 15: Scott Gimple, Writer; Greg Nicotero, Director.

‘Too Far Gone’, Episode 8: Seth Hoffman, Writer; Ernest Dickerson, Director.

– Season 5, 2014.

‘What’s Happened and What’s Going On’, Episode 9: Scott Gimple, Writer; Greg Nicotero, Director.

‘Them’, Episode 10: Heather Benson, Writer; Julius Ramsay, Director.

‘The Distance’, Episode 11: Seth Hoffman, Writer; Larysa Kondracki, Director.

‘Remember’, Episode 12: Channing Powell, Writer; Greg Nicotero, Director.

‘Forget’, Episode 13: Corey Reed, Writer; David Boyd, Director.

‘Spend’, Episode 14: Matt Negrete, Writer; Jennifer Lynch, Director.

‘Try’, Episode 15: Angela Kang, Writer; Michael Satrezepis, Director.

‘Conquer’, Episode 16: Scott Gimple, Writer; Greg Nicotero, Director.

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