

## ***Lex Populi: The Jurisprudence of Popular Culture***

*William P MacNeil*

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It is difficult to know where to start with this book: to begin with the closing credits, or close with the opening scene; to speak of character and plot; or of cinematography and mood. What MacNeil has produced is a monster — a hybrid of creative play and scholarly rigour — that in obeying the form of critical cultural jurisprudence succeeds in invoking the visceral. That is, it resounds in the deep registries that drive the very subject-matter of the book itself, animations of the world that are more real than lived existence. For this stylistic achievement in a field which has become notorious for over-complex, technical performances, MacNeil should be celebrated. That it does more shifts his achievements from the just to the truly monstrous.

MacNeil's thesis is simple to grasp. That critical cultural jurisprudence of the past 20 years has been a magpie stealing analysis from continental philosophy, semiotics and cultural studies, without a gesture of return (pp 1–2). The critique of law's empire, both in doctrine and theory, seemingly left 'the law' *terra nullus*, and would-be critics and theorists were forced to colonise this empty land using skills and knowledge learnt from elsewhere. MacNeil's response is simple: that jurisprudence (and by that he means the core considerations of that 3000-year tradition — authority, rules, ethics, the subject, freedom and rights) can be read back. And more significantly, in reading back, their popularity can be reassessed. Notwithstanding recent trashing, and indeed more recent deconstruction of authority, rules, ethics, the subject, freedom and rights, these concepts and the anxieties, terrors and passion of their interactions remain within the popular Western conciseness. This is the West's inheritance, even if legal theory might have gone elsewhere. To substantiate these claims, MacNeil present a series of jurisprudential readings of popular cultural texts.

However, MacNeil immediately surprises his reader. Talk of culture and law tends to suggest what has become know over the past 30 years as 'Law and Literature'. In becoming a discipline, 'Law and Literature' has produced an orthodox analysis and a canon of privileged texts through which the representation of law should be glimpsed: *To Kill a Mocking Bird*, courtroom dramas, detective novels. These, apart from *The Paper Chase*, are not to be found in this book. Instead, MacNeil's *lex populi* emerges from truly popular sources: *Harry Potter*, *Buffy the Vampire Slayer*, *Fight Club*, *Lord of the Rings*, *Minority Report*, *Legally Blonde*, *The Castle*, *Million Dollar Baby* and *The Sea Inside*. Further, in a digital age, MacNeil's emphasis is predominately the visual rather than the written: it is the filmic interpretations that generally attract his analysis. This is DVD jurisprudence. However, while popular in scope, there is nothing simplistic about MacNeil's analysis.

Earlier versions of five of MacNeil's chapters have previously been published.<sup>1</sup> However, reading them together makes them come alive in the text. What MacNeil presents is a blueprint for reading popular culture jurisprudentially. The method of each chapter is to embrace the reader's incredulity about the jurisprudential content of the text: 'This claim for a legality of *Buffy* — let alone a legal philosophy — may strike even the most theory-friendly Slayerette as misdirected ... After all no one goes to court in *Buffy*, no lawyers make any sort of appearance.' (p 29) Having voiced the obvious objection, MacNeil proceeds to unravel each text. He has developed this to a fine art. An initial reading, usually that of established critics, or an obvious theoretical companion (Dworkin's *Life's Dominion* and *Million Dollar Baby* for example), is presented; this is then challenged, opening to an intermediate reading which in turn reveals a third which subsumes the previous two. This is elegant writing, which embraces the fact that that MacNeil faces sceptical readers and co-opts their doubts.<sup>2</sup> This layered reading and the play it makes with the obvious analyses — *Lord of the Rings* might be about Empire, *Harry Potter* might be about the failures of liberal legality, *Minority Report* might be about crime — makes *Lex Populi* not only a good read, but a tight and sophisticated elaboration.

Another characteristic of *Lex Populi* that makes it a good read is MacNeil's writing. The text hums along, weaving *scriptura* jurisprudence with the base and colloquial. For example:

For, while 'Empire' is reactive — that is, can only strike back — 'the multitude' is proactive and capable of initiating real change. Enabling this initiative is a powerful and efficacious discourse, providing 'the multitude' with a way in which to speak their needs, voice their desires, and make their demands heard. That language is, of course *rights*. (p 78, footnotes removed)

MacNeil's writing can be seen as embracing the intertextuality that is a hallmark of his texts (first book, then film, then computer game), sliding across both the jurisprudential (rights, discourse, the multitude) and the popular culture registries (*Star Wars: The Empire Strikes Back*). It is a difficult balance to maintain; a temptation would be to get too caught up, trainspotter-like, in intertextual references, playing to a small known audience; however, MacNeil displays good control.

A final element that makes this text a good read is MacNeil's optimism. Unlike Costas Douzinas, a fellow traveller in critical cultural jurisprudence, who ends his recent book with utopian call for Derrida's 'democracy to come',<sup>3</sup> MacNeil remains — as is evident in the above quotation — committed to the real of now: a rights-based legal order. MacNeil is not prepared to

<sup>1</sup> MacNeil (2002, 2003, 2004a, 2004b, 2005).

<sup>2</sup> Indeed, MacNeil is possibly following his Catholic heritage: 'For as any Catholic teacher worth his or her Baltimore catechism knows, you must question first in order to have faith.' (p 140)

<sup>3</sup> Douzinas (2007), p 296.

naturalise the law or, as Douzinas does, present an ontological bar against the justice of the present. MacNeil wants posited law — something that becomes obvious in the chapter on *Fight Club* with his plead ‘so hurry back, John Austin and bring your gunman with you’ (p 60), and he wants known spaces for law and known spaces without law as evident in his celebration of Stromwell from *Legally Blonde*. Like taking seriously paperbacks and mainstream cinema, and not dismissing them as the excrement of capital’s globalised, lowest-common-denominator culture, MacNeil takes seriously the basic commitments of contemporary lawyers: rights and posited law grounded on a known sovereign. Law is demystified as an important way through which life is lived (and sometimes not), and this is projected on to the screen and spoken about (p 157). *Lex Populi* acknowledges that there is lots of crud both in contemporary culture and contemporary law, but it suggests that retreat to the ivory towers to connect with more refined cultures and dream of alternative futures is simply retreating. More importantly, ‘recalling jurisprudence to life ... to disseminate throughout the community at large, once more assuming a central position on the social agenda through popular culture’s various media’ (p 156) acknowledges that ‘jurisprudes’ (p 28) need not be shy to assert their discipline in public.

All of this is not to say that *Lex Populi* is without fault. Some of the analysis, particularly in the chapters that were previously published are not as clear as the three original chapters. Particularly in Chapter 2 on *Harry Potter*, first published in 2002 and Chapter 3 on *Buffy*, first published in 2003, MacNeil can be observed finding form. One of the reasons for this might be MacNeil’s Lacan frame. Chapters 2 and 3 seem to demand a higher degree of knowledge of Lacanian psychoanalysis from the reader, and its impact in cultural studies and law. However, Chapter 4 — the standout chapter — clearly and patiently brings Lacan and *Fight Club* to brilliantly expose the destructive desires at the heart of Hart’s *The Concept of Law*. The success of this chapter might have to do with MacNeil’s provision of a Lacan for Dummies guide (p 46), the single text (just *Fight Club* the movie, MacNeil does not deal extensively with Chuck Palahniuk’s 1996 novel), and the familiarity with Hart and *The Concept of Law*. Indeed, the other chapters (all written after 2003) show MacNeil finding his voice and casting away of the Lacan crutch. Lacan remains in the text, both conceptually and literally, but his appearance is more controlled. Indeed, a subsidiary use of *Lex Populi* could be as a Lacan primer for the yet-to-be-analysed of the legal fraternity.

In summary, this book is a monster. Monsters need not be scary — something that the Children’s Television Workshop (now Sesame Workshop) has been teaching successive generations since 1969. Indeed, like *Sesame Street*’s revolutionising of children’s television,<sup>4</sup> MacNeil presents the possibility of revolutionising jurisprudence. He offers a way for jurisprudence to actively engage with the ‘masses’ and in that engagement finds not only a stronger voice, but facilitates other voices on the ‘people’s law’

— KIERAN TRANTER

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<sup>4</sup> Morrow (2006), pp 2–6.

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### References

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