

2009

Strange Encounters: Exploring Law and Film in the Affective Register

Ruth Buchanan

Osgoode Hall Law School of York University, rbuchanan@osgoode.yorku.ca

Rebecca Johnson

Source Publication:

Studies in Law, Politics, and Society. Volume 46 (2009), p. 33-60.

Follow this and additional works at: https://digitalcommons.osgoode.yorku.ca/scholarly_works



This work is licensed under a [Creative Commons Attribution-NonCommercial-No Derivative Works 4.0 License](https://creativecommons.org/licenses/by-nc-nd/4.0/).

Recommended Citation

Buchanan, Ruth, and Rebecca Johnson. "Strange Encounters: Exploring Law and Film in the Affective Register." *Studies in Law, Politics, and Society* 46 (2009): 33-60.

This Article is brought to you for free and open access by the Faculty Scholarship at Osgoode Digital Commons. It has been accepted for inclusion in Articles & Book Chapters by an authorized administrator of Osgoode Digital Commons.

Strange Encounters: Exploring Law and Film in the Affective Register

Ruth Buchanan and Rebecca Johnson*

“...thinking is periodically nudged, frightened, inspired, or terrorized into action by strange *encounters*.” (Connolly, 2002: 94)

In *Culture and Imperialism* (1984), Edward Said compellingly argued that a culture's stories participate in creating (what Raymond Williams referred to as) “structures of feeling.” Focusing on the 19th century novel, Said laid bare the political dimensions of popular culture, showing how these texts (and their structures of feeling) supported, elaborated, and consolidated practices of empire, and the production of colonial subjects. In 1986, Anthony Chase bemoaned the propensity of critical legal scholarship to neglect the place of popular culture in maintaining (and challenging) the legitimacy of legal ordering (Chase, 1986). But over the past 20 years, legal scholars have taken up the challenge, increasingly making ‘the cultural turn.’ There is a rich and growing body of scholarship located at the intersection of Law and Film (Bergman & Asimow, 1996; Machura & Robson, 2001; Sarat et al., 2005; Moran et al., 2004). This scholarship is wide-ranging, touching on an astonishing number of topics and filmic texts. As one might expect, much of the scholarship explores films with explicit connections to law. Trial films, lawyer movies, and police dramas provide the sites for exploration of a wide range of legal topics: crime, punishment, divorce, child custody, property, tort, environmental law. But there is also evidence of an increasingly expansive approach to the question of ‘what is law’, of ‘where’ and ‘how’ law functions. Scholars are working within a range of less expected genres such as The Western, Sci-Fi, Romance and Horror to consider how structures of feeling sustain and constitute law and contemporary legal subjectivities.

Law-and-Film scholarship is founded on a variety of different premises. Kamir (2006) explores three that have been particularly influential. One is that film parallels law. Scholarship here explores moments where ‘film imitates law’, where ‘law imitates film,’ and where a series of feedback loops result in mutual projects of construction. Using such an approach, one can explore how law and film work similarly to construct the normal family (Johnson, 2000), or consider the relationship between contemporary anti-stalking legislation, and the filmic stalkers memorialized in films like *Taxi Driver* or *Fatal Attraction* (Kamir, 2000). A second premise is that films are jurisprudential texts. Here, scholars use film in robust and creative ways to explore topics ranging from gender roles, familial structures, and human relations, to memory, tragedy and truth. For instance, a movie like *The Sweet Hereafter* offers space for thinking about law and fatherhood (Sarat, 2000), *Chocolat* for theorizing about alternative dispute resolution (Schulz, 2006), *It's a Wonderful Life* for considering constitutional theory (Denvir, 1996), and *Buffy the Vampire Slayer* for exploring the jurisprudence of difference and desire (MacNeil, 2003). A third premise links film to processes of indoctrination and judgment. Here, scholarship explores the ways that filmic texts teach us to judge the world in certain ways, participating in the constitution of subjects and communities. Whether in *Unforgiven* (Miller, 1998), *Minority Report* (MacNeil, 2005), Disney movies (Giroux, 1996), or filmed criminal confessions (Silbey 2007), scholars show how viewers are actively positioned by film to identify with certain points of view; to see some groups of people as trustworthy, dangerous, disgusting, laughable; to experience some kinds of violence as normal; to see some lives as lightly expendable.

The breadth of approaches, premises, and directions in the scholarship reveals something about the incredible variety of concerns and questions operating for legal scholars who engage with film (Johnson & Buchanan, 2001; Johnson, 2006). But even in the face of this richness of questions and

approaches, it seems clear that when legal scholars turn to film, there is frequently much in the encounter that is familiar. Both ‘Law’ and ‘Film’ are meaning-making institutions, sites for the circulation of the stories society tells about itself (Buchanan & Johnson, 2005). These legal and cinematic stories participate in constructing as well as in reflecting upon our *nomos* (Cover 1983; Black, 1999). It is hardly surprising, then, to see legal scholars bring their often formidable skills of narrative deconstruction and analysis to bear on the film’s story. Certainly, in our own work, we have been conscious of the pull that ‘the story’ exerts on our efforts to think through the film, drawing us back to words and plot, and away from the elements of the movies that distinguish the experience of reading from that of viewing.

The pull to the familiar – to words – is interesting, particularly since our experience of *being* film viewers is that movies do much more than *tell* stories, however powerful those stories are. We have been drawn to work at the intersection of law and film in large measure because of films that have disturbed, irritated, or intrigued us. And yet, we have remained uncomfortably conscious of the lack of (legal) vocabulary to talk about these affects. Law-and-Film scholarship appears to be uncharacteristically tongue-tied about the fact that, as viewers, many are profoundly moved by film, as well as about the related questions of *how* film does this to us, and how one might write about it.

The discomfort with the pull of the affective dimension of law/film is linked, we suspect, to deep propensities in legal (and modern) thinking to focus on ‘cognition’. The goal is to analytically, rationally, or narratively convince ourselves and others of the veracity or persuasiveness of a particular account of things. In the context of law’s system-preserving tendencies, critical legal scholarship is frequently concerned with accounts that are overlooked or ignored by the mainstream. Its goal is to persuade readers that things could be understood differently, that they (and by extension, law) should be able to engage with and respond to the claims or experiences of differently situated individuals, whether they be women, indigenous people, or refugees. But even in the process of formulating arguments about fundamental justice, about the ways the law fails to address the needs of differentially situated subjects, we rein in the affective dimension, preferring to remain in the cognitive register, separating reason from emotion, what we think from what we feel, the objective from the subjective.

There is, of course, a historically rich tradition of critique, contesting these distinctions, and rendering visible the part these dichotomous orderings play in structuring social, legal and political power (Spivak, 1999). Increasing attention is being paid to questions of emotion in law (Bandes, 2001; Maroney, 2006; Roach Anleu & Mack, 2005). Developments in neuroscience have refocused attention on the embodied aspects of thought, and the importance of affect to decision making (Kahan et al, 2007). This approach to embodied thought works from a premise familiar to many of us from reflection on our personal experiences: thinking differently is tremendously difficult. Something usually needs to happen to you to ‘startle’ (or nudge, frighten, inspire) new thoughts into being. We are beginning to understand that this is because there is much more that is affective, sensory, and embodied about ‘thinking’ than we typically imagine. William Connolly (2002) describes this as the ‘multilayered’ nature of thinking. If we leave the affective dimension out of our own accounts of how we ‘make up’ our minds and how we ‘change’ them, Connolly believes, we overlook the most powerful, creative and transformative dimension of thought:

You cannot appreciate the creative possibilities of thinking without coming to terms with the layered play of affect in it; but you cannot fit thought entirely into a closed schema of logic, narrative, discourse, expression, or explanation if you do attend to the play of affect. It is through the play of affect—partly *within* the orbit of feeling, intention, and consciousness and

partly *below* their thresholds—that the creative element of thinking finds its most energetic impetus and possibility. (Connolly, 2002: 75)

Augusto Boal, working with the traditions of Theatre of the Oppressed (1979) and Legislative Theatre (1998), argues that thinking anew requires not just mental gymnastics, but very concrete techniques and games to reinforce that the *whole body* thinks, not just the brain (2002). The project is to develop all our aesthetic forms for the perception of reality: Words, Images, Sound (Boal, 2006: 44-48). He draws these three ways of knowing together, arguing that, just as breathing involves not just the lungs but the whole body, so too thought is embedded in the whole body. Similar insights are deeply rooted in indigenous pedagogy and practice which situates learning in the midst of other practices.¹

Taking seriously the embodied and affective dimensions of thought is important in relation both to the critical and transformative possibilities of Law-and-Film scholarship. Work needs to be done to more effectively reveal the ways films work to produce structures of feeling that help to cohere contemporary legal and political institutions. What, for example, are the connections between the sense of anxiety and pervasive dread that one experiences in a range of recent films (including *Minority Report*), and the powerfully charged emotive state that helps to reinforce the legal justifications for the expansion of the apparatuses of the security state in our post-9-11 era? And how might film challenge or destabilize dominant ‘structures of feeling,’ revealing new potential subjectivities and ways of being in the world? An illustration of this latter approach is found in JK Gibson-Graham’s (2006) consideration of *The Full Monty*. The men in this film – laid-off factory workers – refuse to inhabit fully the structures of feeling expected of men in their circumstances. Instead of sitting around feeling useless, the unemployed men re-envision themselves as performers, and organize a strip show for the women of the town. In Gibson-Graham’s analysis of a playful scene in which one of the men standing in the ‘pogey’ line up ‘swerves’ into a series of dance steps, they begin to reveal the profoundly transformative potential of re-imagining subjectivity, and the ways in which this is a process woven through with affect.

Taking inspiration from this approach, we explore in this paper some of the possibilities for thinking which can be nudged into existence through heightened attention to that which is strange and unfamiliar in the encounter of Law and Film, that is, through attention to the place of *affect* in the constitution of legal subjectivities. But such work requires a more robust vocabulary for discussing how films work on us, including the relationship of words/images/sounds and how certain filmic effects make us ‘think/feel’. In the first part of the paper, we will thus focus on questions of method and vocabulary. What are some of the tools available to Law-and-Film scholars who wish to attend more closely to the affective domain of film? What are the vocabularies through which we can engage in a closer exploration of film’s affective powers?

In the second part, we put this provisional language to work in an examination of one scene from each of three films, *The Piano* (1993, Jane Campion), *Minority Report* (2002, Steven Spielberg), and *Deadman* (1995, Jim Jarmusch). The three films provide a rich variety of contexts for analyzing the structures of feeling that help to produce and hold in place certain types of legal subjects, as well as how these subjectivities might be challenged and destabilized. In *The Piano* we see the violence of marital property law in the era of ‘coverture’ laid bare in an unflinching account of its profound effects on the mute Ada, whose only means of communication – her piano – is sold by her husband. *Minority Report*, as we’ve observed, projects our contemporary obsession with surveillance and security into a dystopic near future in which a method has been devised to capture criminals before they commit their crimes. In *Dead Man*, perplexingly, the colonial encounter between a young innocent from Cleveland and an indigenous man is turned on its head, as the doomed accountant

becomes an outlaw, and the educated indigenous man he encounters becomes his friend, his protector and his teacher.

There is much to say about law and legal subjectivity in each of these films. Here, however, our focus is narrow. We restrict our discussion to a specific scene in each film, lasting from one to five minutes, which produces a strong and distinctive 'affect.' By attending closely to the way that the films are working on us in these scenes, we hope to be able to understand better how affect – our pre-cognitive responses to particular combinations of word/image/sound – might be linked to more discernable emotional states.² In focusing our attention on these powerful scenes and how they work, we do not suggest that a film's story is unworthy of attention. Rather, we attempt to feel our way towards a language and a method for engaging with film's other dimensions. In the concluding section, we speculate about the implications of a greater attentiveness to the specificity of film as a medium, its participatory nature and its necessary unfolding in time, for ongoing scholarly work in Law-and-Film.

PART I: New Registers for Thinking: Technique, Perception, Affect.

Law and Film both enjoy the power to mediate the social imaginary. Here, we explore the resonance of this insight in the register of affect and intensity, movement and change. This demands a different approach to doing theory. As Andrew argues, "film is not a *product* but an organically unfolding creative *process* in which the audience participates both emotionally and intellectually." (1976: 66-67) Seeing a film is not just an exercise in imagining alternatives; it is an unfolding experience in time. It is an event shaded with particular embodied dimensions: one's heart races, pupils contract, skin shivers, muscles tense. Involuntary sensations of nausea or vertigo combine with cognitive responses to produce the lived experience of viewing a particular film that is incorporated into one's sensibility, sometimes very powerfully. It is not just that the mind has spent time in a darkened theatre. The body has also had an affect-laden auditory, visual, and tactile encounter. The affect-rooted experience of the film is a piece of the subject's past, its history, its self. This is another way to understand how film not only represents the world, but participates in its making.

To understand fully how films do their work on/through/with us, we need to develop conceptual and analytic tools better able to engage with what is going on in this dynamic register. In our search for new concepts and new registers for thinking, one source of inspiration has been the Bergsonian influenced philosophical tradition that attends to process and change (Bogue, 2003). This new interdisciplinary configuration of scholarship draws together a Spinozist tradition in political theory with new interest in neuropsychology and embodied subjectivity. William Connolly (2002), Paul Patton (2000), J.K. Gibson-Graham (2006), Brian Massumi (2002) and Patricia Pisters (2003), all readers of Gilles Deleuze, have inspired our interest in 'affect' and its significance for thinking differently about law and film. In this paper, however, we are not offering a reading of Deleuze (or of the Deleuzians); rather, we are interested in the uses to which we can put a limited range of Deleuzian inflected concepts. Following Patricia Pister's approach to working with film as a dynamic process in which we participate as embodied viewers, our goal is to use these concepts to ask "What new thoughts become possible? What new emotions can I feel? What new sensations and perceptions can be opened in the body?" (2003: 9)

A second source of inspiration has been those political and social theorists attempting to grapple seriously with the insights of neuroscience, particularly the embodied dimensions of thought. Thinking, decision-making, even moral reasoning, are now understood as governed by complex, biological brain systems, operating at different speeds and in different registers, not all of which are subject to cognitive control. You can have a feeling without an emotion (a shiver can come from being

cold, and not only from being scared). You can also have a feeling that makes you *think* you are having an emotion.³ We perceive and we come to give those feelings ‘meaning’ in ways that are mediated through the body. In addition to accounting for ‘emotions’ and their implications for judging (Belleau & Johnson, 2007), we need to account for ‘pre-cognitive’ registers of ‘affect’—those things that may be shaping our thinking before we are even aware of them (Gladwell, 2005). These pre-cognitive ‘intensities’ (as Massumi calls them) are a significant part of what is being produced by the visual and auditory dimensions of films.

But this emphasizes the need to attend not only to the register of ‘representation’ (the film as ‘text’) but also to the register of ‘affect’ (the film as ‘event’). Film’s affective power comes in large measure from its ability to incorporate Images and Sound. An understanding of how film operationalizes affect through image and sound is facilitated by familiarity with cinematic techniques. Bordwell and Thompson (2004) direct attention to some of the cinematic techniques that are central to the power of film: techniques of ‘Image’, of ‘Time’ and of ‘Sound’. The first set of techniques (those of the Image) has to do with the construction of ‘the shot’ (Bordwell & Thompson, 2004: 175-199). Here, one asks questions about the *mise-en-scene* (literally, all that which is put into the picture: actors, costumes, makeup, props, lighting, setting) and about the cinematography (film stock, camera lenses/location/movement, how the shot is filmed). Attending to the first of these (*mise-en-scene*) means asking about the images that appear in the film frame: certainly, setting is often much more than backdrop, and plays an important part in the affective weight of a given scene. Just consider the crashing waves on the New Zealand beach in *The Piano*, the claustrophobic urban landscape of *Minority Report*, or the Makah village in *Dead Man*.

In thinking about the affective dimensions of the shot, one can ask questions about ‘tone’, about ‘composition’, and about ‘movement’. Film stock and lighting play an important part in constructing the tone of the image (Bordwell & Thompson, 2004: 191-198). The film stock may be color or black and white, and variations in each produce the possibilities of heightened contrast, directing the viewer’s eye in different ways. The film stock chosen (and the speed of filming) can produce images that seem to have newsreel-like quality, to have a grainy ‘home video’ feel, to be bleached out, or to be drenched with heavily saturated hues. Laboratory processes can also alter the image: tinting or toning, adding color to portions of film shot in black and white, using filters, under exposing to create shadowy regions, overexposing to produce the effect of blinding light. The number of frames per shot can produce slow- or fast-motion effects. All these techniques participate in constructing the tone and atmosphere of the image. Depending on whether the product is shadowy half-darkness or light-filled airiness, we come to expect and feel different things from the scene.

There are other questions to ask about the composition of the image (Bordwell & Thompson, 2004: Chapter 7). How is the onscreen space constructed? What is the position of characters and objects in the frame, and the relationship between them? What can be said about balance and depth? How do choices about positioning of the camera influence our points of ‘view’? Here, one might ask about camera distance, focus, and angle of shot, as well as about viewpoint in the more traditional sense of the word. With respect to the camera distance, closer shots can produce intimate or oppressive feelings; long shots can generate effects of objectivity, formality or coldness. Camera focus can shift our depth of field, revealing or obscuring objects around the subject. The angle of the shot can affect our sense of height and gravity. If the frame is not level, we can be tilted off centre. Low- or high-angle framing positions us to be looking up or looking down at the shot, often with vertigo-inducing effect. Shots can also position us to see omnisciently or link us to particular characters.

And of course, while one can study the tone and composition of the shot, one must also account for its existence as a *moving* image. As Bordwell and Thompson remind us, different aspects of the mise-en-scene will grab our attention by means of *changes* in light, shape, movement (Bordwell & Thompson, 2004: 207-216). Movement here can be happening both at the level of the subject and at the level of the camera. Within a single image, different elements/actors/objects can be moving at different speeds. Further, the camera may be tracking the movement, or it may be stationary. The camera itself may also be mobile in a variety of affect-inducing ways. The mobile camera in *Blair Witch Project* produces quite different affects than the mobile camera in the (single shot) *Russian Arc*.

Questions about Time are answered by attention to the editing techniques used to link shot to shot (Bordwell & Thompson, 2004: Chapter 8). Techniques of editing can produce visceral responses, leaving us feeling dislocated or even nauseous. Editing determines how long an image stays on the screen. Our sense of time is shaped through the knitting together of shots. Shots can be joined in a number of different ways: cuts, fades, dissolves, wipes, and blackscreens. Editing can shape our sense of special relations, of rhythm, and speed, can generate graphic matches or senses of discontinuity. They also shape our sense of temporal relations through ordering the series of events: flashbacks, ellipsis, overlapping and returning shots, the frequency of cuts.

Finally, but certainly not last, are questions about Sound. Sound works on our bodies. Sound is a wave, a vibration. Those vibrations are not just ‘heard;’ they impact the body, passing through and setting up other vibrations in their wake. As people in the deaf community point out, sound can be felt even if it is not heard. This is something most of us understand at a visceral level from the experience of sitting in a symphony, of standing beside the speakers at the high school dance. Indeed, we come into existence as humans with the drumming rhythms of a heartbeat marking our development. Patricia Pisters quotes Walter Murch on this primal aspect of sound:

“We begin to hear before we are born, four-and-a-half months after conception. From then on, we develop in a continuous and luxurious bath of sounds: the song of our mother’s voice, the swash of her breathing, the trumpeting of her intestines, the timpani of her heart. Throughout the second four-and-a-half months, Sound rules as solitary Queen of our senses: the close and liquid world of uterine darkness makes Sight and Smell impossible, Taste monochromatic, and Touch a dim and generalized hint of what is to come.” (Pisters, 2003: 177)

Sound is powerful. Most of us know intimately music’s capacity to make us laugh, weep, or shudder; we know its capacity to produce goose bumps (Schwarz, 1997). As Kurosawa says of his own film-making, “The most exciting moment is the moment when I add the sound. ... At this moment, I tremble.” (quoted in Bordwell & Thompson, 2004: 348)

Though sound can seem difficult to study, there are many questions one can ask about the affects produced through a film’s sound design. Sound can be diegetic (coming from events occurring within the story’s world) or non-diegetic (music, or other sounds added to enhance the film’s action). Three types of sound can be operating: speech, music, sound effects. In each case, mixing techniques can allow for changes in the perceptual properties of these sounds: loudness, pitch, and timbre. Sounds of breathing, the breaking of a glass, the beat of the heart, and the ticking of a clock can be heightened or altered for aural impact. Sounds also have spatial dimensions. Sound plays a role in defining the on-screen and off-screen space (the rock that finally hits the bottom of a well, the locking of a prison door, the drop of water from the tip of a stalactite). Sounds can be synchronous or non-synchronous, increasing a sense of the fidelity of sound to image, or of its rupture. The sound that accompanies the image actively shapes how we interpret that image (Bordwell & Thompson, 1985). Film music polarizes the emotional atmosphere and influences the understanding of the plot (Bullerjahn &

Güldenring, 1994). A film's sounds (and its silences) shape what we know, and how that knowledge feels.' Mary Ann Doane (1985) puts it thus:

The ineffable, intangible quality of sound – its lack of the concreteness which is conducive to an ideology of empiricism – requires that it be placed on the side of the emotional or intuitive. If the ideology of the visible demands that the spectator understand the image as a truthful representation of reality, the ideology of the audible demands that there exist simultaneously a different truth and another order of reality for the subject to grasp. The frequency with which the words 'mood' or 'atmosphere' appear in the discourse of sound technicians testifies to the significance of this other truth." (at 55)

In arguing for the importance of attending to images and sounds, we do not suggest that these elements of perception produce specified meanings. That is, sound does not necessarily produce only one set of affective responses. Sound enters into neural networks that are themselves shaped by social factors. Different people can have different responses to sound or image, just as different people can have different responses to words. We agree with those who would say that meaning is constructed in the gap between text and reader, that meanings are a co-production. It is simply that we believe this to be no less true of images and sounds than it is of words. Just as scholars attend to the multiple functions of words in the construction of subjectivities (Chunn & Lacombe, 2000), they can attend to the role of images and sounds in this process. We agree with Connolly that the work of analyzing films "helps us to discern multimedia techniques at work in organizing perceptual experience, consolidating habits, composing ethical habits and spurring new thoughts into being." (2002: at xii)

As legal theorists, it is the connection between affect, thinking and subjectivity that ultimately interests us. Our attention is not on film technique for its own sake. We are less interested in understanding how a film's special *effects* are produced than in understanding how various cinematic techniques work through us to produce *affects*, be it terror, elation, confusion, or grief. Attention to filmic technique (and to the language used to describe it) can help us make visible the ways in which film participates in the production and maintenance of structures of feeling (in both the story world, and in the world outside the theater doors) through the weaving together of Words, Images, and Sounds.

PART II: *How Films Work on Us: Intensities, Resonances, Displacements*

This section of the paper is an experiment in trying to think and write differently as legal scholars about filmic technique and its impacts on us as viewers. We combine some of the insights drawn from our own efforts to reflect on particular films that have resonated with us, with a conception of the embodied and affective subject-as-viewer. Here, stepping back from the narrative dimensions of the films, we argue that the experience of the scene is as much a product of what is *seen* and *heard* as of what is *said*. The goal is to explore how attention to affect through image and sound opens up additional avenues of analysis for Law-and-Film. In this Part, we do two things. First, we consider how the images and sounds in a pivotal sequence from *The Piano* help place the viewer in a certain kind of (embodied) judging position. Second, we explore the ways that the initial affective stance of a film can be linked to its larger narrative and political stance, by comparing the quite different introductory sequences of *Minority Report* and *Dead Man*.

i. *Audio & Visual encounters in the Body: The Piano*

Let us turn then to Jane Campion's 1993 film *The Piano*. The film is set in the 19th century. Ada (Holly Hunter), a mute woman with a young daughter, is sent to New Zealand as a 'mail-order-bride' to

her husband, Stewart (Sam Sheppard). Ada, mute by choice, speaks both with her hands in an artistic wave of sign language, and through the keys of her beloved piano, a piano that her new husband is unwilling to have carried back to the homestead. He leaves it behind on the wave pounded beaches where Ada has landed, and then agrees to sell it to a neighbor, Baines (Harvey Keitel). Baines offers Ada a sexualized bargain for the return of her piano/voice. What begins as a prostituted relation shifts into one of mutual desire once Baines chooses to terminate the contract and give her back the piano. The film has been discussed by many scholars, from multiple perspectives (Hanigsberg, 1995; La Forest, 1995; Dyson, 1995). Here, we want to focus exclusively on a pivotal and deeply disturbing sequence near the end of the film, where Stewart, who has discovered the infidelity, chops off Ada's finger. Here, the injury done to Ada plays out in accordance with the generic conventions for tales of 'love gone wrong:' a husband discovers that his wife loves another, falls into a rage, and punishes/disciplines her through an act of violence.

The filmic sequence is devastatingly powerful, but its affective power is not fully captured in the narrative phrase "a husband chops off his wife's finger." There are many worse outcomes in tales of jealous and possessive love. Given the film's many references to Charles Perrault's fairytale, *Bluebeard* (in which a man chops off the heads of his overly curious wives), one might argue that viewers are positioned to feel some relief that it is a finger, and not a neck that is severed. But the shape of the filmic experience, far from offering relief, shook us in ways that many narrative accounts of violence against women have not. In discussing how the scene worked, we noted our enduring recollection that time had slowed down in mute recognition of the profound shattering of Ada's world. And yet, on re-viewing the film, it was also clear that there had been no slow-motion techniques of the *Chariots of Fire* sort. The question for us was then, *how* (cinematically) did the film produce the shocked feeling of a rupture in time, of something being ripped out in our own bodies? If we shift the register of inquiry away from the words, and attend to the *images* and *sounds* wrapped up in the sequence, it is possible to see how the structure of the film pushes us in the direction of an affectively powerful embodied experience.

The sequence begins with Stewart standing at the top of a steep hill, where he has intercepted a package from Ada to Baines. The camera is positioned higher on the hill than Stewart, and filmed at a vertigo inducing incline, leaving the viewer feeling the need to lean back for safety. Thunder rumbles ominously in the background as Stewart unwraps the package, and moves uphill (towards the camera). We see his face as he reads the message inside, grabs an axe and starts moving away. The camera then shifts to a position over the edge and part way down the hill, so Stewart stumbles down the hill past us, the diagonal of the hill cutting a slash across the screen, the sky framing the bodies above. As he moves, the theme music starts playing in the background. In a minor key and with a $\frac{3}{4}$ beat (waltz time), complicated by an occasional extra few beats giving the feeling of a syncopated extra gulp of air, the music pulls in a forward direction.

The scene cuts to the (now dark and rain-drenched) woods that stand between the hill and the house. The color tone of the film stock changes to blue/grey, bleeding the scenery of warm colors. There are five shots in this 22 second sequence, each of either Stewart or Flora (Ada's young daughter) running through the forest. Each of these shots is filmed so that trees stand between the camera and the characters; as they run, they seem to be continually disappearing and reappearing from behind trees. One's eyes are forced to dart rapidly back and forth from edge to edge of the screen. No shot is held long enough to get a stable view, and the framing often gives us parts of bodies rather than wholes, or a close-up of Stewart's hand holding the axe. The music also increases in volume.

The scene shifts to the inside of the house where Ada waits. Stewart bursts in through the door, plunging his axe first into the table where Ada is seated, and then into her piano. Yelling all sorts of stock phrases (I trusted you! Why do you make me hurt you? We could have been happy! You make me angry! You lied to me! You will answer for this!), he slams her against several walls, and across the piano. The increasing panic is captured in the increasing rapidity of shots: in the 35 seconds that the camera is in the house, there are 13 shots. Stewart drags her out into the pounding rain, as she claws wildly at the doorframe and laundry in an attempt to free herself. In the next 40 seconds, there are another 13 shots. A series of short shots rapidly take our eyes between Flora, Stewart and Ada. There is then a more sustained shot (11 seconds long), but though the camera stays still, the wrestling Ada and Stewart themselves slip (and are dragged) in and out of the frame. The tempo of the music speeds up, and volume increases. Further, the music becomes more erratic, and we hear ‘mistakes’ – gasping repetitions of small musical phrases, repeated out of sync as if panic and confusion were disrupting the music’s own knowledge of where it was to go next. There are then a quick series of (9) shots cutting back and forth between Ada, Stewart, the shrieking Flora, a close-up of Stewart holding Ada’s hand down on the chopping block, screaming at (the mute) Ada, “Do you love him? Is it him you love!?” The music hits a crescendo as the axe is brought up and then down through the air. The block of wood and her hand are below the level of the shot, so we do not see contact, but hear a hyper-emphasized ‘thwack’ of ax into wood (and flesh and bone).⁴ The pounding background music stops, and the camera focuses on the terrified face of Flora who scream out ‘mother!’ as the child is hit on the side of the face and front of her dress with a gush of blood.

And then there is silence. Ten long seconds with no music. There is just the barely perceptible sound of the rain still pouring on the three still characters. Visually, this 50 second segment contains only 3 shots. The first shot (6 seconds long) centers the chopping block, where Ada pulls her mutilated hand away from the axe and stumbles back to her feet, and out of the frame. The second shot (3 seconds) is a close-up of Ada’s waistline, where she has one hand wrapped around the other. Her hand occupies at least ½ of the screen space, and the blood oozing between her fingers and down the front of her dress is the only patch of color against the background of grey-blues. The third shot has the camera shift back up, framing her face. The camera stays mobile for 45 seconds. Ada stands still, minimal emotion visible in her mud and rain-streaked face, holding the bleeding hand to her chest. Her eyes focus first on one side of the screen, then with a slow lowering of the eyelids, shift to the other. She turns her face and back to the screen, and then moves away from us, as the theme music finally begins again. If the music had doubled in speed leading up to the cutting, it is now at half the original speed, moving forward in a syncopated but wooden rhythm. At a similarly slowed speed, Ada moves away from us. Over the artificially heightened sound of the still pouring rain, and the muted and attenuated theme song, we can hear the hyper-intensified sucking sound of the mud in each of her slow footsteps away from us. The heightened effect of these muted sounds is like that of nerves vibrating at an intensified level. Ada, her back to us, stumbles to the ground, pushes herself back up, takes another slow step forward, then slowly buckles to the ground as her knees seem to give way, her skirt, resting in the mud, billowing out like a mushroom as she collapses in a sitting position, the dress puffed up around her.

The images and music accelerate in the first half of the scene to produce an increasing sense of anxiety, panic, and terror which peak with the drop of the axe. From that point forward, the images and music participate in a slowing down and stretching out of our experience of time and the body. The effect is rather like the heightened consciousness experienced just after a terrifying event. In that moment, the heartbeat has slowed back down, but one is still conscious of every thump and pound. Not only do we think we have seen Ada’s trauma, we have experienced something of it –the panic, the trembling, the catch in the breath, the numbing of the extremities, the ringing in the ears. While not all viewers will have experienced this scene in exactly the same way, very few would be unaffected by it.

Such attention points us in the direction of the techniques involved in constructing a set of powerful embodied reactions to a film, reactions which are linked to the politics of the film and its vision of law and legal subjectivity. In this scene, viewers are made to *feel* the wrong, to linger with the horror and injustice of Stewart's response to Ada. The visual and sound techniques work powerfully with the narrative to press viewer bodies into a moment of judgment – judgment not only of the moment of violence, but also of the legal and social contexts that position Stewart both to feel himself aggrieved, and to exercise authority over Ada's body and will. If, as Boal (2002) says, the whole body *thinks*, this scene from *The Piano* performs the insight that the whole body *judges*. The film deploys affect to exactly this end, positioning us to judge with our bodies, and not just our intellect.

ii. Setting the Mood: Two Opening Scenes

In the next section, we consider the affects produced by two equally powerful but quite different opening scenes. In discussing in some detail the layering of images and sounds that fill the first few minutes of the films *Minority Report* and *Dead Man*, we hope to reveal how the production of affect influences how we respond to particular films. These opening scenes engage us with distinctive sets of sensations and intensities long before we have any cognitive sense of the plot or story that will drive the action in the film. Yet, in making sense of the film, our contention is that we are responding as much to these pre-cognitive intensities, as to a particular storyline. This is what makes film particularly powerful as a medium for moving us as viewers.

Moreover, the distinctive affect of each of these films links to different socio-legal politics. Much existent Law-and-Film scholarship already works to reveal the politics of our contemporary socio-legal orders. The goal is to extend that canon by better understanding how film mobilizes these political effects to particular ends. This requires a more comprehensive account of both the narrative and affective dimensions of a film than we can provide here, since it is often the case that the narrative purports to convey a particular message that is simultaneously undermined by the affects produced in the film (Kamir, 2006). However, in beginning to explore the responses particular films set us up to experience, and in trying to understand what kinds of subjectivities those responses tend towards producing, Law-and-Film can open up a new dimension for exploring legal-politics in film.

a. *Minority Report*

Minority Report is science fiction thriller, adapted from a story by sci-fi writer Philip K. Dick. Set in the not so distant future, an elite "Pre-Crime" law enforcement team has practically eliminated crime through the use of three genetically altered humans. These Pre-cog(nitive)s can see into the future, predicting crimes soon to happen, allowing for the pre-emptive arrest of the future offender. John Anderton (Tom Cruise), head of Pre-crime and a steadfast believer in the system's flawlessness, finds himself on the run when the Pre-Cogs predict that Anderton himself will commit murder within the next 36 hours. Anderton struggles to discover the presence of a 'minority report' by one of the pre-cogs, a report which might tell a different story and prove him innocent. Released in 2002, the film engages directly with a very contemporary concern about the politics of affect, hypothetically posing the question: how many democratic freedoms would fearful subjects be prepared to sacrifice for assured safety? That is, if we somehow knew about the most heinous crimes before they were to be committed, would it then be possible to capture and punish the perpetrators in advance? It is a story that, especially when viewed in the context of the recent resurgence of doctrines of pre-emption in American politics, directly poses questions about the politics of fear.

The question is posed even more resonantly *below* the narrative register, in the ways that the film's mood, its images and sounds, play on our sensibilities to amplify a sense of vulnerability, and fear of violent crime. Certainly, the powerful images and sensations evoked by our first viewings of this film remain with us, years later. One of us associates the film with a visual tinge of blue. The other, with the physical sensation of shivering; of a chill that did not leave her even as she walked out of the air conditioned theater in the summer of 2002. The film operated powerfully across the bodies of its viewers, including our own, making skin crawl and shiver, inducing sensations of nausea (James, 2000). One of us found it virtually impossible to sit through the entire film again even when reviewing it in her own living room for this project. *Minority Report* is as much about the feelings of paranoia, anxiety and fearfulness it induces, as the story of vengeance, retribution and justice it plays out. Something in the speeds, the colors, the jolts, the music, the screaming, incites sensations of panic and the need to escape. The film seems to produce in the viewer a certain affect that we might describe as a 'heightened receptivity' to the event onscreen, that is, a sense of being reduced to a twanging tuning fork or vibrating wire.

The viewer is placed to occupy the same affective dimension as the 'pre-cogs' – genetically damaged individuals who are can see violent crimes before they are actually committed. The visions of the pre-cogs are powerfully affecting. They resonate in the visual, auditory, physical, and emotional registers—the pre-cogs are often seen shaken/shaking during the witnessing, as they experience the emotions of those whose impending death they inhabit. Although it is not immediately evident to the viewer, the opening sequence of this film is one such vision, which has the dual effect of placing the viewer in the subject location of the pre-cog and of introducing a sense of anxiety and a desire for escape that seeps into/saturates the entire experience of watching the film. The opening scene is remarkable in that it produces almost the same affective response as the film as a whole, yet it is compressed into an almost wordless, impressionistic sixty second montage of rapidly edited images (perhaps 35 shots) accompanied by a series of dissonant sounds and sound effects in the score produced by veteran film composer John Williams, whose film score credits also include *Jaws*, *Star Wars*, *Superman*, *ET*, *Close Encounters*, *Raiders of the Lost Ark*, *Jurassic Park*, *Schindler's List*, *Angela's Ashes*, *Harry Potter*, and *Memoirs of a Geisha*.

The film opens in darkness, and we hear a drum beat, or a heartbeat, as one might hear it when immersed in water, or amniotic fluid. Patches of white seep onto the black screen from top and bottom. As the blocks of contrasting light and dark slide across the screen, there is the sound of something like wind, then a high sustained string note getting louder, and (over the course of 17 seconds) the image resolves into the close-up of a passionate kiss. The image itself is unstable, and slips in and out of focus, giving the impression of the optical illusion where the image could be either two faces, or a single goblet. The persistent sound of heartbeat, sporadically amplified by a single low ominous drumbeat (like the sound of a battering ram against a wooden door), and the occasional sharp high discordant string note, give the image a feeling of something ominous rather than erotic.

Suddenly, we see superimposed over the image of the lover's kiss, a second image: a pair of sharp thin-bladed scissors, covered in blood, lying on the floor. The 'X'-shape of the open scissor-blades links the faces together. With the harsh pluck of strings, the image seems to be ripped to the side of the screen, to be replaced with an image of someone's face and body being shoved under the water in a bathtub, water and blood splashing over the side as the top part of the body is plunged under the water. The screen goes dark, then a slice of light resolves into the image of a suited man walking up the stairs towards us. The image, a roughly centered high-angle shot, occupies only ¼ of the screen, inky blackness pressing on the image from either side, giving the impression that we are looking down the stairs through a crack in the door above. The man approaches holding the scissors in his hands. We

hear a single high string note increasing in volume, with the deep sound of a heartbeat pounding in the background. With another jerk, we cut to a shot above of a half-dressed couple in bed, the man jumping backwards in shock at the man in the suit (the husband?) who suddenly appears beside the bed. In rapid succession, there is a close-up of the woman looking up towards the man in shock; an obstructed shot of the back of his suit; another shot of the bathtub, water and blood splashing out; a limp hand over the edge; a shot of the woman leaning forward on the bed (edges of the screen disrupted like the beginning kiss scene). These images are punctuated by single violent string notes (plucked and bowed) and sounds of water (splashing, dripping, sucking). Positioned as witnesses at the open bedroom door, we see the lover scrambling away on the floor, followed by the husband who lifts the scissors high above his head. The scissors plunge down, and we cut to an image of the scissors (blades closed) plunging through a piece of paper, with a hyper emphasized slicing sound. The image shifts to a high-shot a small boy slicing the scissors through the eye of a magazine image of a face.

We cut back to the bedroom, at a different angle, part of the screen distorted by darkness. The husband, standing by the bed, picks up his glasses, saying “You know how blind I am”. He pulls on his glasses, still holding scissors in his hand, as the woman sits on the bed, pressing back against the headboard in shock. The next shot places us on the other side of the bed, the husband in front of us. As the woman says, “Howard, don’t cry”, he pulls back his arm, foregrounding the scissors. A dissonant string note increases in volume as two rapid shots place us first at the bottom of the bed (where we see the husband raise the scissors and plunge them down towards the woman), then suddenly on the bed itself (as he plunges the scissors up and down towards us), each movement accompanied by intensified slashing noises. There is some mirror like distortion in each these shots, as if we are watching through a prism, or through water.

A snap-shot of scissors falling through the air in slow-motion, then we are positioned outside the bedroom, the empty bed centered, sheets and covers awry, a huge streak of blood splattered and dripping down the screen before us. We cut to a side-view of the woman sitting in the bed, blood pouring from a wound by her heart, her chest heaving up and down. Cut to a close up of the lover’s gasping face; a medium shot of the lover huddled on the ground with hands over his mouth; a long shot of the woman falling over in the bed in slow-motion; a shot from one end of the bathtub, as the suited husband plunges the lover’s face and body under the water. Then, a close up of the woman’s face. She is horizontal across the screen, lying on her back, throat is exposed, eyes open and unblinking, a line of blood tracing a line from her heart on the left towards her ear on the right. The camera zooms in to a close up of the woman’s open but unblinking dead eye. The image trembles, as if we are seeing it through the twitching eyes of someone else. The image of the dead woman’s eye seems overlaid with the image of another eye, lashes wildly fluttering, and the image snaps into clarity of a wide open blue eye, pupil dilated. The heart beat, low drums, sustained dissonant notes, plunging and slicing sounds that have been building to this point also snap into sudden silence.

In a single shot, the camera zooms back out from the eye until we have an entire face framed on the screen: a white-skinned shaved-headed woman lying on the surface of the water in some kind of pool, wearing something like headphones, her face just above the waterline, eyes open in terror. She whispers the word “mur-der” (in two long extended syllables). The sound echoes in what feels like a cavernous space. Then her body sinks slowly down until her face (eyes still open) is under the surface of the clear water. From the moment we first see her eye until the shot ends, ten seconds pass. This feels like a moment of interminable stillness, as the previous 50 seconds contained over 30 shots.

The filmic techniques (both scene and sound) locate us in the place of the pre-cog in the opening sequence. They also work to locate us emotionally or affectively in that subject position for much of

the duration of the film (James, 2002). We are positioned by the film as its affective ‘receivers’. We never really recover from the opening barrage of rapid-fire images from multiple directions and perspectives. The images themselves are terrifying, more so for being partial, disconnected, and out of order. The sound effects and the orchestral soundtrack are similarly dissonant and threatening. The ominous sense of imminent danger and the desire to escape to safety persist throughout the film.⁵

b. Dead Man

Let us now shift from Spielberg’s dystopic neo-noir Hollywood vision in *Minority Report* to Jim Jarmusch’s haunted post-modern western *Dead Man*. The characteristically minimalist plot of the film (also written by Jarmusch) centers around Bill Blake (Johnny Depp), a naïve young accountant from Cleveland who travels west to the town of Machine, only to discover the letter of employment which had prompted his journey was ‘not worth the paper it was written on’, invoking the western’s classic pre-occupation with the potency of law on the frontier. Blake inadvertently becomes involved in a love triangle involving the film’s only English speaking female character, Thel (Mili Avital). When Thel is shot by her jilted lover Charlie (Gabriel Byrne), the bullet passes through her and lodges in Blake’s chest, next to his heart. As Blake has in return shot and killed Charlie, he becomes an outlaw with a bounty on his head. Blake encounters a mixed blood indigenous character named Nobody (Gary Farmer). Nobody, believing the dying man to be the poet William Blake, sees it as his role to accompany the dying man to the coast, where his soul can be returned to its appropriate resting place. The majority of the film traces the journey undertaken by the two men, pursued by numerous bounty hunters. The journey ends on the edge of the ocean near a Makah village, where Nobody procures a ceremonial canoe and launches the ‘deadman’ Blake across the mirror/out to sea.

Dead Man is set in the space of the Western, yet the *feeling* of the film is quite unlike what one expects of the Western, a genre that, whether articulated from a traditional or revisionary point of view, generally foregrounds the dichotomies of law/lawlessness and nature/civilization and founding violence at the heart of the Myth of the Frontier (Slotkin, 1992; Tompkins, 1992). This film seems to give us markers of the genre, but then dislocates them. ‘Land’ does feature prominently, but rather than seeing sweeping vistas, our vision is circumscribed so we see relatively little of the incredibly numerous locations: pine forests, river banks, mountain passes, ocean front, and two small settlements, the frontier town of Machine and a coastal village inhabited by the western indigenous tribe of the Makah. Further, even where we have the landscapes of the West, they are not delivered in the dusty earth-tones we expect. Instead, the film is shot in black and white with a richly textured palette of grey tones. It offers up the stock characters of the western, but they are all strangely altered—we get cowboys that cross-dress and sleep with teddy bears, and British-educated ‘Indians’ who quote poetry. Even where the film delivers on the Western’s promise of violence, it does so in ways that disrupt the feelings we might expect the violence to produce. It is a film that moves very slowly, its long shots typically separated by several seconds of black screen and/or silence. This film’s tone, its settings, its edits and the remarkable score provided by Neil Young (a score characterized by harsh and non-resolving melodies and chords, distinctly atonal in orientation), all work together to disorient us in both time and space. This is a film that produces a quite distinctive affect of dislocation, de-familiarization, and ‘deterritorialization’, in the Deleuzian sense of ‘smooth space’ in which something new might come into existence (Patton, 2002).

But how do Image and Sound in particular contribute to the generation of the film’s affects? To that end, again we will consider just the opening sequence of the film. We begin in the dark, with the sound of a train whistle the first indicator of the space into which we will emerge.⁶ An amplified guitar note reverberates, and decays over the sound of the train, and we have a sudden close-up of the moving

wheel of a steam engine. The train sound drops in volume, and we cut to the inside of a train compartment. The guitar note has faded, so we hear only the clacking of wheels on rails, and the squeak of a lantern swinging from the roof. An extended close-up of a man's face (the very recognizable Johnny Depp, as of yet unnamed as Blake) is interspersed with similarly extended shots of what he sees: the swinging lantern above his head, passengers in the other seats of the compartment, a view of the landscape through the slats covering the window. Each shot is held long enough that we have time to look closely at faces, and passing landscapes. This is followed by several seconds of 'nothing': the screen goes black. We return to the opening shot of the moving steam engine wheel, the sound of wheel and steam increase in volume, and over them is again the sound of an amplified guitar. The guitar is amplified, and reverberates and echoes over one or two notes. The music vibrates away as we cut back to the interior of the compartment. Again, the compartment is silent but for the noise of the train. Again we have a close up of Blake, this time reading a magazine. This is followed by an eye line shot of the "Bee Journal" he is holding in his hands, a shot sustained long enough for us to cast our eyes over the ads and article titles on the open pages before us. Again, this is followed by several seconds of black screen, then the image of the train wheels accompanied by harsh guitar notes, and then a return to the train compartment. Blake is playing solitaire. We have no sense of how much time or space has passed. A series of eye line shots reveals some new passengers in the compartment. When Blake looks out the window, the landscape has changed. We see an abandoned pioneer wagon, punctuated by a two sudden and reverberating guitar notes. Then, black screen. Again, the pulsing rhythmic and musically enhanced sound/image of the moving steam engine, followed by a return to the silent interior of the compartment. We see (shot from Blake's point of view) a newly changed landscape through the window slats, a close-up of Blake/Depp's largely inscrutable face and a view of the newly configured passengers.

This rhythm continues for the first five minutes of the movie, a rhythm built up through the repetition of images and sound, a rhythm that produces a generalized low level sense of unease and discomfort, and an increased demand to look for more, to search the images and sounds for familiar markers. In this first five minutes, there is no dialogue, and no 'action'. We cannot track time or place, other than to say both are passing. Blake remains dressed exactly the same, though the passengers in the compartment do shift with every iteration: fewer women, fewer men in suits, more men with beards and fur hats carrying rifles. The increasing 'roughness' of the other passengers begins to generate an increasing sense of unease and dislocation. That sense is reinforced both by the continual insertion of the slightly disturbing Neil Young guitar music, as well as by the slight side-to-side action of the moving train compartment: the heads of all the passengers are moving gently from side to side with the rocking motion of the train. The camera shots are long and sustained, and there is very little movement. The movement that grabs the eye comes from the shifting light through the window slats and the slight (though perceptible) back and forth motion of all the passengers. In the body, this generates the feeling of a slight edge of motion-sickness. This slight sensation of discomfort resonates with and immerses us in the narrative: we are clearly on a journey, but with no knowledge of who 'we' are, where we are going, and whether or not it is dangerous. The black screens disrupt us in time and space. The people in the train compartment change and yet don't.

Again, the opening scene presages an affect, here--of dislocation, that seeps through the entire film. From the beginning, we are given images and sounds that fail to resolve as we expect. The music fails to deliver chords or melodies that resolve things. We hear intervals that open without closing, and that are dissonant and disruptive. The music feels as 'undomesticated' as the landscapes we see. The landscape changes in nearly each scene, (mountains, snow, forests), but no matter where we move, we never move to something that leaves us feeling that we have arrived. The black and white film stock robs us of visual markers for warmth and coolness. It is difficult to tell if is sunny or cool. Even day

and night are not easily distinguishable. There is no ‘familiarity’ in a deep sense, though we can recognize that we are in or moving through terrains that change. Even the faces of the characters in the film, in their cool expressionlessness, are in some measure akin to the landscapes, as they fail to deliver indicators of emotion that might help to orient us. We are required to scan the images ourselves, searching through and around them to pull together some possibilities for meaning. The general affect of dislocation also opens up space for the possibility of reading the colonial encounter in other than expected ways.

There is a skillful use of image and sound to produce distinctive affects in the opening scenes of these two films, opening scenes that provide an evocative site for comparison. *Minority Report*, typical of the action genre, uses rapid sequences of images and sound effects to propel us into the story at heart-pumping speed, and to immediately create in us a sense of anxiety and insecurity. *Dead Man* does almost the opposite: time is slowed down through the use of long still shots with little movement in them. The shots are frequently separated from each other by up to several seconds of black screen. The passage of time and space is explicitly placed in question in these cuts. The effect of a jump cut is just the opposite – it doesn’t give you time to think. In *Dead Man* we are led to experience a sense of disquiet and disorientation through the stretching out of sound and image, whereas in *Minority Report* our anxiety and sense of entrapment is intensified by a barrage of sounds and images, especially in its first minute. Where *Minority Report* terrorizes, *Dead Man* haunts.

Conclusions: New Interdisciplinary Configurations for Law and Film Scholarship?

Elizabeth Grosz has argued that we need “to have a more nuanced, intricate account of the body’s immersion and participation in the world.” (2004: 2) Indeed, this insight is particularly important for legal scholars, as theorists such as Jennifer Nedelsky (1990) have pointed out. The disembodied ‘reasonable man’ of liberal legal thought is not only unhelpful, he is downright dangerous for those whose bodies are colorful, gendered, or differently abled (Coombe, 1995). The thrust of much critical scholarship has been to attend to the experiences of these differently situated subjects, and even to ‘embody’ them in certain ways.

Yet, as we noted at the beginning, we continue to observe a gap between our (feminist) intentions to give more import to the fact of embodiment in our theoretical frameworks, and the limits of our capacity to actually capture relevant aspects of this experiential dimension in our writing. This chapter has been an effort to move in this direction, to pick up tools and techniques for doing this type of thinking, and to provisionally put them to work in the reading of these three different scenes from three quite different films. Each of these films raises questions about law, judgment, socio-legal politics, and the construction of legal subjectivity.

In *The Piano*, attention to sound and image helps us make visible the ways in which the film positions viewers to engage in practices of embodied judgment. The filmic sequence offers both a (narrative) argument about gendered inequality, and a viscerally embodied experience of the trauma of gendered violence. The film positions us to judge with our entire bodies. In *Minority Report*, we see how the barrage of sound and images works to produce pre-cognitive orientations of anxiety and paranoia. While the images and sounds do not dictate how a person will read the film, the result is an overloading of the senses, leaving little time for thought, functioning a bit like the adrenaline in the freezing at the dentist. *Deadman* produces a quite different affect. Again, the sounds and images do not dictate the kinds of judgments the viewer will make, but the techniques of image and sound used do tend to press the viewer towards a more open space of judgment, one in which new meanings must be constructed,

one in which the viewer will have to actively participate. This affective orientation is no less ‘political.’

Scholars in the law-film community have increasingly reminded us of the need to attend to the ‘film’ in Law-and-Film. Law-and-Film scholarship, as it continues to move outwards from more traditional representations of law in films, classic or Hollywood, and towards new interdisciplinary configurations in multiple directions or lines of flight, could take this call seriously. Further, we will profit from a more profound engagement with the range of theorists currently attempting to think through the significance of affect. Such work calls on us to think about ‘the body politic’ differently, and to grapple theoretically with movement, affect and sensation. Political theorists such as William Connolly and J.K. Gibson-Graham have attempted to extend such conversations across disciplinary borders, to draw political, legal and social theory into a more sustained engagement with film theory, an engagement designed to grapple in more nuanced ways with the manner in which thinking and affect are bound together. The filmic experience or event is one that can be returned to, thought through, grappled with, and used on the self as a technique for opening towards new political possibilities and ways of being. We make a connection between this work and the work of scholars like Stuart Motha (2007), who have taken on the challenge of opening up the spaces of law to new forms of political subjectivity. There is, we suggest, particularly in these times where politics of fear are so ascendant, some urgency in attempting to think otherwise about our inherited ways of understanding the role of affect in our sense of ourselves as legal subjects, legal actors, and decision-makers.

Law-and-Film scholarship needs to attend not only to the (fixed) representative or ideological dimension of film, but to its movement, its flux and possibility as energy. There is value in opening up the ways that we as individuals and legal scholars can work with the films that work on and through us, moving us, through visions and hauntings, through shrieks and echoes, towards new potential identities, new alliances, and new possibilities for ways of being in the world.

ENDNOTES

* The authors wish to thank the editors of this special issue for the invitation to reflect more closely on developments in the field, Irina Ceric, Jennifer Schulz, Orit Kamir, Susan Drummond, Jim Tully, and two anonymous reviewers for their comments on earlier drafts, and the Institute for Feminist Legal Studies at Osgoode Hall Law School, where a version of this paper was presented. Thanks to Andrew MacDougall and Steven Carter for their support in facilitating this collaboration.

¹ See for example the work of Lorna Williams, http://www.chairs.gc.ca/web/chairholders/viewprofile_e.asp?id=1971&

² It should be noted that while they are sometimes difficult to hold apart, there is an important distinction to be made between ‘affect’ and ‘emotion’. Brian Massumi (2002) speaks of affect in terms of ‘intensities’ and makes a compelling case (on the basis of several neuroscientific experiments) for the significance of distinguishing the two: “Emotion is qualified intensity, the conventional, consensual point of insertion of intensity into semantically and semiotically formed progressions, in narrativizable action-reaction circuits, into function and meaning. It is intensity owned and recognized. It is crucial to theorize the difference between affect and emotion.” (at 28)

³ Here, I am reminded of a conversation I had with my dentist. I told him I found it bizarre that no matter how calm I felt about getting a needle, the experience always left me feeling anxious. He told me that the freezing contained a mixture of adrenaline, which helped the freezing take more rapidly. The slight pounding of my heart was not the product of my internal anxiousness, but the product of a small amount of a heartbeat enhancing drug.

⁴ This point is nicely made in Chumo (1997) who notes that the scene resonates with one earlier in the film where, during a play, Bluebeard seemed to be attacking his wife with an ax but wasn’t. Here as well, the art of the scene is such that acting and editing techniques make Ada’s loss of the finger seem real.

⁵ This sense of looming danger may in fact be enhanced by the film’s tendency to periodically snap into an exaggerated representation of safety and normalcy, as when it cuts to an advertisement touting the benefits of the “Pre-Crime

Investigation Unit” that follows the dramatic arrest of the man who is predicted to commit the murders we think we see in the opening minute.

⁶ Lynne Kirby (a Senior Producer at Court Television Network) argues that “cinema has enjoyed a special kinship with the railroad, a mutual attraction based on similar ways of handling speed, visual perception, and the promise of a journey,” and that “trains and rail travel embodied concepts of spectatorship and mobility grounded in imperialis, and the social, sexual, and racial divisions of modern Western culture.” (Kirby, 1997: back cover) See p. 250 for her argument that the train gave us cinema (though the windows) *before* there was cinema. You can see this in the scenes with Johnny Depp looking through the windows at the passing scenes.

BIBLIOGRAPHY

Andrew, J. D. (1976). *The Major Film Theories*. London: Oxford University Press.

Bandes, S. (Ed.). (2001). *The Passions of Law*. New York: New York University Press.

Belleau, M.-C., & Johnson, R. (2007). Faces of Judicial Anger: Answering the Call. In M. Jézéquel & N. Kasirer (Eds.), *Les sept péchés capitaux et le droit privé*. Montréal: Éd. Thémis.

Bergman, P., & Asimow, M. (1996). *Reel Justice: The Courtroom Goes to the Movies*. Kansas City: Andrews and McMeel.

Black, David A., *Law in Film: Resonance and Representation* (Urbana: University of Illinois Press, 1999).

Boal, A. (1979). *Theatre of the Oppressed* (C. A. McBride & M.-O. L. McBride, Trans.). New York: Urizen Books.

Boal, A. (1998). *Legislative Theatre: Using Performance to Make Politics*. London, New York: Routledge.

Boal, A. (2002). *Games for Actors and Non-Actors* (2nd ed.). London: Routledge.

Boal, A. (2006). *The Aesthetics of the Oppressed*. NY: Routledge.

Bogue, R. (2003). *Deleuze on Cinema*. New York: Routledge.

Bordwell, D., & Thompson, K. (1985). Fundamental Aesthetics of Sound in the Cinema. In E. Weis & J. Belton (Eds.), *Film Sound: Theory and Practice* (pp. 181-199).tr

Bordwell, D., & Thompson, K. (2004). *Film Art: An Introduction* (7th ed.). New York: McGraw-Hill.

Buchanan, R., & Johnson, R. (2005). The *Unforgiven* Sources of International Law: Nation-building, Violence, and Gender in the West(ern). In D. Buss & A. Manji (Eds.), *International Law: Modern Feminist Approaches* (pp. 131-158). Oxford: Hart Publishing.

Bullerjahn, C., & Güldenring, M. (1994). An Empirical Investigation of Effects of Film Music Using Qualitative Content Analysis. *Psychomusicology*, 13, 99-118.

Chase, A. (1988). On Teaching Law and Popular Culture. *Focus on Law Studies*, 3(2), 1, 8-9.

Chumo, P. N., II, . (1997). Keys to the Imagination: Jane Campion's *The Piano*. *Literature/Film Quarterly* 25(3), 173.

Chunn, D. E., & Lacombe, D. (Eds.). (2000). *Law as a Gendering Practice*. Oxford: Oxford University Press.

Connolly, W. E. (2002). *Neuropolitics: Thinking, Culture, Speed*. Minneapolis: University of Minnesota Press.

Coombe, R. (1995). Finding and Losing Oneself in the Topoi: Placing and Displacing the Postmodern Subject in Law: A Commentary on Boaventura de Sousa Santos' 1995 Presidential Address. *Law and Society Review*, 29(4), 599-608.

Cover, Robert, "Nomos and Narrative" (1983) 97 Harvard Law Review 4

Rosemary Coombe's response to Boaventura Santos in a mid-1990's Law and Society Review

Doane, M. A. (1985). Ideology and the Practice of Sound Editing and Mixing. In E. Weis & J. Belton (Eds.), *Film Sound: Theory and Practice* (pp. 54-62). New York: Columbia University Press.

Dyson, L. (1995). The Return of the Repressed? Whiteness, Femininity and Colonialism in *The Piano*. *Screen*, 36(3), 267-276.

Gibson-Graham, J. K. (2006). *Postcapitalist Politics*. Minneapolis: University of Minnesota Press.

Giroux, H. A. (1996). *Fugitive Cultures: Race, Violence, and Youth*. New York: Routledge.

Gladwell, M. (2005). *Blink: The Power of Thinking Without Thinking*. Boston: Little, Brown.

Gordon, R. M. (2007). *Between Thought and Feeling: Affect, Audience, and Critical Film History*. Unpublished Doctor of Philosophy, Indiana University.

Grosz, E. (2004). *The nick of time : politics, evolution, and the untimely*. Durham: Duke University Press.

Hanigsberg, J. (1995). An Essay on *The Piano*, Law, and the Search for Women's Desire. *Michigan Journal of Gender & Law*, 3, 41.

James, N. (2002). An Eye for an Eye. *Sight and Sound* 12(8), 14.

Johnson, Rebecca, "Leaving Normal: Constructing the Family at the Movies and in Law" in Lori G. Beaman ed., *New Perspectives on Deviance: The Construction of Deviance in Everyday Life* (Scarborough, Ont.: Prentice-Hall, 2000) 163.

Johnson, R. (2006). Judging Magic: Can You See the Sleight of Hand? *Michigan Law Review*.

Johnson, R., & Buchanan, R. (2001). Getting *The Insider's* Story Out: What Popular Film Can Tell Us About Legal Method's Dirty Secrets. *Windsor Yearbook of Access to Justice*, 20, 87-110.

-
- Kahan, Dan M., Slovic, Paul, Braman, Donald, Gastil, John and Cohen, Geoffrey L., "Affect, Values, and Nanotechnology Risk Perceptions: An Experimental Investigation" (March 7, 2007). GWU Legal Studies Research Paper No. 261 Available at SSRN: <http://ssrn.com/abstract=968652>
- Kamir, Orit, *Every Breath You Take: Stalking Narratives and the Law* (Ann Arbor, MI: University of Michigan Press, 2000).
- Kamir, O. (2006). *Framed: Women in Law and Film: How Law on Screen Constructs Gender, Dignity and Honor*. Durham, NC: Duke University Press.
- Kirby, L. (1997). *Parallel Tracks: The Railroad And Silent Cinema*. Durham: Duke University Press.
- La Forest, A. W. (1995). A Deceptive Cadence: Nineteenth-Century Property Law and Popular culture's Perception of *The Piano*. *Canadian Journal of Law and Society*, 3, 31.
- MacNeil, W. P. (2003). "You Slay Me!": Buffy as Jurisprudence of Desire *Cardozo Law Review*, 24, 2421.
- MacNeil, W. (2005). Precrime Never pays! 'Law and Economics' in *Minority Report*. *Continuum: Journal of Media and Cultural Studies*, 19(2), 201.
- Machura, S., & Robson, P. (Eds.). (2001). *Law and Film*. Oxford: Blackwell Publishers.
- Maroney, T. A. (2006). Law and Emotion: a Proposed Taxonomy of an Emerging Field. *Law and Human Behavior*, 2, 119.
- Massumi, B. (2002). *Parables for the virtual : movement, affect, sensation*. Durham [N.C.]: Duke University Press.
- Moran, L. J., Loizidou, E., Christie, I., & Sandon, E. (Eds.). (2004). *Law's Moving Image*. London: Cavendish Pub.
- Motha, S. (2007). Veiled Women and the Affect of Religion in Democracy. *Journal of law and Society*.
- Nedelsky, J. (1990). Law, Boundaries and the Bounded Self. *Representations*, 30, 162.
- Patton, P. (2000). *Deleuze and the Political*. London ; New York: Routledge.
- Pisters, P. (2003). *The Matrix Of Visual Culture : Working With Deleuze In Film Theory*. Stanford, Calif.: Stanford University Press.
- Roach Anleu, S., & Mack, K. (2005). Magistrates' Everyday Work and Emotional Labour. *Journal of Law and Society*, 32(4), 590-614.
- Said, E. W. (1994). *Culture and Imperialism*. New York: Vintage Books.

-
- Sarat, A. (2000). Imagining the Law of the Father: Loss, Dread, and Mourning in *The Sweet Hereafter*. *Law & Society Review*, 34(1), 3-46.
- Sarat, A., Douglas, L., & Umphrey, M. M. (Eds.). (2005). *Law on the Screen*: Princeton University Press.
- Schulz, J. L. (2006). Confectionery and Conflict Resolution? What *Chocolat* Reveals About Mediation. *Negotiation Journal*, 22, 251.
- Schwarz, D. (1997). *Listening subjects : music, psychoanalysis, culture*. Durham: Duke University Press.
- Silbey, J. M. (2004). Judges as Film Critics: New Approaches to Filmic Evidence. *University of Michigan Journal of Law Reform*, 37(2), 493-571.
- Silbey, J. M. (2006). Filmmaking in the Precinct House and the Genre of Documentary Film. *Columbia Journal of Law & the Arts*, 29(2), 107-180.
- Silbey, J. M. (2007). Criminal Performances: Film, Autobiography, and Confession. *New Mexico Law Review*.
- Slotkin, R. (1992). *Gunfighter Nation: The Myth of the Frontier in Twentieth-Century America*. New York: Atheneum.
- Spivak, G. C. (1999). *A Critique of Postcolonial Reason: Toward a History of the Vanishing Present*. Cambridge: Harvard University Press.
- Tompkins, J. P. (1992). *West of Everything : The Inner Life of Westerns*. New York: Oxford University Press.