

Posthuman Rights

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If the primary human rights preoccupation of mainstream film and television is the ethical status of the human, *Splice* (Vincenzo Natali, 2009) is far more interested in the ontological status of the human. This seems to me to reverse the human rights issue – rather than focus on which rights should be inherent to the human, *Splice* complicates matters by asking how the human is constituted and therefore which rights should be extended in liminal cases. In other words, if most recent catastrophe fictions express an anxiety over human descent into depravity and a loss of what makes us human, *Splice* asks the persistent question of what constitutes the “life” in the right to life. In the film we encounter the genetically-engineered Dren who is a human-animal-technology hybrid and through this hybrid, the film allows us to think about which rights Dren is entitled to. I argue that *Splice* makes us engage affectively with human rights through the radical uncertainty of the category of the human, arguing that exclusion from human rights is in itself highly problematic. I therefore conclude that rights run the risk of becoming an anthropological machine, as defined by Giorgio Agamben, by delimiting the human and thereby reinstating a kind of biopolitically racist, colonial discourse.

It is difficult, of course, to define what human rights are as there is always a tension between the universalist claims of the Universal

Declaration of Human Rights and the different national implementations. Such tension is not always an evil, as there must be room for cultural charters but inevitably such room also reduces the universal nature of human rights. For this reason, I wish to proceed from the idea that human rights belong to a distinctive episteme which makes them historical and changeable. This claim is uncontroversial, since the emergence of human rights in themselves draw on a rich historical tradition of philosophical and political work. What this epistemic understanding of human rights entails is, however, also the realization that the future of human rights will be different from what they are now. One way to think this future episteme would be to consider how rights might change in a different environment. Such an environment is established by *Splice* and thereby allows us to consider the challenges of human rights to come.

My purpose in discussing *Splice* is not so much to analyze the film from an aesthetic point of view but rather to think human rights through the film and its aesthetics, what Daniel Frampton, following Gilles Deleuze, calls “filmosophy” (Frampton 2006). As a phenomenological approach, I will argue that *Splice* creates a film-world (as opposed to a life-world) which allows us to think thoughts different from our own and direct our attention towards something which does not exist but still performs cultural work - in particular Dren. If we start with the fundamental issue at stake in *Splice* we find that genetic engineering is regarded as unproblematic and a benign science - the issue does not get muddled until human DNA is brought into the picture. Biomedica technology is good and the argument that we find in the film is that biomedica helps people and will be responsible for an increase in global health. The right to health is therefore an implicit reason for doing biomedica research. The two virtuoso scientist protagonists – Elsa and Clive – suggest that by adding human DNA to their experiments, they can help cure serious ailments ranging from Parkinson’s, Alzheimer’s and different forms of cancer. For Elsa and Clive, the right to health becomes a categorical imperative to perform their research; it is a necessary step to fulfill the right to health. While the company Elsa and Clive work for does not agree, citing the international ban on human cloning, we find here an issue of what Richard Falk refers to as the power of rights (Falk 2008, 35). The issue becomes whether the need for advancing medical research to provide better health

globally is more significant than the ban on employing human cloning and for Elsa and Clive, the right to health wins out.

Their argument for why what they are doing is the morally and ethically right thing to do is as Elsa says, that “Human cloning is illegal. This won’t be human. Not entirely.” We find here a zone of exclusion based on a form of impurity idealism – they are not breaking laws since they are technically not performing human cloning. We see here how the rights of humans become entangled with the ontological status of the human – Elsa and Clive insist on helping the human through a process of exclusion. Inevitably, the rest of the film becomes an investigation into the consequences of this exclusion and so helps us to see how both terms of human rights are inherently unstable.

It seems to me that we are faced here with one of the constitutive residual epistemic problems of human rights - since rights are historically based on the rights of individual, white men, how do we extend this presumed universality into an actual universality?¹ In this way I see the posthuman figure of Dren as a figuration of this epistemic anxiety, carried over into an ontological doubt over the category of the human thereby questioning the issue of what the future subaltern might be - might it be genetically modified clones? While the Universal Declaration has learned from the problems of the past and so has chosen the phrase “All human beings are born free and equal in dignity and rights” the question remains whether this phrase will be sufficient for the human rights to come. Of course, there is an implicit definition of the human in the Universal Declaration Article 1 which continues “They [human beings] are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” This constitutes the human as not simply a sentient, reasoning being but (perhaps most significantly) a moral being.

If we are to understand the condition of the human in *Splice*, it seems to me that this revolves around Elsa’s statement of Dren being

1 In saying that human rights are historically based on the rights of individual, white men, I certainly do not wish to disparage the work done by a multitude of people for the building of human rights. Rather, I simply follow the argument put forth by Andrew Clapham that much of the discourse of human rights arose from a Western context, where rights (typically of man) were described as a universal. It is this conception of rights as universal and therefore inherently colonizing which I attempt to critique here.

“not entirely human.” Of course, living after what Bruno Latour has termed the Great Divides, it becomes difficult to entirely trust any division between the human and the nonhuman (Latour 1993). Instead it seems entirely possible that conscience will emerge as yet another breached dividing line separating humans from animals and plants, also considering of course Michel Foucault’s by now well-rehearsed argument that “[the hu]man is only a recent invention, a figure not yet two centuries old, a new wrinkle in our knowledge” (Foucault 1994, xxiii).² Indeed, when we investigate Dren’s actions and behavior it seems obvious that she is not only capable of reasoning but certainly also has a conscience alongside emotions.

Before we turn to these aspects of markers of a certain sense of the human, however, let me first address another potential protest against my argument that Dren is in fact as human as you and I: her birth and existence as a result of biotechnology. Such protest would then ignore or count as invalid arguments ranging from André Leroi-Gourhan (*Gesture and Speech* 1993) to Bernard Stiegler (*Technics and Time 1: The Fault of Epimetheus* 1998) and those who have followed them in pointing out that the constitution of the human is inevitably bound up with tools and technology. Therefore any protest that Dren’s being is too technologically mediated only casts the rest of humanity outside such naturalist definition of the human. In the end, and congruent with film phenomenological perspective, we are left with Dren’s actions rather than any *a priori* definitions or delimitations of the human. Our guiding question is instead how Dren behaves and how we may relate such behavior to a human framework.

If we look at the moment of Dren’s birth as an instance of over-coded significance, there are some aspects which are immediately telling, such as the grotesque technological womb from which Dren must be torn. The odd being which emerges from the metal womb is distinctively alien and in this moment we would never ascribe the status of human to this oddity. However, it turns out that what emerges is only the chrysalis for a different being entirely. The bodily metamorphosis which Dren undergoes here must remind us of similar metamorphoses, primarily the one found in *Alien* (Ridley

² I amend Foucault’s argument to explicitly include women, transgendered people etc, much like the Universal Declaration has done, in the spirit of human rights’ universality.

Scott 1979) and it is precisely with this juxtaposition that we find a difference which makes a difference. Although the chrysalis is as disturbing as the facehugger of Scott's film, what emerges in *Splice* is nowhere near as frightening as *Alien's* chestburster. Rather, the trepidatious creature ungainly wobbling around the lab might be more reminiscent of Bambi - a being with large eyes and spindly legs. As Dren grows older, she grows to resemble a human girl and woman, the primary difference being a stinger tail. This human identification also comes from Dren being dressed in a cute dress by Elsa as they play games, thereby establishing some degree of humanity to Dren. This degree of humanity is cemented for Elsa when Dren spells out "nerd" with Scrabble pieces as a recognition of the t-shirt Elsa wears - this act reveals that Dren can associate, thereby making her human. It is also this scene which names Dren, as Elsa is annoyed with Clive referring to her as "it." Instead, Elsa says that her name is Dren, reading "nerd" backwards and thereby making the moment of association what humanizes Dren - she can associate, she can spell, she obtains language to some degree and this for Elsa makes Dren human.

What makes Dren human for us as spectators is a little different, I believe, although the above scene is pivotal. However, it is also a matter of our growing sympathy for Dren. To outline this, I wish to turn to what Gilles Deleuze calls the affection-image, identified primarily as the close-up of a face (Deleuze 2005, 89). I believe that it is the close-ups of Dren which humanize her for us, which convinces us of her right to the status as human and thereby engages us affectively in what she is subjected to. Deleuze argues that the close-up directs our attention towards poles of admiration and desire, something we find to be true in *Splice* as well. The admiration for Dren comes in the sense of wonder we get as we gaze upon her face, the alien and the human blending seamlessly and casting us into the realization that Dren has emotions as human as our own.

When Dren has reached what appears to be her fully grown state, that of a young woman or teenager, she finds a box of toys including a klopotec and a plastic tiara. As she plays with these objects we see her reaction in a close-up and recognize the amazement and wonder she is filled with before this strange, fantastic world. Her engagement with these toys suggests an emotional range that we

find in ourselves – Dren behaves like a curious child and although her body appears older, we understand her reactions and feelings. Although not in a close-up, we find a similar emotional attachment a little later, when Dren has found a cat that she wishes to keep and play with. Her anguish at the cat being taken from her by Elsa reveals the inherent parent-child relationship between Elsa and Dren and also suggests that Dren is perfectly capable of forming emotional bonds, something we also see in the fact that she draws portraits of both Elsa and Clive, just as children will do.

The second significant close-up suggests far darker passions, though no less human. Clive dances with Dren in a moment of happiness and as they dance the camera circles around them, giving us a sequence of shot/reverse shot close-ups of both Dren and Clive. Dren is caught up in the moment, laughing and happy and we are positioned in Clive's point of view, with the speed of the film slowing slightly down, allowing for Clive's attention to Dren's face. As she gazes directly into our/Clive's eyes we see desire reflected back at us - Clive finds a desire for Dren, just as she finds a desire for him and we as spectators recognize this desire in both of them and we feel uneasy about this convergence of desire, not because Dren is alien but precisely because she is human and the desire therefore feels incestuous. This incestuous feeling is confirmed later on when Clive and Dren actually do have sex and Elsa discovers them; Clive has crossed an ethical boundary which of course mirrors Elsa's transgression of placing her own DNA in the experiment, thereby turning Dren into a partial clone of her.

My argument here is simply that we gain sympathy and understanding for Dren and that the repulsion we feel later on occurs because we, by this point, have already conferred human status on Dren. The affect which we feel for Dren thereby connect us to what happens to Dren and engages us in her life. Precisely through the affection-image we accept the blurred and distended boundary between Dren and the human; she is for all intents and purposes human because we identify her as human. Dren is therefore very far from the creature in *Alien* or even Sil in *Species* (Roger Donaldson 1995), both beings who are affectively engaging precisely due to their inherent inhumanity rather than humanity. With Dren, we care about her and by extension we care about which rights she is entitled to.

The first right we should examine, then, seems to me to be most logically the right to life. We know that this right in itself has been difficult and problematic to determine from a human rights perspective since there can be many different interpretations of when life begins.

In a recent case concerning a dispute between two estranged parents of frozen embryos, the European Court of Human Rights held that: “in the absence of any European consensus on the scientific and legal definition of the beginning of life, the issue of when the right to life begins comes within the margin of appreciation which the Court generally considers that States should enjoy in this sphere (Clapham 2007, 47).

It seems no coincidence that Elsa and Clive also speak of Dren in terms of the beginning of life using words such as “going full-term,” indicating that Dren has in fact gone full term and that therefore, consistent with the human aspects they both attribute Dren, she must have right to life. Yet inevitably, this becomes exactly the point of contention alongside other concerns about how Dren can be treated. Here my argument intersects with that of Giovanna Borradori’s although from a slightly different angle. As we know, Borradori suggests that we may use atrocity photographs to read humanitarian concerns and the need for human rights (Borradori 2011, 158). While he works with images of actual events, I work with images of potential events but considering the affective states which we enter when regarding Dren as human, these cinematic images remain not only images of suffering but also images as “complex processes of public argument, deliberation, and exchange” (Borradori 2011, 166) and thereby engage with iterations of human rights. *Splice* may not be the unloading ramp at Auschwitz. However, its images of incarceration and torture connect it to issues of human rights in similar ways.

One of the clearest ways of seeing how human rights become figured in Dren is the fact that Dren remains incarcerated throughout the film. First she remains locked up in the lab but as this proves to be too risky, she is transferred to the barn of Elsa’s inherited home. Although Dren is not shackled or otherwise restrained it is clear that

she desires freedom, understood as the freedom to move around freely - the first thing she does when arriving at the farm is to run away to hunt and eat. It is this act which makes Elsa and Clive incarcerate Dren and deny her access to an outside. While at first there are no signs that Dren is mistreated or denied care while in the barn - she has toys, plenty of food, etc... - it is slowly revealed that she does feel detained and extremely unhappy about her current condition. Significantly, the most direct form this dissatisfaction takes is once again through Scrabble. Dren, when questioned about her unhappiness, writes out 'tedious' in Scrabble letter tiles, thereby opening up an unexpected avenue of the distinction of captivity.

Following Agamben and his idea of "the open," which he draws from Heidegger, we find that captivation is the essence of animality because animals are not able to open themselves to the world "Captivation appears here as a sort of fundamental *Stimmung* in which the animal does not open itself, as does Dasein, in a world, yet is nevertheless ecstatically drawn outside of itself in an exposure which disrupts it in its every fiber" (Agamben 2003, 62). Dren is, however, perfectly capable of opening herself towards the world, yearns for it, in fact, and so strains against the yoke of animality under which she is placed. She recognizes intuitively what every human would recognize - that being placed under animal captivity, denied access to an openness to the world is a forceful operation and that "the place of this operation—in which human openness in a world and animal openness toward its disinhibitor seem for a moment to meet—is boredom" (Agamben 2004, 62). Dren feeling this tediousness of captivity shows that she recognizes the animal conditions she is placed under; this animalization denies Dren her humanity and thereby justifies her captivity for Elsa and Clive. Yet at the same time it is because Dren recognizes her tedious captivity that we feel she is in fact human - she desires to seek out the openness of the world and the denial of this constitutes therefore a violation of her rights.

Agamben's complex concept of the open therefore not only reveals Dren to be human but also reveals a certain animality in Clive. Despite the taboo of incest, Clive is incapable of resisting Dren, much like the moth is incapable of resisting the flame. The human-animal binary is thereby broken down and we begin to see how many of our actions are done to suspend our animality, as Agamben

puts it: “The open is nothing but a grasping of the animal not-open. Man suspends his animality and, in this way, opens a “free and empty” zone in which life is captured and abandoned (ab-bando-nata) in a zone of exception” (Agamben 2003, 79). *Splice* reveals that everything about Dren works as an anthropological machine – creating her as a nonhuman, imprisoning her and torturing her all becomes part of making ourselves human in opposition to her. Our reach towards the open, our desire to move beyond animal captivity, however, is deconstructed at the same time, in the allure of Dren. The nonhuman Dren becomes attractive as she is revealed as more-than-human, which also makes her terrifying and hence Dren must be punished.

This brings us to the issue of proportionality and the discussion of whether there is some form of legitimacy for what Elsa and Clive are doing to Dren or not. They both seem somewhat concerned about the potential biohazard of letting Dren out of the lab at first, but it soon becomes evident that Dren does not pose a danger to anyone other than Elsa and Clive’s job security. If we apply the schema set forth by Clapham, we find that there is no legitimate aim to Dren’s detention, nor is her detention described by clear or accessible law and finally her detention does not seem proportionate to the aim (Clapham 2007, 100). Instead, the detention appears selfish and unnecessary, motivated by the personal aims of Elsa and Clive. What ends up happening because of Dren’s incarceration is, however, another matter which also speaks to the results of overstepping human rights. It is clear that Dren’s detention extends beyond simple matters of restrictions of space and movement; she is also denied her pet cat, food beyond the necessary sustenance and any other kind of engaging activity. When denied her cat, Dren is in fact denied companionship and emotional relations and when Elsa decides to give Dren her cat back, Dren reacts in an extreme but understandable way - she removes the emotional stranglehold which the cat represents and simply kills it. Of course, this act is enough for Elsa to subject Dren to cruel and unusual punishment, thereby creating the self-fulfilling condition that Dren is dangerous and must be constrained.

Dren’s punishment for killing the cat is to have her stinger tail cut off, while chained to the operating table. No anesthesia is used, nor does Elsa even wait to discuss the punishment with Clive. Every-

thing about the situation tells us that Dren deserves less respect than an animal and Elsa has no concerns about the age-old question “can they suffer?” It is necessary here to keep in mind the sympathy which has already been established for Dren in previous scenes in the film, alongside the fact that we see how the operation hurts her on both a physical level but also an emotional level as she does not understand her punishment in the first place nor why her parent would do something like this. For us, but not for Elsa, it is evident that Dren reacts, behaves and has feelings like a human. For Elsa, all that matters is the punishment which makes her act a clear example of what Falk calls the rights of power (Falk 2008, 27). The justification is inherent in the punishment as something which Elsa as maker is entitled to.

The torture and maiming of Dren therefore becomes a territorial struggle not so much over the rights of Dren but over her status as human or lab animal. Elsa never hesitates to question or consider if what she is doing is acceptable in relation to Dren and so Dren’s rights are erased, are never regarded as even a possibility. Elsa and Clive only discuss what they did as a mistake because they overstepped medical-ethical boundaries, never their treatment of Dren as problematic – Dren is outside the human, at times even outside the animal as a form of non-being. This is not the case for us as spectators; we are involved as much in Dren’s suffering as we are in Elsa and Clive’s. We therefore feel for the unjust treatment of Dren and while we never truly accept her reactions as ethical or justifiable, we do understand why Dren does what she does. Dren, for us, is human and she is placed under torture. This is the main point of the film, for by sympathizing and empathizing with Dren we constitute her as human and do not worry about her origins or ontological status as human; her emotions and feelings are enough for our recognition of the human Dren.

Interestingly, then, it is precisely the dehumanizing act of torture which for us turns Dren into a human – because she and we recognize those acts precisely as torture, as something which Dren suffers under, we understand that she is human. My closing argument will therefore be that human rights are what constitutes an anthropological machine in Agamben’s terminology. Agamben discusses this anthropological machine as a machine which produces man (ie.

the human) through a zone of exclusion and indeterminacy, a machine which can only function

by establishing a zone of indifference at their centers, within which—like a “missing link” which is always lacking because it is already virtually present—the articulation between human and animal, man and non-man, speaking being and living being, must take place. Like every space of exception, this zone is, in truth, perfectly empty, and the truly human being who should occur there is only the place of a ceaselessly updated decision in which the caesurae and their rearticulation are always dislocated and displaced anew (Agamben 2004, 37-38 [emphasis in original]).

Splice performs the same machinic function of creating a zone of exclusion – the genetically engineered human – in order to include the non-modified human, but at the same time the film also problematizes this exclusion precisely by insisting on human characteristics in Dren and the morally bankrupt mistreatment of her. Although *Splice* takes a speculative approach as befits its science fiction pedigree, the film does question this process of exclusion in a world where biotechnology and genetic engineering is fast becoming everyday practice. While human cloning remains some way off, issues such as tissue engineering, gene therapy and gene matching of children are present concerns which run the risk of reproducing distinctively racist and colonialist discourses, especially if the Universal Declaration remains vague and deferential about the meaning and beginning of human life as a matter for individual States.

Colonialist discourse seems especially prone to be reactivated, if only in reverse, when we consider the way biotech is currently conceived - as an invasion of the “pure” human body, even if it is for good. This is also what *Splice* suggests with its invasive, incestuous insemination of the human with the nonhuman. We are captivated and invaded but from the inside, by our own inventions - we shape our technologies and then they shape us. The familiar colonialist discourse is therefore continued and configured in new ways under a regime of biomedicine. The ontology of the human, in other words, depends on how we delimit our understanding of the human in

relation to biomedicine. As has been evident throughout human history, the category of the human has often been exclusive, although with the introduction of human rights this exclusivity has been extended to all humans, at least in principle. Yet there are certain instances where the status of the human is ambiguous, such as the beginning of life. Human rights, especially in an age of rights, inadvertently become an anthropological machine embedded in discourses of the human as much as the discourses of rights. Therefore it seems that the status of the human, as much as the status of rights, can become a territorial struggle and we do need to ask ourselves if the rights of the human trumps the rights *to be* human and what this will mean for the human rights to come.

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