

‘Come a Day there Won’t be Room for Naughty Men Like Us to Slip About at All’¹: the Multi-Media Outlaws of *Serenity* and the Possibilities of Post-Literate Justice

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Introduction

If legal theory has only recently become aware of the pain and problems of law’s *textual* medium what is to be made of a culture where information exchange through *reading* and *writing* becomes displaced by the *visual* and *physical* acts of icon manipulation? How is justice to be achieved in a coming post-literate age of quasi-hieroglyphics; that is the emerging media of graphic user interfaces on touchscreens? In a ‘software-sorted society’ (Murakami Wood and Graham 2006) can there be something external to the code that can be justice? Further, can this justice be more than just a refugee of earlier legalities, but be a true measure of the emerging techno-totality? Notwithstanding the remaining challenges of poverty, violence, gender and rights bequeathed by the past to contemporary legal thought, it is at this nexus of medium, justice and power being birthed by the leap to digitality that ‘the future’ confronts legal thinking.

This paper attempts to begin the task of thinking justice in an age

of quasi-hieroglyphics. It does so through a cultural legal study of Joss Whedon's multi-media series *Firefly/Serenity* (hereafter *Serenity*). The argument is structured in three frames. The first frame thinks about the endurance of *Serenity* across media. The television episodes (*Firefly* 2002), the film (*Serenity* 2005) and the comics (2006–present) form a canonical whole; there are no excessive narratives that exist outside and beneath an 'official' televised canon. It is suggested that this successful transition between television, film and the comic arises because of the founding elements within *Serenity's* mega-text. There is a profound hybridity to *Serenity*. The television episodes and film critique science-fiction conventions through a mash of space opera, cowboy Western and horror elements. Despite its fragmented form, the hybridity of *Serenity's* mega-text holds together because of the segmented, stylised and sequenced features of its comic-book inspired frame.

The second frame considers the implications of this breaking of the law of genre through an underlying comic form. The lawlessness of *Serenity's* texts at the mega-level reflects its outlaw intra-text. Each member of title spaceship SERENITY's rag-tag crew position themselves *outside* of the law; whether that law be the laws of property and crime, the outlaw status of some of SERENITY's crew or the dictates of the communities that others are running from. In this *Serenity's* emphasis on the outlaw represents an opportunity for cultural legal studies to consider this continual *other* to its embodied representations of legality; for *beyond the law* – as criminals, partisans, refugees – SERENITY's crew may be, they are *not lawless*. They are inside and outside of the law.

The third frame considers this lawful-lawlessness of *Serenity* on the mega- and intra-textual levels. It is at this point that the potential that it has to assist with responses to the challenge of justice in the software-sorted society are revealed. SERENITY's crew's lawful-lawlessness positions within an interspace. On one side is the technototality of the Alliance on the other is the sheer violence of the Reavers. Although SERENITY's crew can be violent, they are also shown as caring for themselves and others. They side with embodiment and

affect in opposition to total technological mediation or various shades of aggressive individualism. It is this relational ethic whose symptom is humour, that part presents *Serenity* as a path to justice in the age to come. Further, the comic, with its medium features of sequence, image and minimal text, is the antecedent to the icon driven software-sorted society. The form of literacy demanded to decode comics is precisely the sequence-image-text skills required of loci units to function within the emerging techno-totality. With *Serenity* the medium is the message. It presents through the comic the possibility of justice that emerges from embodiment and affect that is located *within* the logic of sequence and icon.

First Frame: The Hybrid Multi-Media of *Serenity*

Serenity, created by cult television showrunner Joss Whedon, like many of his projects, spans multiple media platforms. Beginning in the form of television show *Firefly* airing on Fox in 2002, it was unceremoniously cancelled after the US screening of 11 of a then made 14 episodes (Telotte 2008: 68). At this point it could have easily been one of the many short-lived and readily forgotten science-fiction television programs from the 1990s and 2000s.² However, strong DVD sales accompanied by a vocal fan community convinced Universal Pictures to commission the *Serenity* movie in 2005 (Whedon 2005; Wilcox and Cochran 2010: 2) Following the movie, comic publisher Dark Horse Books has released a series of comics which both continue the narrative and add to *Serenity's* back story. To date these comics have been collected in omnibus editions *Those Left Behind* (Whedon et al. 2006), *Better Days and Other Stories* (Whedon et al. 2008b) and *The Shepherd's Tale* (Whedon et al. 2010).

Many science-fiction television series spawn other media narratives such as the films, novelisations and fanfic generated by the *Star Trek* universe and the radio plays that have entertained *Doctor Who* fans. As such, the genre of science fiction television has seemed adept at translating across media (Cranny-Francis and Tulloch 2009). This translation of science-fiction television into other forms has often been

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seen as problematic. First, the televised adventures are often reified as canon. The stories told in other media – while nevertheless depicting enjoyable romps through a favourite space with a favourite crew – exist outside of the official televised narrative of those characters and that particular universe. Second, they are often produced without official endorsement and without involvement of the creative keepers of the televised canon.

Serenity is different in that its television, film and comic texts are all canon. They have all involved Whedon and his collaborators and together they chart the unfolding adventures of SERENITY's crew. The television show, *Firefly* (titled after the SERENITY which is a 'firefly class' cargo transport spaceship), traces the formation of the extended crew, details several successful and unsuccessful adventures and shows on-going tensions between crewmembers. The film, *Serenity*, jumps the narrative ahead to a period a year or several from *Firefly* and concludes several of the unfinished story-threads left dangling after *Firefly's* cancellation. The comics are set in between the television episodes and the film. *Those Left Behind* is a tight story that seems to draw together the remaining narrative arcs from season 1 of *Firefly*. *Better Days and Other Stories* tells a series of one-off stories that allude to, build-up and otherwise integrate with the major events detailed in both *Firefly* and *Serenity*, and *The Shepherd Tale* focuses on the telling the life-story of one of the characters – Shepherd Book – beginning with his death in *Serenity* back through his joining SERENITY in *Firefly* and his dark past.

Set 500 years in the future, *Serenity* takes place in an expansive planetary-system, the 'verse' as the characters call it. While *Serenity's* primary science-fiction genre is space opera, it comes across quite different from the familiar televisual space opera franchises of *Star Trek* and filmic franchises like *Star Wars*. Whedon projects a profoundly human future; there are no aliens and the representations of human life seem remarkably familiar, indeed, historical.

A well identified characteristics of Whedon's work has been the exploring and playing with genres (Porter 2010: 5). An obvious

influence on *Serenity* are cowboy narratives set in the aftermath of the American Civil War (Canavan 2011: 181) and the show is most aptly described as a Western in space – complete with Wild-West settlements, 6-shooter pistols and horses. This coding as a post-Civil War Western is furthered in the mega-text which has the events in *Firefly* occurring seven years after a terrible war of unification between the victorious, rich, technologically sophisticated inner core planets (the Alliance) and the independents from the frontier. Some critics and Fox Television executives (Buchanan 2005: 53) found the juxtaposition between Wild West imagery and space opera jarring, others noted Whedon's self-conscience exploring and playing-with genres (Wilcox and Cochran 2010: 5). The Western has been identified as space opera's ur-genre (Westfahl 2003; Bethke 2007: 177-185). By returning the Western explicitly to space opera, Whedon not only exposes space opera's pedigree, but provides an open texture to *Serenity* allowing it to manifest different traditions of storytelling (Jowett 2010: 101).

In engaging with these dual genres, individual 'episodes' range from traditional Western narratives – a train heist (Whedon 2002b) or defending a 'honest' warehouse from a nefarious bossman (Wright 2002) – to more classic science-fiction narratives, such as the film *Serenity* which strongly drew upon the classic *Forbidden Planet* (1956) (Telotte 2008: 71) and the 'Better Days' comic which had the crew in various archetypal science-fiction 'high technology' environments – the metropolis and the pleasure planet (Whedon et al. 2008a). *Serenity* also uses tropes from related genres; the *Firefly* episode 'Trash' was a confidence-scam narrative; while 'Bushwhacked' was strongly influenced by horror (Gillum 2002b; Contner 2002). This mixing allowed a playing with genre conventions. The victorious unified government of the 'verse, the Alliance, is much more *Star Trek's* Federation than Darth Vader's Empire (Canavan 2011: 182-183). *Serenity* tells the other story that always marred *Star Trek's* technoutopian fantasies; it tells post-colonial narratives of what happens to those who reject or resist the manifest destiny of the techno-totality (Canavan 2011: 183). *Serenity* also critiques cultural manifestations through the obvious criticism of the cowboy and the space adventure as

deeply located in Occident that is Western, culture. Whedon does this two ways. The first is that the culture of his future humanity is presented as a hybrid of the West and East. The characters swear in Cantonese. Buddha and joss sticks mix with Bibles and crucifixes.³ The second is a challenging of the traditional misogyny of these genres, where women were usually domesticated, victims of violence or prizes, through the inclusion of strong and complex women characters. Whedon's work is particularly noted for the strength of his female characters and SERENITY's crew continued this (Beadling 2010). Indeed, in each of the characters the open texture of *Serenity* comes through in their hybridity and complexity.

Each of the members of SERENITY's crew comes across as hybrid and complex. Captain Malcolm Reynolds (Nathan Fillion) 'Mal' is the 'verse-wise, ex-soldier from the losing side whose continual resistance to the Alliance has driven him to a buccaneer life aboard SERENITY. Mal is clearly modelled on Harrison Ford's career launching Han Solo from *Star Wars* right down to wisecracks, haircut and military-stripped trousers. Mal is both darker and lighter than Solo. He kills more easily; yet is more sentimental. Mal's second in command Zoe Washburne (Gina Torres), Mal's loyal war-buddy plays the reliable action hero's dependable sidekick to Mal and also a woman wanting 'a slinky dress'⁴ and children. SERENITY's pilot and husband to Zoe is Hoban 'Wash' Washburne (Alan Tydyk) whose laconic and calming character contrasts the expected Top-Gun pilot archetype. Wash is also shown in contrast to Mal by suggesting avoiding conflict as opposed to Mal's more direct resolution strategies. Following space opera conventions a ship must also have mechanic and SERENITY's mechanic is the young, cheerful, technically gifted Kaylee Frye (Jewel Staite), a departure from the old male 'Scotty' type mechanic. Rounding out SERENITY's crew proper is the mercenary/hired muscle Jayne Cobb whose lack of intelligence is played with comic timing by regular science-fiction TV tough-guy Adam Baldwin.

In addition to Mal's crew SERENITY has four extra passengers. Out of place high class prostitute-priestess, 'Companion' Inara

Serra (Morena Baccarin) attempts to make a living renting one of SERENITY's shuttles while remaining confused and scared about her true feelings towards an equally confused and scared Mal. Shepherd Derrial Book (Ron Glass) coded as a Christian missionary attaches himself to SERENITY while reconciling his present to his violent, military past. The final two passengers are siblings Simon and River Tam (Sean Maher, Summer Glau) who are on the run from the Alliance after Simon, a medical doctor, rescued his sister from an Alliance laboratory. Simon is not entirely the good doctor. He refuses to help Kaylee wounded by a gunshot, until Mal agrees to take him and his sister in and increasingly becomes involved in the planning and executing of the crew's heists (Whedon 2002a; Kroeker 2002; Whedon et al. 2008a). River, too, is not as she appears, spending most of the time damaged and delusional and then transforms into the perfect killing machine. (Whedon 2005; Whedon and Samnee 2008).

What has been identified is that the multi-media texts of *Serenity* are open. There is a hybridity as to genre, stories and characters. But yet in spite of this hybridity it holds together. J. P. Telotte has written that a reason why the film *Serenity* avoided the 'peril of adaption' that has faced other science-fiction television programs move to film was because of its self-awareness of the hybridity of the constitutive elements of its mega-text (Telotte 2008). It is this self-awareness that can also be seen in the comics. The interspacing of images of violence with domesticity, of high tech and low tech, of spaceships and horses, of witty banter and being lost for words that held *Firefly* and *Serenity* together is also present in the comics.

The fire-fight in the zero gravity within wrecked ships and corpses in the climax of the comic *Those Left Behind* (Whedon et al. 2006) has a similar aesthetics and energy to the iconic fight scene of River against the Reavers in the film *Serenity* (Whedon 2005). The way that filmic scene was shot – segmented, and with stylised close-up images of faces and swinging limbs – was comic-like. The discussions of what individual crew members would do with their short-lived fortune in 'Better Days' (Whedon et al. 2008a), with its imagery of wealthy futures, mirrors

Mal's montage reminisces of how he gathered his crew in the *Firefly* episode 'Out of Gas' (Solomon 2002). Indeed, all the characters and their interactions translate into the comic: Mal and Inara are able to say goodbye in *Those Left Behind*; Wash's and Zoe's closeness and playful teasing; River's randomness; Book's anxiety; Jayne's social blundering are there in the comics as strongly as they were in *Firefly* and *Serenity*.

The reason that the stories told by these comics are included in the series' continuity is not due to their photorealism. Although all beautifully drawn, the comic instalments feature different artists each having a different stylising of SERENITY's crew and her 'verse. John Cassidy who drew *Those Left Behind* tends towards a strong realism, while Will Conrad took a more impressionistic approach in 'Better Days' while Chris Samnee in 'Downtime' represents Mal and his crew with a simpler, yet elegant stylisation (Whedon and Samnee 2008). Instead, the reason for the multi-media success of *Serenity* is because comic sensibilities structure its mega-text.

Whedon is no stranger to the comic form. He was behind the 2004 resurrection of the *Astonishing X-Men* title by Marvel. Whedon has also worked on comic book continuations for his other television series including *Buffy the Vampire Slayer Season Eight* for Dark Horse Comics and *Angel: After the Fall* for IDW Publishing. Further, Whedon has been involved with translations from comics to films, most notably his writing and directing of Marvel's recent *Avengers* (2012) film. This involvement with the comic reveals an essential feature of Whedon's creating; his television shows and his films display an essential 'comic-ness' (Kaveney 2008:201-225). In *Serenity* this 'comic-ness' is evident in how the film and the television episodes were written and filmed. The dialogue is snappy, speech bubble like. Characters rapidly spar, tease and comment in short sentences before the camera jumps to another view or scene. It is as if their speech was doubly contained by a speech bubble and a frame. The lead-up to the climax in the first episode/pilot for *Firefly* is a scene which cuts between Mal and Zoe on horses, Wash in the cockpit, SERENITY flying over the desert landscape and Jayne lying in ambush (Whedon 2002a). The action is not allowed to unfold as

a continuing narrative rather there is a montage of essentially stationary images. The scene looks very similar to the opening adventure in *Those Left Behind* of frames oscillating between Mal, Zoe, Jayne and Book being chased by irate townfolk and Kaylee, Wash and Simon trying to get SERENITY in the air to stage a rescue (Whedon et al. 2006). In short SERENITY's comic book adventures do not feel out of place because the comic was already there in *Serenity's* moving image media.

It is this comic frame (forgive the pun) which unites the hybridity of *Serenity*. The Western, space opera, confidence stories, horror, Occidental and Orient, and convention challenging characterisation become a whole when segmented, stylised and sequenced by a comic informed mega-text (Carrier 2000:47-56). Each scene in *Firefly* and *Serenity*, each short witty/profound interchange between the characters, each bloody and violent battle stands in itself. *Serenity* was already a comic before Whedon and Dark Horse produced the actual comics, something that Nathan Fillion recognises in his 'Introduction' to *Those Left Behind* (Fillion 2006).

It is its comic informed mega-text that glues the hybrid elements of *Serenity* together. This unity in diversity can be expressed in terms of law. *Serenity's* mega-text breaks the law of genre in its hybridity but orders this lawlessness through the segmented, stylised and sequenced law of the comic (Wolk 2007: 118-134). This lawful lawlessness, this inside and outside the law displayed by its mega-text, is replicated and performed intra-text by its characters.

Second Frame: The Multi-Outlaws aboard SERENITY

There is a scene in the comic 'Better Days' with the crew in an expensive bar enjoying their recently acquired fortune. A group of desperados spring guns and start robbing the customers. When a robber stands at the table occupied by SERENITY's crew Mal distracts him, Wash shuts the blinds and after three quick frames of punches and falling bodies in the dark, the fourth frame has the lights on, the robbers on

the floor. The fifth frame has panned the view to show the rest of the customers applauding. In the sixth frame Zoe is telling Mal 'That was different...Being the good guys...At least with people noticing' (Whedon et al. 2008a: 51-52).

Mal and his crew spend quite a bit of time wondering if they are good or bad; whether they are within the law or outside of it. It is pretty clear what the immediate answer is. They steal and kill. They smuggle goods off-world and they trade in stolen medicines; Mal happily accepts jobs from various, crime boss types. The niceties of how the local planetary authorities or the Alliance would consider their actions seem mostly immaterial. In short *SERENITY* gives a rather good impression of being a pirate ship crewed by hardened criminals. Mal, Zoe and Jayne can easily be characterised as hired guns who 'do the job' regardless of the legality or morality involved, and in aiding and abetting, the on-board support team of Kaylee and Wash seem equally culpable.

This outlaw nature of the core crew extends to the others aboard *SERENITY*. Inara is estranged from her community. Shepherd Book also is removed from the monastic life of his community, and more so than Inara, becomes involved with Mal and his heists. River and Simon are most clearly outside the law. River is wanted by the Alliance as stolen property; the rescued product of an experiment to turn children with psychic ability into warriors. Simon is wanted as the one who stole her.

With this diverse array of outlaws, *Serenity* seems to present as a good vehicle for a cultural legal mediation on the outlaw and its implications for legality. There have been many cultural legal studies that have explored the fictional lives of lawyers, judges, police and criminals in the general sense, however, the complexity of the outlaw as a character and as a motif has yet been the subject of a sustained study.⁵ Within *Serenity* there seems to be traces of four outlaw archetypes. The first is familiar: it is the habitual criminal, the self-absorbed opportunist who does not see laws, ethics or social conventions as restricting behaviour. The habitual criminal occupies a simplified legal landscape where the only restriction on behaviour comes from a calculation of

the risk of incurring punishment (Holmes 1897). In *Serenity* Mal and his core crew with their thieving and shooting play the role of habitual criminal rather well. However, the crew also demonstrate the limits to the habitual criminal archetype. Mal and Zoe are habitual criminals freely embracing a ‘life of crime’⁶ but they do so with a sort of purpose.

In contrast to the habitual criminal, John Rawls’ distinguished a different type of outlaw: the political activist engaged in civil disobedience (Rawls 1971: 363-366). From the formal perspective of the legal system the habitual criminal and the civil protester are the same; they are both law breakers. However, the criminal breaks the law with the intention of not being caught. The civil protester breaks the law with the intention of being caught. For them there remains a ‘fidelity to the law’, a submission to the legal system, while protesting the injustice of a particular law (direct civil disobedience) or a particular governmental policy (indirect civil disobedience) (Rawls 1971: 365). *Serenity* shows the instability of these neat constructs. Mal is not a willing subject of the Alliance’s rulership over the ‘verse; his ship is named after a terrible battle in the Unification war (that the Independents lost) and his continual attachment to the Independent military’s brown coat identifies him as belonging to the superseded order. His criminality – robbing Alliance outposts, raiding Alliance hospitals and harbouring fugitives, and his broadcasting of the Alliance’s complicity in the creations of the Reavers (the climax of the film *Serenity*) – have a civil disobedience dimension. Like the habitual criminal, he does not want to get caught; but unlike the habitual criminal there is a wider justification for his actions.

Since 9/11 Western law has become particularly aware of the outlaw who feels justified in breaking the law. They are terrorists, and there is a tidy sub-story to the ‘Better Days’ comic that has an Alliance special-ops officers hunting down Mal as a ‘Dust Devil’, the colloquial name for Independent military personnel who kept fighting after the end of the war (Whedon et al. 2008a). Rawls’ civil protesters are defined as ‘nonviolent’ (Rawls 1971: 366) and that is not an adjective to be applied to SERENITY’s crew. A more sophisticated reading their outlaw-ness

is provided by Carl Schmitt's figure of the partisan:

The partisan has then a real, but not an absolute enemy. That proceeds from his political character...He defends a patch of earth to which he has an autochthonic relation. His basic position remains defensive despite his increasing mobility (Schmitt 2004: 65-66).

This seems to capture Mal's relationship to the Alliance. At times Mal engages with the Alliance as his enemy and at others the lawful authority that he as private citizen habitually obeys. Mal is not the terrorist as pure evil as projected in the West post 9/11, nor is he the draft dodging, baby boomers that are suggested by Rawls discussion of nonviolent civil disobedience in *A Theory of Justice* (1971). Unsurprising, as a character from a hybrid, comic framed multi-media text, Mal is also complex hybrid; part criminal, part civil protester, part terrorist, part citizen.

This engagement with Schmitt's figure of the partisan opens to a fourth outlaw figured in *Serenity*. While Schmitt sees in the partisan a new, twentieth century form of politics and war, Hannah Arendt saw in the refugee another locus for these same forces. For Arendt the emergence of the 'problem' of the refugee marked a new and terrible way of being outside of the law. The refugee is excluded from polity, excluded from the usual civil rights of citizenship; 'it is not that they are oppressed but that nobody even wants to oppress them' (Arendt 1966: 296). The refugee introduced into political circulation the figure, not precisely of the outlaw, but the no-law. As Arendt makes clear it is much better being a criminal than a refugee. A criminal is recognised by the state, they retain civil rights (Arendt 1966: 286-7). It is this process of locating humans outside of any political community that Giorgio Agamben sees as the biopolitical logic of our age; the transformation of human into bare life and the subjecting them to pure biopower without mediations (Agamben 1998: 171).

Within *Serenity* the Tams seem to suggest some of this extreme form of outlaw. Simon is a criminal. He stole secret Alliance military property and the Alliance wants him brought to justice and the hardware (his sister, River) returned. In terms of outlaw acts, Simon,

particularly as he becomes more integrated into Mal's jovial criminal crew, fits within the established tropes of the criminal. Yet his sister River is more interesting. River, a child when confined in the 'school', is seen by the Alliance as not a criminal but an object, a dangerous weapon and carrier of dangerous information. In the film *Serenity* the Alliance's instructions to the special agent the Operative (Chiwetel Ejiofor) were akin to the need to contain a natural disaster. She was not human, but something less, bare life, needing the exceptional extra-judicial powers of the Operative to contain. In River *Serenity* projects the unity of bare life and the exception for a state that wants to make people.

From a cultural legal studies perspective the outlaws of *Serenity* seem quite deeply engaged with law; outside of the positive legal order they might be, but in this exteriority they provide a partial taxonomy of the hybrid and shifting locations for being beyond the law. This lawful illegality is further reflected by the intra-text behaviour of the characters. While various outlaws crowded together on a rusty ship, they are not without a code. The habitual criminal has no internal constraints. In their travels around the 'verse, there are plenty of these kinds of criminals that SERENITY runs into such as the raiders who shoot Mal and try to take the crippled SERENITY in the episode 'Out of Gas' (Solomon 2002).

In contrast to being a 'bad' criminal, Mal is bad at being a criminal (as Inara remarks more than once). Not only do his heists often go wrong, but he often gives away his ill-gotten gains. On finding that the loot in 'The Train Job' was medicine destined for a poor mining town he returns it to a local sheriff (Whedon 2002b). Not quite the noble outlaw – Wash wryly comments that 'it's all very sweet, stealing from the rich, selling to the poor...' (Kroeker 2002) – Mal does manifest an ethical orientation. On discovering the hibernating River in a crate within SERENITY's hold he indignantly assumes that she is a sex slave and attempts to free her (Whedon 2002a). He refuses to kill the loser after winning a duel, notwithstanding protestations that such a practice was custom (Gillum 2002a) and in the episode 'Heart of Gold'

he pledges his crew to defend the brothel without charge (Wright 2002).

However, Mal's ethics do not go uncontested. Jayne regularly complains that Mal's sentimentality deprives them of 'coin' while Book and Wash criticise Mal for his lack of ethics (Whedon 2005; Whedon et al. 2006). There is an ethics to Mal's captaincy of SERENITY, but it is not deontological. Sometimes he can play bad and sometimes he plays good protecting 'folk' from worse. He might have refrained from killing the loser of the duel but that did not stop him stabbing the prostrate, unarmed man twice (Gillum 2002a). Further, as seen in Jayne's, Book's and Wash's comments his decisions regularly come in for questioning and debate. Identification of this discursive, non-deontological ethics returns in the following frame. Within this frame what is important is Mal as outlaw still acts lawfully.

Ultimately, the lawful unlawfulness projected by SERENITY's crew can be seen as an intra-text incursion by *Serenity's* comic framed mega-text. Classic comic book characters, especially the super hero vigilantes from DC Comics and Marvel, exist both inside and outside of the law. They often have an estranged relationship with political authority and the normal law enforcement agencies of the state (Bainbridge 2007). The logic of the secret/everyday identity is predicated on this sustained lawful unlawfulness. Appropriately, then the pow-bam violence of a superhero's justice is a supra-law, beyond and above the inefficiencies, compromises and corruption of the normal everyday law (Hughes 2006). In a much more sophisticated way SERENITY's crew reflects this. Although not necessarily the embodiment of a supra-law, there is a normative order to what they do that regulates the pure self-advantage of the habitual criminal or the war at any cost of the terrorist. SERENITY charts a zigzag course in the borderland of the 'verse; while her outlaw crew zigzag the borders of law.

Third Frame: Comic, Affect and Post-Literate Justice

One of Whedon's legacies to 'quality television' (Cardwell 2011) has been the inclusion of season long narrative arcs and threads (Hills 2010: 26-27). Each season of his previous shows *Buffy the Vampire Slayer* and *Angel* had themes and plots that ran between individual episodes; subplots in one story become main narratives in other episodes and traces of the season finale climax were woven through each episode. Following this signature Whedon characteristic this section weaves the traces made in the previous frames concerning the comic and the lawful outlaw to sketch a justice for the post-literate age of quasi-hieroglyphics.

What exactly is meant by a post-literate age of quasi-hieroglyphics? Cornelia Vismann in *Files* (2008) posits a remarkable unremarkable thesis concerning the materiality of law. She argues that the physical medium through which law is transmitted, recorded and practiced gives a basic form to the conditions of legality. The material makes specific forms of legality possible. The move by Rome from scrolls to codex in the first centuries AD provided the material possibility for the juridical project of codification (Vismann 2008: 41-47). The paper technologies of typewriter, lever-arch files and widespread literacy provided the materiality for the governing projects of twentieth century states; from mass public health and welfare programs through to the activities of secret police (Vismann 2008: 102-122). Implicit in Michel Foucault's narrative of the rise of surveillance and discipline institutions and the escape of the techniques refined within their walls to mass society (Foucault 1977: 205-228), was the development and refinement of the material instruments through which a subject can be monitored across time. The humble file – with its internal disciplining of including, duplicating and noting, and its meta-disciplining involving the storage and retrieval protocols of the archive – is what made governmentality possible (Vismann 2008: 128-146).

Within law properly called this emphasis on the 'material conditions of production' has been quite evident. Much has been written about the symptoms within the common law of the trauma of literacy (Douzinas

et al. 1991). The incursion of text properly called into the common law interrupted its constitute elements of orality, presence and authority (Goodrich 1996: 86-90). In a tradition where the person and authority of the speaker was what mattered, with written documents one could never quite be sure who was speaking. This distrust of text has its shadows still in the common law trial and the judicial practice of reading of judgments. Another legacy was twentieth century jurisprudence's concern with interpretation. From formalism to realism significant debate involved the making sure that the applicators of rules applied the *rules* and not applied an illicit, subjective *interpretation* of the rules (Hart 1961: 120-150; Dworkin 1977: 81-130).

In this it can be seen that mainstream twentieth century jurisprudence was significantly aware of problems with text. Its problem is it is analogue and passive. It sits patiently on page until cognitive intervention deciphers it. Whereas oral legal traditions have a unified moment of judgement – of law, application and authority at one time and with one voice – textual traditions splinter and defer. There becomes multiple interpretative moments. With analogue there are many sites for the constructing of meaning from marks on paper – from rulebooks, from statements of facts, from submissions, from reports, from the written reasons of past judgements – and these sites become layered and stacked together.

The liberation of text was always within the layered stacking of texts. As deconstruction has emphasised within the archive there was always the other. Pure certainty of the right answer, pure institutional justice, was a Herculean task and in Dworkin's naming it from mythology, he located such a task as beyond mere mortals (Dworkin 1977: 105). Law as Jacques Derrida reminds, by its institutional imperative to calculate and decide can never be 'just'; law's textuality means that it can never decide with the certainty that its violent doing-in-the-world requires (Derrida 1992: 6-15). But this means that justice remains in circulation. In a textual legality justice is always, already there (Derrida 1992: 16-17). There are always gaps, uncertainties, 'openings to interpretation', and other texts to uncover, consider and write about. This does not

only apply to law properly called and the act of judgment according to the rule of law, but also in all those everyday decisions of the archive dependent state. Text made possible the modern state and modern law and with these that terrible power to organise, remember and coordinate doing-in-the-world in a grand and mass fashion, but it also allowed for spaces of resistance to this very doing. It allowed for other texts, critiques and deconstruction.

However, as Vismann notes, in the first decades of the twenty-first century, there is a moment of transition from the analogue to the digital (Vismann 2008: 163). Computer mediated information exchange represents a different materiality than paper and print. As was witnessed in previous changes in the materiality of information, where the coexisting of old and new medium restrained the potentiality of the new by confining it to the rationality of the old, the digital medium has been constrained during its pioneer period to the earlier logic of 'documents', 'files', 'directories' familiar to a past world of text, keyboard and the paper archive. But the breaking out of textual constraints by contemporary smart devices, through the decline of the keyboard and the rise of the icon mediated touchscreen is digitality come of age. The icon, now directly manipulated, not by keystrokes or mouse driven cursors, but by a whole new economy of finger and wrist movements, opens in a much more direct way the potentiality of the digital.

The potential of the digital is it is digital; it is one or zero, right or wrong, yes or no. The digital is absolute and it is beyond literacy. It is absolute because it exposes the world to the pure structure of code. Since Lawrence Lessig's slogan that 'code is law' (Lessig 1999: 6) – an attempt to explain that the then emerging internet was, because of its coded functionality, an ordered and norm filled place – a generation of subsequent technology lawyers have debated the legality of code.⁷ Notwithstanding, the dimensions of that discussion, it can be seen that law as text *is not code*. Code is self-executing; it flows through its routines and protocols *without* the analogue need for human interpretation. Code is also active; the rules of law can go from text to computer program but what is produced is *code* and *not law*. Its essence

becomes the binary; either valid data is entered allowing the user to progress onto the next step, or it, with infinitive patience, advises 'invalid entry, try again.'

Coupled with this absoluteness is a form of post-literacy. When code meets the icon, text retreats. The selling feature of the touchscreen smart device is intuitiveness; interactive pictures tell more than a thousand words (O'Mara and Laidlaw 2011). This technology avoids the need for words and particularly avoids the need for the analogue arranging of words into sentences. The proto-literate child, along with people from radically different cultural-linguistic traditions, can equally utilise the same app on a tablet device. Words where they appear lose their meanings; they devolve to a picture, a magic window that can be poked and it predictably responds. It could be feared that the cognitive complexity of literacy as it has been known in a textual world, and with it, the possibility for justice, declines.

Furthermore, this leap to digitality is not voluntary. David Murakami Wood and Stephan Graham write of a 'software-sorted society' (Murakami Wood and Graham 2006: 117). They describe how code is increasingly automating interactions; from seemingly benign online commerce to eGovernment facilities; to smart surveillance and access controls that actively manage populations in time and space (Murakami Wood and Graham 2006). Code does not just sit within isolated computer networks but makes real-time decisions that effect change in the world without mediation through human agency. The violence of textual law, as Robert Cover identified, was always a human violence (Cover 1986). Code meeting world through the quasi-hieroglyphics of icon manipulation at the data input end and automation at the doing-in-the-world end represents an emerging techno-totality where the analogue of human, text and the possibility of justice has been 'written out' of the system.

It is the being written out of the system that haunts Mal in *Serenity*. His speech to Simon is significant:

I look out for me and mine. That don't include you 'less I conjure it does. Now you stuck a thorn in the Alliance's paw - that tickles me a

bit. But it also means I gotta step twice as fast to avoid ‘em, and that means turnin’ down plenty of jobs. Even honest ones. Put this crew together with the promise of work, which the Alliance makes harder every year. Come a day there won’t be room for naughty men like us to slip about at all...So here’s us, on the raggedy edge (Whedon 2005).

The Alliance presents as a techno-totality: from the surveillance and security of its environs, all cameras and passwords; to its high-tech of its ships and clean laboratories; to the images of well-functioning and well-resourced hospitals and schools. Within these spaces of discipline and surveillance the Alliance’s essential rationality can be seen. This rationality was glimpsed in its treatment of River as bare life. Discipline, surveillance and bare life reveal the Alliance as a biopolitical entity. As the secondary literature has debated, the Alliance is not totalitarian, notwithstanding the cost saving that saw the production team reusing the uniforms from *Starship Troopers* (Verhoeven 1997).⁸ Its biopower was benignly orientated for peace and the common good; the violence experienced by Mal and his crew from Alliance personal was often explained as third party contractors or rouge elements and the Operative of the film *Serenity* was presented as the necessary *exceptional* agent whose powers were beyond the everyday law so as to be free to fight exceptional circumstances. Yet while not necessarily totalitarian, it was total. It expected total submission and obedience from its humans.

In explicit contrast to the submission and obedience demanded by the Alliance are the Reavers. Humans changed through unexpected reactions to an experimental chemo-behavioural control, the Reavers appear as animals. It is tempting to see them in Hobbesian terms as the agents of pure violence of the pre-social contract human (Hobbes 2008: 82-84). They seem uncivilised with their extreme bestiality and bloodthirstiness. Yet this is not exactly true. They are a pack; they coordinate, they retain ‘civilised’ knowledge of spaceship piloting, they have a shared aesthetic in how they mutilate/decorate their bodies and their vehicles. Their lives are ‘brutish and short’ (Hobbes 2008: 83), but they are not alone. In their pack-like tribalism that hunted humans as food and sport they were a rival totality to the Alliance. In this the spectacular space war between Reaver and Alliance was an

inevitable conflict between two competing totalities that saw those outside according to the Schmittian logic of enemies (Schmitt 1932: 26). But their similarities do not end there; they also both see humans as 'meat'. The Alliance in its biopolitical logic of bare life and exception wants to make humans; the Reavers just want to eat them.

Between these two consuming totalities, flying a zigzag course 'on the raggedy edge' are Mal and his crew. With an increasingly familiar biopolitical techno-totality on one-side (the Alliance) and the always familiar violence of the horde (Reavers) on the other, Mal and his crew occupy a fragile space of individual agency. On the border planets that SERENITY drifts between, the most common manifestation of individual agency seems to be the habitual criminal pursuing an agenda of self-advantage and self-preservation. A doing what is necessary to survive on the frontier. *Serenity* is significant because Mal does what is necessary, but that doing is ethically informed. For him humans are not meat. He and his crew care: 'I look out for me and mine'. It is the relationships with others that matter. Mal goes to rescue Inara fully aware it is a trap; and he befriends, in his own way, Shepherd Book and the Tams. Mal forms relationships with others but importantly he fights for those relationships. The few citizens of the Alliance that are shown – the abandoned lover Durran Haymer (Dwier Brown) from the *Firefly* episode 'Trash' (Gillum 2002b) for example – are bio-managed and regulated and do not seem to value relations with others as highly. The Reavers might have bonds within the horde but no capacity to form relationships and for the habitual criminal relations only run as deep as mutual self-advantage. Mal repeatedly puts his own body on the line. Relationships are not disposable, there is visceral commitment. Throughout *Serenity* Mal repeatedly comes off worse in a fight, but he keeps on fighting.

Ultimately, SERENITY is not a ship, not even an endearing, quirky old ship that resembles a photo-luminescent insect. Instead, SERENITY is a complex set of relations between complex people that are brought together by bonds that are not manufactured by the biopolitical state or by the chemo-pheromone of the horde or the self-

advantage of the habitual criminal. Mal cares, protects and fights for his crew because he ‘conjures’ that he should. His agency is not really directed to self-advantaged notwithstanding his criminal aspirations; ‘work’ is important because he promised it to others. Techno-feminist Rosi Bradotti writes that it is through the complex and many relations with others, through a forging of connections that matter and they matter because they become embodied, through active intensification of affect, that ethics becomes possible with the emerging techno-totality (Bradotti 2006: 208). It is this embodied ethics of affect that is the lasting message of *Serenity*.

This is where *Serenity* provides a path to justice within a software-sorted society. This ethics of affect manifested by Mal and his crew can be seen to ground a ‘justice’. This is not a grand theory of justice; indeed, it would be tempting to dismiss any justice narrative arising from *Serenity* as ‘just us’ in our little spaceship out on the raggedy edge. However, what the outlaws of *Serenity* show is something more. What they show is that – notwithstanding the allusion of totality demanded and expected by techno-totalities, and specifically, notwithstanding the shadow of the digital imposing a post-literate binary order on Western life – agency remains. This is an outlawed agency at the margins. The bio-experiments of the Alliance went wrong. River escapes their control and the Reavers were ‘birthed’ by the Alliance’s attempt to chemically pacify the population on the planet Miranda. *Serenity* seems to be saying in these failures at totality by the Alliance that there will always be gaps for misbehaviour. Within the emerging software-sorted society code can still be hacked, bugs can enter the system and data can be entered differently. Mal and his crew show what to do with these momentary gaps of autonomy; to make relations with others matter. This is not about freedom from in some old liberal sense, but about seeking the spaces within the techno-totality where choice routines in the code, or bugs, or ambiguities can allow for care. At these sites the analogue remains and the literate remains.

In *Serenity* this outlaw agency allowing for care was most manifest in its humour. While full of gut turning moments of violence, its

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multi-media texts are funny (Haynes 2007). And the funny extends beyond the fight scene wisecrack, although there are plenty of them. Its true humour comes from the relational, the word play between the characters about their relationships. Having received a message from Inara that he was supposed to be hearing alone, Mal meets his crew:

Wash: Inara...nice to see her again.

Zoe: So...trap?

Mal: Trap.

Zoe: We goin' in?

Mal: Ain't but a few hours out.

Wash: (*confused*) Yeah, but...remember the part where it's a trap?

Mal: If that's the case then Inara's already caught in it. She wouldn't set us up willin'. Might be we get a shot at seein' who's turnin' these wheels. We go in.

Kaylee: But how can you be sure Inara don't just wanna see you? Sometimes people have feelings. I'm referring here to people.

Mal: Y'all were watchin', I take it?

Kaylee: (*everyone looks guilty*) Yes.

Mal: Did you see us fight?

Kaylee: No.

Mal: Trap (Whedon 2005).

It is in humour, in sharing the joke that the body, relations, text and autonomy coincide. Laughter is the measure of affect. This means that the path to justice for the software-sorted society is, ultimately, in being able to keep laughing.

There is another dimension to *Serenity* that allows it to be seen as a path to justice in the software-sorted society. It is a product of the

emerging techno-totality. It is new media. It was a failure according to old media criteria – a cancelled television show and a movie which barely covered its production costs – but it lives because its sales and fandom were both an internet phenomena. But there is more to it than that; the comic with its sequencing and its hybrid of text and image prefigures the experience of the digital of the coming techno-totality. The *nomos* of the comic enacts the kind of proto-literacy required by the quasi-hieroglyphics of the touchscreen icon. *Serenity*, as has been seen, was unified by an essential comic frame. In showing affect and humour through sequenced image-text frames it suggests that, notwithstanding fears of the decline of literacy, and with it the end of the analogue possibility for justice within the binary information exchange of the software-sorted society, there will always be outlaw spaces within the techno-totality. *Serenity* used the comic to be comic. With *Serenity* the potentiality of the icon is revealed. Its location in the sequence, its history and its future, so to speak, informs its meaning (Carrier 2000: 57) This meaning from *context* is still text and it still needs literacy, there remains the analogue and with that the possibilities for justice through the other. The individual frames of *Serenity*, stylised and segmented they might be, do not communicate affect and humour in isolation, but through the totality of their sequencing. This is *Serenity*'s other contribution to future justice. Beyond the representing of desirable outlaws who find the gaps, or make the gaps, within the techno-totality for affect and humour, it shows that the coming digital techno-totality, for all its suggestion of the binary absolutely manifest in the world, will remain, at its core, (and its border worlds), analogue. In short, the raggedy edges will endure.

Notes

- 1 Whedon 2005 (Malcom Reynolds).
- 2 For example *Space: Above and Beyond* 1995-1996; *Crusade* 1999; *Starhunter* 2000-2004; *Odyssey 5* 2002; *Terminator: The Sarah Connor Chronicles* 2008-2009.
- 3 On this aesthetic mix see Adams Wright 2005; Mandala 2010.

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- 4 Gillum 2002a (Zoe Washburn).
- 5 Young 2009 could prove a good starting place for cultural legal studies of the outlaw. See also Harmon 2011; Pencak 1999; Spelman and Minow 1992.
- 6 Whedon 2005 (Zoe Washburn).
- 7 See for example Wu 2003.
- 8 See Canavan 2011 173-203; Sutherland and Swan 2010 89-100.

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