A GREAT DISTURBANCE IN THE FORCE
Jurisprudence and Star Wars

Winner of the Griffith Law Review Student Essay Prize 2002

Julie Lovell[*]

The notion of the 'disturbance in the Force' is the basic unifying metaphor of *Star Wars*. On one level, it has a simplistic narrative significance — planetary destruction symbolising the tyranny of the Empire and the urgent need for a revivification of rights through idealised liberal republicanism. But, like the law and rights discourse, the Force has a doubled identity — ostensibly existing for the good of all humankind, but failing to be inclusive of different cultural perspectives. What emerges from *Star Wars* is a double critique: of the Force as theoretically universal, yet wholly exclusive — just like the law (and rights discourse) itself. The role of rights discourse is to maintain a critical distance from law and to stretch its boundaries and limits. If we look closely enough, *Star Wars* shows us the way. The new direction for the law is demonstrated in an entirely new form of nature — a new evolution — through science and technology towards the rights-bearers of the future.

Introduction

Speeding through the Galaxy on board the *Millennium Falcon*, Luke Skywalker is practising an exercise designed to develop his intuition. As Luke concentrates, his mentor and instructor, Obi-Wan Kenobi, suddenly gasps and falters, reeling, to a seat nearby. Concerned, Luke asks: 'What? What is it?' Obi-Wan looks up, troubled and saddened. He says:

> I felt a great disturbance in the Force — as if millions of voices suddenly cried out in terror and were suddenly silenced. I feel as if something terrible has happened.

The specific disturbance that Obi-Wan Kenobi refers to in this memorable scene is the meaningless destruction of the planet Alderan by the Death Star, the key instrument of power of the sinister Emperor. It is representative, however, of a far greater 'disturbance': the suffering of the people of the

[*] Griffith University Law School graduate, 2001; now working with the Commonwealth Department of Communications, Information Technology and the Arts.

Galaxy under the reign of the tyrannical and oppressive Empire, symbol of evil and terror.

Obi-Wan is one of the last surviving Jedi, an order of Knights who, 'for over a thousand generations, were the guardians of peace and justice in the old Republic, before the dark times, before the Empire.'[1] He has taken young farm boy Luke Skywalker under his wing, and together they seek to assist the Rebel Alliance, a group of revolutionaries struggling to overthrow the malevolent Emperor and restore peace and democracy to the Galaxy.

Arguably the most popular movie series of our time, the *Star Wars* films have captured the imaginations of millions across the world. An archetypal sci-fi fantasy in an exotic, intergalactic setting, always pushing the boundaries of cinematic technology and special effects, these movies have been a source of delight and inspiration for generations. The classical storyline, with its basic, timeless themes, has generated copious analysis, particularly in respect of its powerful mythological and religious resonance. Its importance for scholars of jurisprudence, however, cannot be understated. The rich symbolism and dynamic characterisation in these films present a useful allegory that offers insight into the nature of the law and legal power and its impact on society. The concept of the 'Force', in particular, has profound jurisprudential significance. The object of this paper is to investigate the true nature of the 'disturbance' that Obi-Wan refers to in *Episode IV: A New Hope*, and to look at how it may indicate the presence of a deeper and more insidious disturbance operating in the *Star Wars* universe more generally.

As a starting point, let us examine the explicit allegory we have been presented with. While, ultimately, it will be understood that the implications of the various representations within these films are far more wide-reaching and significant than they may initially appear, it seems logical to commence our analysis at the most transparent and simplistic level.

Star Wars has been described as 'one of the finest allegories on classical liberal political theory ever to appear on screen'.[2] Certainly, the *Star Wars* universe (long ago, in a galaxy far, far away) as conceived and depicted by George Lucas demonstrates clear parallels with the history of Western civilisation, and the development of political ideology. Specifically, in *Episode 1: The Phantom Menace*, we are presented with an unsubtle parody of the history of ancient Rome. As the film opens, the Galactic Republic is falling apart due to taxation, protectionism, bureaucracy and corruption. As Thorton describes it, 'the federalists are enforcing their franchise on trade taxes by trying to intimidate a small, peaceful planet that believes in free trade, peace, and republican virtues'.[3] The (democratically elected) Queen of this planet, Amidala, appeals to the central government of the Republic for an end to the trade restrictions, but discovers that the vast Galactic Senate has been rendered utterly incompetent by red tape, corruption and the filibustering of special-interest groups concerned only with manipulating the system for their own

1 *Episode IV: A New Hope* (1977).

2 Thorton (1999), p 1.

3 Thorton (1999), p 1.

benefit. A frustrated Amidala becomes convinced that 'the Senate no longer functions',[4] returns home and prepares to defend her planet. Like ancient Rome in the final century BC, plagued by excessive government and a departure from the virtues that defined the classic republican ideal, the Galactic Republic is clearly in a state of advanced decay. It has reached what John Pocock describes as 'the Machiavellian moment' — that moment 'when the Republic is brought to recognise its own finitude in time'.[5] The impact for *Star Wars*, again parodying the course of ancient Western history, is that this situation provides the foundation for the rise to power of a single, tyrannical Emperor. During her excursion to the Republic's Galactic Senate, the Queen is persuaded to assist Naboo's representative, Senator Palpatine, in a bid to win the Chancellorship of the Senate, promising to eradicate the bureaucrats and restore order to the government of the Galaxy. Of course, it later becomes clear that Palpatine has orchestrated the Trade Federation blockade of Naboo precisely for this purpose. Driven by the desire for personal power rather than any principled attachment to the ideals of the Old Republic, Palpatine becomes the Caesar (or Octavian) of the piece: effecting the conversion of the Republic to the evil Empire depicted in later films.

As Thorton expresses, the movie makes clear that:

> good society is based on limiting government, sound money, free trade, peace and virtuous leaders who care more about the commonwealth than their own power. Evil is represented by consolidated government and its penchant for corruption, inflation, war and destruction. So this galaxy far, far away bears an incredible likeness to the one we know all too well.[6]

In Episodes IV, V and VI, therefore, set under the reign of this evil Empire, the key motivation of the central characters is to overthrow the Empire and, according to the introduction we read in Episode IV, 'restore freedom to the Galaxy'.[7] What is it that the Rebels are trying to achieve? The Empire symbolises the destruction of all that is central to the republican ideal — freedom, order and democracy. The Rebel Alliance is fighting for a restoration of rights to the Galaxy. As the ideal of the republic is the allegory we have been given to work with in the *Star Wars* context, it will be useful to understand the concept of rights as they were conceived in the republican tradition, for it is these ideals that have provided the foundation for modern liberalism and, ultimately, the discourse of human rights. The next section will examine the historical nature and source of rights, traditional conceptions of the rights-bearer, and the role a mysterious concept such as 'the Force' might play in justifying such an ideal.

---

4 *Episode 1:The Phantom Menace* (1999).

5 Pocock (1975).

6 Thornton (1999), p 3.

7 *Episode IV: A New Hope* (1977).

The Evolution of Rights Discourse

It must be clarified at the outset that the object of this paper is not to attempt a detailed description of the history of political thought and legal philosophy. Rather, the aim is merely to provide a thumbnail sketch of the features of the 'republic' that the Rebels are so keen to revive, and the nature of the inherent rights that such an ideal is designed to protect. By way of summary, therefore:

> The association of 'republic' with a particular organisation of the public realm owes much to the course of Roman history. As the traditional constitutional arrangement, with its elements of democracy and aristocracy crumbled and eventually became the principate, its defenders represented it as the only way in which the public realm could be properly organised and the common weal secured. *Res publica Romana* thus required a normative, ideal-type reference to the way in which Rome's public realm was supposedly arranged between the expulsion of the Roman monarchs in 510BC and the first *princeps*, Augustus, in 31BC.[8]

The republican ideal is that of a free political society, aligned along the concept of the *common weal* or public good. As Pocock describes it:

> virtue as devotion to the public good approached identification with a concept of justice; if the citizens were to practice a common good, they must distribute its components among themselves, and must evenly distribute the various modes of participating in its distribution.[9]

In other words, a system of rights is established in republican terms through institutional arrangements, endowing each citizen with a set of rights defined and defended by way of participation.[10] The principal republican right is 'liberty'.[11] Constant described this particular concept of liberty — that of the 'ancients' — as the freedom associated with being a direct participant in a self-governing democracy.[12] This conception, later described by Isaiah Berlin as 'positive liberty', demonstrates that the republican tradition provides a source for modern incarnations of human rights. If positive liberty based on a fundamental right of participation in government forms the basis for the freedom of the 'ancients', then a consideration of the composition of the notion of rights in a 'modern' context will be required in order to complete the picture.

Pocock describes the liberalism of modernity as a 'view of politics founded on the conception of the individual as a private being, pursuing goals and safeguarding freedoms which are his own and looking to government

---

8 Haakonssen (1995), p 569.

9 Pocock (1985), p 42.

10 Goldsmith (2000), p 544.

11 Goldsmith (2000), p 543.

12 Quoted in Pettit (1997), p 113.

mainly to preserve and protect his individual activity.'[13] Likewise, Haakonssen writes that:

> liberal theorists maintain that they inherited a long tradition, stretching back to Hobbes, Locke and beyond, according to which civil society is a *protection* society mutually agreed upon by individuals whose central characteristic is that they each have natural rights.[14]

The flipside of the traditional notion of freedom, the modern ideal is fundamentally concerned with *negative* liberty. As Pettit expresses it:

> under this conception a person is free just to the extent that no one has the position of a *dominus* in their life: not any private lord, and not any public authority. No one is able to interfere in what they do except so far as they are forced in doing so to respect the perceived interests of the person in question; no one, in the received phrase, has an arbitrary power of interference in their affairs.[15]

A universal system of negative liberty tends to approach a Kantian conception of legal universality: the 'categorical imperative' that 'any action is right if it can accord with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law'.[16] The notion of the 'universality' of law will be addressed further below; it is sufficient to acknowledge at this stage that the modern conceptualisation of liberty, according to Kant, is predicated on a type of 'golden rule', ensuring that each individual rights-bearer assert his or her entitlements only to the extent that in so doing the rights of another citizen are not inhibited.

And thus the philosophical basis for rights has its two component parts: both ancient (positive) and modern (negative) liberty. In fact, both the traditional republican ideal and liberal modernity are fundamentally linked. As Goldsmith explains, for Kant, deeply influenced by Rousseau and so by the republican tradition, ultimately the only rightful state was a republic.[17] Thus consideration of the republican tradition is critical in understanding the role of Kant's 'free and autonomous individual'. State legitimacy, according to Kant, implicitly depended on republicanism: the idea of the original social contract involves each individual 'giving up his [sic] external freedom in order to take it up immediately as a member of a commonwealth. The legislative authority can belong only to the united will of the people.'[18]

---

13 Pocock (1985), p 60.

14 Haakonssen (1995), p 570.

15 Pettit (2000), p 239.

16 Kant, quoted in Goldsmith (2000), p 548.

17 Goldsmith (2000), p 549.

18 Kant, quoted in Goldsmith (2000), p 549.

Whose Rights?

Just as the concept of rights that defines liberalism can be said to have grown out of the republican tradition, the manner in which these rights are ascribed to *individuals* in the liberal context can be said to have its origins in the notion of republican *citizenship*.

While the theoretical construct of the republic was entirely dependent upon its being comprised of citizens, the notion of who held citizenship was a restricted concept. Plato identified the various constituents of an ideal republic according to three groups — mirroring the three divisions of the soul. The rulers represent the 'rational' aspect; the soldiers, as agents of the state, comprise the 'spiritual'; and the 'appetitive' is represented by the artisans, or commoners. As Ward explains, 'the class of each individual is determined by which part of the soul is dominant, and it is therefore very necessary that political power rests with the rulers, whose souls are dominated by reason'.[19] Plato regarded education as critical for the guardian class, because the ideal society could not be achieved until 'philosophers become kings in the world'. This hierarchy was later affirmed by Aristotle, who argued that 'power rightly rests with the virtuous, which, given that it is in part constituted by education, necessarily vests in the educated aristocratic elite'.[20] Thus, in the ancient republics, the 'citizenry' was comprised, for the most part, of the educated (propertied) upper classes.

The notion of liberalism in modernity was similarly universal in its rhetoric. The idea of the rights underpinning liberalism 'expresses a normative attitude of respect for the capacity of ordinary persons for rational autonomy: to be, in Kant's memorable phrase, free and rational sovereigns in the kingdom of ends'.[21] As Richards argues:

> autonomy, in the sense fundamental to the idea of human rights, is a complex assumption about the capacities, developed or undeveloped, of person, which enable them to develop, want to act on, and act on higher-order plans of action which take as their self-critical object one's life and the way it is lived.[22]

Whether conceptualised in terms of the 'philosopher kings', or the 'rational autonomous individuals', it is clear that the primary citizens, or rights-bearers, in the *Star Wars* universe are the Jedi Knights. The 'guardians of peace and justice in the Galaxy', the Jedi are those primarily entrusted with the maintenance of republican freedom (in *The Phantom Menace*), and those charged with the responsibility for ensuring its return (in the later films).

By extension, those whom the Jedi purport to assist are likewise embodied by characteristics of the autonomous individual. The central characters of the film are classic 'heroes', brave and principled — perhaps

19 Ward (1998), p 4.

20 Ward (1998), p 9.

21 Richards (1981), p 9.

22 Richards (1981), p 6.

willing to forego their own personal freedom in the name of a good cause, but imbued with the qualities essential to the exercise of individual free will nonetheless. Princess Leia, for instance, is our *declassée* aristocrat — embodying the classic features of the Platonic and Aristotelian 'virtuous' citizen — the educated rationality particular to the ruling classes. Her destiny is all her own. She *chooses* to be a part of the Rebel cause, and comes to own it in a personal context: 'Help us, Obi-Wan Kenobi, you're our only hope.'[23]

Han Solo is our frontiersman, the 'rough'n'ready' pioneer-type individual central to the American dream: 'Look, your Worshipfulness, I take orders from just one person: ME.'[24] Ruled by self-interest and a well-developed profit motive, he is also sceptical of the metaphysical notion of an all-encompassing 'Force': 'There's no mystical energy field controlling MY actions.'[25] Instead, his conception of the 'good' is as it corresponds with the achievement of his own particular goals, and typifies 'the apparent rational character of the evaluation of actions on the basis of the consequences to the satisfaction of preferences, aggregatively considered, [which] made utilitarianism attractive for minds distrustful of any postulation which is not accompanied by a more or less empirical support'.[26] This is demonstrated by Han's classic line: 'I ain't in this for your Revolution, and I'm not in it for you, Princess. I expect to be well paid.'[27] As we know, Han does reform through the course of the films, and this mercenary motivation evolves into a deeply personal one — that of a desire to secure the affections of Leia. The crucial factor is that he is completely free to make the decision to take part in the Rebellion.

The story of Luke Skywalker is a profound one in this context. At the commencement of the films, he is a bored, restless, dissatisfied young man: 'All his life has he looked away to the future, to the horizon — never his mind on where he was, what he was doing.'[28] His desire to control his own destiny is thereby established, and the circumstances of the film enable him to realise his goals. His ties to family and duty are symbolically removed by the (horrible, but fortuitous) massacre of his guardians by the Empire, leaving him to be truly autonomous in the achievement of his own ends.

Each of these characters is free to make the *choice* to join the Alliance. Each has a personal motivation: Leia's is political gain; Han's money and love; and Luke's motive is to redeem his family heritage and 'save' his father from the Dark Side. While their choices are depicted in the nature of (good-hearted) duty, in reality each of them has absolute freedom to determine the path of their own actions, typifying the ideal of the rational, autonomous liberal individual. As we will see, this freedom is not shared by all in the *Star Wars* universe.

---

23 *Episode IV: A New Hope* (1977).

24 *Episode IV: A New Hope* (1977).

25 *Episode IV: A New Hope* (1977).

26 Nino (1989), p 37.

27 *Episode IV: A New Hope* (1977).

28 Per Yoda, *Episode V: The Empire Strikes Back* (1980).

Origins of Rights: The Force as Nature

An important question in the context of *Star Wars,* however, is the *source* of whatever rights are to be ascribed to citizens within the Galaxy once the objectives of the Rebel Alliance have been achieved. The source of law, and of individual rights, is as old a question as jurisprudence itself: from ancient Greece to (post-) modern critical schools, the tension between a conceptualisation of laws as having either a transcendent, immutable character as opposed to a temporal, constructed one is at the core of legal philosophy. Natural or posited? Divine or human reason? Universal or culturally relative? From Plato to Dworkin and beyond, it is these questions which characterise any discussion of the origin of human rights.

We are left in no doubt, however, as to which side of the fence the creators of *Star Wars* have embraced in these films. The unifying metaphysical theme that defines *Star Wars* is, of course, the concept of 'the Force'. Unchanging, omnipresent, guiding and defining all human action, the Force resembles nothing so much as the jurisprudential concept of nature itself. The Force *is* nature — or, rather, the meta-principle or law that defines it.

Aristotelian concepts of legal justice 'survived and thrived' in Rome, where the Stoic ideas of natural law were also applied for the first time.[29] Classical Greek ontology believed that 'the cosmos, the universe and everything in it, animate or inanimate, has a purpose, *telos* or end' to which the nature and potential of all living things is directed.[30] In his *Republic*, Roman jurist Cicero explained that 'the true law, is the law of reason, in accordance with nature known to all, unchangeable and imperishable ... one and the same law, eternal and unchangeable will bind all people and all ages'.[31] Likewise, Obi-Wan Kenobi explains to Luke that the Force 'surrounds us, penetrates us, [and] binds the galaxy together.' Eighteenth century poet Alexander Pope may well have been anticipating the Force when he wrote:

> All are but parts of one stupendous whole,
> Whose body Nature is, and God the soul; ...
> All Nature is but art, unknown to thee;
> All chance, direction, which thou canst not see;
> All discord, harmony not understood;
> All partial evil, universal good:
> And, in spite of pride, in erring reason's spite,
> One truth is clear, whatever is, is RIGHT.[32]

In modern terms, principles of justice are derived independently of any conception of the 'the good' because they can be obtained while demonstrating no particular preference for specific social or individual goals, interests or

---

29 Douzinas (2000), p 49.

30 Douzinas (2000), p 28.

31 Cicero, *Republic,* quoted in Douzinas (2000), p 50.

32 Pope, A: from 'An Essay on Man' (1733), quoted in Sarat and Kearns (1996), p 48.

ends. According to Kant, this is what makes justice absolutely reliable and universal, 'since its principles are not subject to the contingent empirical variation of human desires and inclinations'.[33] A central theme of the natural law as depicted in *Star Wars* is the distinction between truth discoverable by reason and that knowable by intuition alone. Luke is taught to discard his acquired knowledge ('unlearn what you have learned') and to distrust empirical observation ('your eyes can deceive you'). Instead, in order for Luke to become a Jedi, a trained warrior enlightened in the ways of the Force, he must learn to embrace his intuition: 'Stretch out with your feelings'; 'Feel, don't think.'

The experience of Western civilisation since the American and French revolutions has been an explicit commitment to the universality of rights, of the equality of citizens, in accordance with principles of nature. From Hobbes and Locke through to the Declaration of Independence and the Declaration of the Rights of Man and the Citizen, this has formed the dominant ideology of the Anglo-European tradition. The fundamental principle is that 'in respect of their rights men are born free and equal' and 'the aim of every political association is to preserve the natural and inalienable rights of man [sic]' which are 'liberty, property, security and resistance to oppression'.[34] Underpinning fundamental notions of the rights borne by the individual citizen is the idea that such rights are ordained by nature; that the order of things is as it should be. As we will see, however, the idealistic liberal concepts of universal rights tend to fall well short in their practical application.

Critique of Liberal Ideology[35]

On one level, the 'disturbance' that forms the key motivation for the films metaphorises the attempt by the Rebel Alliance, led by the Jedi and armed with the Good Side of the Force, to revivify the supremacy of rights, order and freedom in the most classic liberal republican sense. But the Force in *Star Wars*, as much as rights today, discloses a doubleness: everywhere but nowhere, in all of us but operative only for some, universal in its rhetoric but particular in its application. What is the nature of this particularity, this doubleness? I will argue that the 'disturbance in the Force' is actually far more powerful a metaphor than it first appears — that *Star Wars* is a critical legal text because it dramatises the Force as the domain of the (predominantly white) ruling classes. Essentially, beyond any attempt to depict a monumental struggle between the (good) liberal democrats and the (evil) despot; the central storyline of these films is about nothing more than a power struggle between the elite ruling classes to control the Galaxy. Our sympathies are expected to lie with the Rebel Alliance, as the spaghetti-Western style 'good guys', but in reality we are offered no guarantees that life would be any better under their rule. 'Good guys' or not, the legal regime they represent still excludes entire

---

33 Nino (1991), p 85.

34 *Declaration of the Rights of Man and the Citizen*, quoted in Douzinas (2000), p 86.

35 Or Would the Last Person to Leave Please Turn Out the Enlightenment?

sections of the community — denying them a voice, and a true identity. So *Star Wars*, far from being infantile escapism or mere utopian wish-fulfilment, is a staging of critical discourse on the failings of the defining emblem of modernity: the liberal ideal. Whether we describe it as the colonising pedagogy of whiteness, or the hegemony of the bourgeois ruling classes, the 'disturbance in the Force' is far more significant than it may first appear to be.

Let us first acknowledge that, while the Force may be depicted as the domain of the Jedi, it is just as responsible for the power of the Empire. The 'Dark Side' is as much a part of this metaphysical foundation which is as capable of radical evil as it is of radical good. For all its moral narcissism, the Force (like liberalist interpretations of natural law) has been responsible for the exclusion and oppression of many groups within Galactic society.

The idealistic conceptions of the universal subject of liberal rights have long been acknowledged to be discriminatory and particular in their substantive practical application. Law has for centuries 'addressed its benefits largely to the politically enfranchised, a group that was well-defined by a set of salient common characteristics ... citizens [have] traditionally been male, white, heads of households, and property owners and were assumed to have some level of education'.[36]

Liberalism in the traditional sense, with its intense focus on the *individual* as the bearer of rights and entitlements, has typically found 'group rights' difficult (unless they can be expressed in terms of individual rights). As Johnson expresses:

> liberal rights theory is predisposed to recognising two categories of rights holders: individuals and society. There is, however, little conceptual space for the rights of groups. Typically it is assumed that group interests can be accommodated within the framework of either individual or social rights.[37]

The danger of such an approach, of course, is the dismissal of the atrocities committed against groups in the modern era: 'The prevalence of collective wrongs such as apartheid and genocide demonstrate the need for collective rights.'[38] The liberal emphasis on autonomy is unbalanced in that it ignores the way that individuals are dependent on society,[39] and neglects the social conditions that are required for the exercise of autonomy. The idea that the individual is free to choose his or her way of life (as described earlier in terms of the central characters of the *Star Wars* films) is only meaningful if that character has options to choose from, and the social communitarian thesis holds that such options are cultural in origin.[40] According to Sandel, 'our identity is defined by certain ends that we did not "choose", but rather

---

36 Clark (1999), p 29.

37 Johnston, quoted in Bottomley (1995), p 305.

38 Johnston, quoted in Bottomley (1995), p 305.

39 Kymlicka (1995), p 370.

40 Kymlicka (1995), p 371.

"discovered" by virtue of our being embedded in some shared social context'.[41] As this paper demonstrates, the free autonomy of the central characters of *Star Wars* is derived from a particular racial and class-based cultural authority: as members of a privileged group, rights and freedoms are extended to these individuals as the classic rights-bearers of the liberal tradition. The *Star Wars* films demonstrate, however, just how inaccessible such 'universal rights' are for many groups within society. The 'disturbance in the Force' goes far beyond the explicit need to revivify rights in the Republic. The films portray the very real sense in which, even if the quest of the Rebel Alliance is achieved, the rights of entire communities within the Galactic context are certain to be ignored.

Patriarchal Investment in White Privilege: The Pedagogy of Whiteness

In modern Western society, 'the issue of race is culturally and socially constructed and structured, directly or indirectly, by relations of power'.[42] Differential treatment of indigenous and non-indigenous people has been, and continues to be, embedded in liberal legality, as a result of liberalism's inability to confront substantive inequality. Liberal attempts to render law neutral and innocent are as futile as they are inherently racist, as the law has been and remains 'inherently loaded in its content and partisan in its application'.[43]

Almost without exception, the Jedi Knights are white males. Likewise, the Rebel Alliance is primarily comprised of young Caucasian men, with a few token 'aliens' thrown in for the purposes of establishing the legitimacy of the intergalactic setting. The notable exception, of course, is the knee-high, wrinkly and green, Muppet-voiced Jedi Master Yoda. While Yoda is revered as the most masterful and learned of the Jedi; he is singular in his alien appearance. When Luke Skywalker first encounters Yoda in the swamps of the planet Dagobah, he refuses to acknowledge the Master's identity. At first dismissing him as merely an irritating indigenous pest, Luke exhibits classic white colonialist mannerisms in patronising Yoda's demonstrated knowledge of the Jedi and the Skywalker family history. It is not until a fellow white man, Obi-Wan Kenobi, reveals Yoda's identity that Luke will accept this truth.[44]

The quest that forms the central plot of these films is nothing more than a bid by the Jedi to regain control of the galaxy, and substitute their (white) notions of justice, order and the rights of individuals for the tyranny of the Empire. Absent here, silenced and censored, are the voices of 'others', suppressing that space where alternative interests and values are considered. There are several identifiable voices that are marginalised in the context of these films, existing 'outside' of the central struggle.

First, we have the indigenous populations. The Ewoks of Endor, from *Return of the Jedi*, are enduring audience favourites in the *Star Wars* world.

---

41 Sandel, quoted in Kymlicka (1995), p 370.

42 Morris (1990), p 63.

43 Bottomley et al (1995), p 305B.

44 See *Episode V: The Empire Strikes Back* (1980).

More recently, the Gungan population of the planet Naboo has provided what is apparently supposed to be similar light entertainment value in *The Phantom Menace*.

Both indigenous groups are portrayed according to deliberate ethnic stereotypes. The Ewoks are apparently supposed to evoke images of a primitive jungle tribe of 'savages' — dressed in animal skins, bearing spears and chattering excitedly in an unintelligible native tongue. Their customs appear to conform to the 'savage' stereotype — particularly their primitive-yet-effective techniques of warfare, their rhythmic drum-based music, and the memorable scenes when the cute little Ewoks string Han, Luke and Chewie up on poles for roasting purposes. The Gungans are a parody of a particular ethnic group, with their accents and patterns of slang-ridden speech, loping gait and laid-back attitudes clearly mimicking the population of the Caribbean West Indies.

The treatment of these populations by the chief protagonists of the films is typically colonialist and paternalistic. The Ewoks are spoken to indulgently and condescendingly, much as if they were favourite pets. Princess Leia befriends Wicket with food, remarking 'you're a jittery little thing, aren't you?' The Gungans, particularly Jar Jar Binks, are consistently objects of ridicule for their clumsiness and failure to observe social conventions.

In both cases, the rights and interests of the indigenous populations are ignored, and forced to yield to the more powerful claims of the warring superpowers. Pawns in a much larger game, in both instances the land and territory of the indigenous populations represent the soil on which whatever land-based aspect of the conflict is fought. The rights of both the Ewoks and the Gungans are not the concern of these films. The implicit inference is that, once the Empire has been defeated, life will be better for the Ewoks. However, the experience of the Gungans shows us that, even under a democratic regime, their interests are subordinated to the ruling white colonisers.

When confronted with criticisms of this nature, George Lucas has consistently protested that his films are not racist. In the face of virulent criticism for the racial stereotyping evident in *The Phantom Menace*, Lucas issued a statement saying:

> There is nothing in *Star Wars* that is racially motivated. *Star Wars* is a fantasy movie set in a galaxy far, far away. To dissect this movie as if it has some direct reference to the world we know today is absurd.[45]

Conservative US talk show host Larry Elders eloquently lambasted those who found the movie offensive: 'These people are, what I call "victocrats", people who go through life looking for slights ... people who go through life with race-tinted glasses, looking for some sort of offensive statement, offensive image, offensive gesture. When in fact, maybe it's just a character.'[46]

---

45 Okwu (1999).

46 Okwu (1999).

What we are witnessing here is an example of the unashamed triumph of whiteness as pedagogy. Lucas fails to realise that, while he may not have intended to be racist, as a member of the white race he is a member of a 'club that enrols certain people at birth ... and brings them up according to its rules'.[47] Not necessarily associated with any concept of white supremacy, this 'club' enforces a pervasive system of race privileges, 'so embedded in the social structure that they are reproduced daily — but without reflection — by most of the actors'.[48] As Garvey and Ignatiev argue, 'just as the capitalist system is not a capitalist plot, racial oppression is not the work of "racists", but of people who in many cases would be sincerely offended if accused of complicity with white supremacy'.[49] As Ruth Frankenberg describes, 'part of the "work" of whiteness involves generating norms — that is, making things seem or appear natural and timeless so that people accept situations, as well as particular ideologies without ever questioning their socially and politically constructed nature',[50] that they are dissuaded from interrogating what Barthes calls 'the falsely obvious'.[51] The secret of whiteness is that it is empty, defined 'only negatively by what it is not; a rule or norm established only after the phenomena that it came to define as inadequate or abnormal'.[52] Whiteness does not speak its own name, existing as the 'principle of perfection' established to 'measure the degree to which all (other) races have fallen short of it, a definition of the human that renders them subhuman. Whiteness is itself the human universal that no (other) race realises.'[53]

Lucas's denial of the inherent racism of *Star Wars* is nothing more than an assertion of his whiteness: he describes himself as a reasoned, 'enlightened' individual who abhors racism in every form, yet defends the 'innocence' of his films, intended for children and constructed according to the classic genre of innocuous fantasy. Michael Dyson, professor of African-American studies at Columbia University, warns of the danger inherent in dismissing racial stereotyping as merely artistic licence in a children's fantasy:

> It's a cultural phenomenon. So, saying it's a cartoon doesn't dismiss it, doesn't denigrate it, it even makes it more powerful. Because why? Now it's getting into the unconscious or the subconscious and the minds of our children. George Lucas has unconsciously tapped into some racist and stereotypical conceptions of blackness that need to be identified. Hold on a minute, we find this problematic.[54]

---

47 Garvey and Ignatiev (1997), p 346.

48 Garvey and Ignatiev (1997), p 346.

49 Garvey and Ignatiev (1997), p 346.

50 Rodriguez (2000), p 32.

51 Barthes, quoted in Rodriguez (2000), p 32.

52 Montag (1997), p 291.

53 Montag (1997), p 292.

54 Okwu (1999).

A similar process of norm-generation is occurring within the internal context of these films. The Force is accepted as the defining metaphysical principle by which the Galaxy is defined: the universal and immutable source of justice, rights and order. That the interpretation and implementation of the Force is the exclusive responsibility of privileged white males, however, demonstrates its particular, ethnically specific origins: the tools of the white colonisers used, missionary-style, to 'civilise' the Galaxy.

Bourgeois Hegemony: Slaves, Farmers and the Lumpen Proletariat

An allied point, but a somewhat different one, is that in *Star Wars* it is not merely a denial of all rights that is racialised, but also those who deny themselves rights have a distinctly stereotyped racial character. A flourishing criminal underworld is a key feature of the *Star Wars* galaxy, centred around the desert planet Tatooine, described as a 'haven for those not wanting to be found', particularly Mos Eisley Spaceport, where 'you will never find a more wretched hive of scum and villainy'. Comprising a vast array of different creatures, all 'alien' compared with the predominantly white, humanoid figures of the Rebellion and Empire, George Lucas' depiction of the criminal underworld gives effect to hegemonic, ultra-American Cold War nationalism — that the security of the good citizens of the law-abiding Western world is threatened by the outside; those evil foreigners who seek only to undermine and endanger bourgeois freedom. Again, no more than an example of the patriarchal investment in the protection of white privilege, in *Star Wars* it is the Latin gangster, the Jewish usurer and the Asian anarcho-capitalist who typify the *lumpen proletariat* of crime. Jabba the Hutt is our Mafia Don, ruling over a strict hierarchy and with a cohort of thugs, the bounty hunters, at his disposal to enforce deals where required. Waddo, the spare parts dealer of *The Phantom Menace* is our anti-Semitic stereotype — greedy and corrupt, with his catch-cry of 'I only understand money'. The example of the Trade Federation representatives (again, in *The Phantom Menace*) is so blatantly racist that it is embarrassing — their style of dress and lisped Asian accents reinforcing the fear of 'those evil Chinese', who will play dirty with trade and take over the planet if not properly suppressed.

Beyond these further examples of racial stereotyping, the planet Tatooine is also home to others who suffer regardless of the principal power struggle of the films. In fact, this desert planet may be regarded as something of a metaphor in its own right. We are constantly reminded of the fact of its extreme physical distance from the central government: as Luke complains to Obi-Wan in *A New Hope*, 'it's all such a long way from here'.[55] However, if we look deeper, it is apparent that the physical remoteness of Tatooine is symbolic of the indifference of both the Republic and the Empire in terms of the guardianship of the citizens of this world. The 'wretched hive of scum and villainy' of Episodes IV, V and VI is the location of a flourishing slave trade in *The Phantom Menace*. Both young Anakhin Skywalker and his mother are prisoners, bound to lifetimes of servitude contrary to the laws of the Republic:

55 *Episode IV: A New Hope* (1977).

Padme: I thought slavery was outlawed
Mother: The Republic doesn't exist out here.[56]

The example of Tatooine demonstrates the concept that 'the exploiting class always strives to turn itself into a ruling class by means of an institutional structure, the state, which operates to sustain and to reproduce that position'.[57] The law, and thus the Force, must be understood as making a major contribution to 'ideological domination', consisting of those processes that produce and reaffirm the existing social order and thereby legitimise class domination. As Hunt expresses, 'the distinctive feature of legal systems of class societies is the fact that they embody the material interests of the ruling class in a universal form, and thus present law as the embodiment of the interests of the community as a whole'.[58] Like whiteness, capitalism functions to integrate two critical functions: 'on the one hand to give practical effect to the interests of the dominant class, and, at the same time, to provide a justification or legitimation for these interests in terms of some higher and apparently universal interests in terms of some higher and apparently universal interest of all classes that demonstrates the real power and influence of law in capitalist society'.[59] In *Star Wars*, the Force serves the same function. The struggle of the Alliance, assisted by the Jedi Knights, is to restore a conception of rights as they existed in the old Republic. However, we are shown in *The Phantom Menace* that, even under such a regime, the substantive reality is no different for the inhabitants of Tatooine. Republican, or bourgeois, rights are 'symptomatic of a deeper social division, the division between civil society, with its rampant material inequality and egoistic self-assertion, and the political state in which citizens are formally free and equal'. Empty and theoretical, they 'protect not concrete individuals but abstract man [sic] divorced of all determination'.[60] Wendy Brown summarises the Marxist critique of liberal rights as follows:

> First, rights only become necessary because of the depoliticised, material conditions of unemancipated, inegalitarian civil society, conditions that rights themselves depoliticize rather than articulate or resolve; second, they entrench by naturalising the inequalities and egoism of civil society; third, they construct an illusory politics of equality, liberty and community in the domain of the state; and finally, they conceal the state's collusion with the unequal and entrenched powers of civil society.[61]

---

56 *Episode I: The Phantom Menace* (1999).
57 Hunt (1976), p 178.
58 Hunt (1976), p 178.
59 Hunt (1976), p 186.
60 Baynes (2000), p 454.
61 Brown, quoted in Baynes (2000), p 455.

Life will not change for these disregarded groups when the Rebellion finally defeats the mighty Emperor. Marginalised and 'outside', these voices are excluded from the dominant legal regimes, and this is a direct allegory of the failings of the law in reality.

It can be conceded that these are failings that have started to be acknowledged in modern jurisprudence. The development of human rights discourse in the latter half of the twentieth century has sought to redress the inconsistencies of the law, to ensure that it applies universally and without discrimination. The critical project has contributed much to the necessity of recognising the failings of liberal ideology; and the need for a deconstructed approach to legal truths — the need to acknowledge 'the doctrinal inadequacies of a legal system that [lack] any authentic reason or identity ... with its theoretical and pedagogic weaknesses that ha[ve] come to repeat the sclerotic or at least anachronistic decisions and rulings of a past era in the name of nothing more convincing than tradition'.[62]

While human rights may have 'won the ideological battle of modernity',[63] the experience of particularly the most recent century has demonstrated the failures of these ideals in practice. As Douzinas describes it: 'The record of human rights violations since their ringing declarations at the end of the eighteenth century is quite appalling ... our era has witnessed more violations of their principles than any of the previous and less "enlightened" epochs.'[64] Current jurisprudence recognises both the persuasiveness of the critique of liberal ideology and the practical failings of these principles in reality. The challenge, therefore, is the question of where the law is to go from here.

The Postmodern Challenge: Beyond Identity?

> Here we reach the greatest political and ethical problem of our era: if the critique of reason has destroyed the belief in the inexorable march of progress, if the critique of ideology has swept away most remnants of metaphysical credulity, does the necessary survival of transcendence depend on the non-convincing absolutisation of the liberal concept of rights through its immunisation from history? Or are we condemned to eternal cynicism, in the face of imperial universals and murderous particulars?[65]

The notion of the 'disturbance in the Force' is the ultimate metaphor for what is really going on in *Star Wars*. On one level, it has a simplistic narrative significance: planetary destruction and the loss of loved ones, symbolising the ultimate tyranny of the Empire and the urgent need for a revivification of rights through idealised liberal republicanism. From the more figurative perspective, we can observe that the romanticism of the central storyline needs

62 Goodrich et al (1994), p 5.

63 Douzinas (2000a), pp 220–21.

64 Douzinas (2000a), p 220.

65 Douzinas (2000a), p 221.

to be recognised for what it is: a retelling of the story of patriarchal investment in white, capitalist privilege — a story no more subtle than that of the Cold War in its categorical bipolarity and 'you're either with us or against us' attitude.

It is the *impact* of this interpretation of the 'disturbance' metaphor that is the most significant. If *Star Wars* — everyone's favourite, the ultimate 'feel good' story — can be so offensively racist, colonialist and capitalist, then what is left? If there is no escape in fantasy, then what remains for us to believe in? And herein lies the true subtlety of the piece. *Star Wars* is staging the ultimate dilemma of postmodernity: how do we cope with the de(con)struction of our modernist ideals? These films ostensibly set up a parody of a beautiful, idyllic, liberal utopia — but simultaneously criticise such an ideal for its inherent particularity, emptiness and futility:

> No one, no one at all, can blaze a trail to India. Even in his day the gates to India were beyond reach, yet the King's sword pointed the way to them. Today the gates have receded to remoter and loftier places; no one points the way, many carry swords, but only to brandish them, and the eye that tries to follow them is confused.[66]

The dawn of late twentieth century postmodernity has caused something of an identity crisis within the law. The effectiveness of the CLS project has meant that the assumed principles of legal philosophy (such as objectivity and universality) have been comprehensively challenged. In the wake of such criticism, the law struggles to delineate its boundaries and justify its theoretical foundations, because 'no one points the way, many carry swords, but only to brandish them'.

Swain and Clarke cite Homi Bhabha as describing the critical point of opposition between the modernity of law and postmodernity as 'the non-synchronous temporality of global and national cultures' which opens up a 'third space', where 'the negotiation of incommensurable differences creates a tension peculiar to borderline existences'.[67] The impact of the destruction of the meta-narratives of modernity is that 'the grounds for collective identity are swept away ... so that "class" no longer serves as an identity marker of any predictive force ... and subjects are instead bundles of activated discursive shards, where there is never to be any one exclusive or overpowering identity'.[68] Balibar and Wallenstein argue that 'there is no ... identity that is not historical or, in other words, constructed within a field of social values, norms or behaviour and collective symbols'.[69] If identity itself is such a problematic question, then what of rights? Pierre Schlag argues that:

---

66 Kafka, *The New Advocate*, quoted in Morrison (2000), p 515.

67 Swain and Clarke [1995], p 232.

68 Wicke (1991), p 464.

69 Balibar and Wallenstein, quoted in Sarat and Kearns (1999), p 5.

> in the postmodern condition, the same right can appear at once as a legal protectorate of individualism, autonomy, and self-direction as well as the instrumentalised vehicle for delineating very specifically what that individualism, autonomy, and self-direction can do or be ... rights, and law generally, thus become analytically and instrumentally hypertrophied.[70]

It is certainly neither outrageous nor innovative to suggest that the key issue for the law in the face of such ideological collapse is to analyse and redefine the concept of the *subject* — if, indeed, such a project was even possible. If we look deep enough, we can see that *Star Wars* offers its own opinion of the potential future direction of the law.

Ridley Scott's *Bladerunner* has been hailed as the 'acme of postmodern movies',[71] with its depiction of the conflict between classic humanism and the futuristic inhuman — ultimately resolving itself with both elements (represented by the characters of Deckard and Rachel) escaping to a new 'state of nature' at the conclusion of the film. A similar tension is staged, however more implicitly, in *Star Wars*, but it offers a different conceptualisation of how such a conflict is to be resolved — an allegory not of *escape*, but of *transcendence*. The notion of the rights-bearer is fundamentally challenged in *Star Wars*, and a blueprint for the new direction of the legal subject presented as a potential solution to the postmodern dilemma. As Morrison suggests, *Bladerunner* stages a retreat from modernity: 'with the world of progress in ruins, the ending of [the film] indulges in an ironic-nostalgic retreat to a more "natural" existence'.[72] *Star Wars* avoids this idealistic nostalgia, and forces us instead to look to a completely new means by which to define the legal subject — the need to go *beyond identity*.

The question of human rights is at a difficult stage in its evolution. The traditional liberal foundations of fundamental rights have been deconstructed in their various forms to demonstrate their many and varied failures in the 'real world'. Ultimately, their predication on concepts of human identity is inherently problematic. As MacNeil explains:

> Rights are problematic for identity politics because they ultimately undo, rather than sustain, the controlling fantasy of that politics, a fantasy which holds that identities do, indeed, exist, either on a macro-level (the absolutising subject of Reason) or the micro-level (the pluralised subject of difference).[73]

What, then, is our solution? How is the law to overcome this central crisis of postmodernity? *Star Wars* offers an alternative solution: staging the need to go beyond identity because human identity, in fact, might be about to fail us completely.

---

70 Schlag (1996), p 301.

71 Morrison (2000), p 10.

72 Morrison (2000), p 10.

73 MacNeil (1999), p 147.

An aspect that the law has utterly failed to consider is portrayed vividly in *Star Wars* — that of the *inhuman*. An entirely new class of entities exists in this far-off galaxy — that of droids: robots which are highly functional and essential characters within the main storyline. The two central droids, C3P0 and R2D2, are fundamentally slaves — available for sale to the highest bidder. They exist to perform specific functions: C3P0, programmed for 'human–cyborg relations', is an expert interpreter of languages and protocols. R2D2 is quite possibly the most useful character of the films. Whether it be carrying vital holographic messages, fixing the Millennium Falcon, breaking into a building or navigating a fighter craft, he is always on hand to undertake any task, or solve any problem.

These robots are very humanoid. Although he lacks natural language communication skills, it is clear that R2D2 has a wicked sense of humour and a somewhat sarcastic wit. C3P0 is a conservative, unadventurous and ultra-paranoid droid in a human shape, with very particular manners and ideals of propriety. He even appears to have emotions — complaining that 'we seem to be made to suffer ... it is our lot in life' and 'no one worries about upsetting a droid'. He is also very camp — alluding to a further marginalisation of difference : the queer outsider that no-one takes seriously.

These are obviously sentient beings. The question becomes, however, one of their place in society, and their rights within jurisprudence. Is conscious thought a fundamental characteristic of humanity? What of 'cyborg' creatures (half-man and half-machine) such as Darth Vader? Human or machine? Where do such entities fit into our scheme of law?

In *Star Wars*, they are given little credence other than as domestic servants. Although the human characters appreciate their usefulness and seem to treat them in a friendly, kindly manner, the fact remains that they are not regarded as separate beings — alive and conscious and deserving of basic rights. Like the indigenous populations and the criminal underworld, their lot will not be affected by the outcome of the monumental struggle between 'good' and 'evil' in these movies. The servile classes are doomed to remain no more than the property of each side.

This issue is not confined merely to 'long ago in a galaxy far, far away'. In our own world, just as the twentieth century was characterised by rapidly accelerating technological development, a key challenge for the twenty-first century will be how best to cope with the increasingly blurred boundaries between technology and humanity itself.

That this challenge is a very real prospect, and not mere Luddite propaganda, is the central message of respected inventor and technologist Ray Kurzweil's book *The Age of Spiritual Machines*.[74] In discussing how the twenty-first century will see technology develop as 'evolution by another means',[75] Kurzweil posits that 'the accelerating pace of change is inexorable ... the emergence of machine intelligence that exceeds human intelligence is

74 Kurzweil (1999).

75 Kurzweil (1999), p 326.

inevitable'.[76] Kurzweil contends that, by the year 2020, personal computers will have the same computing capacity as a human brain, and then the question of sentience or consciousness of machines will become an issue as techniques of computing become increasingly sophisticated. Kurzweil predicts that by the end of this century there will no longer be:

> any clear distinction between humans and computers ... machine based intelligence derived from extended models of human intelligence [will] claim to be human, although their brains [will not be] based on carbon-based cellular processes, but rather electronic and photonic equivalents.[77]

This spectre of 'artificial' intelligence troubled Jean-François Lyotard greatly. Although not a 'humanist' in the classical sense of the word, Lyotard was concerned with the tendency of the human race towards development, undermining the importance of 'difference' as comprising the key essence of humanity. In *The Inhuman*,[78] Lyotard laments the tendency of advanced capitalist society towards efficiency at all costs, describing the overall trajectory of his essays thus:

> the suspicion they betray (in both senses of the word) is simple, although double: what if human beings, in humanism's sense, were in the process of, constrained into, becoming inhuman (that's the first part)? And (the second part), what if what is 'proper' to humankind were to be inhabited by the inhuman?[79]

The two aspects of the 'inhuman', as defined by Lyotard, are, first, advanced capitalism generally, with its boundless desire for expansion and technological innovation. Second, it is the 'colonising imperative' of the artificial intelligence (AI) movement.[80] The desire for continuing enhanced performance and efficiency denies the unharmonisable heterogeneity of the individual. Without 'difference', according to Lyotard, the 'human' in society is lost.

Kurzweil's predictions give effect to these fears; arguing that the nature of the evolutionary process — that of survival of the 'fittest' or most effective species — will ultimately mean that the greater processing ability provided by technology will supersede 'normal' human processing. That is, if a machine performs at a higher level than human beings, then why not use this enhanced capability?

Lyotard argues that the danger with computers is that 'their concern is always with standardisation', and 'the elimination of any factor that hinders

---

76 Kurzweil (1999), p 314.

77 Kurzweil (1999), p 352.

78 Lyotard (1991).

79 Lyotard (1991), p 2.

80 Sim (2001), p 27.

the operational efficiency of the system'.[81] For Lyotard, 'thinking machines' cannot be said to be thinking in any human sense of the term because, 'for one thing, they are just too efficient and performance- orientated, lacking the sheer unpredictability of thought in its human ... form.'[82] If Lyotard was to adopt a motto from the *Star Wars* films, perhaps it would be the classic line: 'I've got a very bad feeling about this ...'

Kurzweil, as a technophile, does not share Lyotard's pessimism about the capability of machines to supercede human thought. He cites many examples of the modern trend towards natural processing, of replicating (and ultimately surpassing) the human brain and experimenting within creative fields. Already computers have demonstrated definite capabilities in artistic endeavours such as painting, music and even poetry (albeit of a questionable quality).[83] The reality is that some computers are already 'thinking' in a basic sense of the word. Their ability to do so will only improve.

Kurzweil himself argues that the nature of change that he anticipates will, if not go unnoticed, then at least be regarded as increasingly unremarkable. Computers and technology are already such an integral part of industrialised society that human dependence on machines is even now at a point of no return, and to reverse the trend will be unthinkable.

Kurzweil is not alone in his enthusiasm for this conception of the potential future evolution of the human race. Donna Haraway, for instance, writes of 'cyborgs' as representing a condition 'much to be desired', particularly from the perspective of women. Haraway argues that the cyborg is a 'creature in a post-gender world' and concludes that she would 'rather be a cyborg than a goddess'.[84] By bypassing biology and social history, cyborgs allow an escape from a world where men control women by turning them into sexual objects (classifying women as either 'goddesses' or 'whores'), overcoming 'all the problems associated with biological determinism and essentialism' that the feminist movement has always struggled with.[85] As Stuart Sim explains, to move from goddess (or whore) to cyborg is to make the transition from being passive to being active — that is, from controlled to controlling.[86] This notion of going 'beyond identity' is just as persuasive from all perspectives: the idea that humans can be freed from all historical, biological or cultural constraints — not only of gender but race, ethnicity, class and beyond — is a compelling one.

The bottom line is that this 'new evolution', the spectre of technology, is a crucial issue, and a very real one. If Kurzweil is to be believed (and he assures his readers that his predictions are extremely conservative), then the issue becomes one of how the human race is to cope with what may amount to

---

81 Sim (2001), p 39.

82 Sim (2001), p 39.

83 Kurzweil (1999), p 206 — examples of poetry written by the 'Kurzweil Cybernetic Poet'.

84 Haraway (1991); quoted in Sim (2001), p 46.

85 Sim (2001), p 47.

86 Sim (2001), p 47.

a ceding of our human superiority. This will provide real challenges for the law — how to cope with the definition of humanity and the rights that should be extended to the sentient beings of the future. It is the ultimate example of the growing trend towards the need to recognise 'objects' as 'subjects' — that flesh-and-blood humanity is not the defining criterion by which to determine a bearer of rights:

> Can we have a concept of rights without having a definition of who or what is human? And even if we were to assume that we can answer the question of humanity, when does the existence of a human being and the associated rights begin and when does it end?[87]

Confronting the nature of humanity, and redefining the nature of the rights-bearer, is as significant a challenge for the law as confronting his father was for Luke Skywalker. *Star Wars* stages a fundamental threatening of the symbolic, of all that defines our world and how it is regulated, which must be confronted. To cope with this challenge, the law will have to overcome its own 'amputated hand'. Indeed, Anakhin Skywalker is the ultimate character of *Star Wars* — the epitome of a good, pure little white boy who carries with him the hopes and dreams of the white ruling classes, but who then becomes Darth Vader, the manifestation of pure evil — a cyborg creature whose surrender to the Dark Side stages the ultimate threat to the human white patriarchy. In the end, the film reconciles the fate of this half-man, half-machine — reassuring us that all is not lost for the 'others' of the world. Darth Vader is redeemed, once again becoming the hero of the piece — but this time in a different physical form. In the same way, only by truly embracing — or erasing — difference will the law be able to redeem itself and survive.

The law needs to go beyond identity ... beyond all those 'human' characteristics that were either ignored in classical liberalism or indignantly promoted — like badges upon sleeves — as part of the critical movement. Ultimately, what *Star Wars* demonstrates to us is that such fundamental humanism is rapidly approaching its use-by date: the approaching new technological age removes biological determinism from its long-held position of dominance, and compels us to consider a brave new world of subjectified objects.

Conclusion

Star Wars is hailed as the ultimate children's fairytale — excitement, adventure and the triumph of good over evil. But what stereotypes are really being fed into eager young minds — seduced by the intoxicating grandeur of fantasy? On the surface, it is no more than a re-enactment of the inglorious history of patriarchal investment in white privilege — the era of colonialism and cultural imperialism revisited in all its shame. The Force is an allegory for the law itself — a law that is in us and binds us. What law does this metaphorise other than the juridical discourse of basic, inalienable human

87 Douzinas (2000b), p 184.

rights enforceable against the dictates of the state? But, like the law and rights discourse, the Force has a doubled identity: ostensibly existing for the good of all humankind, but failing (due to its predominantly white Western character) to be inclusive of different cultural perspectives and ultimately failing to convert its basic principles into an enforceable reality. So what emerges from *Star Wars* is a double critique: of the Force as theoretically universal, yet utterly exclusive — just like the law (and rights discourse) itself. Its universalism is exposed as the narrowest particularism, in its exclusion by privileged whiteness of entire groups from this central power struggle, whose day-to-day lives will not necessarily be meaningfully affected by the triumph of democracy over tyranny. Indigenous groups and the *lumpen proletariat* of crime are both completely sidelined in *Star Wars*, as are the sentient machines. The lessons we learn from looking more closely at the *Star Wars* films is to embrace the need to subjectify that which used to be considered an object — whether it be the noble savage or the cyborg; the definition of the rights-bearer is all-important if the law is to survive:

> The dissident, the rebel, the melancholic lover, the green or anti-corporations protester belong to a long and honourable lineage: the eighteenth century revolutionaries, the nineteenth century political reformers and this century's economic, social and cultural protesters, share the common determination to proclaim and thus bring into being new types of entitlement and forms of existence against received wisdom and the law.[88]

The role of rights discourse is to maintain a critical distance from law and stretch its boundaries and limits. *Star Wars* shows us the way — the new direction for the law is demonstrated in an entirely new form of nature; a new evolution — through science and technology towards the rights-bearers of the future. It may be, as Morrison suggests, that 'the challenge of the postmodern is to continually ask the meaning of being human, in full consciousness of the fact that any answer offered, and any social order thereby constructed, is only a temporary respite, an embodiment of some of our desires, solace to our fears'.[89] However, surely the attempt is worth making: May the Force be with us.

References

Films

Episode I: The Phantom Menace © 1999 Lucasfilm Ltd.
Episode IV: A New Hope © 1977 & 1997 Lucasfilm Ltd.
Episode V: The Empire Strikes Back © 1980 & 1997 Lucasfilm Ltd.
Episode VI: Return of the Jedi © 1983 & 1997 Lucasfilm Ltd.

88 Douzinas (2000b), p 344.

89 Morrison (2000), p 524.

Secondary Sources

Bruce Bartlett (1994) 'How Excessive Government Killed Ancient Rome' 14 *Cato Journal*.

Kenneth Baynes (2000) 'Rights as Critique and the Critique of Rights: Karl Marx, Wendy Brown and the Social Function of Rights' 28 *Political Theory* 451.

Stephen Bottomley et al (1995) *Law in Context*, Federation Press.

James Boyle (1991) 'Is Subjectivity Possible? The Postmodern Subject in Legal Theory' 62 *University of Colorado Law Review* 489.

Elizabeth Clark (1999) 'Breaking the Mold of Citizenship: the 'Natural' Person as Citizen in Nineteenth Century America' in A Sarat and T Kearns, *Cultural Pluralism, Identity Politics and Law*,University of Michigan Press.

Margaret Davies (1994) *Asking the Law Question*, Law Book Company.

Costas Douzinas (2000a) 'Human Rights and Postmodern Utopia' 11 *Law and Critique* 219.

Costas Douzinas (2000b) *The End of Human Rights*, Hart Publishing.

John Garvey and Noel Ignatiev (1997) 'Toward a New Abolitionism: A *Race Traitor* Manifesto', in M Hill (ed), *Whiteness: A Critical Reader* New York University Press.

Maurice Goldsmith (2000) 'Republican Liberty Considered' XXI *History of Political Thought* 543.

Robert Goodin and Philip Pettit (eds) (1995) *A Companion to Contemporary Political Philosophy*, Blackwell.

Peter Goodrich, Costas Douzinas et al (1994) *Politics, Postmodernity and CLS*, Routledge.

Knud Haakonssen (1995) 'Republicanism' in R Goodin and P Pettit (eds), *A Companion to Contemporary Political Philosophy*, Blackwell.

Donna Haraway (1991) *Simians, Cyborgs and Women: The Reinvention of Nature*, Routledge.

Christopher Heath Wellman (1999) 'Liberalism, Communitarianism and Group Rights' 18 *Law and Philosophy* 13.

Mike Hill (ed) (1997) *Whiteness: A Critical Reader*, New York University Press.

Alan Hunt (1976) 'Problems of the State: Law, State and Class Struggle' June *Marxism Today* 178.

Joe Kincheloe et al (eds) (2000) *White Reign: Deploying Whiteness in America*, St Martin's Griffin.

Ray Kurzweil (1999) *The Age of Spiritual Machines*, Phoenix.

Will Kymlicka (1995) 'Community' in R Goodin and P Pettit (1995) *A Companion to Contemporary Political Philosophy*, Blackwell.

Jean-François Lyotard (1991) *The Inhuman: Reflections on Time*, trans Bennington and Bowlby, Blackwell.

William MacNeil (1999) 'Taking Rights Symptomatically' 8 *Griffith Law Review* 134.

Warren Montag (1997) 'The Universalisation of Whiteness: Racism and Enlightenment' in M Hill (ed), *Whiteness: A Critical Reader*, New York University Press.

Barry Morris (1990) 'Racism, Egalitarianism and Aborigines' 3 *Journal of Social Justice Studies* 61.

Wayne Morrison (2000) *Jurisprudence: From the Greeks to Post-Modernism*, Cavendish Publishing.

Carlos Santiago Nino (1989) 'The Communitarian Challenge to Liberal Rights' 8 *Law and Philosophy* 37.

Carlos Santiago Nino (1991) *The Ethics of Human Rights*, Clarendon Press.

Michael Okwu (1999) 'Jar Jar Jarring' www.cnn.com, 14 June.

Philip Pettit (2000) 'Republican Liberty and its Constitutional Significance' 25 *Australian Journal of Legal Philosophy* 237.

John Greville Agard Pocock (1975) *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*, Princeton University Press.

John Greville Agard Pocock (1985) *Virtue, Commerce and History: Essays on Political Thought and History*, Cambridge University Press.

David Richards (1981) 'Rights and Autonomy' 92 *Ethics* 3.

Nelson M Rodriguez (2000) 'Emptying the Content of Whiteness: Toward an Understanding of the Relation between Whiteness and Pedagogy' in J Kincheloe et al (eds), *White Reign: Deploying Whiteness in America*, St Martin's Griffin.

Austin Sarat and Thomas Kearns (eds) (1996) *Legal Rights: Historical and Philosophical Perspectives*, University of Michigan Press, USA 1996

Austin Sarat and Thomas Kearns (eds) (1999) *Cultural Pluralism, Identity Politics and Law*, University of Michigan Press.

Pierre Schlag (1996) 'Rights in the Postmodern Condition' in A Sarat and T Kearns (eds), *Legal Rights: Historical and Philosophical Perspectives*, University of Michigan Press.

Stuart Sim (2001) *Lyotard and the Inhuman*, Icon Books.

Christopher Stone (1996) *Should Trees Have Standing?* Oceana Publications.

Stella Swain and Andrew Clarke (1995) 'Negotiating Postmodernity: Narratives of Law and Imperialism' VI *Law and Critique* 228.

Mark Thorton (1999) 'The Politics of *Star Wars*' *The Austin Review*, 1 July.

Andrew Vincent (ed) (1997) *Political Theory: Tradition and Diversity*, Cambridge University Press.

Ian Ward (1998) *An Introduction to Critical Legal Theory* Cavendish.

Jennifer Wicke (1991) 'Postmodern Identity and the Legal Subject' 62 *University of Colorado Law Review* 455.