

## We're All Infected; Legal Personhood, Bare Life and *The Walking Dead*

Word Count: 6,906

Comics may not provide us with [an] itemized vision of the new justice for which we yearn in these hard times, but it can warn us about the intrinsic shortcomings of our fading ideological hopes and point us towards new horizons.[16:22]

You told me there was no cure, that these people were dead, not sick. I chose not to believe it. But when Shane shot Lou in the chest and she just kept coming, that's when I knew what an ass I've been. That Annette had been dead long ago and I was feeding a rotten corpse! That's when I knew there was no hope. And when that little girl came out of the barn, the look on your face - I knew you knew it too. Right? There is no hope. And you know it, like I do. Don't you? There is no hope for any of us. [38: 208]

### Introduction

This article considers the zombie as a signifier using the popular comic book and television series *The Walking Dead* as a point of critical departure. Not only is it one of the most recent cultural portrayals of the zombie narrative but its serialised style allows a broader interrogation of the relationships between law, humanity and zombies. The central question this article asks is what does our cultural fascination with the figure of the zombie point towards? It analyses the zombie through existing medical law on permanent vegetative states, Agamben's understanding of 'bare life' and Esposito's concept of 'the third person'. It traces the interesting points of juxtaposition between these theories; particularly around acts and omissions on micro and macro scales. Ultimately, the article moves towards a rejection of legal personhood and advocates a move towards a human (or embodiment) centred approach to rights, although it is acknowledged that this is also contested by the figure of the zombie. This paper ultimately aims to provide evidence that the zombie is a concept worthy of

theoretical attention in the fields of cultural studies, law, philosophy and intersections that exist between these fields.

### *The Walking Dead*

It is perhaps important to note the typology of the zombie narrative that this article is situated within. *The Walking Dead* utilizes a type of zombie that began with George A. Romero's *Night of the Living Dead* [33]. The film took place at the height of the cold war and thus projected two of America's greatest anxieties. Firstly, the film deals with the idea of the enemy within – communist sympathisers who had already infected the sovereignty of the USA [17]. Secondly, the film highlights a growing cultural concern with the fallout of the atomic bomb [8]. More recently, these ideas have been filtered through languages of contagion [6, 34], commodification [24, 6] and chemical warfare [9]. The figure of the zombie in both Romero's films and *The Walking Dead* exhibit a number of characteristics, firstly, they appear dead in the sense that they are undergoing various stages of decomposition and rigor mortis. Secondly, in contrast to the dead they are capable of both movement and desire (although their desires are confined to the consumption of human flesh). Thirdly, they cannot be killed by conventional means (with the exception of a sharp blow to the head). This article, therefore, distinguishes its discussion of zombies from the philosophical discussions of the zombie in consciousness studies. In this line of questioning the zombie is considered to be a being that is 'functionally identical to us, but who have no consciousness' [26]. These debates arose from a series of thought experiments conducted to ascertain whether we could ever know if another being had consciousness [21, 27]. Though consciousness is inevitably intertwined with any investigation of personhood it can be argued

that is not essential to determining persons in the legal sense. This will be made clearer though a discussion of the UK case of *Bland* [2].

*The Walking Dead* presents an interesting starting point for discussions of law and justice. The world as we know it has been swept away and much of the series (and comic book) deals with questions of loss and re-appropriation. The serialised nature of both the television series and the comic books allow for much more detail than the standardised zombie film. Indeed, in an interview, the creator of the comic book Robert Kirkman noted that his primary concern in writing the series was ‘what comes after [the hypothetical zombie film]’ [37]. In particular he was interested in the development of characters as they adapt to this new world [37]. Though the existing legal structure has been decimated these texts remain ‘lawful’ in the sense of being ‘full of law’ [42]. Law and justice become central tenants of what it means to be a human. The series centres around the character of Rick Grimes, a small town police officer from Atlanta, Georgia injured in the line of duty. Interestingly, Rick chooses to retain his identity as a police officer through the clothes that he wears and the mannerisms which he adopts. Both of which, perhaps holding a symbolic resonance, even where the discursive and institutional foundations that they rely upon, have been lost.

As a consequence, *The Walking Dead* is revealing of deeper cultural understandings around the importance of law and justice freed, somewhat, from the doctrine of precedent [40]. It is important to engage with these debates; what is it important to hold on to? And what can we go without? Science fiction is, according to Kieran Tranter, ‘the West’s mythform’ [39:818]. Science fiction, he continues, ‘...is the dreaming site for the West’s technological futures, a place for working through both the anxieties and promises of technological change’ [39:818].

This article will consider how *The Walking Dead* deals with zombies, and as such, interrogates the deeper meanings and messages that are revealed about our cultural responses to legal personhood. In so doing, it engages with Gómez Romero and Dahlman's conceptualisation of graphic novels as 'a source of narratives on issues of legality, order and justice, but also as an alternative legal discourse that enables complex interactions between various epistemological standpoints' [16:6]. In the following section we will outline a debate between the characters Rick Grimes and Hershel Greene around the potential of zombies to be treated as persons and the duties that society may consequently owe them.

### Hershel's Choice

Hershel: I saw the broadcasts before they stopped, saw the irrational fear, the atrocities, like the incident at my well.

Dale: We put down a walker.

Hershel: You killed a person.

Dale: Well, if you watched the same broadcasts I did, you saw walkers attack, kill. They're dangerous.

Hershel: A paranoid schizophrenic is dangerous too. We don't shoot sick people.

Dale: With all due respect, you are cut off from the outside world here. But I've seen people that I cared about die and come back, and they're not people.

Hershel: My wife and stepson are in that barn. They're people.

Dale: I'm sorry. [38:206]

Over the course of series 2 of *The Walking Dead* and during Issues 11-14 of the comic book (collected in *Miles Behind Us*) an alternative perspective of zombies is outlined by the character of Hershel Greene. Hershel, a veterinarian-come-farmer is the owner of a barn

where the characters seek refuge. Seemingly in contrast to the rest of the world, Hershel refuses to 'kill' zombies. Instead, Hershel advocates treating them humanely - trapping them in a barn and feeding them – much to the dismay of the other characters. Part of Hershel's rationale for this approach is that he believes that these individuals can be cured. He believes that they have merely contracted a virus and that in some point in the future their humanity (whatever this might entail) may be restored. Rick Grimes presents the alternative position. He is of the opinion that zombies are not people and that their humanity and any traces of legal rights or duties are lost. This happens not upon the moment of viral transmission (for example a zombie bite) but upon the moment of death [38:105].

Both positions may have been adopted for contextual reasons. Rick's pragmatic position has been developed in a context of 'life on the road' and protecting his family and fellow survivors. In a sense, Rick has developed a permanent claim of self-defence towards zombies and as a consequence does not have to think about the issues of personhood that this evokes. Hershel, in contrast, has developed his approach from the safety of his own home. He has had, by his own admission, relatively few encounters with the living dead. Those encounters that he has had have been with neighbours, friends and family. He is unwilling to believe, that they could permanently be considered as no longer persons. These debates raise an intriguing proposition for theorists of legal personhood; can the dead have legal personhood?

Can the Dead have Personhood?

Corpses provide an ambivalent point within the human/nonhuman issue as they are both and neither human/nonhuman – the *were* that do and don't count. The corpse is the actual material residue of 'the human.' [25:339]

Legal personhood is a recurring theme in Western jurisprudence that has been utilised in a number of competing ways by a number of differing interest groups [28]. At different times, Naffine notes, personhood has been based upon concepts of rationality, ensoulment, embodiment and law [28]. These approaches are not exclusive and at various points colonize, compete and combine with one another. The approach taken by law to personhood is context dependent and will vary according to both the facts and the subjects to whom it refers [4, 23, 31, 43]. Legal personhood, therefore, is not a static ascription based on clearly defined characteristics but is a space of active interplay between the discursive, the institutional and the material. This interplay demands two sites of interrogation. Firstly, the 'active' nature of personhood demands attention; what does activity mean and what happens to personhood in cases of inactivity? Secondly, are these activities understood differently through different sites of corporeality and embodiment?

Understanding personhood as active rather than static gives legitimacy to the value placed on autonomy in most Western understandings of personhood [28]. Combining the above questions around embodiment and dynamism we can view legal personhood as 'the way in which autonomy and normativity are given legal value and recognition' [41:13]. This definition only forms a part of the broad tapestry of legal personhood but offers a suitable starting point for discussion. Viewing personhood through this prism of autonomy is further supported by the states reluctance to impose upon autonomy; any other approach would contest the legal personhood of the individual. As a consequence, any encroachment of an individual's autonomy by the state must be questioned in terms of activity and embodiment in order to determine its objectivity; both areas are potentially sites of discrimination.

Ngairé Naffine encounters these problems in her discussion of *Re MB (Medical Treatment)* (1997) [32] in which the UK Court of Appeal considered a woman's refusal to undergo a caesarian section due to her phobia of needles [29:16-17]. In this instance the activity (pregnancy) and embodiment (the pregnant female body) are intertwined. The subsequent denial of autonomy, for Naffine, can be read as a legal conflation between personhood and the masculine (normative) body. The Court's decision to find MB incompetent allows her personhood, contextually and temporarily, to be suspended. Naffine notes that:

[F]or most of the time, for most legal relationships, women clearly are persons. They can now bear personifying rights and responsibilities in much the same manner as men can as legal persons. But it is far less clear that women, *as women*, are persons in law. As soon as there is something about the condition of women which seems to mark them out as women, as specifically not-male, then problems of personification are encountered. [29:16-17]

The relationship between the body and the activity of pregnancy has led Naffine to conclude that it is women's bodies that render them imperfect legal subjects [29:16-17]. However, disentangling the body and the activity is important for a clearer understanding of personhood. In this instance MB retained her personhood in terms of the duties she was owed and that she owed to others. For example, it would have been illegal for the nurse to purposefully kill her while her personhood was diminished and likewise MB could not have legally killed the nurse. Instead, it was the activity of pregnancy that allowed her personhood to be suspended and only in the context that it arose. Personhood is suspended, therefore, through a dynamic encounter between the material, the institutional and the discursive. Moreover, these issues highlight the importance of temporality to legal personhood in terms of both activity and embodiment. In relation to the dead, MacCormack notes that, 'these ambiguities are further problematised when the object itself is a frontier between humanity (is

a corpse human?), temporality (it was, what is it now?), ideologies of respect and disgust.’  
[25:345]

Framing legal personhood in terms of active autonomy, for the most part, settles the question of whether the dead have personhood. Brain stem death has been used as the test for death and has been defined in the UK through the Department of Health’s *A Code of Practice for the Diagnosis of Brain Stem Death* [11] which confirmed the caselaw of *Re A* [30] and *Bland* [2]. Here, embodiment and activity, or, more precisely, inactivity (and lack of response to stimuli such as pain, light and temperature) are again intertwined. Personhood is not just suspended but revoked. This has been somewhat confirmed in the European Court of Human Rights decision of *Akpinar and another v Turkey* [3] where it was held that Article 3 of the European Convention on Human Rights (No one shall be subjected to ... inhuman or degrading treatment or punishment) did not apply to the dead finding that ‘the human quality is extinguished on death and, therefore, the prohibition on ill-treatment is no longer applicable to corpses.’ As MacCormack writes:

The materiality of the corpse is emphasized here because the corpse is *so* material – stinkingly, rottingly, traumatically and viscerally so, actualising new layers of flesh.... The corpse is subjectivity as only matter and the ultimate symbol of humanity as nothing more than flesh, but flesh which is unknowable, whose pleasures evoke infinite possibility not available in a living body. [25:346]

Under these readings it could be suggested that personhood of the individual can be usefully disentangled from the body. This article suggests that a more helpful reading might be that the activities associated with living embodiment (breathing, cardio-function) provide the conditions under which personhood can be situated. Embodiment remains a central part of

our considerations of personhood in law [41, 29]. These issues are complicated, however, by the prospect of the walking dead.

### Zombies, Personhood and Permanent Vegetative States

The cortex is that part of the brain which is the seat of cognitive function and sensory capacity. Anthony Bland cannot see, hear or feel anything. He cannot communicate in any way. The consciousness which is the essential feature of individual personality has departed for ever. On the other hand the brain stem, which controls the reflexive functions of the body, in particular heartbeat, breathing and digestion, continues to operate. In the eyes of the medical world and of the law a person is not clinically dead so long as the brain stem retains its function. [2: Per Lord Keith of Kinkel at 856]

The figure of the zombie invites a re-examination of the relationship between autonomy and legal personhood. Part of the problem centres around capacity; how can we evaluate the capacity of a zombie? However, even if we were to determine that a zombie had no capacity this would not necessarily mean that they did not have legal personhood. It might instead mean that they do not have responsibility for their own actions, but this does not definitively determine that others do not owe obligations towards them. Here we work through medical understandings of permanent vegetative states (PVS) in order to establish how humans without consciousness are treated in law. In each of these examples, although autonomy might be diminished (in relation to the activity taking place) there are still legal duties owed to the individual allowing them to be determined as persons. The suspension of personhood identified in Naffine [29] and Travis [41] occurs only in the context in which it arises. As a result, we tentatively find ourselves agreeing with Hershel identifying zombies as having a suspended personhood but perhaps still owing them legal obligations. In the following

exchange, we see Edwin Jenner, a scientist from the Center for Disease Control in *The Walking Dead*, explain the zombie infection:

It invades the brain like meningitis. The adrenal glands haemorrhage, the brain goes into shutdown, then the major organs. Then death. Everything you ever were or ever will be gone.... The resurrection times vary wildly. We had reports of it happening in as little as three minutes. The longest we heard of was eight hours. In the case of this patient, it was two hours, one minute seven seconds....

- It restarts the brain?

No, just the brain stem. Basically, it gets them up and moving. The frontal lobe, the neocortex, the human part-- that doesn't come back. The you part. Just a shell driven by mindless instinct. [38:106]

This scene, taken from the finale of season one of *The Walking Dead* offers an attempt at a scientific understanding of zombies. Its discussion of the active brain stem offers an interesting parallel with current legal and medical divisions between death and permanent vegetative states. It is clear that the activities that zombies engage in place them outside of traditional understandings of death but by focusing on the brain stem they would, under current legal and medical models, be considered to be alive. Their lack of capacity and rationality, however, places them outside the realms of full legal personhood. As a result, one of the best contemporary analogies to legal conceptualisations of the zombie is a consideration of the caselaw surrounding permanent vegetative states.

Medically, a permanent vegetative state (PVS) refers to a state in which the patient has no awareness of external stimuli including visual, auditory, tactile and are unable to communicate or show comprehension of communication. Patients in a state of PVS, however, do demonstrate brain-stem autonomic functions on a respiratory, cardiac and metabolic level.

Similarly, basic reflexes such as bowel and bladder functions will be partially retained. With adequate care patients can live in this state for a number of years. In the UK, the leading case in this area is the decision in *Bland* [2]. The case considered the circumstances where it would be lawful for Medical Doctors to stop feeding an individual in a permanent vegetative state. In *Bland* Lord Goff of Chieveley found that brain stem activity would be enough to consider an individual as alive.<sup>1</sup> Edwin Jenner's findings, therefore, in *The Walking Dead* seem to indicate that zombies would be considered, for the purposes of law, as living. Lord Goff indicated, however, a number of circumstances in which it would be acceptable to deprive someone of their life. He pointed towards lawful execution, self-defence and withdrawal of medical treatment as potential legal justifications [2:864]. For now we will continue with withdrawal of medical treatment.

Lord Goff was careful to draw a distinction, as he saw it, between acts and omissions. He found that withdrawal of medical treatment could be justified if it were no longer in the best interests of the patient.<sup>2</sup> However, in no circumstances were Doctors allowed to actively 'bring his patient's life to an end' continuing that '...it is not lawful for a doctor to bring about [a patient's] death, even though that course is prompted by a humanitarian desire to end

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<sup>1</sup> [1993] A.C. 789 Page 863. Confirmed in *NHS Trust A v M; NHS Trust B v H* [2001] 1 ALL E.R. 801. This is not to say that there are no other approaches. See, for example, [22] and [35] who advocate positions whereby the threshold for determining personhood is raised to include consciousness. This is, at present however, not the legal approach and would present some danger for those with Alzheimer's or Dementia. See, for example, [5] at 55.

<sup>2</sup> Or, perhaps, more correctly that patients in permanent vegetative states no longer had best interests. [1993] A.C. 789 Page 868. As Lord Mustill notes 'The distressing truth which must not be shirked is that is that the proposed conduct is not in the best interests of Anthony Bland, for he has no best interests of any kind.' [1993] A.C. 789 Page 897. This is echoed by the opinion of John Harris who notes that 'On the view of personhood I have developed, "ending the life of a non-person cannot do them a moral wrong" for the simple and sufficient reason that "they" do not exist to be wronged or indeed to be harmed in this way. There is no person present, no one who could value life. If the non-person cannot value life, they can lose nothing that they value if they lose their life, nothing that is or could be of value to them. They cannot therefore be wronged in this way.' [22:55]

his suffering, however great that suffering may be' [2:865]. Although personhood is not directly discussed by the judges in this case it can be inferred that the active killing of an individual in a permanent vegetative state interferes with both their autonomy and their bodily integrity [7]. The distinction between act and omission, therefore, is based upon the personhood of the individual. Applying this to the zombies in *The Walking Dead* it could be argued that under current UK law they are deserving of legal personhood and, moreover, that it would be illegal to kill or otherwise injure them; despite the fact that they cannot feel, hear, or understand this. The lack of capacity that zombies display does not mean that other individuals do not owe them a duty of care.

The figure of the zombie, therefore, highlights the contextual and subjective elements of personhood. How an individual can be a person in one context, but not in another. This contextual approach to personhood is supported by anthropological accounts of PVS. Bird-David and Israeli, for example, highlight:

...the dynamic complexity of PVS personhood within this social world, arguing for multiple, shifting personhoods of PVS patients. We describe how the institutional definition of the PVS patient as one who lacks awareness of himself or herself and his or her environment involves a process, which we treat as “emptying” the PVS patient of what in received (biomedical) common wisdom is considered the defining core of his or her personhood. We also show how, alongside this process, expressions of other senses of personhood appear and disappear, and we elaborate, in particular, on an emergent fluid, relational personhood. [5:55]

Personhood, in these states of PVS is negotiated between caretakers, family members, law and medicine highlighting the interaction between discursive, institutional and corporeal understandings of personhood. Personhood in these circumstances is never static but always

‘situational and emerging’ [5:57]. This medical and somewhat literal understanding of the zombie, however, can be seen in tandem with Agamben’s understanding of ‘bare life’ [1] and an understanding of the zombie as a signifier.

### Zombies, Personhood and Bare Life

One of the essential characteristics of modern biopolitics (which will continue to increase in our century) is its constant need to redefine the threshold in life that distinguishes and separates what is inside from outside.... Once *zoē* is politicized by declarations of rights, the distinctions and thresholds that make it possible to isolate sacred life must be newly defined. And when natural life is wholly included in the *polis* – and this much has, by now, already happened – these thresholds pass, as we will see, beyond the dark boundaries separating life from death in order to identify a new living dead man, a new sacred man. [1: 134]

In distinguishing between *zoē* (biological life) and *bios* (political life) Agamben lays the foundations for an understanding of living humans (such as refugees) who are forced to live outside of juridical structures and, as such, the accompanying human rights. Agamben refers to such individuals as ‘bare life,’ individuals who ‘remain included in politics in the form of the exception, that is, something that is included solely through an exclusion’ [1:11]. Dayan traces similar political outcasts with reference to ‘Criminals, Security Threats. Terrorists. Enemy Aliens. Illegal Immigrants. Migrant Contaminants. Unlawful Enemy Alien Combatants [and] Ghost Detainees’ [10:22]. These debates are compelling and perhaps demonstrate a growing cultural concern with the ways in which persons are made and unmade. Developing an analysis of personhood through the literature on PVS we can see that similarities lie in their focus upon acts and omissions. In each of these cases the individuals concerned would be unlikely to be lawfully killed by the state but there would be no such delimitation in terms of omission. Here, again, we can trace the relationship between

activities and embodiment on both micro and macro levels. In these cases, however, we have a mix of legal and illegal activities (some with state sanctions) and a mixture of legal and illegal bodies; the combinations of which lead to a suspension of personhood in the context in which they arise. Though clearly not Agamben's concern, the zombie acts as a logical extension of the premise (and promise) of bare life; life that exists outside of the confines of the juridical order which is capable of being killed but not sacrificed. Though some might argue that this literal understanding of bare life is a little inelegant, attention is drawn to it in order to tease out a larger question intertwined with Agamben's concerns that the category of bare life is increasing to become the normative standard. Namely, can we understand the zombie apocalypse as a signifier of this shifting normative standard?

The figure of the zombie (and our growing cultural anxieties around it) highlight a complex set of problems around who or what may be termed legal persons and, moreover, whether personhood itself is a conceptually useful device. Whilst there is a problem in the claim that some individuals (such as refugees, or women) are not human, there does not seem to be the same problems around the denial of personhood to such groups (at least in terms of delimiting their actions or autonomy) and the subsequent denial of their rights [29, 41]. The zombie, under this analysis, becomes the logical endpoint of a system that is happy to place its subjects in a near constant state of exception [1, 10]. Moreover, the subjects themselves are complicit in this system; Rick Grimes, for example, early in the comic book canon believes himself and his family to be persons but that others are a potential threat and as such, underserving of personhood and/or, in some instances, life. *The Walking Dead*, therefore, can perhaps be seen as a radical indictment of current society and in particular the values and obligations that we owe to each other. The individualism (and subsequent selfishness) that has come to characterise contemporary society is a logical extension of a rights based system

that places the individual at its core. Implicit within this system is a selfishness that places individual rights over and above the rights of others characterising these others as non-persons; at least on a temporal basis.

The zombie, therefore, can be read as a signifier of the growing presence (and acceptance) of bare life and that humans are capable of being rendered as non-persons. To combat this we must reject not the figure of the zombie, but the concept of personhood. As it is through the fiction of personhood that bodies can be rendered as outside of the scope of law. The zombie highlights the ubiquity of personhood and, in doing so, shows us the fallacy of the concept. At the same time, it also renders personhood's logical alternative – humanity – conceptually vulnerable. It is argued, however, that we must embrace this rupturing. The contested (and besieged) boundaries of humanity mean that, somewhat ironically, using humanity as a starting point for legal relations allows us to include *more* entities than if we were using the supposedly abstract conception of personhood. Cyborgs, admixed embryos and zombies, to name but three, would all have a more legitimate stake in law than under the current rhetoric of the person. The human is a useful concept, it is argued, for a number of reasons. Firstly, the human is a material concept based within the body. Arguments in feminist and queer theory have highlighted the value in such an approach [14, 18, 19] as it prevents the abstract (such as personhood) being filled with a singular type of body (the heterosexual white able bodied male). The human body in contrast, is always variegated in its potentiality for gender, race, sexuality and ability. As such, it is the indeterminacy of the human that is theoretically appealing [20]. Similarly, the boundaries of humanity are constantly being contested, through admixed embryos, cyborgs and other entities [15]. Again, this is no reason to abandon the concept of the human; it is all the more reason to embrace it. It is perhaps because of the porousness represented within the human that the term is so difficult to define. Genetically,

the human is contested by entities such as admixed embryos [13, 34, 40]. Materially, the human body is ever more problematized by its relationship with technology [20]. Institutionally, the term has been distorted beyond its meanings as corporations gain ‘human’ rights [18]. Discursively, the term still has some political potency however. Humanity, for the most part, is yet to be abandoned in favour of the post-human. A common humanity still pervades political discussion and remains, at least theoretically, appealing. Perhaps this is because the political human, is referring to humans or humankind and as such encompasses the term in all its variegated glory. The human that this article refers to is a human with the potential to be anything and as such is a human becoming rather than a human being. Rather than the static approach taken to the person the human is dynamic and incapable of existing outside of neither its context nor its embodiment, real rather than imagined.

As a result, this article agrees with Esposito’s position that “the essential failure of human rights, their inability to restore the broken connection between rights and life, does not take place in spite of the affirmation of the ideology of the person but rather *because* of it” [12:5]. Moreover, this article suggests that the complete conceptual rejection of legal personhood would actually be more effective in ensuring rights for vulnerable people and potentially, halts the spread of those individuals who are outside of the juridical system. This, in turn, will have two complimentary effects. Firstly, rejecting the concept of personhood and focussing on a legal system grounded in the diversity of humanity would allow contemporary conceptions of normativity to become destabilized, particularly around its borders. Current abstract approaches to personhood can be jettisoned on the basis of their conflation with heterosexual white male bodies [18, 29]. Secondly, it is suggested that vulnerable subjects fail to be endowed with rights under current approaches to legal personhood [12]. Personhood’s continuing Cartesian separation from the corporeal, as a consequence, is too

open to abuse. A legal system that placed embodiment at its centre, rather than personhood, it is proposed, would provide remedy to at least some vulnerable individuals currently outside of the juridical order. Personhood, as a consequence, plays an essential role in law's neutrality in discussions around inequality and bodily integrity. It has also been central to the replaying of Cartesian dualisms where appeals to embodiment are countered by law's inability to think beyond the person. Consequently, the law continues to utilize an empty understanding of personhood which fails to make distinctions between bodies, corporations and other entities and as such can all be deemed artificial.

Both Anna Gear [18] and Ngaire Naffine [29] have put forwards theories of personhood that attempt to recognise the importance of embodiment. This article acknowledges the intentions of these theories but questions the theoretical usefulness of the person. In addition, this article posits that the concept of personhood is harmful to those who find themselves outside of its reach on either a temporal basis (for example during pregnancy [29, 41]), for longer periods of time (such as refugees, [1]) and potentially for the walking dead. Gear's conception of personhood, in particular, struggles to break away from abstract (and thus potentially gendered) conceptions. Her location of personhood within the intersex body is at first glance persuasive, but ultimately enables personhood to maintain its distance from the body and thus to retain its abstract gendered nature. Rejecting personhood, at least for humans, is more theoretically useful as it forces law to acknowledge the differences present within the human body.

Re-situating these contentions within the world of *The Walking Dead* we can see the potential importance of placing humanity above and beyond notions of personhood. In recent

issues, such as *All Out War* (Parts I & II), Rick Grimes highlights the weight that he places on all human life; regardless of gender, race or (dis)ability, with the possible exception of his own life. Although facing huge provocation, Rick is unwilling to sacrifice political prisoners. Exactly how this will play out remains to be seen, though we might hazard a guess that things will not remain peaceful for long. Rick reminds us of the possibility of a world in which our leaders and state sacrifice themselves for their people rather than the other way round; a world in which no one is considered bare life. The debate around whether zombies are people are largely settled within *The Walking Dead*, Hershel conceded that he was wrong to consider them persons. Despite this, the zombie remains a pertinent thought experiment in our discussions around personhood, humanity and our relationship with the state. Indeed, if we see the zombie as a signifier of the refugee through Agamben's reading of bare life we find Hershel's arguments all the more persuasive. In fact, his argument becomes a phenomenological lament for his family and friends. The closeness that Hershel feels to those involved allows him to put himself in the position of the zombie and, ultimately, to feel empathy for them. This reading again underlines the importance of placing humanity (broadly conceived) over and above the artificial legal constraints of concepts such as personhood and citizenship.

## Conclusions

Because of its universal applicability, personhood is seen as the only semantic field that can possibly overlap the two spheres of law and humanity, separated as they are by the national ideology of citizenship. This means that a concept like that of human rights is only conceivable and viable through the lexicon of personhood. [12:3]

The figure of the zombie as represented in *The Walking Dead* presents us with an interesting and complex array of choices around personhood. In terms of existing medical law, zombies would be seen as persons capable of being legally killed through omissions but not through positive acts. Certainly, these kinds of struggles have been articulated within the world of *The Walking Dead*, particularly in the early relationship between Rick Grimes and Hershel Greene. However, this discussion of acts and omissions also runs through Agamben's understanding of bare life; individuals who exist outside the current juridical order. Certainly, zombies can be understood in these terms, but moving them from the literal to the role of signifier perhaps presents us with a set of more pertinent questions and cultural anxieties. Does *The Walking Dead* present us with a world in which bare life has become the political norm? And if this is the case, how much does this centre around ambiguous conceptions of personhood that are capable of removing individuals from the scope of human right? Ultimately, we do not need to welcome the zombie into our legal system, however, we can use it as a warning against the view that legal atomistic and abstract approaches to personhood have blinded us to our common humanity. Appeals to personhood have prevented us from considering the values that we associate with humanity that should be respected in law. But at the same time personhood has also rigidly demarcated the boundaries of the human. By rejecting personhood we can begin to assess the permeability of these boundaries; particularly in regards to the boundaries between the human and the animal; the foetus and the adult; life and death. In conclusion, we can see that the figure of the zombie is an important theoretical tool in thinking through our relationships with the law, medicine and the state.

## References

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