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“Frakking Toasters” and Jurisprudences of Technology

THE EXCEPTION, THE SUBJECT AND *TECHNÉ*
IN *BATTLESTAR GALACTICA*

Kieran Tranter

Abstract. This article concerns jurisprudence’s lack of engagement with the technical. This is the message from the recent television series *Battlestar Galactica* (2003–2006). Analysis of the series moves through concerns in legal theory regarding the exception in the wake of 9/11, and also questions of gender, race, and biology. Through revealing the problem of the subject “in concrete” for talk of the exception, and the transposition of biology through technology, it offers the image of “techno-humanity” as a direction for jurisprudential thought.

INTRODUCTION

This article concerns the development of alternative jurisprudences of technology. It argues that the re-imagined television series *Battlestar Galactica* (2003–2006) exposes jurisprudence’s existing reliance on the metaphysics of technology that internalizes technology as *techné* and externalizes it in favour of a more essential human condition. In the alternative the series gestures towards a mediated notion of techno-humanity.

A précis of *Battlestar Galactica* is provided in “Part I: Spaceships, Killer Robots, and the End of Worlds.” The series offers itself as an allegory of the politics of war and terror after 9/11. In “Part II: Schmitt in Space,” I argue that *Battlestar Galactica*, in its political allegories, animates Schmitt.

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Indeed, Schmitt's central concepts—the exception and the impotence of liberalism—are projected against the ugly profile of the title spaceship. However, *Battlestar Galactica*, in its animation of the friend/enemy distinction, reveals the problems within Schmitt's metaphysics of the “leader” and of the “people.”

“Part III: Starbuck as Post-Feminist” explores the question of the subject in *Battlestar Galactica*. The series involves an ensemble of complex characters. In this, it is reminiscent of established concerns with gender, race and identity within legal theory. However, *Battlestar Galactica* distorts the transmission of these; its equality is undercut by a violent emphasis on biology. This triumph of essentialism is short-lived. *Battlestar Galactica*'s projection of an essential biological nature is deceptive for what seems like essence is actually posited as technologically mediated.

This recognition opens to “Part IV: Frakking Toasters,” which focuses on the images of technology within *Battlestar Galactica*. Through representing a technological society valiantly resisting a totalising technology, it is tempting to regard the series as an analogy of the metaphysical account of technology that postulates technology as *techné*, which must be overcome in favour of a non-technical human essence. Notwithstanding the pervasiveness of this metaphysics within jurisprudence, *Battlestar Galactica* actually suggests a radical alternative; a seeing beyond *techné* and essentialist categories through the image of “techno-humanity.” The conclusion *Battlestar Galactica* offers is not just a parable of politics and law in the new millennium, or a drama on the faults within “post-feminism,” but it provides jurisprudence with resources through which to approach the technical.

This article is a response to the project of *popular jurisprudence* outlined by William P. MacNeil.¹ MacNeil's is not primarily concerned with the image of law or even the popular representation of contemporary politico-legal issues. Rather, he takes seriously popular culture, such as Harry Potter,² *Lord of the Rings*,³ *Minority Report*,⁴ and *Buffy the Vampire Slayer*⁵ as contributions to legal theory.⁶ His agenda is twofold. The first tenet of his theory is that popular texts can be viewed as animating concepts and themes from jurisprudence.⁷ The second is that talking jurisprudentially through popular culture opens a space for critical engagement with jurisprudence, a space that is liberated from the accretions of the discipline's formal lexicon and institutional forms.⁸ However, before *Battlestar Galactica* can be read jurisprudentially, the series itself requires an introduction.

Part I: Spaceships, Killer Robots, and the End of Worlds

Understanding *Battlestar Galactica* must begin with the original television series of the same name. The original series had a short run of 17 episodes from 1978–79 with a dismal spinoff, *Galactica 1980*, which lasted six episodes.⁹ Critics condemned the original series as a cheesy *Star Wars* ripoff,¹⁰ a point taken up by George Lucas, who commenced proceedings.¹¹ In contrast the re-imagined series, comprising a miniseries/pilot (2003), a 13-episode first season (2005) and a 20-episode second season (2005–2006)¹² has been a ratings and commercial success.¹³ A third series of 20 episodes has been commissioned and a prequel spinoff is due for production.¹⁴ Unlike its predecessor, the new series has received widespread mainstream acclaim, even being ranked as the top television series by *Time* magazine for 2005.¹⁵

The basic framework of *Battlestar Galactica* remains faithful to Glen A. Larson’s original with images and narratives from post-apocalyptic science fiction mixed with space opera. The post-apocalyptic elements form the backbone of the story. Human society lived in a federation of “Colonies” on 12 planets. All the colonies are destroyed in a sudden attack leaving a band of refugees to form a “ragtag fleet” of spaceships led by the sole surviving battleship, the *Battlestar Galactica*.¹⁶ The surrounding imagery is space operatic. The destructive enemies are malignant robots, the Cylons. The backdrops are planets, stars, and mile-long spaceships, offering plenty of scope for *Star Wars*–style space combat action.¹⁷ There are top-gun pilots with attitude straight from the pages of Robert M. Heinlein.¹⁸ And the mythos that these refugee humans are in search of the thirteenth tribe of humanity on the lost planet of Earth conjures Erich Von Däniken sci-fi/pop archaeology.¹⁹

However, the new *Battlestar Galactica* modifies these basics. Foremost, the Cylons are not the dim-witted, oscillating red-eye, chrome robots that they were in the original. While there are some Cylons, denigrated as “toasters” by the human characters, that resemble the originals, there is the *Frankenstein* twist that the Cylons are humankind’s own rebelled creations,²⁰ and the *Blade Runner* twist that the Cylons have “evolved” new organic humanoid models.²¹ Stylistically, the two series are very different. The original presented Loren Greene’s “Moses”-style Commander William Adama leading, to the rallying sounds of an orchestral score, a futuristic humanity from the brightly-lit bridge of his spaceship.²² In contrast, the re-imagined *Galactica* is a brooding ribbed beast, an old warship constructed fifty years earlier. Its poxed exterior mirrors the new Adama’s (Edward James Olmos) marked face.

Its interior lacks the techno-lavish aesthetics usually associated with television spaceships. Designed to fight an enemy that infected computer networks, its grey interior resembles a Second World War military vessel with manual airlocks, paper correspondence, and scurrying crew.²³ In this galaxy, there are no lasers or advanced medical cures; spaceships shoot bullets, cancer kills, old equipment breaks down, and the weapons of mass destruction are nuclear bombs. The musical score is low key, featuring compositions by Philip Glass, Celtic chants, and ethnic drumming. The space battles are a silent chaos of movement and explosions overlaid by the garbled radio communication of pilots swearing (the oft-heard “Frak/Fracking”), and soft ethereal laments. Finally, the production values between the old and new diverge. The new series has a documentary style, handheld cameras, rapid oscillations between characters, space battles where the camera itself is caught and flung about unable to track and zoom in on “the action”; very unlike the sound stage scenes and “epic” spaceship shots of the original. Together these aesthetic shifts bring this epic closer to home.

All this follows creator Ron Moore’s desire that the new series takes the “opera out of space opera.”²⁴ A manifestation of this can be seen in the inclusion of strong female characters, a challenge to the traditional sexism of the genre.²⁵ Complicating Adama’s leadership of humanity is Laura Roslin, the Education Secretary who is elevated to “President of the Twelve Colonies” when the 42 higher-ranked members of the Executive died in the Cylon attack. Also, much to the consternation of fans of the original,²⁶ the charismatic swashbuckling hero character of Lieutenant Kara “Starbuck” Thrace is a woman. So too, the pilot Lieutenant Sharon “Boomer” Valerii changes gender and is revealed as a Cylon. While the other major characters retain their gender from the original, they are presented in significantly more complex ways. Captain Lee “Apollo” Adama, Adama’s surviving son, and Galactica’s chief pilot, is not the all-American hero of Richard Hatch’s original. Nor is Dr. Gaius Baltar the outright human traitor personally commanding the Cylons in their genocide.²⁷ Instead, he is a lascivious, self-serving civilian who worked for the Colonial military, and whose more intimate cavorting with the Cylons (the blonde and leggy Number Six) allowed the Cylons to infiltrate the human defences, facilitating the attack.

One element developed by Moore (and co-creator David Eick) was the religious element in the original series.²⁸ For critics, the one redeeming feature

of the original was its use of classical, Old Testament and Mormon mythology.²⁹ However, unlike the original where Colonial society was a militant theocracy (Adama was military leader, religious leader and political leader),³⁰ in the new series the human civilisation of the “Twelve Colonies” appears pluralistic, secular, and remarkably similar to contemporary society. The cityscape of the planet Caprica, the capital of the Colonies, possessed the familiar high-rise office blocks, Greco-Roman public buildings, and river promenades of a Western metropolis (Vancouver, to be precise); although there are hints that not all planets shared these Western-style affluences.³¹ At the level of interplanetary government, the humans appeared to enjoy a democracy with the features of liberal constitutionalism, including civilian control of the military. Religion was not a dominant feature, although some planets were “bible belts.”³² And when religion is involved, it is the pluralism of the Hellenistic pantheon that calls the humans’ devotion. In contrast to this liberal secular pluralism, the Cylon occupation of Caprica shows a hive of identical-looking duplicates going through the motions of being human.³³ This sameness is reflected in the Cylon’s zealous monotheism, justifying their destruction of humanity as “God’s Will” to impose a divine sanction on the blasphemous and decadent humans.

It is this seemingly obvious coding of a religious-based “clash of civilisations”³⁴ in *Battlestar Galactica* that has allowed critics and fans alike to celebrate the series as an allegory of contemporary politics.³⁵ Indeed, this is Moore’s and Eick’s express aim,³⁶ which is made clear in the existence of “sleeper” humanoid Cylons who are activated and cause terrorist attacks, the corridors that became spontaneous shrines to the dead from the cataclysmic attack, and the picture on the wall of Colonial One, the President’s ship, of an image of the attack remarkably similar to the iconic firefighter and flag photograph from 9/11. Further, they bring this home with individual episodes that involve the torture of terrorist suspects,³⁷ the use of sexual violence against enemy combatants,³⁸ embedded press reporters,³⁹ incompetence in the administration,⁴⁰ reformed terrorists as politicians,⁴¹ rigged elections,⁴² and the use of fear and religion to galvanise populations.⁴³ Indeed, these themes coupled with the ongoing tensions between Roslin and Adama, between elements within the civilian fleet and the opportunism of Baltar, has lead *Battlestar Galactica* to be regarded as “the *West Wing* in space.”⁴⁴

Part II: Schmitt in Space

If *Battlestar Galactica* is an allegory for post-9/11 politics, then what contribution does it make as popular jurisprudence? It is tempting to see the show as a sublimation of Western law to a more brutal and basic violence, the usurpation of civil society to a militarised order.

At first glance, there seems to be little law in *Battlestar Galactica*.⁴⁵ Early in the first season, Adama responds to a series of terrorist attacks aboard the *Galactica* by allowing an “independent tribunal” to investigate.⁴⁶ When the direction of that investigation leads back to Adama, he shuts it down. In another episode, viewers are never shown the working of the colonial military justice system that lead to the death sentence being imposed on two of *Galactica*’s crew.⁴⁷ Both these episodes show scenes of individuals claiming the protection of rights and those claims being brushed aside. Starbuck justifies her torture of the Cylon Leoben Conoy because, “It’s a machine, Sir, there are no limits to the tactics I can use.”⁴⁸

There are occasional references to legal documents, the constitutional “Articles of Colonisation”⁴⁹ or the colonial military regulations, but the precise wordings and concepts are unsaid. Absent from *Battlestar Galactica* are “prime directives” or other nomology that have attracted legal scholars to *Star Trek*.⁵⁰

Battlestar Galactica, then, does not show a liberal legalist order boarding a wagon train to the stars,⁵¹ nor does it present a “state of nature” as does much post-apocalyptic science fiction, as the precursor for a retelling of the social contract.⁵² Further, there is little evidence of concerns with techniques of surveillance and control to manage populations, as is regularly featured in dystopian science fiction.⁵³ Indeed, representations of the few attempts by the *Galactica* to control civilians end not with the use of technique to govern, but with chaos and death.⁵⁴

What there is, is death, and lots of it. There is much in *Battlestar Galactica* to remind of Robert Cover, for if there is an order it is an order of death.⁵⁵ The series is set after the death of the human home worlds in the Cylon’s nuclear holocaust. In the opening sequence of each episode, a figure is flashed on the screen showing the total number of human survivors—it gets less as the series goes on.⁵⁶ This death is not abstracted. Bodies are thrown into space from exploding spaceships and humans kill one another with monotonous regularity. A would-be assassin is found dead in his cell.⁵⁷ Hostage situations end with numerous bodies in plain view.⁵⁸ This killing goes beyond war

casualties or unfortunate policing, to official ex-judicial killings; Apollo’s ad hoc murder investigation climaxes with him summarily executing a crime boss.⁵⁹ The civilian President Roslin executes Starbuck’s tortured Cylon by flushing him out an airlock.⁶⁰ Seemingly, the rule of law—the bedrock for liberal accounts of legality—and the interlinking of roles and offices with the judicial utterance of “the law” at its apex, is absent within the society represented by *Battlestar Galactica*.

While problematically “legal,” this order of death is still an order. It is an order of uniforms and salutes, of titles (Sirs, Commander, Lieutenant, Madam President), of pilot call signs (Starbuck, Apollo, Boomer, Helo, Hot Dog, Race Trackr...), abbreviations (CAG (Captain of Air Group), CIC (Command, Intelligence, Control)), and a life of booze and card games interrupted by the adrenaline rush of action. It is, in short, a military order. The series only occasionally depicts the civilian society aboard the fleet: the crowds in freighters, the wealthy living it up on the luxury liner Cloud Nine, the black market aboard the Prometheus. The focus is on the military, and the tenuous relationships between the military and the civilian order personified by Roslin. This is visualised whenever the *Galactica* is shown. It is rarely pictured in its entirety; usually just its alligator-shaped snout fills the screen, dwarfing any of the civilian ships, including Colonial One. The image is of an apex predator scattering lesser beasts. The message seems to be that at the point of annihilation of a society, the brute violence of the military is called to the fore. Adama makes this clear when he reminds his son that his father was a lawyer;⁶¹ that in an age of enemies and annihilation, the lawyer’s descendents are warriors.

For jurisprudence, this usurpation of the rule of law to military order in a time of enemies and annihilation recalls Carl Schmitt. *Battlestar Galactica* presents a nation on the brink of extinction, as characters often remind, facing an indefatigable and mechanical foe—similar sentiments to Schmitt and other Weimar conservatives in their fear of Stalin’s Soviet Union.⁶² The representation of the civilian population, particularly in the second series where the internal politics of the fleet is explored with tensions between Roslin’s supporters and opposition sentiment clustered around Tom Zarek (Richard Hatch),⁶³ a movement violently demanding peace with Cylons,⁶⁴ a movement violently demanding the execution of Cylon prisoners,⁶⁵ vocal moral conservatives⁶⁶ and organised crime,⁶⁷ suggests Schmitt’s feared demise of the state in street-level anarchy.⁶⁸ The episodes dealing with the political

workings of the civilian government reflect Schmitt's attacks on parliament as involving much talk but little action.⁶⁹ The final episode of Season One manifests these themes. The fleet has found the origin planet of humanity, the planet Kobol. Roslin, suffering from advanced cancer, has had religious-inspired visions concerning how it should be explored. Adama disagrees; in his opinion, Roslin's preferred course of action involves too much risk. Roslin's position creates divisions within Galactica, leading to Starbuck's mutiny. This triggers Adama to send in the marines taking Roslin into custody.⁷⁰ Adama, faced with division at home, an implacable external enemy, and poor political leadership declares an exceptional circumstance and ousts the civilian government.

It is tempting to read Adama as Schmitt's preferred Hindenburg, although it glosses much of Schmitt's discussions of the legitimacy of dictatorship called forth by the exception. However, there is some support within Schmitt for a military coup d'état as a legitimate basis for dictatorship.⁷¹ In the rapid progression of work during Weimar, Schmitt appears to move from an affirmation of a "classical" form of a limited dictator appointed by the ordinary political process in times of crisis,⁷² to a more radical account of the "sovereign" who *represents* the people and in that representing can decide between the ordinary and exceptional,⁷³ and through that fundamental decision can recast the political machinery of the nation.⁷⁴ In announcing to Roslin that her "Presidency is terminated,"⁷⁵ Adama appears to be motivated by the belief that he possesses "reserve" sovereign powers to preserve the nation. However, any affirmation that in this decision he "represents" the nation is uncertain. Minutes after he is shot, and for the following few episodes of Season Two, he is unconscious and critically wounded in sickbay.⁷⁶ His leadership is left to his drunken Executive Officer (XO), Colonel Saul Tigh, who, in his own assessment "Fraks things up good" to the point that most of the crew is about to revolt, while most of the civilian ships actually had.⁷⁷ As popular jurisprudence, there is much of Schmitt in *Battlestar Galactica*, but there are limits to the allegory that need acknowledgment.

However, *Battlestar Galactica* reflects some of the problems of Schmitt's inheritance to jurisprudence. Schmitt's fundamental orientation, the basis for his distinction between normal and exception and his account of sovereignty,⁷⁸ lies in his infamous notion that "the specific political distinction to which political actions and motives can be reduced is that between the friend and enemy."⁷⁹ The friend/enemy distinction, as the

delineation of what is political, and its warehousing of law to the normal, unexceptional order, has been a clarifying concept for recent thinking about law in this “Age of Terror.”⁸⁰ For Schmitt, the ability to distinguish between friend and enemy is a public act:

The friend and enemy concepts are to be understood in their concrete and existential sense, not as metaphors or symbols, not mixed by economic, moral, and other conceptions, least of all in a private-individualistic sense as a psychological expression of private emotions and tendencies.... An enemy exists only when, at least potentially, one fighting collectivity of people confront[s] a similar collectivity. The enemy is solely the public enemy.⁸¹

Schmitt continues, “[i]n its entirety the state as an organized political entity decides for itself the friend/enemy distinction.”⁸² Schmitt, like Thomas Hobbes, regards the political as emerging from the possibility of war.⁸³ However, unlike Hobbes, where the individual, vulnerable and alone, contracts to form the sovereign,⁸⁴ Schmitt presents an *a priori* nation declaring which other nations are friends or enemies. The key elements are summarised by Chantal Mouffe: “this involves the creation of a ‘we’ which stands in opposition to a ‘them,’ and this is located, from the outset, in the realm of collective identifications.”⁸⁵ This seems quite acceptable within *Battlestar Galactica*. In science fiction, what can be a more quintessential “collective enemy” than swarms of evil robots?⁸⁶ However, in its paralleling of Schmitt, the series identifies the limits of the friend/enemy distinction.

The Cylons are not simply killer toasters, and the humanoid versions not only look human, but as the series progresses, they manifest all the vagaries, emotions and individuality that are displayed by the humans. Not only are the viewers drawn to sympathise with individual Cylons—the tortured Gina, or Boomer when her child “dies”—but increasingly so are the individual characters.⁸⁷ The Cylons themselves are shown to be growing ambivalent with the direction of their extermination of humanity.⁸⁸ In short, the obvious imaging of friend and enemy breaks down. For all his polemic about the public “national” character of the friend/enemy distinction, what Schmitt is actually suggesting is that it is the sovereign leader who holds the deciding power of friend and enemy. The friend/enemy distinction, like the exception, is another manifestation of Schmitt’s decisionism.⁸⁹ While not necessarily a subjective decision for the public, indeed, according to Schmitt, individuals can “love your enemy,”⁹⁰ something that Baltar represents a bit too literally in the series;

the distinction is rendered personal and is an ongoing responsibility of leadership. Repeatedly in *Battlestar Galactica*, Adama and Roslin are seen to be making this call, ordering the destruction of the Olympic Carrier in the suspicion that it had been overtaken by Cylons,⁹¹ and deciding that Admiral Hellena Cain (Michelle Forbes), the commander of the found Battlestar Pegasus, must be executed as an “enemy” of the fleet.⁹² *Battlestar Galactica* suggests that “friend” and “enemy” in “their concrete and existential sense” do not originate in the nation, but reside within the person of the leader.⁹³

Battlestar Galactica manifests how the friend/enemy distinction discloses a focus on the person of the leader in its emphasis on Adama. Adama’s relationships with his sons and with the colonial military tradition are shown to influence his decisions, particularly the decisions to reunite the Fleet, to “reinstate” Roslin as President,⁹⁴ and in preventing Roslin and Tigh from rigging the presidential election.⁹⁵ In this, Admiral Cain of the Battlestar Pegasus is Adama’s foil. Like *Galactica*, the Pegasus attracted a fleet of civilian ships in the aftermath of the Cylon attack. While Adama makes the reluctant choice to flee the conquered home worlds to protect the civilian fleet,⁹⁶ Cain feeds her civilian fleet, both ships and people, to her war machine so as to maintain her offensive.⁹⁷ Cain, the younger, more ambitious, and more senior officer, makes a very different decision from that made by the older, war veteran, and world-weary commander.

Furthermore, *Battlestar Galactica* exposes another tension within Schmitt’s account of the friend/enemy distinction. Schmitt’s critique of liberalism was that it “neutralised” the life and death of politics into mere subjectivity, questions of economics or mere debate.⁹⁸ Schmitt attempted to respond to this privatisation of politics through a valorisation of the public as revealed in his metaphysical account of the state, and his idealisation of the German people as a unified *Volk*.⁹⁹ However, he distanced this ideal from the actual manifestation of the Weimar Republic’s population whose individuality had been dangerously freed by liberalism.¹⁰⁰ In this, Schmitt parallels Martin Heidegger’s disgust of the *das Man* of modernity.¹⁰¹ Schmitt presented an ambiguous account of the public, as the collective entity manifesting in the state, and also a fractious rabble threatening the state.¹⁰² Giorgio Agamben has observed that this dualism occupies a significant space within the Western intellectual tradition in his account of people/People—“people” being the population governed by a sovereign, while “People” accounts for the sovereign-forming collective.¹⁰³ For Agamben, the

people/People distinction grounds a sovereignty directed to the transmutation of people for People. But this is a perverse transmutation, as it leads to a denial of human existence as anything other than bare life, and in the extreme circumstance opens to “the paradigm of the political space of modernity,” the concentration camp.¹⁰⁴ What *Battlestar Galactica* does is show a population not playing its role according to this logic. In this, the series could be *Polis Galactica*, more Aristotle than Machiavelli’s modern legacy, for in response to the sovereign emergency, the people express a flowering of politics, calls for elections, formation of interest groups, the throwing up of rival leaders, and resistance to martial law. Even while continually being killed, the people refuse to be *homo sacer*,¹⁰⁵ and they also refuse to play Schmitt’s allocated representative public role of mass politics.

A Schmittian response would be to emphasise that this “failure” of the people, like the failure of the Germans during the Weimar Republic era, manifests the terminal stages of liberalism: rapid individualism eroding clear, collective thinking about who is a friend and who is an enemy. Alternatively, this steadfast representation of a politicised civil society could be explained as Moore’s and Eick’s residual liberal arts college education¹⁰⁶ projecting Fukuyama not to just the end of history, but to the end of worlds.¹⁰⁷ However, these alternatives, an adherence to metaphysical totalities, or a triumphant affirmation of liberal individuality, fail to capture the complexity presented by *Battlestar Galactica*. In the series, collectives, organized according to the friend/enemy distinction, are powerfully represented. What is also shown is that these collectives are occupied by subjects, that the category “leader” is an embodied person whose personality and role mingles when called to decision. Similarly, the category “people” comprises a collective, unified through fleeing an enemy that seeks their annihilation, yet also a multitude of subjects clamouring for a say over their destiny. Addressing Schmitt, what *Battlestar Galactica* highlights are the problems within his metaphysics of leader and people, for, to use one of his preferred terms, the “concrete.”¹⁰⁸ Questions of embodied existence, agency or subjectivity are negated by Schmitt. Indeed, Schmitt politicized and dismissed preoccupation with such concepts as liberal distractions. This rejection of theorising the subject suggests that the recent, terror stimulated, “political turn” in jurisprudence, runs the risk of prioritizing the categorical judgment of metaphysics over embodied accounts of subjectivity. This means that thinking about the experience of terror, or development of a jurisprudence of that troubling figure of the age, the suicide bomber, remains outside the Schmittian inheritance.

In summary, *Battlestar Galactica* offers enticing parallelisms for thinking about Schmitt and his contemporary legacy within jurisprudence. However, in animating the friend/enemy distinction, it also shows some of Schmitt's limits. Projected into a "rag-tag" fleet of spaceships, Schmitt's abstractions of friend and enemy give way to "the leader" and "the people" that are not abstractions, but embodied subjects. The comparison shows the tension between category and existence and between metaphysics and embodiment that follows from Schmitt's denigration of the "individual" as liberal detritus. In opening Schmitt to the subject, the next part shows how *Battlestar Galactica* opens the subject to essence.

Part III: Starbuck as Post-Feminist

Battlestar Galactica offers a reflection on the difficulties of subjectivity for Schmitt, because at another level the series allegorizes other jurisprudential concerns with identity. The series is successful in presenting a world that, at least initially, appears to enact substantive gender equality. The starting point is simply that Starbuck appears a post-feminist pinup.¹⁰⁹

The society presented in *Battlestar Galactica* seems to be post-feminist in its substantive gender equality. Women can be President and priests,¹¹⁰ and in the military, women can be admirals and front-line fighter pilots. Starbuck begins the series respected as Galactica's best pilot. She is not the subject of harassment and intimidation for achieving this status. Indeed, it is only when her confidence fails in Season Two that disparaging begins.¹¹¹ This respect for women not playing traditional women's roles is paralleled in Roslin as President. Roslin's gender is not a topic of concern. Rather, discontent relates to her junior cabinet status and professional background as a schoolteacher.¹¹² Post-feminism is also projected by the series in a further sense.¹¹³ Starbuck does not pilot her Viper in a "different voice."¹¹⁴ In the miniseries and Season One, she is arrogant, disrespectful of senior officers, capable of taking spectacular risks, cigar smoking, hard drinking/fighting/gambling and bed hopping. She is the epitome of the top-gun male pilot.¹¹⁵ In this, Starbuck's foil is Apollo. Apollo begins the series as less of a risk taker and more concerned with relationships:

Starbuck: You're the CAG; act like one.

Apollo: What the hell does that mean?

Starbuck: It means that you're still acting like you're everyone's best friend.¹¹⁶

It is tempting to read Starbuck’s “masculinity” and Apollo’s “femininity,” and his concern with others, as a vision of radical feminism’s desire for the negation of the biological.¹¹⁷ In *Battlestar Galactica*, it seems that gender does not relate to identity or social roles. There are some female characters who occupy more traditional female roles. Lieutenant Anastasia “Dee” Dualla, Galactica’s communications officer, rather aptly is concerned with supporting and encouraging dialogue and is also the focus of a love contest between Apollo and Billy Keikeya, Roslin’s personal assistant. Ellen Tigh, XO Saul Tigh’s wife, is a behind-the-scenes Jezebel, manipulative and self-promoting.¹¹⁸ However, the impression from *Battlestar Galactica*, especially from the four main characters, is that gender is marginal in this society’s definition of identity. They are shown to be driven by conflicts, past traumas, and their relationships. There is no simplistic gender determinism. Adama’s serious engagement with the military tradition and its dictates of leadership and loyalty gives him conflicting responsibilities to his “family” (both his son and his crew). Roslin’s disarming countenance contrasts with her skill in political manipulation and her confidence in decision making: “The interesting thing about being President is you don’t have to explain oneself to anybody.”¹¹⁹ Starbuck’s macho-nihilism is explained as a manifestation of her guilt in contributing to the death of Adama’s other son Zak, and the waning of this attitude after her experiences on returning to Caprica. Apollo lives in the shadow of his father; he is initially hostile and distant, but as the series progresses, he becomes more in his father’s image, a solemn acceptance of the responsibility of leadership, command of his own Battlestar and his pretty-boy looks giving way to a battle-worn physiognomy. These characters are highly fallible. Adama stages a coup after he keeps insisting on the primacy of civilian government. Roslin starts believing, as divine messages, the hallucinations associated with her cancer treatment. Starbuck, in common with her “enemy” XO Tigh, turns too much to the bottle, and Apollo, who supported the established legal order in resisting his father’s coup, executes a civilian in cold blood. As believable humans, these characters,¹²⁰ allow *Battlestar Galactica* to show the absence of the subject in Schmittian jurisprudence.

If *Battlestar Galactica* seems progressive concerning gender, it is not as progressive concerning race. Following Gene Roddenberry’s template, *Battlestar Galactica* attempts to “white” out race.¹²¹ In doing so, the series animates criticisms of positive discrimination made by critical race theorists.¹²²

There are different races aboard *Galactica*: Boomer (Asian), Dee (African) and Senior Officer of the Watch Lieutenant Felix Gaeta (Hispanic), but they are token representatives within a sea of Caucasians.¹²³ Race does matter in this galaxy, particularly regarding Africans. Aside from Dee, the only other Africans are the marine who guards Roslin during her arrest and the representative from the planet Picon. These two are shown as the most religious of all the humans within a secular and rational society, channelling old prejudices of Africans as superstitious.¹²⁴

In contrast, the Cylons, when it comes to diversity within the humanoid versions, seem to be more progressive regarding race. The African Cylon, Simon, plays a doctor (*Galactica*'s chief medical officer, Doctor Cottle, is Caucasian). The sour note is that Cylons have other types. The chrome toasters seem to be just machines, treated as disposable by the "higher" humanoids: "Those older models, they have their uses," Number Six tells Baltar.¹²⁵ While the Cylon space fighter, revealed as a sentient biomechanical being¹²⁶ is explained by Boomer as she lovingly strokes it:

It's not really a thing, you know. It's probably a Cylon itself. [pause] More of an animal maybe than the human models. Maybe they genetically design it to perform a task. To be a fighter. Can't treat it like a thing and expect it to respond. You have to treat it like a pet.¹²⁷

The Cylons, like the humans, seem to account for physical diversity through the imposition of hierarchy.

This hierarchical ordering of difference within *Battlestar Galactica* returns, rendering problematic its treatment of gender. So far the series has revealed three female Cylons: Boomer/Number Eight, Number Six and D'anna Biers/Number Three (Lucy Lawless). The problem originates in how Boomer and Number Six are represented. They are consistently represented as sexual beings, both the subject of seemingly consensual sex and also sexual violence. In the scenes depicting consensual sex, there is a misogynist undercurrent that the Cylon women are using intercourse as an instrument in manipulation.¹²⁸ This misogyny is rendered explicit in the episode *Pegasus*.¹²⁹ In that episode, Baltar, as the *Galactica* Cylon expert, is sent to investigate *Pegasus*'s captured Cylon. He finds a Number Six, known as Gina, chained to the floor and lying comatose. Her interrogation included being repeatedly gang raped. Further, the chief perpetrator, a senior officer from *Pegasus*, is

interrupted from attempting to rape Galactica’s interned Boomer. The gender equality initially projected is negated by these scenes. Women are reduced to biological beings located within a sexualized regime of violence, powerlessness, and vulnerability.

This sexual violence of human towards Cylon is reciprocated. When Starbuck returns to Caprica, she is shot in a Cylon ambush.¹³⁰ When she awakes, the Cylon Simon convinces her that she is in a “resistance”-run hospital.¹³¹ She is then subjected to numerous undisclosed operations on her lower abdomen. In the episode *The Farm*, during her escape from the hospital, Starbuck finds, in the other wards, the familiar science fiction/horror image of the “robot rape”—rows of drugged women obscenely connected to various machines.¹³² The Cylons are not content with their mass production of 12 different humanoid models, but need to “fulfill God’s command to multiply”¹³³ through mastering sexual reproduction. This has two effects. The first is that Starbuck is forcefully reallocated as female, as possessing a body intimately connected with reproduction. The second relates to redefining the series’ survival theme. Early in the miniseries, during Galactica’s decommission ceremony, Adama poses the question concerning the worthiness of a people to survive:

You know, when we fought the Cylons, we did it to save ourselves from extinction. But we never answered the question, why? Why were we as a people worth saving? We still commit murder because of greed, spite, jealousy. And we still visit all of our sins upon our children. We refuse to accept the responsibility for anything that we’ve done. . . . Sooner or later, the day comes when you can’t hide from the things that you’ve done anymore.¹³⁴

The Farm recasts Adama’s introspection; that prior to any ethico-political evaluation concerning survival is the more basic question of reproduction. What is presented is the claim that before culture, and with it memory and justice, there is biology. Reproduction is the core theme of Season Two. That season not only returns to the biological in its depictions of sexual violence towards women, but Roslin, contrary to her past as an advocate for women’s rights, bans abortion on the grounds that all pregnancies must be carried to term to boost population numbers.¹³⁵ This call for reproduction can be seen in the finale where several characters appear pregnant.¹³⁶ Also in this season, more is revealed of the Cylons process of cloning the 12 humanoid models and the “downloading” of memories into new bodies.¹³⁷ There is also a

hetero-normativity to this focus on reproduction. Like *Star Trek*, *Battlestar Galactica* does not go beyond the final frontier in having gay characters, notwithstanding all its men in uniforms.¹³⁸ This emphasis on reproduction prioritises the biological, sketching a world of essence.

The capstone of this emphasis on essence is the birth of Boomer and Lieutenant Karl C. “Helo” Agathon’s child, the first Human-Cylon hybrid, Hera.¹³⁹ However, the birth of a human-toaster hybrid destabilises the focus on reproduction. Roslin and Adama order that Hera be swapped at birth for a stillborn child, tricking Boomer into thinking her child died, while the grieving human mother adopts Hera ignorant of her unique parentage. This can be read as confirmation of the conservatism that underlies *Battlestar Galactica*’s surface progressiveness. “Colonial” societies have a history of attempting to eliminate cross-breeds through state-sponsored removal of children. However, Hera points towards something much more radical. Lost in the immediacy of a hysterical mother and an infant’s corpse, is the biological dictate, often abused in science fiction, that an offspring can only be the result of either an intra-species or extremely closely related species mating. Hera as a living infant invites the suggestion that has lingered throughout the series: If Cylons look and bleed like humans, and humans and Cylons can reproduce, are they not the same?

Rosi Braidotti has attempted to think through the dilemmas in feminist and critical theory offered by the binary alternatives of essence and anti-essences.¹⁴⁰ For her, feminism has remained at core “anti-essential,” believing in culture over nature, yet in doing so it has remained problematically engaged with essences.¹⁴¹ This seems to be animated in *Battlestar Galactica*’s projected failure of post-feminism. Images of equality and the freeing of the subject from gender and race are undermined by concrete biology. In response, Braidotti draws inspiration from discoveries within the biosciences, like transposition, which has diminished DNA’s status as the location for essentialism in revealing how organisms can influence DNA sequences.¹⁴² Her motivation lies within the challenge of the technical for critical theory. She accepts that contemporary technology is properly understood in the conflating of nature and culture, and the West’s technologically mediated life is marked by the proliferation of “hybrids” that are not capable of being consigned to either “nature” or “culture.” Within *Battlestar Galactica*, Hera, the combination of nature (biology) and culture (technology), imagines this wider thematic. With her birth, the prioritization of essential biological nature

by Season Two’s emphasis on reproduction is undone. “Tranposing” the essence is the Cylon, the technological object. In summary, the subject, on the surface post-feminist in its commitments, seems to be terrorised by the essentialism of biology. However, with Hera’s birth, *Battlestar Galactica* suggests that biology is technically mediated. This presents *Battlestar Galactica* as a text on “hybridity,” focusing on technology as opening a place between essence and anti-essence. This opening allows it to be read as sketching an alternative jurisprudence of technology.

Part IV: Frakking Toasters

It is not unexpected that *Battlestar Galactica*, as science fiction, can help explain human relationships to technology. Numerous critics have claimed that science fiction is a privileged site for this examination.¹⁴³ Writing about the original *Battlestar Galactica*, Roth perceived that it explored the relations between humanity and technology:

[t]he Cylons can be best understood as *doppelgängers* of the humans, and the real struggle in *Battlestar Galactica* takes place in an inner, not outer, space.... The Cylons are only a hypostatization of man’s tendency to rely on tools and weapons.¹⁴⁴

Roth’s analysis contained two directions. The first was a focus on the representation of the relationship between humans and machines, and the second a metaphysical construction of the proper relations between humanity and technology.

Following Roth’s first direction, the new *Battlestar Galactica* provides a wealth of images of the relations between humans and machines. At a primary level, the series presents images of mundane technological objects. As noted, *Battlestar Galactica* is unusual among other television spaceship science fictions in that the visible technologies are recognisable as familiar domestic instruments. There is even a comfortable oldness to the form, witnessed by the chunky corded telephones used by Adama and Roslin. This continues to the spaceships. They are just objects. The series, at this level, follows the *Star Wars* tradition of technological representation, for the ships are used, lived in, and junked.¹⁴⁵ The *Galactica* and her complement of aging Vipers are analogous to old motor vehicles—simple, lasting designs, endearing in their mechanical quirks.¹⁴⁶ These images of humans using domestic technology are

complemented by more industrial iconography. The interior scenes of the *Galactica*—with humans pushing *Vipers*, manhandling airlocks, and with manual tools dismantling ships—reminds one of a heavy industrial workplace. In this inter-tangling of bodies and machines, there is the erotic suggestion of the relations between the body and the technological object.¹⁴⁷

Another representation of technology in *Battlestar Galactica* lies in the relations between individual characters' sense of self and specific machines—Adama's affection for *Galactica*, Starbuck's relationship with the captured Cylon fighter, Chief Petty Officer Galen Tyrol's (Aaron Douglas) passion for the ships on his flight deck.¹⁴⁸ These multiple images combine to present the human society of *Battlestar Galactica* as a thoroughly technological one. Technology is not external, the monster to be banished, the Cylon to be fought, but is integral. Even at the level of keeping technology as things, and humans as beings, *Battlestar Galactica* presents a technological society composed of human-machine interactions. The message seems to be that there is no nature aboard spaceships, just human life fundamentally involved with machines.

Battlestar Galactica interrupts these images of technological society. It does not keep technology as things and humans as beings. The supposed external robotic enemy turns out to be very natural. Humanoid Cylons are not just flesh and blood, but the Cylon spaceships are organic beings; the inside of the fighter is brain and ooze,¹⁴⁹ and the interior of the Cylon battlestar is a mess of membranes and ligaments.¹⁵⁰ Where representation of technological society in *Battlestar Galactica* notices human-machine interaction, the Cylons present the intimacy of humanity and technology. This seems to be manifested in the relationship between Baltar and Number Six. Baltar is haunted by his Cylon lover, who sacrificed herself to save him. In each episode, she is shown accompanying him, making cynical comments, telling him what to say, and distracting him, causing his behaviour to perplex other characters. The series is ambiguous whether she is “actually” there, the personification of a link between Baltar and the Cylons, or whether she is a symptom of psychosis. The suggestion is that Baltar is infected by technology; his love of a “machine” has internalised the machine.

Baltar/Number Six recalls the second direction in Roth's analysis of the original series, the movement in thinking about technology from tools that humans use, to a metaphysical ideal that is manifested in instrumentality. From Max Weber,¹⁵¹ to Heidegger,¹⁵² to Herbert Marcuse,¹⁵³ a “modern” urge to rationalise, dissect and stockpile “nature” according to the desires of

an unconstrained human will, has been proposed. This forms the metaphysical account of technology. It involves two movements. The first is the suggestion that any serious thinking about technology should move beyond things and reposition the technical within humanity as *techné*.¹⁵⁴ The second is, notwithstanding attempts to distance recognition of *techné* from Luddite rejection,¹⁵⁵ a “romantic” conclusion—for example, Hannah Arendt’s observation that the Apollo space program, in turning away from the Earth, diminished humanity,¹⁵⁶ or Borgmann’s valorisation of the North American settler who lived an engaged life, compared to his Internet-surfing descendents.¹⁵⁷ The question the metaphysical account has posed is how to recover the human from technology. There has been the suggestion of opposing reason with imagination,¹⁵⁸ and also Heidegger’s suggestion to nurture Being through art.¹⁵⁹

In these attempts, a split humanity is postulated; *techné* emerges as a corrupted manifestation of human engagement with the world, a symptom of the loss of Being. *Techné* is part of a complicated movement that shifts technology from things to humans, only to then distinguish between a non-essential humanity given over to technology, and an essential non-technical humanity that can properly engage with the world. Technology goes from culture to nature and back to culture, while humanity is conceived intermediately as technological, but only as part of the process of identifying the non-technical essence of humanity.

Jurisprudence can be seen to follow this trajectory in its thinking about humanity and the technology. The arrival of technical artefacts, for example, the motorcar, Sputnik and IVF, has led to claims that law can regulate technology.¹⁶⁰ Fukuyama’s recent rallying against biotechnology is a clarion call for law to save humanity from technology.¹⁶¹ In these claims, law is conceived as an effective tool for social control, and the debate concerns the effectiveness of various legal regimes for achieving desirable ends.¹⁶² In legislating for humanity, this regulating law is ironic. This is law as *techné*, a law that rationalises, dissects, and provides categories through which humans engage with the world.¹⁶³ Schmitt is particularly pertinent in recognising legal-regulative schemes as technological. For Schmitt, positive laws are “technological,” fine for the everyday but incapable of responding to the irrationality of emergency brought by the enemy.¹⁶⁴ In Schmitt, law as technology is positioned outside of the true political essence of humanity. In so doing, he replicates the metaphysical account of technology’s concluding movement of stripping *techné* from humanity.

This specific intersection of *techné* and jurisprudence, at the place where law is called forth to regulate technology, is more widely reflected within legal theory. Beginning again with Schmitt, elements of his disagreements with Kelsen¹⁶⁵ are reiterated within post-war Anglo-American jurisprudence. Under the guise of debates about interpretation and the predicative efficacy of rules lay the question: when does technique end and a non-technical decision begin?¹⁶⁶ In discourses on lawyer professionalism and legal education, there are calls for lawyers to go beyond the technical application of rules in moments of character and judgment.¹⁶⁷ Even in attempts within legal theory to deal directly with technology, the metaphysical framework of *techné* holds sway. Louis E. Wolcher tries to transcend “technological thinking” through the virtues of freedom and ethical responsibility:

[i]f the Enlightenment watered the acorn that became the oak of technological thinking (the essence of technology), then it also gave us the profound idea and aspiration of *universal* human emancipation.¹⁶⁸

Wolcher can be seen following the metaphysical account of technology. Technology became conceived as an essence that is rejected in favour of a deeper essence.

It is tempting to argue that *Battlestar Galactica* provides an analogy of jurisprudence’s engagement with technology through enacting the metaphysical account of technology. As observed, the series presents multiple images of a technological society, of *techné* manifest in the world. It also presents this very humanity as moving precipitately toward annihilation by the embodiment of “machine thinking,” the robotic Cylons. And, to round off the analogy, this fleeing humanity is seeking a sanctuary, an Earth, a place where humanity can resist *techné* and nurture its fundamental non-technological essence. However, as was seen in regard to Schmitt and the exception, *Battlestar Galactica* tends to confound the clear categories of metaphysics. Simply, Baltar/Number Six are not arranged as might be expected. Baltar, the very human scientist and opportunist—the user of techniques to organise the world around him to his will—embodies *techné*, while Number Six, the supposed machine, in her talk of God and faith, in her sacrifice for “love,” manifests the “saving power”¹⁶⁹ of a deeper human essence.¹⁷⁰ In this, *Battlestar Galactica* gestures towards the limits of the metaphysical account of technology.

With Baltar/Number Six, Hera and the organic evolution of the Cylons, *Battlestar Galactica* actually suggests the dissolvability of humanity and technology: “[T]echnicity is not a perversion but a fatality, a fatality that we should not approach reactively, but *amorously*, that is affirmatively.”¹⁷¹ Sustained talk of essences and essential nature is not possible within *Battlestar Galactica*, as was anticipated when it became clear that its presentation of the subject emphasized a technologically mediated hybridism of nature and culture. In the alternative, the series presents a non-metaphysical (a “material,” to use Braidotti’s phrase¹⁷²) account of being-in the world that is grounded on the acceptance of the technological embodiment of humanity. In this, *Battlestar Galactica* animates an account of technology that takes its wellspring from Donna Haraway and Bruno Latour. Haraway and Latour both present non-metaphysical accounts of humanity and technology.¹⁷³ They reject romanticism and the search for the indomitable essence of human nature in their material accounts of being-in the actual world. Haraway’s project is oriented toward the necessary search for political engagement in a world where it must be accepted that technology has destabilized old binaries (Male/Female, Nature/Culture) that motivated past political action.¹⁷⁴ Latour’s project is focused on the proliferation of hybrids spawned by technological networks that remain only partially visible within modernity’s schema of “translation” and “purification.”¹⁷⁵ Notwithstanding, differences concerning the place of “postmodernity” and its key articulators within their work,¹⁷⁶ their central images—Haraway’s celebrated “cyborg” and Latour’s “networks”—both offer visions of a situated, embodied “techno-humanity”¹⁷⁷ where the boundaries between humans and machines, *techné* and essence are not meaningful: “cyborgs... are the subject of our prosthetic culture in a complex web of dynamics and technologically mediated social relations.”¹⁷⁸

In animating “techno-humanity,” *Battlestar Galactica* gestures towards alternative jurisprudences of technology. Its engagement with category and essence locates these alternatives within a complicated moment for critical theory where the metaphysics of technology is giving way to embodied, non-unitary accounts of being-in the world.¹⁷⁹ Indeed, *Battlestar Galactica*, in its tying together of alleged conflicts, Schmitt’s political metaphysics and subjectivity, nature and culture, and multiple visions of the relations between humanity and technology, is a text *par excellence* for capturing this metamorphosis. Further, its presentation of the irreducibility between humanity and technology, techno-humanity, points towards the “creativity”

and “prophetic energy”¹⁸⁰ needed for the jurisprudence of “our strange times.”¹⁸¹

Agamben elaborates elements of an alternative jurisprudence of technology in the *State of the Exception*. In this work, he exposes the fundamental function of the exception within the Western “juridico-political machine” as “instituting a threshold of undecidability between anomie and *nomos*, between life and law, between *auctoritas* and *potestas*.”¹⁸² Two elements of his work are illuminating. First, in contrast to Schmitt who saw the exception as the antithesis of technology, Agamben actively deploys technical metaphors: “device” for the exception, and “machine” for the political-legal system and its Western exegesis.¹⁸³ Second, he suggests that once the exception is properly located, it can be realised:

[t]here are not first life as a natural biological given and anomie as the state of nature, and then their implication in law through the state of exception. On the contrary, the very possibility of distinguishing life and law, anomie and *nomos*, coincides with their articulation in the biopolitical machine.¹⁸⁴

Agamben’s conclusion is a call for jurisprudence to “open a space for human activity” by “deactivation of the device that, in the state of exception, tied [law] to life.”¹⁸⁵ For Braidotti, Agamben’s translation of *zoe* as bare life that can only be killed limits his contribution. Braidotti identifies that Agamben defers to the “Heideggerian legacy that places mortality at the centre of philosophic investigation”¹⁸⁶ and so closes his analysis to a vitalistic account of *zoe* that could ground a nomadic ethics.¹⁸⁷ Raising Agamben and Braidotti is not to present either as a preferred direction. Rather, they present parallel attempts to think through techno-humanity in terms of life and law (Agamben) and life and ethics (Braidotti), both suggesting resources for the creative task of alternative jurisprudences of technology.

In summary, *Battlestar Galactica*’s representations of the technical exposes jurisprudence’s reliance on the metaphysics of technology that in one moment internalizes technology as *techné* and in the next expels it in favour of a more essential human condition. Further, *Battlestar Galactica* suggests, by way of an alternative imagining of humanity and technology, the image of techno-humanity, the irreducibility of technology and humanity. *Battlestar Galactica* even provides a slogan for this in the ambiguous phrase, “frakking toasters.” This phrase obscenely captures the transposition of biology and technology, and the objectifying and terrifying, yet intimate, place of technology within

contemporary being-in the world. In doing so, *Battlestar Galactica* provides a location for the opening up of jurisprudence to the “techno-human.”

CONCLUSION

The stated destination of the fleet in *Battlestar Galactica* is Earth, although Season Two finished with the humans stranded on the bleak New Caprica, with President Baltar capitulating to the invading Cylons.¹⁸⁸ This seems an appropriate summary of *Battlestar Galactica* as popular jurisprudence; it provides a goal to a discipline that is captured by notions of oppressive technology and essential humanity. In posing the image of “techno-humanity” as a starting point for alternative jurisprudences of technology, the series opens a space for creative engagement with non-metaphysical accounts of technological being-in the world.

Part II argued that *Battlestar Galactica* reveals some of the limits of the recent “return of the political” in the re-evaluation of Schmitt by Anglo-American jurisprudence. It showed how his metaphysical categories denied subjectivity. Part III argued that the seemingly post-feminist subject of *Battlestar Galactica* was terrorised by essential biology. However, this triumph of essentialism was short-lived. Its biology turned out to be transposed by technology. Part IV established that *Battlestar Galactica* presented multiple representations of humanity and technology. In its immediate imagining of a technological society facing complete annihilation by “machines,” it provides an analogy for the metaphysics of technology, a bringing of humanity and technology together in *techné* only to expel the technical, leaving behind the essential spark of humanity. While this metaphysics can be traced within jurisprudence, *Battlestar Galactica* subverts it through its image of the techno-humanity. It is this image that is offered as a direction for alternative jurisprudences of technology.

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1. William P. MacNeil, *Lex Populi* (Stanford: Stanford University Press, 2007).
 2. William P. MacNeil, “‘Kidlit’ as ‘Law and Literature’: Harry Potter and the Scales of Justice,” 14 *Law and Literature* 545–64 (2002).
 3. William P. MacNeil, “One Recht to Rule Them All! Law’s Empire in the Age of Empire,” 34 *Studies in Law, Politics and Society* 279–303 (2004).

4. William P. MacNeil, "PreCrime Never Pays! Law and Economics in Minority Report," 19 *Continuum: Journal of Media and Cultural Studies* 201–21 (2005).
5. William P. MacNeil, "'You Slay Me!': Buffy as Jurisprude of Desire," 24 *Cardozo Law Review* 2421–40 (2003).
6. Austin Sarat, Lawrence Douglas, and Martha Merrill Umphrey, "On Film and Law: Broadening the Focus," in Austin Sarat, Lawrence Douglas, and Martha Merrill Umphrey, eds., *Law on the Screen* (Stanford: Stanford University Press, 2005), 1–26.
7. See MacNeil, *supra* note 3.
8. See MacNeil, *supra* note 4.
9. Both were cancelled due to failing ratings; see John Kenneth Muir, *An Analytical Guide to Television's Battlestar Galactica* (Jefferson: McFarland, 1999), 27–33.
10. *Id.*, at 37–40; *Star Wars: A New Hope*. Dir. George Lucas. Twentieth Century Fox, 1977.
11. *Twentieth Century-Fox Film Corp v MCA, Inc.* 715 F.2d 1327 (9th Cir. 1983); Justin Hughes, "'Recoding' Intellectual Property and Overlooked Audience Interests," 77 *Texas Law Review* 922–1010 (1999).
12. *Battlestar Galactica Miniseries*. Sci Fi Channel/NBC Universal, 8 December 2003; *Battlestar Galactica*. Sci Fi Channel/NBC Universal, Season One, 14 January–1 April 2005; *Battlestar Galactica*. Sci Fi Channel/NBC Universal, Season Two, 15 July 2005–10 March 2006.
13. John Dempsey, "Sci Fi's 'Battlestar' Shines Brightly," *Variety*, April 11–17, 2005, at 18.
14. "Sci Fi Announces Caprica." 27 April 2006. Sci Fi Channel. 16 May 2006 <<http://www.scifi.com/scifiwire/index.php?category=2&id=35773>>.
15. James Poniewozik, "Best of 2005: Television," *Time*, December 16, 2005.
16. Susan Sontag, "The Imagination of Disaster," in Sean Redmond, ed., *Liquid Metal: The Science Fiction Film Reader* (London: Wallflower Press, 2004), 40–47.
17. Adam Roberts, *Science Fiction* (London: Routledge, 2000), 84–86.
18. Robert Scholes and Eric S. Rabkin, *Science Fiction: History, Science, Vision* (Oxford: Oxford University Press, 1977), 56–57.
19. On Larson's debt to Von Däniken, see Muir, *supra* note 9 at 5.
20. Mary Shelley, *Frankenstein: Or, the Modern Prometheus* (London: Lackington, 1818; New York: Signet, 1965); Jon Turney, *Frankenstein's Footsteps: Science, Genetics and Popular Culture* (New Haven: Yale University Press, 1998), 13–42.
21. *Blade Runner*. Dir. Ridley Scott. Warner Bros, 1982; J. P. Telotte, *Replications: A Robotic History of the Science Fiction Film* (Urbana: University of Illinois Press, 1995), 72–90, 152–154.
22. See Muir, *supra* note 9 at 5.
23. *Battlestar Galactica Miniseries*. Sci Fi Channel/NBC Universal, 8 December 2003.
24. Mary McNamara, "The Hit that Zaps Sci-Fi Cliches," *Multichannel News*, March 28, 2005, at 33.
25. Joanna Russ, *To Write Like a Woman: Essays in Feminism and Science Fiction* (Bloomington: Indiana University Press, 1995), 41–59.
26. Dirk Benedict, the actor who originally played Starbuck, also was unimpressed: Dirk Benedict "Starbuck: Lost in Castration." May 2004. Dirk Benedict Central. 14 May 2006 <http://www.dirkbenedictcentral.com/home/articles-archive.php>.
27. See Muir, *supra* note 9 at 167.
28. David Basson, *Battlestar Galactica: The Official Companion* (London: Titan, 2005), 18.
29. James E. Ford, "Battlestar Galactica and Mormon Theology," 17 *Journal of Popular Culture* 83–87 (1983); Mark Siegel, "Science-Fiction Characterization and TV's Battle for the Stars," 7 *Science-Fiction Studies* 270–277 (1980).
30. See Muir, *supra* note 9 at 153.
31. "Bastille Day." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 21 January 2005.
32. "The Captain's Hand." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 17 February 2006.
33. "Downloaded." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 24 February 2006.

34. Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon and Schuster, 1996).
35. Nancy Franklin, “Across the Universe (*Battlestar Galactica*)” 81 *The New Yorker* 92 (2006). On the fan support for the show, see the blog of Gen-X filmmaker Kevin Smith, reflecting on his own cult excursion to a *Battlestar Galactica* panel at a sci-fi convention. Kevin Smith, “B-Star G.” 3 March 2006. 11 May 2006 <<http://silentbobspeaks.com/?m=20060303>>.
36. See Basson, *supra* note 28 at 12.
37. “Flesh and Bone.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 25 February 2005.
38. “Pegasus.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 23 September 2005; “Resurrection Ship, Part 1.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 6 January 2006; “Resurrection Ship, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 13 January 2006.
39. “Final Cut.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 9 September 2005.
40. “Fragged.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 29 July 2005; “Resistance.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 5 August 2005.
41. “Colonial Day.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 18 March 2005.
42. “Lay Down Your Burdens, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 March 2006.
43. “The Farm.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 12 August 2005.
44. Gaven Edwards, “Intergalactic Terror: ‘Battlestar Galactica’ Tackles Terrorism like No Other Show,” *Rolling Stone*, January 27, 2006. May 11, 2006 <http://www.rollingstone.com/news/story/9183391/intergalactic_terror>.
45. For example, Paul Joseph and Sharon Caron, “The Law of the Federation: Images of Law, Lawyers and the Legal System in *Star Trek: The Next Generation*,” 24 *University of Toledo Law Review* 43–97 (1992).
46. “Litmus.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 11 February 2005.
47. “Pegasus.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 23 September 2005.
48. “Flesh and Bone.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 25 February 2005 (Starbuck).
49. Mentioned in the swearing ceremonies for Roslin and Baltar, *Battlestar Galactica Miniseries*. Sci Fi Channel/NBC Universal, 8 December 2003; “Lay Down Your Burdens.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 March 2006.
50. Jeffery Nesteruk, “A New Narrative for Corporate Law,” 23 *Legal Studies Forum* 281–92 (1999); Robin Roberts, “Rape, Romance and Consent in *Star Trek: The Next Generation*,” 40 *Extrapolation* 21–35 (1999); Michael Stokes Paulsen, “Captain James T. Kirk and the Enterprise of Constitutional Interpretation: Some Modest Proposals from the Twenty-Third Century,” 59 *Albany Law Review* 671–92 (1995).
51. Richard J. Peltz, “On a Wagon Train to Afghanistan: Limitations on *Star Trek*’s Prime Directive,” 25 *University of Arkansas at Little Rock Law Review* 635–664 (2003).
52. Kieran Tranter, “Mad Max: The Car and Australian Governance,” 5 *National Identities* 67–81 (2003).
53. David W. Sisk, *Transformations of Language in Modern Dystopias* (Westport: Greenwood Press, 1997), 2.
54. “Resistance.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 5 August 2006.
55. Robert M. Cover, “Violence and the Word,” 95 *Yale Law Journal* 1601–30 (1985).
56. Season One begins with a survivor count of 47,973. The count at the end of Season Two is 49,550. The increase comes from the fleet finding the Battlestar Pegasus halfway through Season Two. Aside from this one-off increase, the numbers each week decrease.
57. “Colonial Day.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 18 March 2005.
58. “Bastille Day.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 21 January 2005; “Sacrifice.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 February 2006.
59. “Black Market.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 27 January 2006.

60. "Flesh and Bone." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 25 February 2005. This execution was threatened to be used against Boomer in "Home, Part 1" (*Battlestar Galactica*. Sci Fi Channel/NBC Universal, 19 August 2005) and carried out against the two "Brother Cavil" Cylons (Dean Stockwell) in "Lay Down Your Burdens, Part 2" (*Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 March 2006).
61. "The Hand of God." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 11 March 2005.
62. Carl Schmitt, "The Age of Neutralizations and Depoliticizations," Matthias Konzett and John P. McCormick, trans. 96 *Telos* 130–142 (1993); Pierre Bourdieu, *The Political Ontology of Martin Heidegger*, Peter Collier, trans. (Oxford: Blackwell, 1991), 26–27.
63. "The Captain's Hand." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 17 February 2006; "Downloaded." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 24 February 2006; "Lay Down Your Burdens, Part 1." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 3 March 2006; "Lay Down Your Burdens, Part 2." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 March 2006. What amused fans was that Hatch, who played Apollo in the original, headed up a rival consortium planning to revive *Battlestar Galactica*. It was fitting that he should be the rival political leader.
64. "Epiphanies." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 20 January 2006.
65. "Sacrifice." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 February 2006.
66. "The Captain's Hand." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 17 February 2006.
67. "Black Market." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 27 January 2006.
68. Carl Schmitt, *The Concept of the Political*, George Schwab, trans. (Chicago: University of Chicago Press, 1996), 32.
69. "Colonial Day." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 18 March 2005. "The essence of parliament is therefore public deliberation of argument and counterargument, public debate and public discussion, parley, and all this without taking democracy into account." Carl Schmitt, *The Crisis of Parliamentary Democracy*, Ellen Kennedy, trans. (Cambridge, MA: The MIT Press, 1988), 34–35. Schmitt's theory of democracy is not the liberal norm of representative democracy, and with it majorities and minorities, but the metaphysical affirmation of the leader by the nation; see Ellen Kennedy, "Carl Schmitt and the Frankfurt School," 71 *Telos* 37–66 (1987).
70. "Kobol's Last Gleaming, Part 2." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 1 April 2005.
71. Ernst-Wolfgang Böckenförde, "The Concept of the Political: A Key to Understanding Carl Schmitt's Constitutional Theory," in David Dyzenhaus, ed., *Law as Politics: Carl Schmitt's Critique of Liberalism* (Durham: Duke University Press, 1998) 37–55, at 44. Piccone and Ulmen suggest that in the halcyon days of 1933, Schmitt was encouraging the army to seize power as an alternative to Hitler. Paul Piccone and Gary Ulmen, "Uses and Abuses of Carl Schmitt," 128 *Telos* 3–32 (2002). However, one of Schmitt's biographers seems to suggest otherwise. Joseph W. Bendersky, *Carl Schmitt: Theorist for the Reich* (Princeton: Princeton University Press, 1983), 28.
72. See McCormick's discussion of Carl Schmitt, *Die Diktatur: Von den Anfängen des modernen Souveränitätsgedankens bis zum proletarischen Klassenkampf* (1921) in John P. McCormick, *Carl Schmitt's Critique of Liberalism: Against Politics as Technology* (Cambridge: Cambridge University Press, 1997), 122–133. An alternative account of the relation is provided in Giorgio Agamben, *State of Exception*, Kevin Attell, trans. (Chicago: University of Chicago Press, 2005), 35.
73. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, George Schwab, trans. (Cambridge, MA: The MIT Press, 1985). See generally George Schwab, *The Challenge of the Exception* (New York: Greenwood Press, 1989 2nd ed.), 29–43.
74. See McCormick, *supra* note 72 at 147, commenting on Carl Schmitt, *Legality and Legitimacy*, Jeffery Seitzer, trans. (Durham: Duke University Press, 2004), 69.
75. "Kobol's Last Gleaming, Part 2." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 1 April 2005 (Adama).

76. “Scattered.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 15 July 2005; “Valley of Darkness.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 22 July 2005; “Fragged.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 29 July 2005; and “Resistance.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 5 August 2005.
77. “The Farm.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 12 August 2005.
78. See Schmitt, *supra* note 73 at 5, and Andreas Kalyvas, “Carl Schmitt and the Three Moments of Democracy,” 21 *Cardozo Law Review* 1525–65 (2000).
79. See Schmitt, *supra* note 68 at 26.
80. See Agamben, *supra* note 72; Mark Tushnet, “Emergencies and the Idea of Constitutionalism,” in Mark Tushnet, ed., *The Constitution in Wartime* (Durham: Duke University Press, 2005), 39–54; Bruce Ackerman, “The Emergency Constitution,” 113 *Yale Law Journal* 1029–1091 (2004); Fleur Johns, “Guantánamo Bay and the Annihilation of Exception,” 16 *European Journal of International Law* 613–35 (2005); David Dyzenhaus, “Schmitt v Dicey: Are States of Emergency Inside or Outside the Legal Order?” 27 *Cardozo Law Review* 2006–2039 (2006); and David Dyzenhaus, “The State of Exception in Legal Theory,” in Victor V. Ramraj, Michael Hor, and Kent Roach, eds., *Global Anti-Terrorism Law and Policy* (Cambridge: Cambridge University Press, 2005), 65–89. Müller reminds us that while Schmitt’s thought seems readily applicable to terrorism, as evident by his Anglo-American revival after 9/11 and his earlier revival within European thought during the terrorism of the 1970s, Schmitt did not theorise terrorism. Jan-Werner Müller, *A Dangerous Mind: Carl Schmitt in Post-War European Thought* (New Haven: Yale University Press, 2003), 181–82.
81. See Schmitt, *supra* note 68 at 28.
82. *Id.*, at 29–30.
83. Robert Howse, “From Legitimacy to Dictatorship—and Back Again: Leo Strauss’s Critique of the Anti-Liberalism of Carl Schmitt,” in David Dyzenhaus, ed., *Law as Politics: Carl Schmitt’s Critique of Liberalism* (Durham: Duke University Press, 1998), 56–91.
84. Corey Robin, *Fear: The History of a Political Idea* (Oxford: Oxford University Press, 2004), 42.
85. Chantal Mouffe, *The Return of the Political* (London: Verso, 1993), 132.
86. Michael Ryan and Douglas Kellner, “Technophobia,” in Annette Kuhn, ed., *Alien Zone: Cultural Theory and Contemporary Science Fiction Cinema* (London: Verso, 1990), 58–65.
87. In “Flight of the Phoenix.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 16 September 2005. Adama begins to “trust” Boomer. By the season finale, Boomer takes part, relatively unguarded, in the rescue mission of the remnant resistance fighters on Caprica, “Lay Down Your Burdens, Part 1.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 3 March 2006.
88. “Downloaded.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 24 February 2006; “Lay Down Your Burdens, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 March 2006.
89. Paul Hurst, “Carl Schmitt’s Decisionism,” in Chantal Mouffe, ed., *The Challenge of Carl Schmitt* (London: Verso, 1999), 7–19, 12–13.
90. See Schmitt, *supra* note 68 at 29.
91. “33.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 14 January 2005.
92. “Resurrection Ship, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 13 January 2006.
93. See Howse, *supra* note 83 at 69: “[t]he higher men determine the antagonisms that justify obedience from the lower men.”
94. “Home, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 26 August 2006.
95. “Lay Down Your Burdens, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 March 2006.
96. *Battlestar Galactica Miniseries*, Sci Fi Channel/NBC Universal, 8 December 2003.
97. “Resurrection Ship, Part 1.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 6 January 2006.
98. See Schmitt, *supra* note 68 at 28; Schmitt, *supra* note 62 at 130.
99. See Schmitt, *supra* note 73; McCormick *supra* note 72 at 194.

100. Carl Schmitt, "State Ethics and the Pluralist State," Belinda Cooper, trans. in Arthur J. Jacobson and Bernhard Schlink, eds., *Weimar: A Jurisprudence of Crisis* (Berkeley: University of California Press, 2000), 300–312.
101. Martin Heidegger, *Being and Time*, Joan Stambaugh, trans. (New York: SUNY Press, 1996), 118–22; Tom Rockmore, "Heidegger on Technology and Democracy," in Langdon Winner, ed., *Democracy in a Technological Society* (Dordrecht: Kluwer, 1992), 187–205.
102. Ellen Kennedy, "Hostis Not Inimicus: Toward a Theory of the Public in the Work of Carl Schmitt," in David Dyzenhaus, ed., *Law as Politics: Carl Schmitt's Critique of Liberalism* (Durham: Duke University Press, 1998), 92–108.
103. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, Daniel Heller-Roazen, trans. (Stanford: Stanford University Press, 1998), 176–79.
104. *Id.*, at 123.
105. *Id.*, at 83.
106. See Edwards, *supra* note 44.
107. Francis Fukuyama, *The End of History and the Last Man* (New York: Avon Books, 1992).
108. See Schwab, *supra* note 73 at 115.
109. On the popularity of Starbuck among women, see Smith *supra* note 35.
110. The character of Elosha (Lorena Gale).
111. "Scar." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 3 February 2006.
112. Mentioned by characters in *Battlestar Galactica Miniseries*. Sci Fi Channel/NBC Universal, 8 December 2003; "Water." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 14 January 2005; and "Pegasus." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 23 September 2005. Having been defeated by Baltar for the Presidency, Roslin is depicted in "Lay Down Your Burdens, Part 2" as returned to the classroom as a schoolteacher. *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 March 2006.
113. Imelda Staehelin, *Modern Feminist Thought* (Edinburgh: Edinburgh University Press, 1995), 196–97.
114. Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development* (Cambridge, MA: Harvard University Press, 1982).
115. Tom Wolfe, *The Right Stuff* (New York: Bantam, 1980); Gary Konas, "Traveling 'Further' with Tom Wolfe's Heroes," 28 *Journal of Popular Culture* 177–192 (1994).
116. "33." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 14 January 2005.
117. Shulamith Firestone, *The Dialectic of Sex* (New York: William Morrow, 1970), 270.
118. "Tigh Me Up, Tigh Me Down." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 4 March 2005.
119. "Epiphanies." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 20 January 2006 (Roslin).
120. What drew the actors to the series was the strength of the characterisation. Basson, *supra* note 28 at 98–125.
121. Denise Alessandria Hurd, "The Monster Inside: 19th Century Racial Constructs in 24th Century Mythos of *Star Trek*," 31 *Journal of Popular Culture* 23–35 (1997); Monica Beatriz de Mello Patterson, "America's Racial Unconscious: The Invisibility of Whiteness," in Joe L. Kincheloe, Shirley R. Steinberg, Nelson M. Rodriguez, and Ronald E. Chennault, eds., *White Reign: Deploying Whiteness in America* (New York: St Martins Griffin, 1998), 103–22.
122. Derrick Bell, "Racial Realism," 24 *Connecticut Law Review* 363–379 (1992).
123. Although Edward James Olmos is well regarded as a Hispanic actor, his presence is "white" in *Battlestar Galactica*.
124. Patricia Williams, *The Alchemy of Race and Rights: Diary of a Law Professor* (Cambridge, MA: Harvard University Press, 1991).
125. *Battlestar Galactica Miniseries*. Sci Fi Channel/NBC Universal, 8 December 2003 (Number Six).
126. "You Can't Go Home Again." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 4 February 2005.

127. “Act of Contrition.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 28 January 2005.
128. Orit Kamir, *Every Breath You Take: Stalking Narratives and the Law* (Ann Arbor: University of Michigan Press, 2001), 41.
129. “Pegasus.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 23 September 2005.
130. “Kobol’s Last Gleaming, Part 1.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 25 March 2005; “Kobol’s Last Gleaming, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 1 April 2005; “Scattered.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 15 July 2005; “Valley of Darkness.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 22 July 2005; “Fragged.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 29 July 2005; “Resistance.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 5 August 2005.
131. “The Farm.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 12 August 2005.
132. This image was classically rendered by Frank Herbert in his *Dune* series with the transformation of women into “axolotl tanks” by a civilisation of genetic engineers; it was first revealed in Frank Herbert, *Heretics of Dune* (London: New English Library, 1984).
133. “The Farm.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 12 August 2005 (Boomer/Number Eight).
134. *Battlestar Galactica Miniseries*. Sci Fi Channel/NBC Universal, 8 December 2003 (Adama).
135. “The Captain’s Hand.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 17 February 2006.
136. “Lay Down Your Burdens, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 March 2006.
137. “Resurrection Ship, Part 1.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 6 January 2006; “Resurrection Ship, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 13 January 2006; and “Downloaded.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 24 February 2006. This aspect of *Battlestar Galactica* reproduces many of the anxieties (mass-produced duplicates, fractured identities, uncanny mental powers such as telepathy) that science fiction has suggested will accompany human cloning. Christine Corcos, Isabel Corcos, and Brian Stockhoff, “Double-Take: A Second Look at Cloning, Science Fiction and Law,” 59 *Louisiana Law Review* 1041–99 (1999).
138. Constance Penley, *NASA/TREK: Popular Sciences and Sex in America* (London: Verso, 1997).
139. “Downloaded.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 24 February 2006.
140. Rosi Braidotti, *Nomadic Subjects: Embodiment and Sexual Difference in Contemporary Feminist Theory* (New York: Columbia University Press, 1994), 177.
141. *Id.*, at 148.
142. Rosi Braidotti, *Transpositions: On Nomadic Ethics* (Cambridge: Polity Press, 2006), 6.
143. See Telotte, *supra* note 21; Vivian Sobchack, *Screening Space: The American Science Fiction Film*, 2nd enlarged ed. (New Brunswick: Rutgers University Press, 1997); and T. J. Matheson, “Marcuse, Ellul and the Science Fiction Film: Negative Responses to Technology” 19 *Science-Fiction Studies* 326–39 (1992).
144. Lane Roth, “Ambiguity of Visual Design and Meaning in TV’s *Battlestar Galactica*,” 24 *Extrapolation* 80–87 (1983).
145. On this technological aesthetics in *Star Wars* as a manifestation of relations with aging motor vehicles, see Vivian Sobchack, “Science Fiction Film and the Technological Imagination,” in Marita Sturken, Douglas Thomas, and Sandra J. Ball-Rokeach, eds., *Technological Visions: The Hopes and Fears that Shape New Technologies* (Philadelphia: Temple University Press, 2004), 145–158.
146. On this particularly male relationship to motor vehicles, see Linley Walker, “Under the Bonnet: Car Culture, Technological Dominance, and Young Men of the Working Class,” 3 *Journal of Interdisciplinary Gender Studies* 23–43 (1998).
147. Jean Baudrillard, “Crash,” 18 *Science Fiction Studies* 313–20 (1991).
148. In “Flight of the Phoenix.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 16 September 2005, this is emphasised through the construction of a new fighter that boosted the morale of the crew.

149. "You Can't Go Home Again." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 4 February 2005.
150. "Kobol's Last Gleaming, Part 2." *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 1 April 2005.
151. Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, Talcott Parsons, trans. (London: Routledge, 1992), 180–82.
152. Martin Heidegger, "The Question Concerning Technology," in *The Question Concerning Technology and Other Essays*, William Lovitt, trans. (New York: Harper and Row, 1977), 3–35.
153. Herbert Marcuse, *One Dimensional Man: Studies in the Ideology of Advanced Industrial Society* (Boston: Beacon Press, 1964).
154. Bernard Stiegler, *Technics and Time, 1: The Fault of Epimetheus*, Richard Beardsworth and George Collins, trans. (Stanford: Stanford University Press, 1998), 1.
155. Marcuse, *supra* note 153 at 59.
156. Hannah Arendt, "The Conquest of Space and the Stature of Man," in *Between Past and Future* (New York: Penguin, 1977), 265–80.
157. Albert Borgmann, *Holding On to Reality: The Nature of Information at the Turn of the Millennium* (Chicago: Chicago University Press, 1999), 223–224.
158. Marcuse, *supra* note 153 at 249; Jacques Ellul, *The Technological Society*, John Wilkinson, trans. (New York: Knopf, 1964), 418; Theodore Roszak, *The Making of a Counter Culture: Reflections of the Technocratic Society and Its Youthful Opposition* (London: Faber and Faber, 1968).
159. See Heidegger, *supra* note 152 at 34.
160. Kieran Tranter, "'The History of the Haste-Wagons': *The Motor Car Act 1909* (Vic), Emergent Technology and the Call for Law," 29 *Melbourne University Law Review* 843–79 (2005); Barton Beebe, "Law's Empire and the Final Frontier: Legalizing the Future in the Earlyorpus Juris Spatialis," 108 *Yale Law Journal* 1737–73 (1999); Lyria Bennett Moses, "Understanding Legal Responses to Technological Change: The Example of *In Vitro* Fertilization," 6 *Minnesota Journal of Law, Science and Technology* 505–618 (2005).
161. Francis Fukuyama, *Our Posthuman Future: Consequences of the Biotechnological Revolution* (New York: Farrar, Straus and Giroux, 2002), 11, 194.
162. Laurence Tribe, *Channeling Technology through Law* (Chicago: The Bracton Press, 1973).
163. Alain Pottage "Unitas Personae: On Legal and Biological Self-Narration," 14 *Law and Literature* 275–309 (2002).
164. This is brought clearly out by McCormick, *supra* note 72 at 206–48.
165. See Schwab, *supra* note 73 at 44–55.
166. H.L.A. Hart, *Concept of Law* (Oxford: Clarendon Press, 1961); H.L.A. Hart, "American Jurisprudence Through English Eyes: The Nightmare and the Noble Dream," 11 *Georgia Law Review* 969–989 (1977); Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977), 48–71; Ronald Dworkin, *Law's Empire* (Oxford: Hart Publishing, 1986).
167. Anthony T. Kronman, "Living in the Law," 54 *University of Chicago Law Review* 835–876 (1987); Margaret Thornton, "Technocentrism in the Law School: Why the Gender and Colour of Law Remain the Same," 36 *Osgoode Hall Law Journal* 369–98 (1998).
168. Louis E. Wolcher, "The End of Technology: A Polemic," 79 *Washington Law Review* 331–88 (2004) (*italics in original*).
169. See Heidegger, *supra* note 152 at 28.
170. Number Six seems to embody what Hubert L. Dreyfus, *On the Internet* (London: Routledge, 2001), 98–99, drawing on Kiekegaard, suggests will save humanity from the nihilism of the Internet, "unconditional commitment."
171. Simon Critchley, *Ethics-Politics-Subjectivity: Essays on Derrida, Levinas, and Contemporary French Thought* (London: Verso, 1999), 176 (*italics in original*).
172. Rosi Braidotti, *Metamorphoses: Towards a Materialist Theory of Becoming* (Cambridge: Polity Press, 2002), 20–22.

173. Donna J. Haraway, *Simians, Cyborgs, and Women: The Reinvention of Nature* (New York: Routledge, 1991); Donna J. Haraway, *Modest_Witness@Second_Millennium.FemaleMan_Meets_OncoMouse: Feminism and Technoscience* (New York: Routledge, 1997); Bruno Latour, *We Have Never Been Modern* Catherine Porter, trans. (Cambridge, MA: Harvard University Press, 1993).
174. Rosi Braidotti, *Patterns of Dissonance: A Study of Women in Contemporary Philosophy*, Elizabeth Guild, trans. (Cambridge: Polity Press, 1991), 27; Rosi Braidotti, *supra* note 140 at 104–05.
175. *See* Latour, *supra* note 173 at 10–11.
176. *Id.*, at 134. Latour has tried to locate his work outside of postmodernity. Haraway, in the alternative, seems celebrated as a postmodern par excellence; *see* Braidotti, *supra* note 140.
177. The term “techno-humanity” is preferred over alternatives such as “posthumanity” or “cyborg.” Posthumanity, as seen in Fukuyama, can lead to extreme speculation on the ends of the human condition, while cyborg is arguably too over-determined by Hollywood’s images of enhanced warriors or feminist science studies narratives of empowered girls with computers. On the latter, *see* Nina Lykke, “Between Monsters, Goddesses, and Cyborgs: Feminist Confrontations with Science,” in Nina Lykke and Rosi Braidotti, eds., *Between Monsters, Goddesses, and Cyborgs: Feminist Confrontations with Science, Medicine, and Cyberspace* (London: Zed Books, 1996), 13–29.
178. *See* Braidotti, *supra* note 142 at 37.
179. *Id.*, at 135.
180. *Id.*, at 273.
181. *Id.*, at 10.
182. *See* Agamben, *supra* note 72 at 86.
183. *Id.*, at 87 (italics in original).
184. *Id.* (italics in original).
185. *Id.*, at 88.
186. *See* Braidotti, *supra* note 142 at 247.
187. *Id.*, at 39.
188. “Lay Down Your Burdens, Part 2.” *Battlestar Galactica*. Sci Fi Channel/NBC Universal, 10 March 2006.

